# OREGON BULLETIN

**Supplements the 2015 *Oregon Administrative Rules Compilation***

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

## General Information

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

## Background on Oregon Administrative Rules

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

## OAR Citations

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

## Understanding an Administrative Rule's "History"

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

## Locating Current Versions of Administrative Rules

The online version of the OAR Compilation is updated on the first of each month to include all rule actions filed with the Administrative Rules Unit by the 15th of the previous month. The annual printed OAR Compilation volumes contain text for all rules filed through November 15 of the previous year. Administrative Rules created or changed after publication in the print Compilation will appear in a subsequent edition of the online Bulletin. These are listed by rule number in the Bulletin's OAR Revision Cumulative Index, which is updated monthly. The listings specify each rule's effective date, rulemaking action, and the issue of the Bulletin that contains the full text of the adopted or amended rule.

## Locating Administrative Rule Publications

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

## Filing Adminstrative Rules and Notices

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

## Administratrative Rules Coordinators and Delegation of Signing Authority

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

## Publication Authority

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

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

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# EXECUTIVE ORDERS

**EXECUTIVE ORDER NO. 15 - 08**

**DETERMINATION OF A STATE OF DROUGHT EMERGENCY IN CURRY, HOOD RIVER AND UNION COUNTIES DUE TO DROUGHT, LOW SNOW PACK LEVELS, AND LOW WATER CONDITIONS**

At the request of Curry County (by Resolution R201529 dated June 29, 2015), Hood River County (by Resolution 2041, dated June 24, 2015) and Union County (by Resolution 2015-13 dated July 15, 2015), and based on the recommendations of the Drought Council and the Water Availability Committee, and pursuant to ORS 401.165 and ORS 536.740, I find the continuing dry conditions, low snowpack, and lack of precipitation have caused natural and economic disaster conditions in Curry, Hood River and Union counties.

Projected forecasts are not expected to alleviate the severe drought conditions, and the drought is having significant economic impacts on agricultural, livestock, and natural resources in Curry, Hood River and Union counties.

The dry conditions present hardships for these communities; crops and agricultural investments are at risk; communities that rely on surface water flow for drinking water and other uses are at risk; animals and plants that rely on Oregon's surface water supplies are threatened; and the risk of wildfires across the state is greatly increased. Current conditions are being monitored and analyzed by state agencies including the Department of Agriculture, the Department of Water Resources, and the Oregon Office of Emergency Management.

A timely response to the severe drought conditions is vital to the safety of persons and property and economic security of the citizens and businesses of Curry, Hood River and Union counties; I am therefore declaring that a severe, continuing drought emergency exists in Curry, Hood River and Union counties, and directing the following actions.

**IT IS HEREBY ORDERED AND DIRECTED:**

I. The Oregon Department of Agriculture is directed to coordinate and provide assistance in seeking federal resources to mitigate drought conditions and assist in agricultural recovery in Curry, Hood River and Union counties.

II. The Department of Water Resources and the Water Resources Commission are directed to coordinate and provide assistance to water users in Curry, Hood River and Union counties as they determine is necessary and appropriate in accordance with ORS 536.700 to 536.780.

III. The Office of Emergency Management is directed to coordinate and assist as needed with assessment and mitigation activities to address current and projected conditions in Curry, Hood River and Union counties.

IV. All other state agencies are directed to coordinate with the above agencies and to provide appropriate state resources as determined necessary to assist affected political subdivisions and water users in Curry, Hood River and Union counties.

V. This Executive Order expires on December 31, 2015.

Done at Salem, Oregon this 20th day of July.

/s/ Kate Brown
Kate Brown
GOVERNOR
ATTEST
/s/ Jeanne P. Atkins
Jeanne P. Atkins
SECRETARY OF STATE

## REQUEST FOR COMMENTS
## PROPOSED PROSPECTIVE PURCHASER AGREEMENT FOR FORMER TRUCKING COMPANY PROPERTY

**COMMENTS DUE:** 5 p.m., Monday Aug. 31, 2015
Project location: Block 10, James John's 2nd Addition (Formerly 8301 N. Crawford Street) in Portland, Oregon
**PROPOSAL:** The Department of Environmental Quality seeks comments on its proposed consent order for a prospective purchaser agreement with North Crawford Partners LLC, referred to as Crawford, concerning the acquisition of a vacant property described as Block 10 in James John's 2nd Addition, formerly associated with an address of 8301 N. Crawford Street in Portland. Crawford plans to acquire the property and construct a multi-family residential building.

The property was developed for single-family residential use by at least 1924. By the late 1960s to early 1970s, six residential dwellings historically present at the property had been demolished. The property was later utilized for storage and, based on historical permit records pertaining to the installation of two underground storage tanks systems, possible fueling operations associated with the adjacent St. John's Truck & Equipment business. In June 2003, two underground storage tanks at the property were decommissioned and a petroleum release was observed. Following further investigation and cleanup of contamination, DEQ issued a No Further Action for the release in December 2003.

In December 2014, a Phase I Environmental Site Assessment identified the historical presence of underground storage tanks and past uses of the Property as Recognized Environmental Conditions. A geophysical survey of the property revealed twelve metallic anomalies, although follow-up investigation did not confirm the presence of underground storage tanks. In February 2015, soil borings advanced at the property revealed detectable levels of petroleum hydrocarbons, polynuclear aromatic hydrocarbons, polychlorinated biphenyls and selected metals in soil. In March 2015, additional borings were advanced at the property to delineate the lateral and vertical extent of soil contamination exceeding screening standards. A groundwater sample collected from the area of the "known" former underground storage tanks did not contain detectable levels of petroleum hydrocarbons or volatile organic compounds.

The construction of the planned residential building will require significant re-grading of the property. In July 2015, EVREN Northwest Inc. submitted a Soil Management Plan describing the distribution of contaminants in subsurface soil and grading requirements for construction to facilitate discussions regarding a prospective purchaser agreement. The management plan also proposed a confirmation investigation to evaluate contaminant levels in near-surface soil following excavation and ensure that residual contamination does not pose unacceptable risks to future residents through ingestion, dermal contact or inhalation.

DEQ proposes to enter into a consent order with Crawford. Under the terms of the consent order, Crawford agrees to perform excavation and confirmation sampling in accordance with the DEQ-approved Soil Management Plan. In the event that confirmation sampling reveals contaminants in soil within three feet of the surface at levels exceeding urban residential risk-based concentrations, Crawford is required to remove additional soil and collect confirmation samples or ensure the area is capped (e.g., impervious surface or at least three feet of material meeting clean fill requirements).

In the event a cap is utilized as a remedy, Crawford is required to execute and record an institutional control requiring regular inspections, maintenance and repair/replacement as appropriate. Crawford also is required to prepare and implement a Contaminated Media Management Plan to manage, characterize and dispose of contaminated media and submit a report documenting the work performed in accordance with Attachment C to the prospective purchaser agreement.

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

The proposed consent order will provide Crawford with a release from liability for claims by the State of Oregon under ORS 465.200 to 465.545 and 465.990, 466.640, and 468B.310 regarding existing hazardous substance releases at or from the property. The proposed consent order will also provide Crawford with third party liability protection.
**HOW TO COMMENT:** Send comments to DEQ Project Manager Jeff K. Schatz at 700 NE Multnomah Street, Ste 600 in Portland, OR 97232-4100 or schatz.jeff@deq.state.or.us. For more information contact the project manager at 503-229-5024.

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

Find the file review application form at: http://www.deq.state.or.us/records/RecordsRequestForm.pdf

To access site summary information and other documents in the DEQ Leaking Underground Storage Tank (LUST) Cleanup database, go to http://www.deq.state.or.us/lq/tanks/lust/LustPublicLookup.asp, then enter 26-03-1190 in the LUST Number boxes and click "Lookup" at the bottom of the page. Next, click the link labeled 26-03-1190 in the Log Number column. Alternatively, you may go directly to the database website for this page at http://www.deq.state.or.us/Webdocs/Forms/Output/FPController.ashx?SourceId=26-03-1190&SourceIdType=12.

If you do not have web access and want to review the project file contact the DEQ project manager.
**THE NEXT STEP:** DEQ will review and consider all comments received during the comment period. If DEQ decides to enter into the Consent Order, it will be executed by the parties and recorded with Multnomah County.
**ACCESSIBILITY INFORMATION:** DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, call DEQ at 503-229-5696 or toll free in Oregon at 800-452-4011; fax to 503-229-6762; or email to deqinfo@deq.state.or.us. People with hearing impairments may call 711.

## REQUEST FOR COMMENTS
## PROPOSED PROSPECTIVE PURCHASER AGREEMENT FOR FORMER GAS STATION

**COMMENTS DUE:** 5 p.m., Monday Aug. 31, 2015
**PROJECT LOCATION:** 6115 NW St. Helens Road, Portland, Oregon
**PROPOSAL:** The Department of Environmental Quality seeks comments on its proposed consent order for a prospective purchaser agreement with GBR Partnership, referred to as GBR, concerning the acquisition of a former gas station site located at 6115 NW St. Helens Road in Portland. The project is a joint venture between GBR and Environmental Compliance Consultants, Inc, an environmental consulting and waste management company known as ECC. GBR plans to acquire the property and ECC will decommission the existing underground storage tank system. ECC will use the property as an EPA-approved waste transfer facility.

The property was developed as a gasoline station before 1960. In October 1989, 1950s-era underground storage tanks containing gasoline, diesel and marine fuel were decommissioned, removed from the property and replaced. During the decommissioning, evidence of petroleum hydrocarbon contamination in soil and groundwater near the former underground storage tank pit and dispenser island was observed. Monitoring wells were installed at the property as early as April 1990. Remedial actions historically performed at the property included soil removal in 1989 and soil vapor extraction from 1993 to at least 1997. Groundwater monitoring at the property was suspended in June 2001. During the last groundwater monitoring, benzene was detected in groundwater at a maximum concentration of

15,000 parts-per-billion. The property was vacated after June 2001 and has remained vacant.

In June 2015, soil-gas and groundwater samples were collected from the property to facilitate discussions with DEQ concerning a possible prospective purchaser agreement. Five of nine monitoring wells historically installed in the vicinity of the property were located. Three of the identified monitoring wells were re-developed and sampled. The June 2015 groundwater samples contained significantly lower concentrations of benzene and related volatile organic compounds than samples collected in June 2001. In addition, soil-gas samples collected from the building did not reveal volatile organic compounds at concentrations posing vapor intrusion risks to future occupants.

DEQ proposes to enter into a consent order with GBR, the prospective purchaser. Under the terms of the consent order, GBR agrees to decommission the underground storage tank system and remove up to 50 tons contaminated soil, if encountered. If soil containing petroleum hydrocarbons or volatile organic compounds at levels exceeding occupational worker Risk-Based Concentrations for the vapor intrusion pathway remains following removal, GBR is required to execute and record an institutional control requiring vapor mitigation controls on future buildings. In addition, the consent order requires GBR to develop and survey two monitoring wells if found to be usable, perform four quarters of groundwater monitoring and decommission the monitoring wells when authorized by DEQ. Lastly, the Respondent will prepare a Contaminated Media Management Plan.

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

The proposed consent order will provide GBR with a release from liability for claims by the State of Oregon under ORS 465.200 to 465.545 and 465.990, 466.640, and 468B.310 regarding existing hazardous substance releases at or from the property. The proposed consent order will also provide GBR with third party liability protection.

**HOW TO COMMENT:** Send comments to DEQ Project Manager Jeff K. Schatz at 700 NE Multnomah St., Ste 600 in Portland, OR 97232-4100 or schatz.jeff@deq.state.or.us. For more information contact the project manager at 503-229-5024.

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

Find the file review application form at: http://www.deq.state.or.us/records/RecordsRequestForm.pdf

To access site summary information and other documents in the DEQ Leaking Underground Storage Tank (LUST) Cleanup database, go to http://www.deq.state.or.us/lq/tanks/lust/LustPublicLookup.asp, then enter 26-89-0213 in the LUST Number boxes and click "Lookup" at the bottom of the page. Next, click the link labeled 26-89-0213 in the Log Number column. Alternatively, you may go directly to the database website for this page at http://www.deq.state.or.us/Webdocs/Forms/Output/FPController.ashx?SourceId=26-89-0213&SourceIdType=12.

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

**THE NEXT STEP:** DEQ will review and consider all comments received during the comment period. If DEQ decides to enter into the Consent Order, it will be executed by the parties and recorded with Multnomah County.

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

## REQUEST FOR COMMENTS PROPOSED CERTIFICATE OF COMPLETION FOR PACIFIC CARBIDE & ALLOYS CO.

**COMMENTS DUE:** 5 p.m., Monday, Aug. 31, 2015

Project Location: 9901 North Hurst Ave., Portland

**PROPOSAL:** The Oregon Department of Environmental Quality invites comments on its proposal to issue a Certificate of Completion to Pacific Carbide & Alloys Co. for cleanup work completed at their property under terms of a Consent Order and a Consent Judgment.

**HIGHLIGHTS:** The 16-acre property was developed in the 1940s and operated as a calcium carbide manufacturing plant until 1987. Calcium hydroxide, generally referred to as lime, was a by-product generated during this process and was stockpiled at the site. Significant amounts of lime entered the Columbia Slough through direct discharges from a settling pond and during a catastrophic dike failure in the 1970s. The lime is associated with elevated pH, elevated levels of polycyclic aromatic hydrocarbons, referred to as PAHs, and metals.

Between 2003 and 2006 Pacific Carbide completed a remedial investigation. Following a public comment period, DEQ issued a Record of Decision in 2007 that identified remedial actions to address site contamination. These actions included removing remaining lime stored at the site, from the Columbia Slough and slough bank, and capping residual contamination in the upland area.

Most of the remaining above-grade lime was removed in 2007 pursuant to a DEQ Consent Order. Subsequent sediment and upland soil sampling, and observations during the lime pile removal, showed more extensive by-product lime than prior investigations had indicated. Due to the associated increase in cleanup costs, Pacific Carbide indicated they did not have sufficient funds to complete the required work.

In November 2013 DEQ entered into a Consent Judgment with Pacific Carbide and Alloys Co. Under terms of the Consent Judgment, Pacific Carbide and Alloys paid into a DEQ-administered account dedicated to cleanup projects in the Columbia Slough, in exchange for a liability release for bank soil and slough sediment. The Consent Judgment also required Pacific Carbide to complete the upland remedy, which included grading and installing an engineered cap over residual by-product lime primarily containing PAHs, maintaining the cap, and implementation of institutional controls through an Easement and Equitable Servitudes recorded with Multnomah County. The cap prevents direct contact of site workers with contaminated soil, mitigates potential future contaminant contributions to the Columbia Slough from stormwater runoff, and allows expanded use of the facility.

The proposed Certification of Completion confirms Pacific Carbide and Alloy Co.'s release from liability for claims by the State of Oregon under ORS 465.200 to 465.545 and 465.900, 466.640, and 468B.310 regarding existing hazardous substance releases at or from the property. The Consent Judgment and Certification of Completion also provide Pacific Carbide with third-party liability protection.

**HOW TO COMMENT:** To schedule an appointment to review files in DEQ's Northwest Region office, call 503-229-6729. Send comments on DEQ's proposal by 5 p.m., Friday, Aug. 30, 2013 to DEQ Project Manager, Mark Pugh, DEQ Northwest Region, 700 NE Multnomah St., Portland, OR 97232 or pugh.mark@deq.state.or.us. For more information contact Pugh at 503 229-5587.

**THE NEXT STEP:** DEQ will consider all public comments received by the above deadline before making a final decision regarding the Certification of Completion.

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

People with hearing impairments may call 711.

## Notices of Proposed Rulemaking and Proposed Rulemaking Hearings

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

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

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

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

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

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**Board of Architect Examiners**
**Chapter 806**

**Rule Caption:** To adopt a document, reference its location and specify the experience requirement for registration.

| Date: | Time: | Location: |
|---|---|---|
| 8-18-15 | 9 a.m. | 205 Liberty St. NE, Suite A<br>Salem, OR |

**Hearing Officer:** Maria Brown
**Stat. Auth.:** ORS 671.020 & 671.125
**Stats. Implemented:** ORS 671.020 & 671.125
**Proposed Amendments:** 806-010-0010, 806-010-0020, 806-010-0035
**Last Date for Comment:** 8-28-15, 4:30 p.m.
**Summary:** To amend:

OAR 806-010-0010 — The proposed language adopts a document and references its location.

OAR 806-010-0020 — The proposed language specifies the experience requirement for registration by examination.

OAR 806-010-0035 — The proposed language specifies the experience requirement for registration by reciprocity.

**Rules Coordinator:** Maria Brown
**Address:** Board of Architect Examiners, 205 Liberty St. NE, Suite A, Salem, OR 97301
**Telephone:** (503) 763-0662

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**Board of Licensed Professional Counselors and Therapists**
**Chapter 833**

**Rule Caption:** Increase in fee for licensure application and initial license.

| Date: | Time: | Location: |
|---|---|---|
| 9-3-15 | 10 a.m. | 3218 Pringle Rd. SE<br>Salem, OR 97302 |

**Hearing Officer:** LaReé Felton
**Stat. Auth.:** ORS 675.705–675.835
**Other Auth.:** HB 5013
**Stats. Implemented:** ORS 675.785(3)
**Proposed Amendments:** 833-070-0011
**Last Date for Comment:** 9-3-15, 5 p.m.
**Summary:** The proposed amendment will increase the fee required to apply for licensure as a professional counselor or a marriage and family therapist from $125 (without background check) to $175, or from $172.25 (with background check) to $222.25. It will also increase the fee for an initial license as a professional counselor or a marriage and family therapist from $100 to $125.
**Rules Coordinator:** LaReé Felton
**Address:** Board of Licensed Professional Counselors and Therapists, 3218 Pringle Rd. SE, Suite 250, Salem, OR 97302
**Telephone:** (503) 373-1196

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**Department of Consumer and Business Services, Division of Finance and Corporate Securities**
**Chapter 441**

**Rule Caption:** Deletes references to debt management service provider counseling fee due to statutory sunset.
**Stat. Auth.:** ORS 697.840
**Stats. Implemented:** 2009 OL Ch 604 § 9a & 30
**Proposed Amendments:** 441-910-0099
**Last Date for Comment:** 8-31-15, 5 p.m.
**Summary:** In 2009, the Legislature adopted House Bill 2191 to consolidate debt settlement, debt consolidation, credit counseling and credit repair activities under a single debt management service provider title. The Legislature adopted limits on the amount of fees that a debt management service provider could charge, including for counseling clients. HB 2191 contained a temporary, additional counseling fee that sunset on January 1, 2012. The department repealed OAR 441-910-0092 and amended OAR 441-910-0090 to reflect the provision's sunset. During that rulemaking the department inadvertently neglected to deletes references to OAR 441-910-0092 and amend the accompanying appendix, which provided an example of allowable fees. Because the underlying authority for the fee included in the appendix is no longer allowed by law, and to remove obsolete references, DCBS is proposing to amend the appendix.
**Rules Coordinator:** Shelley Greiner
**Address:** Department of Consumer and Business Services, Division of Finance and Corporate Securities, 350 Winter St. NE, Rm. 410, Salem, OR 97301
**Telephone:** (503) 947-7484

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

**Rule Caption:** Adopt Electric Power Generation, Transmission, Distribution standard for general industry and construction, and related changes.

| Date: | Time: | Location: |
|---|---|---|
| 8-27-15 | 10 a.m. | OR OSHA, Durham Plaza<br>16760 SW Upper Boones Ferry Rd.<br>Suite 200<br>Tigard, OR 97224 |
| 9-3-15 | 10 a.m. | City of Medford<br>Lausmann Annex, 200 S Ivy<br>Medford, OR 97501 |
| 9-8-15 | 1:30 p.m. | OR OSHA, Red Oaks Sq.<br>1230 NE Third St., Suite A-115<br>Bend, OR 97701-4374 |

**Hearing Officer:** Sue Joye
**Stat. Auth.:** ORS 654.025(2) & 656.726(4)
**Stats. Implemented:** ORS 654.001–654.295
**Proposed Adoptions:** Rules in 437-002
**Proposed Amendments:** Rules in 437-002, 437-003, 437-003-0115, 437-003-0145, 437-003-0255, 437-003-0355, 437-003-0510
**Proposed Repeals:** 437-002-0317, 437-002-0138, Rules in 437-003
**Last Date for Comment:** 9-18-15, 5 p.m.

**Summary:** In November 2014, Oregon OSHA proposed to adopt Federal OSHA final rules that were published in the April 11, 2014 Federal Register. The proposal included Oregon initiated changes to the federal rule. Three public hearings were held during November and December of 2014 resulting in several written comments and oral testimony before the comment period closed on December 12, 2014. Most of the comments received relate to the two worker rule exceptions.

One commenter suggested that Oregon OSHA consider combining the Electric Power Generation, Transmission, and Distribution standards in Subdivisions 2/R and 3/V into one rule. As a result of the comments received, Oregon OSHA decided not to adopt the rule as proposed in 2014, but to consider an alternative approach.

Two stakeholder meetings were conducted in the first half of 2015 to discuss the comments and develop any changes to the initial proposal. Oregon OSHA chose to merge the Electric Power Generation, Transmission, and Distribution standards in Subdivisions 2/R and 3/V into a new Division 2/RR.

Several other changes are made based on the initial comments received, and the federal OSHA changes from the April 11, 2014 Federal Register, into numerous subdivisions in general industry and construction.

NOTE: The listing of rules in the Rulemaking Action section is not all rules to be adopted, amended, or repealed. Please use our web site listed below for the complete list of rules for this rulemaking.

Please visit our web site www.orosha.org

Click 'Rules' in the left vertical column and view our proposed, adopted, and final rules.

**Rules Coordinator:** Sue C. Joye
**Address:** Department of Consumer and Business Services, Oregon Occupational Safety and Health Division, 350 Winter St. NE , Salem, OR 97301-3882
**Telephone:** (503) 947-7449

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## Department of Corrections
## Chapter 291

**Rule Caption:** Planned Use of Force and Use of Security Equipment by DOC Employees
**Stat. Auth.:** ORS 179.040, 423.020, 423.030 & 423.075
**Stats. Implemented:** ORS 179.040, 423.020, 423.030 & 423.075
**Proposed Amendments:** 291-013-0010, 291-013-0070, 291-013-0104, 291-013-0110
**Last Date for Comment:** 9-15-15, 4:30 p.m.
**Summary:** These rule revisions are necessary to remove references to DOC policies, which are internal management directives applicable to DOC staff; provide clarification for the planned use of force for inmates identified with serious mental health treatment needs; and set time limits for the use of the restraint chair.
**Rules Coordinator:** Janet R. Worley
**Address:** Department of Corrections, 2575 Center St. NE, Salem, OR 97301-4667
**Telephone:** (503) 945-0933

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**Rule Caption:** Use of Force by Parole and Probation Officers
**Stat. Auth.:** ORS 179.040, 423.020, 423.030 & 423.075
**Stats. Implemented:** ORS 179.040, 423.020, 423.030 & 423.075
**Proposed Amendments:** 291-022-0160, 291-022-0170, 291-022-0180, 291-022-0200
**Last Date for Comment:** 9-15-15, 4:30 p.m.
**Summary:** These rule revisions are necessary to remove references to DOC policies, which are internal management directives applicable to DOC staff.
**Rules Coordinator:** Janet R. Worley
**Address:** Department of Corrections, 2575 Center St. NE, Salem, OR 97301-4667
**Telephone:** (503) 945-0933

**Rule Caption:** Possession and Storage of Personal Handguns for Authorized Staff at Department of Corrections Facilities
**Stat. Auth.:** ORS 179.040, 423.020, 423.030 & 423.075
**Other Auth.:** 2015 OL Ch 246
**Stats. Implemented:** ORS 179.040, 423.020, 423.030 & 423.075
**Proposed Amendments:** 291-016-0020, 291-016-0120
**Last Date for Comment:** 9-15-15, 4:30 p.m.
**Summary:** These amendments are necessary to implement 2015 legislation (HB 2424) which allows employees of the Department of Corrections, Board of Parole and Post-Prison Supervision, and Oregon Corrections Enterprises to possess and store a personal handgun and ammunition at facilities that are owned or occupied by the department. The personal handgun may be stored in the employee's personal vehicle if the department has not provided a secure and locked location for the storage of the personal handgun and ammunition.
**Rules Coordinator:** Janet R. Worley
**Address:** Department of Corrections, 2575 Center St. NE, Salem, OR 97301-4667
**Telephone:** (503) 945-0933

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## Department of Energy
## Chapter 330

**Rule Caption:** Amend transfer rules for Energy Incentives Program and Business Energy Tax Credit.

| Date: | Time: | Location: |
|---|---|---|
| 8-25-15 | 2 p.m. | Oregon Dept. of Energy<br>625 Marion St. NE<br>Salem, OR 97301 |

**Hearing Officer:** Elizabet Ross
**Stat. Auth.:** ORS 469.040, 469B.148, 469B.276, 469B.306, 469B.323 & 469B.347
**Stats. Implemented:** ORS 469B.130–469B.171 & 469B.270–469B.347
**Proposed Amendments:** 330-230-0150, 330-090-0160
**Proposed Repeals:** 330-230-0150(T), 330-090-0160(T)
**Last Date for Comment:** 8-26-15, Close of Business
**Summary:** The proposed rule amends the transfer process for the Business Energy Tax Credit (BETC) and Energy Incentives Program (EIP), making the temporary rule filed March 23, 2015, permanent. By rule, ODOE provides two processes for BETC or EIP project owners to sell a tax credit: the pass-through process and the transfer process. The statute authorizing the sale of tax credits, ORS 469B.148, 469B.276 and 469B.323, is broad. It states that the cash payment for the tax credit must equal the present value of the credit, and that ODOE must establish a formula to be used in the determination of the prices of credits. For tax credits sold through the transfer process, the statute does not require the present value at which the credit is transferred to equal the formula.

This rule change does not affect tax credits sold through the pass-through process. For the pass-through process, the department holds the credit's certificate until a partner is located and may provide assistance finding a partner. Using the formula created by rule, ODOE will continue to set the rate for the present value of the tax credit.

For the transfer process, credits will be issued to the project owner. The department will not help identify a buyer for the credit, nor will it enforce a specific rate for the present value of the tax credit. Parties may use the formula in the department's rules as a guide for the transaction, but they can also set a present value rate independent of that formula. Once the parties have negotiated a transfer price, they must report the transfer to ODOE, and ODOE will report to the Oregon Department of Revenue.

Project owners who use the pass-through or transfer process must meet all statute and rule requirements for selling a tax credit. This includes the requirement in ORS 315.052 that states no portion of the tax credit can be used prior to the transfer. The proposed rule will apply to transfers that occurred on or after December 22, 2014, for EIP projects and on or after July 10, 2012, for BETC projects.

A call-in number is available for the public hearing, please see website for details: http://www.oregon.gov/energy/CONS/Pages/Rulemaking-Energy_Incentive_Program.aspx
**Rules Coordinator:** Elizabeth Ross
**Address:** Department of Energy, 625 Marion St. NE, Salem, OR 97301
**Telephone:** (503) 373-8534

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**Department of Environmental Quality**
**Chapter 340**

**Rule Caption:** Infrastructure SIP PM2.5 Standard Update

| Date: | Time: | Location: |
|---|---|---|
| 8-18-15 | 5 p.m. | DEQ Headquarters, Rm. EQC B<br>811 SW 6th Ave.<br>Portland, OR 97204 |

**Hearing Officer:** Staff
**Stat. Auth.:** ORS 468, 468.020, 468A & 468A.035
**Stats. Implemented:** ORS 468A, 468A.025 & 468A.035
**Proposed Amendments:** 340-200-0040, 340-202-0060, 340-250-0030
**Last Date for Comment:** 8-20-15, 4 p.m.
**Summary:** DEQ proposes the Oregon Environmental Quality Commission approve the proposed rules for incorporation into the Oregon Clean Air Act State Implementation Plan and submittal to the U.S. Environmental Protection Agency for its approval under the federal Clean Air Act. After the public notice period, DEQ will submit the proposed rules to EQC for approval. Following the commission's approval, DEQ will submit the proposed rules to EPA for its approval.

The proposed rule amendments incorporate a revised annual National Ambient Air Quality Standard for PM 2.5 and amend the definition of NAAQS to include PM 2.5 in Oregon's administrative rule. These changes will allow Oregon to meet Clean Air Act requirements and request that EPA approve Oregon's revised State Implementation Plan.

The proposal includes the following actions:

- Amend Oregon Administrative Rule 340-200-0040 to update the Oregon Clean Air Act State Implementation plan. If EQC adopts the amendments, the actions proposed in this rulemaking will be incorporated into and made part of the Oregon SIP.

- Amend OAR 340-202-0060(3) to incorporate the annual national primary ambient air quality standard for PM 2.5, adopted by the EPA, Dec.14, 2012, and effective on March 18, 2013.

- Amend OAR 340-250-0030(22) to include PM 2.5 as part of the definition of NAAQS.

In addition to the rule amendments outlined above, a "crosswalk" titled "Infrastructure SIP Submittal for Purposes of Clean Air Act Sections 110(a)(1) and (2) for the 2012 PM 2.5 NAAQS" is included with this proposal. The crosswalk is attached to this notice as Attachment B. The crosswalk identifies existing Oregon Administrative Rules and corresponding Oregon Revised Statutes that demonstrate DEQ has the necessary authorities in place to implement requirements of Sections 110(a)(1) and (a)(2) of the CAA with respect to the current NAAQS for PM 2.5. They are included for EQC approval and submittal to EPA as documentation that the infrastructure elements of the Oregon SIP meet the requirements of the CAA as they relate to the PM 2.5 NAAQS.

The interstate transport provision in the CAA, section 110(a)(2)(D)(i), (also called "the good neighbor" provision) requires each state to submit a SIP that prohibits emissions that will have certain adverse air quality effects in other states. This section of the SIP is due within three years of the EPA establishing a new or revised NAAQS. DEQ's State Implementation Plan addresses the interstate transport of PM 2.5. Note: The interstate transport submittal also addresses Sulfur Dioxide (SO2), Nitrogen Dioxide (NO2) and Lead (Pb) SIP standards updated in 2013.
**Rules Coordinator:** Meyer Goldstein
**Address:** Department of Environmental Quality, 811 SW Sixth Ave., Portland, OR 97204
**Telephone:** (503) 229-6478

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**Rule Caption:** Clean Water State Revolving Fund

| Date: | Time: | Location: |
|---|---|---|
| 8-19-15 | 11 a.m. | 811 SW 6th Ave.<br>Portland, OR 97204 |
| 8-19-15 | 4 p.m. | 811 SW 6th Ave.<br>Portland, OR 97204 |
| 8-19-15 | 11 a.m. | 221 Stewart Ave., Suite 201<br>Medford, OR |
| 8-19-15 | 4 p.m. | 221 Stewart Ave., Suite 201<br>Medford , OR |
| 8-19-15 | 11 a.m. | 475 NE Bellvue Dr., Suite 110<br>Bend, OR |
| 8-19-15 | 4 p.m. | 475 NE Bellvue Dr., Suite 110<br>Bend, OR |
| 8-19-15 | 11 a.m. | 700 SE Emigrant Ave., Suite 330<br>Pendleton, OR |
| 8-19-15 | 4 p.m. | 700 SE Emigrant Ave., Suite 330<br>Pendleton, OR |
| 8-19-15 | 11 a.m. | 165 E 7th Ave.<br>Eugene, OR |
| 8-19-15 | 4 p.m. | 165 E 7th Ave.<br>Eugene, OR |

**Hearing Officer:** DEQ Staff
**Stat. Auth.:** 468.020 & 468.440
**Other Auth.:** HB 2451 (2015)
**Stats. Implemented:** ORS 468.423–468.440
**Proposed Amendments:** 340-054-0005, 340-054-0010, 340-054-0011, 340-054-0015, 340-054-0022, 340-054-0025, 340-054-0026, 340-054-0027, 340-054-0036, 340-054-0056, 340-054-0060, 340-054-0065, 340-054-0071, 340-054-0072
**Proposed Repeals:** 340-054-0100, 340-054-0102, 340-054-0104, 340-054-0106, 340-054-0108
**Last Date for Comment:** 08-24-15, 4 p.m.
**Summary:** DEQ proposes rule amendments for changes to the Clean Water State Revolving Fund program related to the 2014 federal Clean Water Act amendments. The amendments will align the program with new federal law and will create the following:

- Longer financing terms to all eligible borrowers, as authorized by House Bill 2451 [2015];

- An increase in the amount of principal forgiveness available with an allocation process that maximizes its benefits to borrowers. Eligibility is limited to municipalities or intermunicipal, interstate, or state agencies;

- Expanded eligibilities for various specific project types including allowing the construction of new decentralized wastewater systems;

- New incentives to a subset of borrowers that are subject to additional federal funding application requirements;

- Additional application requirements, some of which encourage fiscal and environmental sustainability in project designs, others that are specific to certain types of federal funding;

- Simplified rules through minor changes to existing rules.

**Rules Coordinator:** Meyer Goldstein
**Address:** Department of Environmental Quality, 811 SW Sixth Ave., Portland, OR 97204
**Telephone:** (503) 229-6478

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**Department of Fish and Wildlife**
**Chapter 635**

**Rule Caption:** Amend rules related to the Malheur Lakes and Catlow Valley Redband Trout Conservation Plan.

| Date: | Time: | Location: |
|---|---|---|
| 9-4-15 | 8 a.m. | Best Western Oceanview Resort<br>Lewis and Clark Ballroom 1 & 2<br>414 N Prom<br>Seaside, OR 97138 |

**Hearing Officer:** Oregon Fish and Wildlife Commission
**Stat. Auth.:** ORS 496.138, 496.146, 496.162, 506.036, 506.119 & 506.129
**Stats. Implemented:** ORS 496.162, 506.109 & 506.129
**Proposed Adoptions:** Rules in 635-500
**Proposed Amendments:** Rules in 635-500
**Proposed Repeals:** Rules in 635-500
**Last Date for Comment:** 9-4-15, Close of Hearing
**Summary:** NOTE: This hearing was originally Noticed for a hearing on August 7, 2015.

The proposed rules are related to implementation of the Malheur Lakes and Catlow Valley Redband Trout Conservation Plan and may be adopted, amended or repealed as determined necessary by the Oregon Fish and Wildlife Commission.
**Rules Coordinator:** Michelle Tate
**Address:** Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302
**Telephone:** (503) 947-6044

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**Rule Caption:** Rule Amendments Related to the 2016–2017 Oregon Sport Fishing Regulations.

| Date: | Time: | Location: |
|---|---|---|
| 9-4-15 | 8 a.m. | Best Western Oceanview Resort<br>Lewis and Clark Ballroom 1 & 2<br>414 N Prom<br>Seaside, OR 97138 |

**Hearing Officer:** Oregon Fish and Wildlife Commission
**Stat. Auth.:** ORS 496.138, 496.146, 496.162, 497.121, 506.119
**Stats. Implemented:** ORS 496.004, 496.009, 496.138, 496.146, 496.162, 506.109, 506.129
**Proposed Adoptions:** Rules in 635-011, 635-012, 635-013, 635-014, 635-016, 635-017, 635-018, 635-019, 635-021, 635-023, 635-039, 635-500
**Proposed Amendments:** Rules in 635-011, 635-012, 635-013, 635-014, 635-016, 635-017, 635-018, 635-019, 635-021, 635-023, 635-039, 635-500
**Proposed Repeals:** Rules in 635-011, 635-012, 635-013, 635-014, 635-016, 635-017, 635-018, 635-019, 635-021, 635-023, 635-039, 635-500
**Last Date for Comment:** 9-4-15, Close of Hearing
**Summary:** These rules modify sport fishing regulations for finfish, shellfish, and marine invertebrates for 2016-2017. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.
**Rules Coordinator:** Michelle Tate
**Address:** Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302
**Telephone:** (503) 947-6044

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**Rule Caption:** Amendments To Commercial Bay Clam and Commercial Dungeness Crab Regulations.

| Date: | Time: | Location: |
|---|---|---|
| 9-4-15 | 8 a.m. | Best Western Oceanview Resort<br>Lewis and Clark Ballroom 1 & 2<br>414 N Prom<br>Seaside, OR 97138 |

**Hearing Officer:** Oregon Fish and Wildlife Commission
**Stat. Auth.:** ORS 503.036, 506.109, 506.119 & 506.129
**Stats. Implemented:** ORS 508.116 & 508.129
**Proposed Adoptions:** Rules in 635-005
**Proposed Amendments:** Rules in 635-005
**Proposed Repeals:** Rules in 635-005
**Last Date for Comment:** 9-4-15, Close of Hearing
**Summary:** The proposed rule amendments incorporate new stock assessment data and fishery monitoring data collected over the last several years to update regulations for the commercial bay clam fishery. Since the commercial bay clam fishery transitioned from a developmental fishery to a limited entry fishery 10 years ago, these modifications apply the principles of adaptive management to ensure sustainable and productive harvest of bay clams.

On August, 1, 2014 the Oregon Fish and Wildlife Commission adopted rules lengthening the presoak period for commercial Dungeness crab fisheries, which occurs prior to the fishery start, from 64 to 73 hours to facilitate a gear retrieval start time of 9:00 a.m. on December 1, 2014. Rule modifications correct an error adopted in 2014 and realigns regulations with then intended changes to the presoak length and start times for Dungeness crab fisheries.
**Rules Coordinator:** Michelle Tate
**Address:** Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302
**Telephone:** (503) 947-6044

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

**Rule Caption:** Standards for Data Collection on Race, Ethnicity, Preferred Language and Disability Status
**Stat. Auth.:** ORS 409.050 & 413.161
**Stats. Implemented:** ORS 413.161
**Proposed Adoptions:** 407-070-0000
**Last Date for Comment:** 8-21-15, 5 p.m.
**Summary:** ORS 413.161, passed as House Bill 2134 during the 2013 legislative session, mandates that the Oregon Health Authority (Authority) collaborate with the Department of Human Services (Department) to adopt by rule uniform standards, based on local, statewide and national best practices, for the collection of data on race, ethnicity, preferred spoken, signed, and written languages and disability status. The statute requires that the Authority and the Department use the standards, to the greatest extent practicable, in conducting surveys and in all programs in which the Authority or the Department collects, records, or reports such data. The statute also requires that the Authority and the Department review and update the standards at least once every two years to ensure the standards are efficient, uniform and consistent with best practices. The Authority adopted OAR 943-070-0000 to 943-070-0070 in compliance with HB2134 and ORS 413.61. The Department proposes to adopt this rule which incorporates the Authority's rules by reference.

Proposed rules are available on the DHS Website: http://www.oregon.gov/dhs/admin/pages/dwssrules/index.aspx. For hardcopy requests, call: (503) 947-5250.
**Rules Coordinator:** Jennifer Bittel
**Address:** Department of Human Services, Administrative Services Division and Director's Office, 250 Winter St. NE, Salem, OR 97301
**Telephone:** (503) 947-5250

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

**Rule Caption:** ODDS - Children's Intensive In-Home Services (Behavior Program and Medically Fragile Children's Services)

| Date: | Time: | Location: |
|---|---|---|
| 8-17-15 | 10:30 a.m. | Human Services Bldg.<br>500 Summer St. NE, Rm. 160<br>Salem, OR 97301 |

**Hearing Officer:** Staff
**Stat. Auth.:** ORS 409.050
**Stats. Implemented:** ORS 427.005, 427.007, 430.215
**Proposed Amendments:** 411-300-0120, 411-350-0030
**Proposed Repeals:** 411-300-0120(T), 411-350-0030(T)
**Last Date for Comment:** 8-31-15, 5 p.m.
**Summary:** To meet the expectations of the Centers for Medicare and Medicaid Services (CMS), the Department of Human Services, Office of Developmental Disability Services (Department) is proposing to make permanent the temporary rule language that became effective on April 10, 2015. The proposed rules permanently update:

- OAR 411-300-0120 for the Children's Intensive In-Home Services (CIIS), Behavior Program to align the initial and reassessment behavior criteria scores, require an annual assessment for ongoing eligibility, and limit the transition period to 30 days; and

- OAR 411-350-0030 for Medically Fragile Children's (MFC) services to change the clinical criteria score to 45 or greater, align the initial and reassessment clinical criteria scores, and limit the transition period to 30 days.

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

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

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

**Rule Caption:** Amending rules relating to the Refugee (REF) and Refugee Medical (REFM) programs

| Date: | Time: | Location: |
|---|---|---|
| 8-24-15 | 3 p.m. | Human Services Bldg.<br>500 Summer St. NE, Rm. 255<br>Salem, OR 97301 |

**Hearing Officer:** Kris Skaro
**Stat. Auth.:** ORS 409.050, 411.060, 411.070, 411.083, 411.892 & 412.049
**Other Auth.:** 45 CFR 400
**Stats. Implemented:** ORS 409.050, 411.060, 411.070, 411.083, 411.892 & 412.049
**Proposed Amendments:** 461-110-0530, 461-115-0050, 461-115-0071, 461-115-0150, 461-115-0230, 461-115-0430, 461-120-0010, 461-120-0510, 461-130-0310, 461-130-0328, 461-130-0335, 461-135-0900, 461-140-0110
**Last Date for Comment:** 8-28-15, 5 p.m.
**Summary:** Rules governing the Refugee (REF) and Refugee Medical (REFM) programs are being amended throughout chapter 461 to update program requirements and make amendments to comply with an Office of Refugee Resettlement (ORR) review of Oregon's REF program. Specifically:

- OAR 461-110-0530 about financial groups is being amended to remove the caretaker relative language as it relates to REF and REFM financial groups;

- OAR 461-115-0050 about when an application must be filed is being amended to remove REF and REFM from the section relating to the application process for newborns;

- OAR 461-115-0071 about who must sign and complete the application process is being amended to create a new section for the REF and REFM programs that does not include language relating to caretaker relatives;

- OAR 461-115-0150 about where clients must apply is being amended to require refugees who meet certain requirements to apply for REF and REFM at local refugee resettlement agencies;

- OAR 461-115-0230 about interviews is being amended to allow REF and REFM interviews to be conducted by telephone or home visit when the applicant has a hardship;

- OAR 461-115-0430 about periodic redeterminations is being amended to state that, as a limited-duration program, there are no periodic redeterminations required in the REF and REFM programs;

- OAR 461-120-0010 about residency requirements is being amended to state that in the REF program, an individual is considered a resident if the individual entered Oregon with a job commitment or is looking for work, and is not receiving benefits from another state;

- OAR 461-120-0510 about age requirements for clients to receive benefits is being amended to limit REFM to individuals 18 years of age and older and remove REF and REFM eligibility for ineligible TANF filing groups;

- OAR 461-130-0310 about participation classifications is being amended to remove REF from programs that include a caretaker relative who is mandatory to participate in the JOBS program;

- OAR 461-130-0328 about the effect of strikes is being amended to separate REF from the reference to a parent;

- OAR 461-130-0335 about removing disqualifications and effect on benefits is being amended to stat that in the REF program, a filing group is not subject to the impact of a disqualification wen a disqualified member has left the household group and that if that disqualified member joins another filing group, that group is subject to the member's most recent disqualification;

- OAR 461-135-0900 about requirements in the REF and REFM programs is being amended to allow a benefit group who is receiving REFM benefits, but no longer meets the filing group definition of REFM, to continue to receive REFM for the remainder of their eight months if a newborn is added and the group was determined ineligible for any of the medical programs administered by OHA; and

- OAR 461-140-0110 about treatment of periodic income is being amended to state that in the REF program, periodic income is averaged over the applicable period.

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

A copy of the draft rules can be accessed at the self-sufficiency policy website: http://www.dhs.state.or.us/policy/selfsufficiency/ar_proposed.htm.

**Rules Coordinator:** Kris Skaro
**Address:** Department of Human Services, Self-Sufficiency Programs, 500 Summer St. NE, E-48, Salem, OR 97301
**Telephone:** (503) 945-6067

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**Rule Caption:** Adopting, amending, and repealing rules relating to medical and public assistance programs

| Date: | Time: | Location: |
|---|---|---|
| 8-24-15 | 3 p.m. | Human Services Bldg.<br>500 Summer St. NE, Rm. 255<br>Salem, OR 97301 |

**Hearing Officer:** Kris Skaro
**Stat. Auth.:** ORS 409.050, 410.720, 411.060, 411.070, 411.083, 411.400, 411.404, 411.706, 411.750, 411.816, 412.014, 412.049, 413.033, 413.042, 413.085, 414.685, Or Laws 2013, chapter 14, section 10
**Other Auth.:** 7 USC 2014, 42 USC 1396a(a)(25), 42 USC 1396k(a), 20 CFR 416.1111, 20 CFR 404.1003–1007, 42 CFR 302.51, 42 CFR 433.145, 42 CFR 433.154, Oregon State Plan Attachment 2.6 A.6
**Stats. Implemented:** ORS 409,010, 409.050, 410.720, 411.060, 411.070, 411.083, 411.404, 411.706, 411.750, 411.816, 411.825, 411.837, 412.014, 412.049, 413.033, 413.042, 413.085, 414.231, 414.685, 414.839, 416.530, 416.610, Or Laws 2013, chapter 14, section 10
**Proposed Adoptions:** 461-145-0089, 461-145-0252, 461-145-0285, 461-145-0915, 461-150-0095
**Proposed Amendments:** 461-001-0000, 461-110-0370, 461-115-0700, 461-120-0310, 461-140-0020, 461-140-0040, 461-145-0010, 461-145-0088, 461-145-0120, 461-145-0130, 461-145-0250, 461-145-0280, 461-145-0440, 461-145-0470, 461-145-0600, 461-145-0910, 461-145-0920, 461-150-0090, 461-155-0020, 461-155-0190, 461-160-0420, 461-160-0430, 461-160-0610, 461-160-0620, 461-195-0310
**Proposed Repeals:** 461-155-0300, 461-190-0212

**Last Date for Comment:** 8-28-15, 5 p.m.

**Summary:** The Department of Human Services, Office of Self Sufficiency Programs, is proposing to adopt, amend, and repeal rules in chapter 461 to: align with federal policy regarding how income and resources are treated and budgeted in APD medical programs; update standards in the SNAP program; update policy regarding submitting required notices to the Department's Personal Injury Liens Unit; and repeal an obsolete rule relating to the TANF program. Specifically:

OAR 461 001 0000 about definitions is being amended to change the definition of income producing property to make a clearer distinction between income producing property, property used in self employment, and various other property types that previously could be addressed in more than one rule (such as animals and rooms or buildings for rent which are part of the home).

OAR 461 110 0370 about filing groups in the SNAP program, OAR 461 155 0190 about income and payment standards in the SNAP program, 461 160 0420 about shelter costs in the SNAP program, and 461 160 0430 about income deductions in the SNAP program are being amended to implement the annual increase in the standards for the SNAP Program.

OAR 461 115 0700 about required verification in the GA, GAM, OSIP, OSIPM, and QMB programs is being amended to state that verification of liquid resources is not required, unless questionable, if the reported value is less than $400 and that for purposes of the rule, the cash surrender value of a life insurance policy is not considered a liquid resource.

OAR 461 120 0310 about assignment of support rights in all programs except the SNAP program is being amended to correct an inaccuracy in the current rule. The rule currently states that a refund process occurs annually; instead, expenditures should be reconciled 12 months after benefits are terminated. Division of Child Support revenue should be retained for the duration of assignment of support rights, similar to administration in other states and IV E administration.

OAR 461 140 0020 about determining availability of resources is being amended to address situations in which resources (including an individual's ownership interest in a corporation or business entity) may not be sold or liquidated due to legal barriers or restrictions.

OAR 461 140 0040 about availability of income is being amended to clarify how certain types of earned income (such as teachers' wages) are budgeted when it is received in a different period of time than when it is earned. The income of certain teachers was considered contract income in the past and addressed in the self employment budgeting rule, which was confusing. These types of employment arrangements are not self employment and teachers are not outside contractors; they are paid wages by an employer under a contractual arrangement. These amendments make that clarification.

OAR 461 145 0010 about animals is being amended to clarify when animals can be considered income producing property and align with federal regulations about their treatment.

OAR 461 145 0088 about income and resources of corporations and business entities is being amended to remove APD medical programs from this rule. Income and resources of corporations and business entities will be addressed in new proposed rule, OAR 461 145 0089, which is described below.

OAR 461 145 0089 about corporations and other business entities is being adopted to align with federal policy regarding how income and resources of corporations and business entities are treated in the OSIP, OSIPM, and QMB programs. Individuals who incorporate businesses will not be considered self employed; furthermore, other types of business arrangements will now be clearly addressed, including when owning a business constitutes self employment and how to count income and resources when it does not.

OAR 461 145 0120 about defining earned income is being amended to include non business expenditures paid by an individual's business or corporation as earned income.

OAR 461 145 0130 about the treatment of earned income is being amended to comply with federal regulations which allow net losses from self employment to be excluded from other sources of earned income. It also aligns the Department with federal regulations regarding how income earned from an individual's corporation is counted, namely that it cannot be considered self employment income.

OAR 461 145 0250 about income producing property is being amended to remove APD medical programs as it will be addressed in a new proposed rule, OAR 461 145 0252, which is described below.

OAR 461 145 0252 about income producing property for OSIP, OSIPM, and QMB is being adopted to clarify what constitutes income producing property and how it should be treated. This new rule will create a much clearer distinction between income producing property and work related assets, which is not present in the current versions of these rules.

OAR 461 145 0280 about in kind income is being amended to state that the rule does not apply to in kind support and maintenance and refers instead to a new proposed rule, OAR 461 145 0285, described below, which will govern how those payments are treated in the OSIPM and QMB programs.

OAR 461 145 0285 about in kind support and maintenance in the OSIPM and QMB programs is being adopted to govern how in kind support and maintenance payments are treated in the OSIPM and QMB programs.

OAR 461 145 0440 about reimbursements is being amended to add a reference to a proposed new rule, OAR 461 145 0915, described below, relating to self employment income in APD medical programs.

OAR 461 145 0470 about shelter in kind income is being amended to remove reference to OSIP, OSIPM, and QMB programs. This rule will no longer apply to those programs. Shelter in kind income in APD programs will be governed by a new proposed rule, OAR 461 145 0285, described above.

OAR 461 145 0600 about work related capital assets, equipment, and inventory is being amended to align with federal policy, which excludes these items.

OAR 461 145 0910 about self employment income generally is being amended to remove APD medical programs as they will now be addressed in a new proposed rule, OAR 461 145 0915, described below.

OAR 461 145 0915 about self employment generally in the OSIP, OSIPM, and QMB is adopted to align Department policy with federal policy regarding how self employment is recognized and treated and to clarify that those who own or form corporations are not self employed.

OAR 461 145 0920 about costs that are excluded to determine countable income is being amended to align with federal policy regarding excludable self employment costs, namely that all costs listed on the IRS Schedule C are allowed.

OAR 461 150 0090 about prospective budgeting of self employment income is being amended to remove APD medical programs as they will be addressed in a new rule, OAR 461 150 0095, described below.

OAR 461 150 0095 is being adopted to align with federal policy regarding how self employment income is budgeted. The budgeting sections formerly found in 461 145 0910 have been moved to this new rule. Also, the association between self employment and contract income has been removed as it has caused confusion in the past. An individual is either self employed or working for another as an employee; there is no third category just because the employment may be contractual.

OAR 461 155 0020 about prorated standards based on adjusted number in household is being amended to reflect federal policy regarding when prorated standards (referred to as one third reduction in federal policy) apply in the Oregon Supplemental Income Program Medical (OSIPM). It is also being amended to remove references to the Oregon supplemental Income program (OSIP).

OAR 461 155 0300 about shelter in kind standards is being repealed.

OARs 461 160 0610 and 461 160 0620 are being amended to add language clarifying how adjusted income is calculated for people receiving mental health treatment services in residential mental health services treatment facilities. The added language will clarify that for such individuals, adjusted income is their income minus the OSIP standard for one person, minus $20.

OAR 461 190 0212 about case plan activities and support services in the JOBS, Post TANF, Pre TANF, REF, SFPSS, TA DVS, and TANF programs is being repealed. This rule was adopted in 2011 to indicate which Job Opportunity and Basic Skills (JOBS) program activities and services would end effective June 30, 2011. The rule was needed to deal with budget shortfalls in 2011, but the rule no longer reflects current practice as it relates to support service payments for JOBS participants.

OAR 461 195 0310 about notices of claim or action by an applicant or recipient of assistance is being amended to: clarify that statutory notices under ORS 416.530 may be combined into one notice and sent to the Personal Injury Liens Unit; add "personal representative" as an individual required to provide notice of a claim or action; delete "prepaid managed care health services organization" as having a right to sue a recipient or applicant for failure to provide timely notice of a claim or action; and to make technical corrections

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

The draft rules are available at http://www.dhs.state.or.us/policy/selfsufficiency/ar_proposed.htm.

**Rules Coordinator:** Kris Skaro

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

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

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**Rule Caption:** Amending ERDC reporting requirements to implement a 12-month continuous eligibility period for ERDC families

**Stat. Auth.:** ORS 409.010, 409.050, 411.060, 411.070, 411.095, HB 2015 (2015)

**Other Auth.:** 45 CFR 98, Child Care Development Block Grant (CCDBG) Act of 2014

**Stats. Implemented:** ORS 409.010, 409.050, 409.610, 411.060, 411.070, 411.095, HB 2015 (2015)

**Proposed Amendments:** 461-150-0060, 461-170-0101, 461-170-0102, 461-170-0103, 461-170-0104, 461-175-0280, 461-180-0006

**Last Date for Comment:** 8-28-15, 5 p.m.

**Summary:** The Department of Human Services, Office of Self-Sufficiency Programs, is proposing to amend reporting requirements in the ERDC program. The amendments described below are part of the implementation of a new policy to provide a 12-month continuous eligibility period for ERDC families regardless of a change in circumstances, such as a change in employment or a parent attending an education or job training program, as required by the Child Care Development Block Grant (CCDBG) Act of 2014 and HB 2015 (2015).

- OAR 461-150-0060 about prospective or retrospective eligibility and budgeting in the ERDC, REF, REFM, SNAP, and TANF programs is being amended to remove reference to how temporary income and short-term child care needs are treated in the ERDC program and to remove reference to the ERDC program in the Interim Change Report provision, both of which will no longer be used in the ERDC program.

- The rules below are being amended to remove references to the ERDC program as it relates to the Simplified Reporting System (SRS), which will no longer be used in the ERDC program:

- OAR 461-170-0101, Simplified Reporting System (SRS); ERDC, SNAP

- OAR 461-170-0102, Required Reports for the Simplified Reporting System (SRS) — Interim Change Report; ERDC, SNAP

- OAR 461-170-0103, Actions Resulting From Changes in Household Circumstances; Simplified Reporting System (SRS); ERDC, SNAP Notice Situations

- OAR 461-170-0104, Failure to Submit Interim Change Report; Simplified Reporting System (SRS); ERDC, SNAP

- OAR 461-175-0280, Notice Situation; Failure to Submit Report for SRS or ERDC Reapplication

- OAR 461-180-0006, Effective Dates; Changes in the Simplified Reporting System (SRS); ERDC, SNAP

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

The draft rules are available at http://www.dhs.state.or.us/policy/selfsufficiency/ar_proposed.htm

**Rules Coordinator:** Kris Skaro

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

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

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## Department of Justice
## Chapter 137

**Rule Caption:** Adopts standards for the collection, retention, preservation and cataloging of biological evidence

| Date: | Time: | Location: |
|---|---|---|
| 8-24-15 | 10 a.m. | Oregon Dept. of Justice<br>1162 Court St. NE<br>Salem, OR 97301 |

**Hearing Officer:** Staff

**Stat. Auth.:** ORS 137.709

**Stats. Implemented:** ORS 137.705–137.717

**Proposed Adoptions:** Rules in 137-140

**Last Date for Comment:** 8-24-15, 5 p.m.

**Summary:** Effective June 29, 2009, the Oregon legislature enacted Oregon Laws 2009, chapter 489 (Senate Bill 310) that required law enforcement agencies and other persons or public bodies charged with the collection, storage or retrieval of biological evidence ("custodians"), to preserve such evidence collected as part of a criminal investigation or criminal cases involving a "covered offense," e.g. Aggravated Murder, Murder, Manslaughter in the First or Second Degree, Criminally Negligent Homicide, Aggravated Vehicular Homicide, or a sex crime listed under former ORS 181.594 (renumbered to ORS 181.805). The legislature further required custodians to preserve biological evidence in amounts and manners sufficient to develop a DNA profile from such biological evidence. Id.

Effective June 7, 2011, the Oregon legislature amended Senate Bill 310 (2009) by Oregon Laws 2011, chapter 275 (Senate Bill 731) and enacted retention periods, processes and procedures that custodians are required to follow for the preservation and disposition of biological evidence. Additionally, the legislature authorized custodians to seek disposition of biological evidence earlier then the statutory retention periods by using a standardized form that provided notice to the district attorney. The legislature required the Oregon Attorney General to adopt administrative rules that establish the standards for the proper collection, retention, preservation and cataloging of biological evidence applicable to criminal investigations and criminal prosecution of covered offenses. Moreover, the Oregon Attorney General is further required to adopt by administrative rule a standard form for use by custodians when providing written notice to district attorneys for early disposition of biological evidence for covered offenses.

These administrative rule implement that legislation. The rules set forth guidelines and standards for use by custodians in the collection, retention, preservation and cataloging of biological evidence. The

rules further adopt a standardized form for use by custodians when they give notice to district attorneys seeking disposal of biological evidence earlier than the statutory retention time-lines.
**Rules Coordinator:** Carol Riches
**Address:** Department of Justice, 1162 Court St. NE, Salem, OR 97301
**Telephone:** (503) 378-5987

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

**Rule Caption:** Updates denial and revocation standards for fire service certification.
**Stat. Auth.:** ORS 181.610 & 181.640
**Stats. Implemented:** ORS 181.610 & 181.640
**Proposed Amendments:** 259-009-0059, 259-009-0070
**Last Date for Comment:** 8-21-15, Close of Business
**Summary:** The Fire Policy Committee (FPC) recognized the need to review and update the current denial and revocation standards as they relate to fire service certification. At the direction of the FPC, a workgroup consisting of current FPC members was convened to review standards, procedures and definitions for issuance and denial or revocation of fire service certifications.

After numerous meetings, the workgroup revised numerous areas of rule. Changes include the following:

Core values have been changed to:

- Integrity. Integrity is defined as honesty, trustworthiness, truthfulness, accountability and ethical behavior; and

- Professionalism. Professionalism is defined as accountability, exercising judgment and behavior expected of a fire service professional and conduct becoming a fire service professional.

Discharge for Cause: The discharge for cause definitions have been updated to" lack of integrity" and "unprofessionalism." When a fire service professional is reported as being discharged for cause, staff will perform an initial review to determine if the discharge may violate the discharge for cause definitions. If the review indicates the fire service professional may be in violation, a staff report will be prepared and the case will be presented to the FPC for recommendation to the Board.

Discretionary Convictions: When staff becomes aware of a criminal conviction involving a certified fire service professional or applicant for fire certification, staff will review the elements of the conviction to determine if:

- The conviction occurred after January 15, 2008;
- The conviction is for a felony;
- The elements of the crime are sexual in nature or require the individual to register as a sex offender;
- The conviction is for a crime against a public agency;
- The individual has been convicted of five or more crimes in the past five years; or
- The conviction is of a Class A or Class B misdemeanor AND:
- Resulted in incarceration for any period of time in the last five years;
- The individual is currently on some form of court ordered supervision; or
- The individual has unpaid restitution or fees resulting from the conviction.

If any of the listed elements are met, a staff report will be prepared and presented to the FPC for review. The FPC will review the conduct surrounding the conviction, any aggravating or mitigating circumstances, and make a determination whether to recommend proceeding with denial or revocation. If the FPC decides to recommend denial or revocation to the Board, the FPC will also determine how long an individual will be ineligible to reapply for certification (between 30 days and seven years) and whether or not any additional conditions must be satisfied prior to an individual being allowed to reapply for certification.

This proposed rule change has been vetted through the Department of Justice to ensure legal defensibility.

**Rules Coordinator:** Sharon Huck
**Address:** Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317
**Telephone:** (503) 378-2432

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

**Rule Caption:** Implements Chapter 154, Oregon Laws 2015, Relating to Proof of Vehicle Registration
**Stat. Auth.:** ORS 184.616, 184.619, 802.012, 803.460, 803.550, 803.560 & 2015 OL Ch. 154
**Stats. Implemented:** ORS 803.550, 803.560 & 2015 OL Ch. 154
**Proposed Adoptions:** 735-032-0025
**Last Date for Comment:** 8-21-15, Close of Business
**Summary:** A person commits the offense of illegal display of a registration plate or improper display of validating stickers if the person displays a registration plate with registration stickers that have an expiration date that is different from the date shown on DMV's record for the vehicle.

However, there are occasions when a person renews their vehicle registration but does not receive the registration stickers from DMV for several days. For example, this can occur when renewing registration online through DMV's website.

Chapter 154, Oregon Laws, 2015 amends ORS 803.550 and 803.560 to provide that a person is not in violation of illegally displaying the registration plate or registration stickers or improper display of validating stickers, if the person has proof of vehicle registration, but has not received new registration stickers from DMV. The legislative act requires DMV to adopt rules regarding what constitutes proof of vehicle registration.

DMV is proposing to adopt OAR 735-032-0025 to specify what constitutes proof of registration for the purposes of ORS 803.550 and 803.560, as amended by Chapter 154, Oregon Laws, 2015.
**Rules Coordinator:** Lauri Kunze
**Address:** Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, MS 51, Salem, OR 97301
**Telephone:** (503) 986-3171

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**Department of Transportation,**
**Motor Carrier Transportation Division**
**Chapter 740**

**Rule Caption:** Refund of fees and fuel purchases
**Stat. Auth.:** ORS 184.616, 184.619, 823.011 & 825.502
**Stats. Implemented:** ORS 30.701, 825.476, 825.480, 825.484, 825.486 & 825.502
**Proposed Amendments:** 740-055-0020, 740-055-0110
**Last Date for Comment:** 8-21-15, Close of Business
**Summary:** These rules describe payments and refunds of Oregon Highway Use Tax and fuel purchases records and refunds. The proposed rulemaking sets a dollar amount for which the Department will issue a refund check to a motor carrier. Motor carriers can request to apply any credits under $100 to other taxes due, such as, Oregon Highway Use Tax, International Fuels Tax Agreement, or International Registration Plan. The Department will issue a check for less than $100 after a motor carrier's account is audited and the account is closed. In addition, the proposed rule amendment adds clarifying language to require fuel card statement to clearly identify retail and cardlock purchases. It is becoming increasingly difficult and time consuming to determine whether or not fuel tax was actually paid at the time of purchase. This rulemaking is necessary to ensure refunds are not provided to motor carriers that purchase fuel where the tax is not actually paid.
**Rules Coordinator:** Lauri Kunze
**Address:** Department of Transportation, Motor Carrier Transportation Division, 355 Capitol St. NE, MS 51, Salem, OR 97301
**Telephone:** (503) 986-3171

**Rule Caption:** Electronic system
**Stat. Auth.:** ORS 184.616, 184.619 & 823.011
**Stats. Implemented:** ORS 825.137, 825.139, 825.135, 825.474, 825.490, 825.496 & 825.506
**Proposed Adoptions:** 740-300-0005
**Last Date for Comment:** 8-21-15, Close of Business
**Summary:** These rules describe the penalties related to violations of Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR). In September 2014, the Department adopted rules to govern the development of automated electronic systems operated by motor carrier agents that accurately and reliably transmit, process, and store operating data from motor vehicles and allows the generation of tax reports and the transmission of taxes, fees for the use of highways under Oregon Highway Use Tax. The proposed rulemaking allows the Department the option to require a motor carrier to use an automated electronic system operated by a motor carrier agent, as a condition for continuing operations, when the motor carrier is found to have repeatedly violated the laws and rules of the Department by failing to report and pay the Oregon Highway Use Tax. A request for a review of the motor carrier account can be requested after three years of compliance to relieve the requirement of the use of the automated electronic system.
**Rules Coordinator:** Lauri Kunze
**Address:** Department of Transportation, Motor Carrier Transportation Division, 355 Capitol St. NE, MS 51, Salem, OR 97301
**Telephone:** (503) 986-3171

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**Higher Education Coordinating Commission**
**Chapter 715**

**Rule Caption:** Adopt new program fees to reflect passage of Senate Bill 218.

| Date: | Time: | Location: |
|---|---|---|
| 8-17-15 | 1 p.m. | 775 Court St. NE<br>Salem, OR 97301 |

**Hearing Officer:** Kelly Dickinson
**Stat. Auth.:** ORS 345.080
**Other Auth.:** SB 218 (2015)
**Stats. Implemented:** ORS 348.808
**Proposed Amendments:** 715-045-0007
**Last Date for Comment:** 8-21-15, 5 p.m.
**Summary:** The proposed amendment corrects one reference to OAR 715-045-0001 and clarifies language in OAR 715-045-0007. The Private Career Schools Licensing unit will adopt a licensing fee for new programs offered by a licensed private career school that were not offered at the time of initial application. The licensing fee will be $1,000 for each new program. The fee increase was proposed and submitted to the Oregon State Legislature in Senate Bill 218 during the 2015 legislative session. The Private Career Schools found that in an average year the unit will experience 16 new program applications from the existing licensed career schools. The new fee requires each new program to be charged $1,000 per program review. With this fee increase, the unit expects an additional $32,000 in revenue over the course of the biennium. This is to help create a self-sustaining unit under the Office of Private Postsecondary. The Advisory Committee met to discuss these developments in March, 2015 and June, 2015. The committee advises the commission on policies and regulations regarding career schools and functions as the commission's rules advisory committee for rules regarding career schools.
**Rules Coordinator:** Kelly Dickinson
**Address:** Higher Education Coordinating Commission, 775 Court St NE, Salem, OR 97301
**Telephone:** (503) 378-5690

**Oregon Board of Dentistry**
**Chapter 818**

**Rule Caption:** Amending 22 Rules regarding practice, definitions, fees, anesthesia, education, hygiene, assistants and continuing education rules.

| Date: | Time: | Location: |
|---|---|---|
| 8-27-15 | 6:30 p.m. | Crown Plaza in the Oregon<br>Medical Board's Conference Rm.<br>1500 SW 1st Ave., Suite 620<br>Portland Or 97201 |

**Hearing Officer:** OBD President
**Stat. Auth.:** ORS 183.325–183.183.355, 183.400, 679.250, 679.255, 680.150, 680.200 & 680.205
**Stats. Implemented:** ORS 670.260, 676.185, 676.190, 676.195, 676.200, 679.010, 679.020, 679.025, 679.060, 679.090, 679.115, 679.120, 679.140, 679.160, 679.170, 679.250, 680.050, 680.072, 680.075, 680.082, 680.100, 680.150, 680.200 & 680.205
**Proposed Amendments:** 818-001-0002, 818-001-0087, 818-012-0030, 818-021-0060, 818-021-0070, 818-026-0010, 818-026-0020, 818-026-0030, 818-026-0040, 818-026-0050, 818-026-0060, 818-026-0065, 818-026-0070, 818-026-0080, 818-026-0110, 818-035-0025, 818-035-0030, 818-035-0065, 818-042-0040, 818-042-0050, 818-042-0070, 818-042-0090
**Proposed Repeals:** 818-001-0087, 818-035-0025, 818-035-0030
**Last Date for Comment:** 8-27-15, 4 p.m.
**Summary:** The Board is amending 818-001-0002 Definitions. The amendment to 818-001-0002 is to define what a dental study group is.

The Board is repealing Temporary Rule 818-001-0087 Fees which was effective July 1, 2015, to make it permanent. The amendment to 818-001-0087 is to raise the biennial license fee by $75.

The Board is amending 818-012-0030 Unprofessional Conduct. The amendment to 818-012-0030 is to clarify the lettering of the level of healthcare provider training needed.

The Board is amending 818-021-0060 Continuing Education - Dentists. The amendment to 818-021-0060 is to add attendance at dental study groups as included in counting towards continuing education credit.

The Board is amending 818-021-0070 Continuing Education - Hygienists. The amendment to 818-021-0070 is to add attendance at dental study groups as included in counting towards continuing education credit.

The Board 818-026-0010 Definitions. The amendment to 818-026-0010 is to allow the use of non-intravenous pharmacological methods to induce minimal sedation and define maximum recommended dose (MRD), incremental dosing, supplemental dosing, enteral route and parenteral route.

The Board is amending 818-026-0020 Presumption of Degree of Central Nervous System Depression. The amendment to 818-026-0020 is to delete reference to rapidly acting steroids in the rule.

The Board is amending 818-026-0030 Requirements for Anesthesia Permits, Standards and Qualification of an Anesthesia Monitor. The amendment to 818-026-0030 is to define BLS, PALS and ACLS requirements for different levels of sedation and the ages of patients.

The Board is amending 818-026-0040 Qualifications, Standards Applicable, and Continuing Education Requirements for Anesthesia Permits: Nitrous Oxide Permits. The amendment to 818-026-0040 is to clarify the level of permit needed if a higher level of sedation is possible.

The Board is amending 818-026-0050 Minimal Sedation Permit. The amendment to 818-026-0050 is to clarify the level of health care provider training needed and define how a patient shall be monitored.

The Board is amending 818-026-0060 Moderate Sedation Permit. The amendment to 818-026-0060 is to clarify the level of health care provider training needed and define how a patient shall be monitored.

The Board is amending 818-026-0065 Deep Sedation. The amendment to 818-026-0065 is to clarify the level of health care provider training needed.

The Board is amending 818-026-0070 General Anesthesia Permit. The amendment to 818-026-0070 is to clarify the level of health care provider training needed.

The Board is amending 818-026-0080 Standards Applicable When a Dentist Performs Dental Procedures and a Qualified Provider Induces Anesthesia. The amendment to 818-026-0080 is to clarify the scheduling protocols when treating patients under sedation.

The Board is amending 818-026-0110 Office Evaluations. The amendment to 818-026-0110 is to clarify the criteria for in office evaluations.

The Board is repealing Temporary Rule 818-035-0025 Prohibitions which was effective April 17, 2015, to make it permanent. The amendment to 818-035-0025 is to add prescriptive authority back in the rule.

The Board is repealing Temporary Rule 818-035-0030 Additional Functions of Dental Hygienists which was effective April 17, 2015, to make it permanent. The amendment to 818-035-0030 is to add prescriptive authority back in the rule.

The Board is amending 818-035-0065 Expanded Practice Dental Hygiene Permit. The amendment to 818-026-0065 is to clarify the level of health care provider training needed.

The Board is amending 818-042-0040 Prohibited Acts. The amendment to 818-042-0040 is to delete the word dispense from the rule, add reference to another rule and correct a numbering mistake.

The Board is amending 818-042-0050 Taking of X-Rays - Exposing of Radiographs. The amendment to 818-042-0050 is to clarify that a dental hygienist may authorize the dental assistant regarding films referenced in rule.

The Board is amending 818-042-0070 Expanded Function Dental Assistants (EFDA). The amendment to 818-042-0070 is to clarify the duties of a dental assistant.

The Board is amending 818-042-0090 Additional Functions of EDDAs. The amendment to 818-042-0090 is to allow EFDAs to place cord subgingivally.

**Rules Coordinator:** Stephen Prisby
**Address:** Oregon Board of Dentistry, 1500 SW 1st Ave., Suite 770, Portland, OR 97201
**Telephone:** (971) 673-3200

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## Oregon Business Development Department
## Chapter 123

**Rule Caption:** These rules relate to the Oregon Low Income Community Jobs Initiative.
**Stat. Auth.:** ORS 285C.650 & 315.526–315.536
**Stats. Implemented:** ORS 285C.650 & 315.526–315.536
**Proposed Amendments:** 123-630-0000, 123-630-0030, 123-630-0050
**Proposed Repeals:** 123-630-0000(T), 123-630-0030(T), 123-630-0050(T)
**Last Date for Comment:** 8-24-15, Close of Business
**Summary:** In the 2013 legislative session, HB 2763 raised the maximum amount of qualified low-income investments that can be made in a qualified low-income business from $4 million to $8 million. This rule amendment provides for clearer language around the additional use of credit to a community development entity who has already received a credit up to $4 million, allowing for the additional investments up to the allowable maximum of $8 million on or after January 1, 2014. The amended rule requires the community development entity to submit a new project summary. In addition, the rules have been amended to make necessary contact information for the investor who will be making the investments in the program.
**Rules Coordinator:** Mindee Sublette
**Address:** Oregon Business Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301
**Telephone:** (503) 986-0036

**Rule Caption:** These rules relate to the Beginning and Expanding Farmer Loan Program ("Aggie Bonds").
**Stat. Auth.:** ORS 285A.420–285A.435
**Stats. Implemented:** ORS 285A.420–285A.435
**Proposed Amendments:** 123-052-1500
**Proposed Repeals:** 123-052-1500(T)
**Last Date for Comment:** 8-24-15, Close of Business
**Summary:** HB 3239 passed the 2015 legislative session updating the definition of "lender" to include seller financing. As a result of this change in statute, we are amending our Requirements for Lenders to include language for seller financing.
**Rules Coordinator:** Mindee Sublette
**Address:** Oregon Business Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301
**Telephone:** (503) 986-0036

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## Oregon Department of Education
## Chapter 581

**Rule Caption:** Training requirements for Safety of School Sports relating to concussions

| Date: | Time: | Location: |
|---|---|---|
| 8-21-15 | 1 p.m. | 255 Capitol St. NE<br>Salem, OR |

**Hearing Officer:** Emily Nazarov
**Stat. Auth.:** ORS 336.485
**Stats. Implemented:** ORS 336.485
**Proposed Amendments:** 581-022-0421
**Last Date for Comment:** 8-21-15, 5 p.m.
**Summary:** The rule establishes requirements for safety of school sports relating to concussions. The amendments ensure coaches receive annual training to learn how to recognize concussion symptoms and how to seek medical treatment for person suspected of having concussion.
**Rules Coordinator:** Cindy Hunt
**Address:** Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
**Telephone:** (503) 947-5651

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## Oregon Health Authority, Addictions and Mental Health Division: Mental Health Services
## Chapter 309

**Rule Caption:** Permanent amendments to 309-114 for obtaining informed consent to treatment by patients in state institutions.

| Date: | Time: | Location: |
|---|---|---|
| 8-24-15 | 9 a.m. | 500 Summer St. NE<br>Salem, OR 97301 |

**Hearing Officer:** Nola Russell
**Stat. Auth.:** ORS 179.040 & 413.042
**Stats. Implemented:** ORS 179.321, 426.070 & 426.385
**Proposed Amendments:** 309-114-0000, 309-114-0005, 309-114-0010, 309-114-0015, 309-114-0020
**Last Date for Comment:** 8-31-15, Close of Business
**Summary:** These rules prescribe standards and procedures to be observed by personnel of state institutions operated by Division in obtaining informed consent to significant procedures, as defined by these rules, from patients of such state institutions. These rules do not apply to routine medical procedures. Administration of significant procedures without informed consent is permitted as described in OAR 309-114-0010(1)(b). The purpose of these rules is to assure that the rights of patients are protected with respect to significant procedures.
**Rules Coordinator:** Nola Russell
**Address:** Oregon Health Authority, Addictions and Mental Health Division: Mental Health Services, 500 Summer St. NE, Salem, OR 97301
**Telephone:** (503) 945-7652

**Oregon Health Authority,**
**Division of Medical Assistance Programs**
**Chapter 410**

**Rule Caption:** Preferred Drug List March 26, 2015 DUR/P&T Action

| **Date:** | **Time:** | **Location:** |
|---|---|---|
| 8-18-15 | 10:30 a.m. | 500 Summer St. NE, Rm. 160<br>Salem, OR 97301 |

**Hearing Officer:** Sandy Cafourek
**Stat. Auth.:** ORS 413.032, 413.042, 414.065, 414.325, 414.330–414.414, 414.312 & 414.316
**Stats. Implemented:** ORS 414.065, 414.325, 414.334, 414.361, 414.369, 414.371, 414.353 & 414.354
**Proposed Amendments:** 410-121-0030
**Proposed Repeals:** 410-121-0030(T)
**Last Date for Comment:** 8-20-15, 5 p.m.
**Summary:** The Pharmaceutical Services Program administrative rules (Division 121) govern Division payments for services provided to certain clients. The Division needs to amend rules as follows:

410-121-0030:
Preferred:
Viekiera Pak™;
Laxative drug class:
- Polyethylene glycol 3350;
- Lactulose;
- Senna products;
- Bulk forming laxatives less than $1/unit;
- Osmotic laxatives less than $1/unit;
- Surfactant, stimulant, and saline laxatives.

Isosorbide dinitrate — capsule ER;
Nitroglycerin — capsule ER;
Adalimumab (Humira Pediatric Crohn's™);
Calcium Citrate — tablet;
Buprenorphine HCL / Naloxone HCL;
Dexmethylphenidate HCL;
Chlorpromazine HCL;
Fluphenazine HCL.
Non-Preferred:
Bulk forming laxatives $1/unit or more;
Osmotic laxatives $1/unit or more;
Lubricant laxatives;
Cimetidine — tablet;
Spinosad;
Clerical-Various clerical changes were made to system class, drug and form names.

**Rules Coordinator:** Sandy Cafourek
**Address:** Oregon Health Authority, Division of Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301
**Telephone:** (503) 945-6430

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**Rule Caption:** Prior Authorization Approval Criteria Guide

| **Date:** | **Time:** | **Location:** |
|---|---|---|
| 8-18-15 | 10:30 a.m. | 500 Summer St. NE, Rm. 160<br>Salem, OR 97301 |

**Hearing Officer:** Sandy Cafourek
**Stat. Auth.:** ORS 413.032, 413.042, 414.065, 414.325, 414.330 to 414.414, 414.312 & 414.316
**Stats. Implemented:** ORS 414.065, 414.325, 414.334, 414.361, 414.369, 414.371, 414.353 & 414.354
**Proposed Amendments:** 410-121-0040
**Proposed Repeals:** 410-121-0040(T)
**Last Date for Comment:** 8-20-15, 5 p.m.
**Summary:** The Pharmaceutical Services Program administrative rules (division 121) govern Division payments for services provided to certain clients. The Division needs to amend rules as follows:

The Authority is amending this rule to update the Oregon Medicaid Fee for Service Prior Authorization Criteria Guide found at http://www.oregon.gov/oha/healthplan/Pages/pharmacy-policy.aspx based on the P&T (Pharmacy and Therapeutic) Committee recommendations.

**Rules Coordinator:** Sandy Cafourek
**Address:** Oregon Health Authority, Division of Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301
**Telephone:** (503) 945-6430

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**Rule Caption:** CCO Enrollment for Adults and Young Adults Receiving Temporary Out-of-Area Behavioral Health Treatment

| **Date:** | **Time:** | **Location:** |
|---|---|---|
| 8-18-15 | 10:30 a.m. | 500 Summer St. NE, Rm. 160<br>Salem, OR 97301 |

**Hearing Officer:** Sandy Cafourek
**Stat. Auth.:** ORS 413.042, 414.615, 414.625, 414.635 & 414.651
**Stats. Implemented:** ORS 413.042
**Proposed Adoptions:** 410-141-3066
**Proposed Repeals:** 410-141-3065
**Last Date for Comment:** 8-20-15, 5 p.m.
**Summary:** This rule provides the Division framework for CCO member enrollment for those adults and young adults receiving temporary out-of-area behavioral health treatment services. Because of integration of Substance Abuse Disorder (SUD) treatment services, referenced in OAR 410-141-3065, into the CCO behavioral health system and the commonality with services referenced in OAR 410-141-3066, the two rules have been consolidated. With this consolidation, it is the Authority's intent to repeal OAR 410-141-3065.

**Rules Coordinator:** Sandy Cafourek
**Address:** Oregon Health Authority, Division of Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301
**Telephone:** (503) 945-6430

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**Rule Caption:** Align with Department of Human Services OAR Chapter 461 Rules
**Stat. Auth.:** ORS 413.042
**Stats. Implemented:** ORS 413.042 & 414.065
**Proposed Amendments:** 410-120-0006
**Last Date for Comment:** 8-20-15, 5 p.m.
**Summary:** In coordination with the Department of Human Services' (Department) revision of rules established in OAR chapter 461 for all overpayment, personal injury liens, and estate administration, the Division is amending OAR 410-120-0006 to assure that the Division's rule aligns with and reflects information found in the Department's amended rules. In OAR 410-120-0006, the Division adopts and incorporates Department rules and must update OAR 410-120-0006 accordingly. The Division is amending this rule that incorporates rules established in OAR Chapter 461 for all overpayment, personal injury liens, and estate administration for Authority programs covered under OAR 410-200. References to OAR Chapter 461 in contracts of the Authority are deemed to be references to the requirements of this rule.

**Rules Coordinator:** Sandy Cafourek
**Address:** Oregon Health Authority, Division of Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301
**Telephone:** (503) 945-6430

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**Oregon Health Authority,**
**Office for Oregon Health Policy and Research**
**Chapter 409**

**Rule Caption:** Repeal of Community-Based Health Care Improvement Program rule.
**Stat. Auth.:** ORS 735.721
**Stats. Implemented:** ORS 735.721, 735.723, 735.725 & 735.727
**Proposed Repeals:** 409-040-0100, 409-040-0105, 409-040-0110, 409-040-0115
**Last Date for Comment:** 8-20-15, 5 p.m.
**Summary:** The Community-Based Health Care Improvement Program approved three community-based health care initiatives between January 1, 2010 and June 30, 2013. All reporting and finan-

cial components are now complete, and there is no longer a need for this rule.
**Rules Coordinator:** Zarie Haverkate
**Address:** Oregon Health Authority, Office for Oregon Health Policy and Research, 500 Summer St. NE, E-65, Salem, OR 97301
**Telephone:** (503) 931-6420

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**Oregon Health Authority,**
**Public Health Division**
**Chapter 333**

**Rule Caption:** Oregon Housing Opportunities in Partnership Program

| Date: | Time: | Location: |
|---|---|---|
| 8-19-15 | 11 a.m. | 3414 Cherry Ave. NE, Suite 150<br>Deer Springs Rm.<br>Salem, OR 97303 |

**Hearing Officer:** Jana Fussell
**Stat. Auth.:** ORS 413.014 & 431.250
**Stats. Implemented:** ORS 431.250
**Proposed Adoptions:** 333-022-3000
**Last Date for Comment:** 8-22-15, 5 p.m.
**Summary:** The Oregon Health Authority, Public Health Division, HIV Community Services Program is proposing to adopt rules to govern the administration of the Oregon Housing Opportunities in Partnership Program. The program currently has policies and procedures but must formalize these through the rulemaking process. The proposed rules reflect current practice and the manner in which the program has been operating. They do not represent any significant change in who is eligible, service provided, or how the program services will be administered.
**Rules Coordinator:** Brittany Sande
**Address:** Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232
**Telephone:** (971) 673-1291

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**Rule Caption:** EMS Provider Exams

| Date: | Time: | Location: |
|---|---|---|
| 8-25-15 | 1 p.m. | Portland State Office Bldg.<br>800 NE Oregon St., Rm 368<br>Portland, OR 97232 |

**Hearing Officer:** Jana Fussell
**Stat. Auth.:** ORS 682.017, 682.208 & 682.216
**Stats. Implemented:** ORS 682.017, 682.208 & 682.216
**Proposed Amendments:** 333-265-0023
**Last Date for Comment:** 8-25-15, 5 p.m.
**Summary:** The Oregon Health Authority (OHA), Public Health Division is proposing to permanently amend Oregon Administrative Rules in chapter 333, division 265 relating to the Emergency Medical Services and Trauma Systems (EMS/TS) Program. In response to the Oregon EMS for the Future Workgroup, SB 234 was passed during the 2011 Oregon legislative session requiring the EMS/TS program to amend rules in order to align EMS provider classifications with NREMT national standards. The EMS/TS program continues to update its rules to align with these standards and is now proposing to adopt and implement the NREMT standards for provider exams.
**Rules Coordinator:** Brittany Sande
**Address:** Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232
**Telephone:** (971) 673-1291

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**Oregon Liquor Control Commission**
**Chapter 845**

**Rule Caption:** Amends three rules and adopts one allowing suppliers to advertise promotional events at retail licensees.

| Date: | Time: | Location: |
|---|---|---|
| 8-26-15 | 10 a.m. | 9079 SE McLoughlin Blvd.<br>Portland, OR 97222 |

**Hearing Officer:** Bryant Haley
**Stat. Auth.:** ORS 471, 471.030, 471.040 & 471.730(1) & (5)
**Stats. Implemented:** ORS 471.730, 471.398, 471.400, 471.402
**Proposed Adoptions:** 845-006-0446
**Proposed Amendments:** 845-005-0428, 845-006-0450, 845-013-0040
**Last Date for Comment:** 9-9-15, 5 p.m.
**Summary:** This rules package enables suppliers (wholesale/manufactures) to advertise Promotional Events for all types of alcohol and centralize this concept into a new rule OAR 845-006-0446. These amendments allow suppliers to pay for advertising (provided the payment is not to the retailer but directly to the provider of the advertising) for these events and for tasting events allowed under 845-006-0450. Further, the package removes the tasting prohibition in stores that are under 20,000 sq. ft. and that sell petroleum products.
**Rules Coordinator:** Bryant Haley
**Address:** Oregon Liquor Control Commission, 9079 SE McLoughlin Blvd., Portland, OR 97222
**Telephone:** (503) 872-5136

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**Oregon Medical Board**
**Chapter 847**

**Rule Caption:** Qualifications for License by Endorsement
**Stat. Auth.:** ORS 677.133 & 677.265
**Stats. Implemented:** ORS 677.133 & 677.265
**Proposed Amendments:** 847-026-0000
**Last Date for Comment:** 8-21-15, Close of Business
**Summary:** The proposed rule amendment clarifies that the preceding year of practice must be under a full, active, unlimited license. Therefore, if an applicant has been in an accredited clinical fellowship but under a Limited License, he or she will not qualify for License by Endorsement.
**Rules Coordinator:** Nicole Krishnaswami
**Address:** Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
**Telephone:** (971) 673-2667

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**Rule Caption:** Administration of albuterol and naloxone in the scope of practice for Emergency Medical Services providers
**Stat. Auth.:** ORS 682.245
**Stats. Implemented:** ORS 682.245 & 689.681
**Proposed Amendments:** 847-035-0030
**Last Date for Comment:** 8-21-15, Close of Business
**Summary:** The proposed rule amendment clarifies that EMTs may prepare and administer albuterol treatments and are not limited to only nebulized albuterol; clarifies that Advanced EMTs may continue to administer naloxone by any method of delivery, which is distinct from the ability of Emergency Medical Responders to administer naloxone only via intranasal device or auto-injector for suspected opioid overdose; and alphabetizes the medications or categories of medications that an Advanced EMT may prepare and administer under specific written protocols or direct orders.
**Rules Coordinator:** Nicole Krishnaswami
**Address:** Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
**Telephone:** (971) 673-2667

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**Rule Caption:** Acupuncturists must use single-use, disposable acupuncture needles and follow clean needle technique standards
**Stat. Auth.:** ORS 677.757 & 677.759
**Stats. Implemented:** ORS 677.757, 677.759 & 677.785
**Proposed Adoptions:** 847-070-0021
**Last Date for Comment:** 8-21-15, Close of Business
**Summary:** The proposed new rule requires Oregon-licensed acupuncturists to follow clean needle technique standards and use only disposable, single-use acupuncture needles.
**Rules Coordinator:** Nicole Krishnaswami

**Address:** Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
**Telephone:** (971) 673-2667

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**Rule Caption:** Fines for fraud or misrepresentation on an application, affidavit or registration
**Stat. Auth.:** ORS 677.265
**Stats. Implemented:** ORS 677.190, 677.205 & 677.265
**Proposed Amendments:** 847-008-0058
**Last Date for Comment:** 8-21-15, Close of Business
**Summary:** The proposed rule amendment clarifies that the Board will not grant or renew a license until an applicant or licensee has paid the civil penalty or is proceeding to a contested case hearing under ORS 183.745.
**Rules Coordinator:** Nicole Krishnaswami
**Address:** Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
**Telephone:** (971) 673-2667

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**Oregon Public Employees Retirement System**
**Chapter 459**

**Rule Caption:** Specify the effective date to implement an assumed rate change for PERS transactions.

| Date: | Time: | Location: |
|---|---|---|
| 8-25-15 | 2 p.m. | PERS Boardroom.<br>11410 SW 68th Pkwy.<br>Tigard, OR 97223 |
| 8-27-15 | 2 p.m. | Oregon State Archives<br>2nd Floor Conference Rm.<br>800 Summer St. NE<br>Salem, OR 97310 |

**Hearing Officer:** Daniel Rivas
**Stat. Auth.:** ORS 238.650 & 238A.450
**Stats. Implemented:** ORS 238, 238A
**Proposed Amendments:** 459-007-0007
**Last Date for Comment:** 9-1-15, 5 p.m.
**Summary:** Staff will return to the September 25, 2015 PERS Board meeting with rule modifications that implement any change to the assumed rate adopted at the July 31, 2015 PERS Board meeting with an effective date of January 1, 2016. Those modifications are reflected in the proposed rule, which includes a blank space to show the assumed rate percentage once it is adopted by the Board.
**Rules Coordinator:** Daniel Rivas
**Address:** Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281
**Telephone:** (503) 603-7713

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**Rule Caption:** Clarify the annual cost-of-living adjustment method for earned benefits.

| Date: | Time: | Location: |
|---|---|---|
| 8-25-15 | 2 p.m. | PERS Boardroom.<br>11410 SW 68th Pkwy.<br>Tigard, OR 97223 |
| 8-27-15 | 2 p.m. | Oregon State Archives<br>2nd Floor Conference Rm.<br>800 Summer St. NE<br>Salem, OR 97310 |

**Hearing Officer:** Daniel Rivas
**Stat. Auth.:** ORS 238.650 & 238A.450
**Stats. Implemented:** ORS 238.360, 238.575, 238A.210 & 2013 OL Ch. 53
**Proposed Amendments:** 459-005-0510
**Proposed Repeals:** 459-005-0520
**Last Date for Comment:** 9-1-15, 5 p.m.
**Summary:** OAR 459-005-0510, Cost-of-Living Adjustment, must be amended to implement the Oregon Supreme Court ruling in Moro v. PERB, regarding cost-of-living adjustments under Senate Bill 822 (2013) and Senate Bill 861 (2013 special session).

In addition, the Supreme Court ruling voided the supplementary payment provision in SB 861, so OAR 459-005-0520, Supplementary Payment, is proposed for repeal.
**Rules Coordinator:** Daniel Rivas
**Address:** Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281
**Telephone:** (503) 603-7713

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**Parks and Recreation Department**
**Chapter 736**

**Rule Caption:** Amend reservation process

| Date: | Time: | Location: |
|---|---|---|
| 8-19-15 | 6:30 p.m. | Sunset Bay State Park<br>Meeting Hall<br>89814 Cape Arago Hwy.<br>Coos Bay, OR 97420 |
| 8-22-15 | 9 a.m. | Tryon Creek State Park<br>Nature Center<br>11321 SW Terwilliger Blvd.<br>Portland, OR 97219 |
| 8-24-15 | 6:30 p.m. | Tryon Creek State Park<br>Nature Center<br>11321 SW Terwilliger Blvd.<br>Portland, OR 97219 |
| 8-25-15 | 6:30 p.m. | Valley River Inn, Alsea Rm.<br>1000 Valley River Way<br>Eugene, OR 97401 |
| 8-27-15 | 6:30 p.m. | Pine Ridge Inn<br>1200 SW Mt. Bachelor Dr.<br>Bend, OR 97702 |

**Hearing Officer:** Staff
**Stat. Auth.:** ORS 390.124
**Stats. Implemented:** ORS 390.111, 390.121 & 390.124
**Proposed Amendments:** 736-015-0015
**Last Date for Comment:** 8-28-15, 5 p.m.
**Summary:** The proposed changes amend the reservation process to provide better customer service by 1) reducing the reservation window from two days to one to allow customers more flexibility, 2) simplifying the cancellation process to provide one point of contact and allow cancellations on the web, 3) changing the cancellation and change windows for deluxe cabins, yurts and horse camps from one month to 3 days to reduce financial penalties on customers, 4) refining rules for groups to focus on the groups with the most impact on park resources and improve operational efficiency, 5) clean up rule language, removing references to old programs.

NOTE: Those who wish to make public comment at a scheduled hearing must register with the hearing officer within thirty minutes of the listed start time on the scheduled hearing dates.
**Rules Coordinator:** Claudia Ciobanu
**Address:** Parks and Recreation Department, 725 Summer St. NE, Suite C, Salem, OR 97301-1226
**Telephone:** (503) 872-5295

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**Physical Therapist Licensing Board**
**Chapter 848**

**Rule Caption:** New standard of practice for use of telehealth in the delivery of physical therapy services.

| Date: | Time: | Location: |
|---|---|---|
| 8-21-15 | 8 a.m. | PSOB, 800 NE Oregon St.<br>Suite 445<br>Portland, OR 97232 |

**Hearing Officer:** James D. Heider
**Stat. Auth.:** ORS 688.160(6)(c)
**Stats. Implemented:** ORS 688.010–688.230
**Proposed Adoptions:** 848-040-0180
**Proposed Amendments:** 848-040-0100
**Last Date for Comment:** 8-21-15, 10 a.m.
**Summary:** Adoption of new standards of practice for the delivery of physical therapy services by use of telehealth technologies. Includ-

ing but not limited to assessment or consultation, that can be safely and effectively provided using synchronous two-way interactive video conferencing, or asynchronous video communication, in accordance with generally accepted healthcare practices and standards. For purposes of these rules, "telehealth service" also means, or may be referred to, as "telepractice, teletherapy, or telerehab."
**Rules Coordinator:** James Heider
**Address:** Physical Therapist Licensing Board, 800 NE Oregon St, Suite 407, Portland, OR 97232
**Telephone:** (971) 673-0203

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**Rule Caption:** Change to a two year renewal cycle with a 15% reduction in renewal fees.

| Date: | Time: | Location: |
|---|---|---|
| 8-21-15 | 8 a.m. | PSOB, 800 NE Oregon St.<br>Suite. 445<br>Portland OR 97232 |

**Hearing Officer:** James D. Heider
**Stat. Auth.:** ORS 688.160(6)(c)
**Stats. Implemented:** ORS 688.010–688.230
**Proposed Amendments:** 848-005-0020, 848-010-0026, 848-010-0033, 848-010-0035, 848-035-0030
**Last Date for Comment:** 8-21-15, 10 a.m.
**Summary:** Change the current renewal cycle from a one year renewal cycle to every two year renewal cycle effective April 1, 2016. This will put the renewal cycle in sync with the two year continuing competency cycle. Reduce the renewal fee by 15%. Eliminate the provision and fee of a wall certificate. Add an administrative fee for the processing and tracking of the new early eligibility release forms. Cleanup some obsolete language in 848-010-0026. Add a requirement for a jurisprudence exam prior to reinstatement of a lapsed license. Add cultural competency course work to the list of approved continuing competency activities in Division 35 and correct errors previously published in Appendix A and B.
**Rules Coordinator:** James Heider
**Address:** Physical Therapist Licensing Board, 800 NE Oregon St, Suite 407, Portland, OR 97232
**Telephone:** (971) 673-0203

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**Public Utility Commission**
**Chapter 860**

**Rule Caption:** In the Matter of Rulemaking to Implement SB 329 Relating to Annual Fee Percentage Rate.
**Stat. Auth.:** ORS 183, 756, 757 & 759
**Stats. Implemented:** ORS 756.310, 756.320, 756.350 & 2015 OL Ch. 289
**Proposed Amendments:** 860-021-0034, 860-021-0036, 860-032-0095, 860-034-0095, 860-036-0095, 860-037-0095
**Last Date for Comment:** 8-24-15, 5 p.m.
**Summary:** This rulemaking implements 2015 Senate Bill 329, which raises the maximum annual fee from 0.25 percent to 0.30 percent of a utility's gross operating revenues.

The Commission encourages participants to file written comments as early as practicable in the proceedings so that other participants have the opportunity to consider and respond to the comments before the deadline. Please reference Docket No. AR 591 on comments and file them by e-mail to the Commission's Filing Center at PUC.FilingCenter@state.or.us.

Interested persons may review all filings online at http://apps.puc.state.or.us/edockets/docket.asp?DocketID=19599. For guidelines on filing and participation, please see OAR 860-001-0140 through 860-001-0160 and 860-001-0200 through 860-001-0250 found online at http://arcweb.sos.state.or.us/pages/rules/oars_800/oar_860/860_001.html.
**Rules Coordinator:** Diane Davis
**Address:** Public Utility Commission of Oregon, PO Box 1088, Salem, OR 97308-1088
**Telephone:** (503) 378-4372

**Secretary of State,**
**Elections Division**
**Chapter 165**

**Rule Caption:** Process of registering qualified individuals to vote using DMV data

| Date: | Time: | Location: |
|---|---|---|
| 9-1-15 | 6 p.m. | Higher Education Ctr. (HEC)<br>Rm. 129B<br>101 S Bartlett<br>Medford, OR 97501 |
| 9-3-15 | 6 p.m. | June Key Delta Community Ctr.<br>5940 N Albina Ave.<br>Portland, OR 97217 |
| 9-9-15 | 6 p.m. | Oxford Suites Hotel<br>Linda Scotland Conference Ctr.<br>2400 SW Court Pl.<br>Pendleton, OR 97801 |
| 9-24-15 | 6 p.m. | Eugene Public Library,<br>Singer Rm.<br>100 W 10th Ave.<br>Eugene, OR 97401 |

**Hearing Officer:** Staff
**Stat. Auth.:** 2015 OL Ch. 8, Sec. 1 (HB 2177), ORS 247.002, 247.012, 247.016, 247.017, 247.171, 247.292 & 247.302
**Other Auth.:** ORS 246.150
**Stats. Implemented:** ORS 247.012 & 2015 OL Ch. 8, Sec. 1–12
**Proposed Adoptions:** 165-005-0170
**Last Date for Comment:** 9-25-15, Close of Business
**Summary:** This rule implements Oregon Laws 2015, chapter 8, which requires the Secretary to establish a rule by which DMV transfers specific information about qualified individuals for voter registration purposes and other updates to the voter registration process.

The rule adopts the Oregon Motor Voter (OMV) manual as rule. The OMV Manual addresses the following:

Initiating the Motor Voter Process
Data Transfers from DMV to the Elections Division
Registration through Oregon Motor Voter Process
Registration Updates through Oregon Motor Voter Process
Public and Protected Records
Instructions for Completing the OMV Card
Hearings are scheduled from 6:00 pm to 7:30 pm.

**Rules Coordinator:** Brenda Bayes
**Address:** Secretary of State, Elections Division, 255 Capitol St. NE, Suite 501, Salem, OR 97310
**Telephone:** (503) 986-1518

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**Teacher Standards and Practices Commission**
**Chapter 584**

**Rule Caption:** Adopts, amends, repeals rules related to licensure redesign, substitute, and basic skills test.
**Stat. Auth.:** ORS 342
**Stats. Implemented:** ORS 342.120–342.430, 342.455–342.495 & 342.553
**Proposed Adoptions:** Division 18: 584-018-0161, Division 60: 584-060-0700, Division 300: 584-300-0020, 584-300-0030, 584-300-0040, 584-300-0050, 584-300-0060, 584-300-0170, Division 310: 584-310-0010, 584-310-0015, 584-310-0020, 584-310-0025, 584-310-0030, 584-310-0035, 584-310-0040, 584-310-0045, 584-310-0050, 584-310-0055, 584-310-0060, 584-310-0065, 584-310-0070, 584-310-0075, 584-310-0080, 584-310-0085, 584-310-0090, 584-310-0095, 584-310-0100, 584-310-0105, 584-310-0110, 584-310-0115, 584-310-0120, 584-310-0125, 584-310-0130, 584-310-0135, 584-310-0140, 584-310-0145, 584-310-0150, 584-310-0155, 584-310-0160, 584-310-0165, 584-310-0170, 584-310-0175, 584-310-0180, 584-310-0185, 584-310-0190, 584-310-0195, 584-310-0200, 584-310-0210, 584-310-0215, 584-310-0220, 584-310-0225
**Proposed Amendments:** Division 17: 584-017-1028, Division 18: 584-018-0220, Division 36: 584-036-0080, 584-038-0003, Division 42: 584-042-0031, 584-042-0081, Division 60: 584-060-0200, 584-

060-0220, 584-060-0250, Division 70: 584-070-0012, 584-070-0310, Division 90: 584-090-0100, 584-090-0115

**Proposed Repeals:** Division 18: 584-018-0160, 584-018-0220, Division 38: 584-038-0315, 584-038-0325, Division 60: 584-060-0006, 584-060-0012, 584-060-0013, 584-060-0051, 584-060-0052, 584-060-0062, 584-060-0071, 584-060-0181, 584-060-0525, 584-060-0530, 584-060-0600, 584-060-0630

**Last Date for Comment:** 10-1-15, 5:30 p.m.

**Summary:** Adopts, amends and repeals rules related licensure design simplification, changes to terms for substitute teaching licenses and the elimination of basic skills test requirement.

**Rules Coordinator:** Victoria Chamberlain

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

**Telephone:** (503) 378-6813

## Board of Architect Examiners
## Chapter 806

**Rule Caption:** To adopt a document, reference its location and specify the experience requirement for registration.
**Adm. Order No.:** BAE 2-2015(Temp)
**Filed with Sec. of State:** 6-26-2015
**Certified to be Effective:** 6-26-15 thru 12-22-15
**Notice Publication Date:**
**Rules Amended:** 806-010-0010, 806-010-0020, 806-010-0035
**Subject:** To adopt the July 2015 Edition of the document titled "NCARB Intern Development Program Guidelines," published by the National Council of Architectural Registration Boards (NCARB) and list its location for review as the Oregon Board of Architect Examiners website at: www.orbae.com. To amend the rules to specify the experience requirement for registration.
**Rules Coordinator:** Maria Brown—(503) 763-0662

**806-010-0010**
**Approved Architect Registration and Evaluation Programs**

(1) An applicant is required to complete acceptable accredited education, experience, and examination before they may be considered for registration as an architect in Oregon.

(2) The Oregon State Board of Architect Examiners (Board) adopts the education standard adopted by the National Council of Architectural Registration Boards (NCARB), which is a professional degree in architecture from a program accredited by the National Architectural Accrediting Board (NAAB) or the Canadian Architectural Certification Board (CACB), or a professional degree in architecture, certified by the CACB from a Canadian University.

(3) The Board adopts the requirements in the document titled NCARB Intern Development Program Guidelines dated July 2015 for the Intern Development Program (IDP). This document is located at: www.orbae.com.

(4) The Board adopts the Architect Registration Examination (ARE) prepared by NCARB as the approved examination to test applicant qualifications for registration.

(5) A person may be considered as a candidate for registration by following:

(a) The rules for registration by examination in OAR 806-010-0020; or

(b) The rules for registration by reciprocity in OAR 806-010-0035; or

(c) By satisfactorily completing the Broadly Experienced Architect (BEA) program or the Broadly Experienced Foreign Architect (BEFA) program offered through NCARB.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 670 & 671
Stats. Implemented: ORS 671.060
Hist.: AE 5, f. 12-22-64; AE 6, f. 6-5-69; AE 11, f. 2-15-74, ef. 3-11-74; AE 13, f. & ef. 4-2-76; AE 1-1979, f. 5-31-79, ef. 6-1-79; AE 2-1983, f. & ef. 1-12-83; BAE 1-2008, f. & cert. ef. 2-28-08; BAE 5-2014, f. & cert. ef. 7-24-14; BAE 2-2015(Temp), f. & cert. ef. 6-26-15 thru 12-22-15

**806-010-0020**
**Registration by Examination**

(1) To become registered by examination to practice architecture in Oregon, an individual must:

(a) Complete a professional degree in architecture meeting the education standard in OAR 806-010-0010(2); and

(b) Complete all the requirements of the IDP that includes no less than five thousand six hundred (5,600) hours of experience; and

(c) Receive a passing score in all sections of the ARE; and

(d) Receive a passing score on the Jurisprudence Examination (JE); and

(e) Attend an oral interview before the Board.

(2) To qualify to begin taking the ARE an individual must:

(a) Complete an Examination Application; and

(b) Pay the Examination Application Fee in OAR 806-010-0105(3); and

(c) Have NCARB records transmitted to the Board; and

(d) Receive written authorization from the Board to begin testing.

(3) All candidates for registration by examination must comply with all NCARB rules regulating the ARE and the IDP.

(4) An individual may use the title "Architectural Intern" only after:

(a) Completing a professional degree in architecture meeting the education standard in OAR 806-010-0010(2); and

(b) Establishing a record with NCARB and enrolling in IDP; and

(c) Receiving written authorization from the Board to begin taking the ARE.

(5) All candidates for registration by examination must:

(a) Submit a complete Examination Application; and

(b) Pay required fees; and

(b) Provide all required documentation.

(6) All candidates for registration must pass the JE.

(a) Individuals will have no longer than 60 minutes to complete the JE.

(b) The minimum passing score is 84%.

(c) Test results may not be challenged.

(d) An individual failing the JE must wait 30 days before retaking the exam.

(7) After passing the JE, a candidate for registration by examination must appear before the Board for an oral interview. Oral interviews are held on regularly scheduled Board meeting dates. The candidate will be notified in writing of their oral interview date.

(8) Upon successful completion of all requirements for registration by examination, the individual will be issued a certificate according to OAR 806-010-0040.

(9) No person may use the "Architect" title, except under the conditions outlined in OAR 806-010-0037 and ORS 671.065.

(10) No person may practice architecture in Oregon until the Board notifies the person in writing that registration is granted by the Board.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 671.125
Stats. Implemented: ORS 671.050, 671.060, 671.065 & 671.085
Hist.: AE 5, f. 12-22-64; AE 6, f. 6-5-69; AE 11, f. 2-15-74, ef. 3-11-74; AE 1-1978, f. & ef. 1-23-78; AE 1-1979, f. 5-31-79, ef. 6-1-79; AE 1-1980, f. & ef. 2-14-80; AE 2-1980, f. & ef. 10-3-80; AE 2-1981(Temp), f. & ef. 7-28-81; AE 2-1983, f. & ef. 1-12-83; AE 2-1984, f. & ef. 10-23-84; AE 1-1986, f. 11-12-86, ef. 11-13-86; AE 2-1992, f. & cert. ef. 3-30-92; AE 5-1992(Temp), f. & cert. ef. 10-21-92; AE 1-1993, f. & cert. ef. 7-1-93; AE 1-1996, f. 1-23-96, f. 2-1-96; AE 2-1997, f. & cert. ef. 9-24-97; BAE 2-1998, f. & cert. ef. 6-22-98; Administrative correction, 6-17-99; BAE 3-2000, f. & cert. ef. 7-24-00; BAE 5-2001, f. & cert. ef. 10-24-01; BAE 5-2002 f. 8-14-02 cert. ef. 8-15-02; BAE 4-2003, f. 8-13-03, cert. ef. 8-14-03; BAE 2-2005, f. & cert. ef. 5-12-05; BAE 1-2008, f. & cert. ef. 2-28-08; BAE 4-2009, f. & cert. ef. 7-10-09; BAE 2-2010, f. 6-11-10, cert. ef. 10-3-10; BAE 5-2014, f. & cert. ef. 7-24-14; BAE 2-2015(Temp), f. & cert. ef. 6-26-15 thru 12-22-15

**806-010-0035**
**Registration by Reciprocity**

(1) To become registered by reciprocity to practice architecture in Oregon, an individual must possess an active registration from another board-recognized jurisdiction, and

(a) Possess an active NCARB Certificate, which documents a minimum of five thousand six hundred (5,600) hours of experience, or

(b) Possess documentary evidence of the following:

(A) A first professional degree in architecture from a NAAB-accredited program of architecture;

(B) Successful completion of all sections of the ARE;

(C) Completion of the NCARB IDP program with no less than five thousand six hundred (5,600) hours, or two years of consecutive and active practice in architecture in a board-recognized jurisdiction after initial registration;

(D) If an individual has not previously been examined for seismic and lateral forces knowledge through successful completion of an NCARB examination in 1965 or later, the individual must provide evidence of successfully completing the NCARB Division Structural Systems examination.

(2) All applicants for registration by reciprocity must:

(a) Complete the Reciprocity Application;

(b) Pay required fees;

(c) Provide all required documentation in section (1);

(d) Pass the Jurisprudence Exam according to 806-010-0020(6).

(3) The Board reserves the right to require an oral interview of any reciprocity applicant. Oral interviews are held on regularly scheduled Board meeting dates. If an oral interview is required, the applicant will be notified.

Stat. Auth.: ORS 671.125
Stats. Implemented: ORS 671.050 & 671.065
Hist.: AE 5, f. 12-22-64; AE 11, f. 2-15-74, ef. 3-11-74; AE 1-1978, f. & ef. 1-23-78; AE 1-1979, f. 5-31-79, ef. 6-1-79; AE 2-1980, f. & ef. 10-3-80; AE 1-1984, f. & ef. 8-22-84; AE 1-1987, f. & ef. 3-30-87; AE 1-1988, f. & cert. ef. 3-14-88; AE 1-1992, f. 1-9-92, cert. ef. 1-10-92; AE 3-1992, f. & cert. ef. 6-30-92; AE 1-1996, f. 1-23-96, cert. ef. 2-1-96; AE 2-1997, f. & cert. ef. 9-24-97; BAE 2-1998, f. & cert. ef. 6-22-98; BAE 1-1999, f. & cert. ef. 3-25-99; BAE 3-2000, f. & cert. ef. 7-24-00; BAE 5-2002, f. 8-14-02 cert. ef. 8-15-02; BAE 4-2003, f. 8-13-03, cert. ef. 8-14-03; BAE 2-2004, f. & cert. ef. 3-2-04; BAE 1-2008, f. & cert. ef. 2-28-08; BAE 2-2010, f. 6-11-10, cert. ef. 10-3-10; BAE 4-2013, f. 12-30-13, cert. ef. 1-1-14; BAE 2-2015(Temp), f. & cert. ef. 6-26-15 thru 12-22-15

## Board of Examiners for Engineering and Land Surveying
## Chapter 820

**Rule Caption:** Adopt Board's 2015–2017 limit for payment of expenses from revenue collected by the Board.
**Adm. Order No.:** BEELS 4-2015(Temp)
**Filed with Sec. of State:** 7-1-2015
**Certified to be Effective:** 7-1-15 thru 12-18-15
**Notice Publication Date:**
**Rules Amended:** 820-010-0325
**Subject:** To adopt the 2015–2017 limit for payment of Board expenses from fees or other revenue, including miscellaneous receipts, collected or received by the Board.
**Rules Coordinator:** Jenn Gilbert—(503) 934-2107

**820-010-0325**
**Budget**

The amount of $3,250,000 is established for the biennium beginning July 1, 2015, as the intended limit for payment of expenses from fees, moneys or other revenue, including miscellaneous receipts, collected or received by the Board.

Stat. Auth.: ORS 182.462, 670.310, 672.155 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 1-1999, f. 5-27-99, cert. ef. 7-1-99; BEELS 1-2001, f. & cert. ef. 5-22-01; BEELS 2-2002, f. & cert. ef. 5-15-02; BEELS 4-2003, f. 5-14-03, cert. ef. 7-1-03; BEELS 2-2004, f. & cert. ef. 7-14-04; BEELS 2-2005(Temp), f. & cert. ef. 6-9-05 thru 12-5-05; BEELS 4-2005, f. & cert. ef. 9-23-05; BEELS 1-2007(Temp), f. & cert. ef. 3-23-07 thru 6-30-07; Administrative correction, 7-15-07; BEELS 1-2008, f. & cert. ef. 3-12-08; BEELS 1-2009, f. & cert. ef. 5-15-09; BEELS 2-2011, f. & cert. ef. 5-12-11; BEELS 3-2013, f. & cert. ef. 6-17-13; BEELS 9-2013(Temp), f. & cert. ef. 11-14-13 thru 5-9-14; Administrative correction, 5-21-14; BEELS 4-2015(Temp), f. & cert. ef. 7-1-15 thru 12-18-15

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## Board of Licensed Social Workers
## Chapter 877

**Rule Caption:** Adoption of requirements for temporary clinical social work associate certificate.
**Adm. Order No.:** BLSW 1-2015(Temp)
**Filed with Sec. of State:** 6-19-2015
**Certified to be Effective:** 6-19-15 thru 12-15-15
**Notice Publication Date:**
**Rules Adopted:** 877-020-0021
**Rules Amended:** 877-020-0005
**Subject:** New OAR 877-020-0021 establishes requirements necessary for the board to issue a temporary clinical social work associate certificate and sets out limits on the temporary certificate.

Amendments to OAR 877-020-0005 include reference to the temporary clinical social work associate certificate.
**Rules Coordinator:** Randy Harnisch—(503) 373-1163

**877-020-0005**
**Rules Applicable to Certification and Licensing**

This division of rules contains:

(1) The requirements to obtain and renew a certificate of social work associate.

(2) The requirements to obtain and renew a clinical social work license.

(3) The rules regarding the surrender and reapplication for a new license.

(4) The rules regarding the surrender and reapplication for a new certificate.

(5) The process of de-activating and re-activating a clinical social work license.

(6) The process to obtain a temporary certificate of social work associate.

Stat. Auth.: ORS 675.510 - 675.600 & Enrolled HB 2473 (2015)
Stats. Implemented: ORS 675.537
Hist.: BCSW 1-1982, f. & ef. 1-29-82; BCSW 2-1990, f. & cert. ef. 7-13-90; BCSW 2-1991, f. & cert. ef. 5-30-91; BCSW 1-2001, f. & cert. ef. 5-4-01; BCSW 1-2008, f. 6-27-08, cert. ef. 7-1-08; BLSW 3-2010, f. 12-15-10, cert. ef. 1-1-11; BLSW 1-2011(Temp), f. & cert. ef. 7-5-11 thru 12-31-11; BLSW 2-2011, f. & cert. ef. 12-29-11; BLSW 1-2015(Temp), f. & cert. ef. 6-19-15 thru 12-15-15

**877-020-0021**
**Requirements for Temporary Certificate of Clinical Social Work Associate**

(1) To be eligible for a temporary certificate of clinical social work associate, a person must:

(a) Submit a complete and accurate application on a form provided by the board;

(b) Hold a master's degree in social work from a college or university accredited by a credentialing body recognized by the board. The Council on Social Work Education and the Canadian Association for Social Work Education are recognized by the Board. The Board accepts determinations of equivalency of foreign degrees by the Council on Social Work Education's International Social Work Degree Recognition and Evaluation Service. Submission of proof of foreign degree equivalency and cost of the foreign degree equivalency determination are the responsibility of the applicant;

(c) Meet the fitness requirements of OAR 877-020-0008(2); and

(d) Pass the examination administered by the board on the subjects listed in OAR 877-020-0008(5)(a) with a score of not less than 90 per cent.

(2) A temporary certificate of clinical social work associate issued by the board expires, if not earlier terminated, when the board approves or proposes to deny a plan of practice and supervision pursuant to OAR 877-020-0009 or 180 days after issuance, whichever is less.

(3) An individual holding a temporary certificate of clinical social work associate may not engage in the practice of clinical social work.

(4) An unrestricted certificate of clinical social work associate will be issued following the board's approval of a plan of practice and supervision that meets the requirements of OAR 877-020-0009(4).

(5) An individual holding a temporary certificate of clinical social work associate may not accrue practice or supervision hours.

Stat. Auth.: ORS 675.510 – 675.600 & 675.990 & Enrolled HB 2473 (2015)
Stats. Implemented: ORS 675.537 & Enrolled HB 2473 (2015)
Hist.: BLSW 1-2015(Temp), f. & cert. ef. 6-19-15 thru 12-15-15

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## Board of Nursing
## Chapter 851

**Rule Caption:** To bring language in line with previous proposed revisions and the intent of the Board
**Adm. Order No.:** BN 2-2015
**Filed with Sec. of State:** 6-23-2015
**Certified to be Effective:** 8-1-15
**Notice Publication Date:** 6-1-2015
**Rules Amended:** 851-056-0026
**Subject:** The purpose of the revisions to Division 56 is to bring the language in line with previous proposed revisions and the intent of the Board.
**Rules Coordinator:** Peggy A. Lightfoot—(971) 673-0638

**851-056-0026**
**Rules Relating to Controlled Substances**

(1) In the administration, distribution, storage, prescribing, and dispensing of controlled substances, APRNs shall comply with all applicable requirements in the Code of Federal Regulations (CFR), Title 21, and state law, including but not limited to, ORS Chapter 430 and 475 and OAR chapter 415 and 855.

(2) Nurse practitioners and clinical nurse specialists shall not dispense a controlled substance without current dispensing authority. Distribution of prepackaged, complimentary drug samples is not considered dispensing (ORS 689.005(9)).

(3) APRNs who have authority from the Drug Enforcement Administration (DEA) to prescribe controlled substances must verify evidence of such with their prescriptive authority renewal application. A nurse with prescriptive authority may choose to decline DEA certification and must verify so in writing.

(4) Storage and inventory of controlled substances:

(a) Samples or quantities of controlled substances shall be stored in a securely locked cabinet on the premises of the APRNs practice location.

(b) APRNs who receive samples or quantities of controlled substances shall be responsible for the security, inventory, and disposal of these drugs.

(c) APRNs shall maintain inventory records of controlled substances that they receive or distribute for a period of three years. The records shall include:

(A) Drug name, amount received, date received, drug expiration date;

(B) Drug name, amount distributed, date distributed, to whom distributed;

(C) Drug name and the date and place where it was returned for destruction.

(d) Controlled substances that are expired, deteriorated, or unwanted shall be returned to a DEA registered disposal site or disposal system or law enforcement authorities. This does not include controlled substances which are properly wasted at the facility where they were to be administered. In this context, "properly wasted" means that on-site destruction of a controlled substance in conformance with applicable state and federal law. APRNs shall not personally destroy controlled substances.

(e) Controlled substances must be transported in a secured, locked container.

(f) Client records shall state the distribution of controlled substance samples.

(g) Theft of controlled substances shall be immediately reported upon discovery to the DEA and to any other required authorities.

(h) APRNs who receive controlled substances shall cooperate with the Board in their inspection of records and physical inventory of controlled substances. Inventory of all controlled substances shall be taken by the prescriber responsible for their receipt and storage every year on the same date as the biennial inventory required by 21 CFR 1304.13.

(i) If requested by the Board, any APRN who receives controlled substances shall submit a copy of inventory records from the preceding two years for review.

(5) Prescribing controlled substances:

(a) APRNs shall only prescribe the controlled substances from Schedules II–V, as authorized by the Oregon State Board of Nursing. APRNs shall only prescribe at the level provided for on their DEA certificate.

(b) Schedule II controlled substances shall not be prescribed for the purpose of weight reduction or control. Schedule III–IV controlled substances may be prescribed for weight reduction in accordance with FDA product guidelines.

(c) APRNs shall not prescribe, dispense, or order controlled substances, including Methadone and Suboxone, for treatment of substance use disorder per federal regulations (Title XXXV, Section 3502 of the Children's Health Act of 2000).

(6) Intractable or chronic pain management:

(a) APRNs may prescribe or administer controlled substances to a person in the course of their treatment for a diagnosed condition causing pain, defined in OAR 851-056-0000(18).

(b) The diagnosis and treatment of intractable or chronic pain requires documentation of the following:

(A) A recent diagnosis of the condition (if acute or unstable), or past diagnosis (if chronic and stable) causing pain, by one or more licensed practitioners specializing in the treatment of the body area, system, or organ perceived as the source of pain; and

(B) A written material risks notice specific to the patient's condition and treatment; and

(C) A consultation and review of the pain treatment plan where clinically indicated if the patient shows limited or no improvement.

(c) APRNs must have a complete discussion with the patient or person authorized to make health care decisions for the patient regarding the diagnosis, as well as the risk, benefits, alternatives, side effects, and potential for addiction and withdrawal of the controlled substance, along with any other applicable precautions. These discussions must be documented in the patient record. Documentation must include a plan for period review of patient response and follow-up.

(d) APRNs shall document patient use of controlled substances for chronic or intractable pain, including history and assessment to rule out substance abuse. Evidence of patient addiction or abuse requires referral and/or transfer of care for further diagnosis and treatment.

Stat. Auth.: ORS 678.150 & 678.285
Stats. Implemented: ORS 678.111, 678.370, 678.372, 678.375, 678.380, 678.385 & 678.390
Hist.: BN 10-2006, f. & cert. ef. 10-5-06; BN 5-2008, f. & cert. ef. 6-24-08; BN 9-2014, f. 12-5-14, cert. ef. 1-1-15; BN 2-2015, f. 6-23-15, cert. ef. 8-1-15

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## Board of Optometry
## Chapter 852

**Rule Caption:** Rule revisions governing optometry and the agency's 2015–17 Budget
**Adm. Order No.:** OPT 1-2015
**Filed with Sec. of State:** 6-25-2015
**Certified to be Effective:** 7-1-15
**Notice Publication Date:** 6-1-2015
**Rules Amended:** 852-005-0005
**Subject:** The rule updates the agency's 2015–17 operating budget.
**Rules Coordinator:** Shelley Sneed—(503) 399-0662, ext. 3

**852-005-0005**
**Budget**

The Oregon Board of Optometry hereby adopts by reference the Oregon Board of Optometry 2015–17 Biennium Budget of $697,331 covering the period from July 1, 2015 through June 30, 2017. The Executive Director of the Board will amend budgeted accounts as necessary within the approved budget of $697,331 for the effective operation of the Board. The Board will not exceed the approved 2015–2017 Biennium budget without amending this rule, notifying holders of licenses, and holding a public hearing thereon as required by ORS Chapter 182.462(1) & (2). Copies of the budget are available from the Board's office and are also posted on the Board's website.

Stat. Auth.: ORS 683 & 182
Stats. Implemented: ORS 182.462(1) & (2)
Hist.: OPT 1-1999, f. 6-4-99, cert. ef. 7-1-99; OPT 1-2001, f. 6-18-01, cert. ef. 7-1-01; OPT 1-2003, f. 6-12-03, cert. ef. 7-1-03; OPT 3-2005, f. 6-29-05, cert. ef. 7-1-05; OPT 1-2007, f. 5-21-07, cert. ef. 7-1-07; OPT 1-2009, f. 6-10-09, cert. ef. 7-1-09; OPT 1-2011, f. 6-24-11, cert. ef. 7-1-11; OPT 1-2013, f. & cert. ef. 1-3-13; OPT 2-2014, f. 11-28-14, cert. ef. 1-1-15; OPT 3-2014, f. 12-29-14, cert. ef. 1-1-15; OPT 1-2015, f. 6-25-15, cert. ef 7-1-15

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## Board of Pharmacy
## Chapter 855

**Rule Caption:** Amends Division 043 Drug Delivery and Control rules.
**Adm. Order No.:** BP 2-2015(Temp)
**Filed with Sec. of State:** 7-1-2015
**Certified to be Effective:** 7-1-15 thru 12-27-15
**Notice Publication Date:**
**Rules Amended:** 855-043-0130
**Subject:** Establishes a waiver clause in the Drug Delivery and Control rules.
**Rules Coordinator:** Karen MacLean—(971) 673-0001

**855-043-0130**
**Drug Delivery and Control**

(1) The health officer is responsible for the establishment of policies and procedures that include:

(a) Procedures for drug dispensing, storage, security, and accountability;

(b) Maintenance of all drug records required by federal and state law;

(c) Procedures for procurement of drugs.

(2) Dispensing:

(a) A drug may only be dispensed by a practitioner who has been given dispensing privileges by their licensing board or by a Registered Nurse;

(b) A drug must be dispensed in a container complying with the federal Poison Prevention Packaging Act unless the patient requests a non-complying container;

(c) A Registered Nurses may only dispense a drug listed in, or for a condition listed in, the formulary;

(d) Each drug that is dispensed must be labeled with the following information:

(A) Name of patient;

(B) Name of prescriber;

(C) Name, address, and phone number of the clinic;

(D) Date of dispensing;

(E) Name and strength of the drug. If the drug does not have a brand name, then the generic name of the drug and the drug manufacturer must be stated;

(F) Directions for use;

(G) Initials of the person dispensing;

(H) Cautionary statements, if any, as required by law;

(I) Manufacturer's expiration date, or an earlier date if preferable, after which the patient should not use the drug.

(e) A drug information fact sheet must accompany each drug dispensed from a county health clinic.

(3) Repackaged Drugs. A drug repackaged for dispensing must be in a container meeting USP standards and labeled to identify at a minimum:

(a) Brand name, or generic name and manufacturer;

(b) Strength;

(c) Lot number;

(d) Manufacturer's expiration date or an earlier date if preferable. An internal control number which references manufacturer and lot number may be used.

(4) Drug Security, Storage, and Disposal:

(a) In the absence of a dispensing practitioner or a Registered Nurse, drugs must be kept in a locked drug cabinet or drug room which is sufficiently secure to deny access to unauthorized persons. Only dispensing practitioners and Registered Nurses may have a key to the drug cabinet or drug room. In their absence, the drug cabinet or drug room must remain locked.

(b) All drugs must be stored in areas which will assure proper sanitation, temperature, light, ventilation and moisture control as recommended by the manufacturer.

(c) Drugs which are outdated, damaged, deteriorated, misbranded, or adulterated must be quarantined and physically separated from other drugs until they are destroyed or returned to their supplier.

(5) Drug Records;

(a) A dispensing record must be maintained separately from the patient chart and kept for a minimum of three years. The record must show, at a minimum, the following:

(A) Name of patient;

(B) Brand name of drug, or generic name and name of manufacturer or distributor;

(C) Date;

(D) Initials of person dispensing the prescription.

(b) All records of receipt and disposal of drugs must be kept for a minimum of three years;

(c) All records required by these rules or by federal and state law must be readily retrievable and available for inspection by the Board.

(6) Not withstanding any other requirements in this rule, when a drug is dispensed in the practice of an Expedited Partner Therapy treatment protocol, the name of the patient may be omitted from the label, the patient's name may be omitted from the records and a drug may be dispensed to the patient to be given to the patient's partner even if the partner has not been examined by a licensed health care provider acting within their scope of practice.

(7) Upon written request, the Board may waive any of the requirements of this rule if a waiver will further public health and safety. A waiver granted under this section shall only be effective when it is issued in writing.

Stat. Auth.: ORS 689.205 & 689.605
Stats. Implemented: ORS 689.155, 689.505 & 676.350
Hist.: PB 2-1992, f. & cert. ef. 3-26-92; PB 4-1992, f. & cert. ef. 8-25-92; PB 1-1994, f. & cert. ef. 2-2-94; BP 1-2010, f. & cert. ef. 2-8-10; BP 4-2010(Temp), f. 5-3-10, cert. ef. 5-4-10 thru 10-30-10; Administrative correction 11-23-10; BP 2-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

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**Rule Caption:** Adopts drug storage rules in Division 041.
**Adm. Order No.:** BP 3-2015
**Filed with Sec. of State:** 7-1-2015
**Certified to be Effective:** 1-1-16
**Notice Publication Date:** 5-1-2015
**Rules Adopted:** 855-041-1036
**Subject:** Division 41 drug storage rules establish new requirements for the proper storage of drugs, cold storage monitoring and vaccine drug storage.
**Rules Coordinator:** Karen MacLean—(971) 673-0001

**855-041-1036**
**Proper Storage of Drugs**

(1) A pharmacy must maintain proper storage of all drugs. This includes, but is not limited to the following:

(a) All drugs must be stored according to manufacturer's published or USP guidelines.

(b) All drugs must be stored in appropriate conditions of temperature, light, humidity, sanitation, ventilation, and space.

(c) Appropriate storage conditions must be provided for, including during transfers between facilities and to patients.

(d) A pharmacy must quarantine drugs which are outdated, adulterated, misbranded or suspect. Cold Storage and Monitoring.

(2) A pharmacy must store all drugs at the proper temperature according to manufacturer's published guidelines (pursuant to FDA package insert or USP guidelines).

(a) All drug refrigeration systems must:

(A) Maintain refrigerated products between 2 to 8 °C (35 to 46 °F); frozen products between -25 to -10 °C (-13 to 14 °F); or as specified by the manufacturer.

(B) Utilize a centrally placed, accurate, and calibrated thermometer;

(C) Be dedicated to pharmaceuticals only; and

(D) Be measured continuously and documented either manually twice daily to include minimum, maximum and current temperatures; or with an automated system capable of creating a producible history of temperature readings.

(b) A pharmacy must adhere to a monitoring plan, which includes, but is not limited to:

(A) Documentation of training of all personnel;

(B) Maintenance of manufacturer recommended calibration of thermometers;

(C) Maintenance of records of temperature logs for a minimum of three years;

(D) Documentation of excursion detail, including, but not limited to, event date and name of persons(s) involved in excursion responses;

(E) Documentation of action(s) taken, including decision to quarantine product for destruction, or determination that it is safe for continued use. This documentation must include details of the information source;

(F) A written emergency action plan; and

(G) Routine preventative maintenance and evaluation of refrigeration equipment and monitoring equipment.

(3) Vaccine Drug Storage:

(a) A pharmacy that stores vaccines must comply with section two of this rule and the following:

(A) Vaccines must be stored in the temperature stable sections of the refrigerator;

(B) A centrally placed and accurate buffered probe thermometer, such as glycol or glass beads, calibrated within a plus or minus 0.5 °C variance must be utilized;

(C) Each freezer and refrigerator compartment must have its own exterior door and independent thermostat control;

(D) A system of continuous temperature monitoring with automated data logging and physical confirmation must be utilized. Documentation of the temperature of each active storage unit must be logged at least twice daily, data must be downloaded weekly, and system validations must be conducted quarterly; and

(E) Must adhere to a written quality assurance process to avoid temperature excursions.

Stat. Auth.: ORS 689.205, 689.325
Stats. Implemented: ORS 689.155
Hist.: BP 3-2015, f. 7-1-15, cert. ef. 1-1-16

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**Rule Caption:** Permanently amend or adopt rules in Divisions 025, 031, 041, 060, 062, 065 and 110.
**Adm. Order No.:** BP 4-2015
**Filed with Sec. of State:** 7-1-2015
**Certified to be Effective:** 7-1-15
**Notice Publication Date:** 5-1-2015
**Rules Adopted:** 855-060-0002
**Rules Amended:** 855-025-0010, 855-031-0045, 855-031-0055, 855-041-1060, 855-060-0004, 855-060-0015, 855-060-0027, 855-060-0029, 855-062-0003, 855-062-0005, 855-062-0050, 855-065-0001, 855-065-0005, 855-065-0010, 855-065-0013, 855-110-0005, 855-110-0007
**Subject:** Amendments in division 25 make the Pharmacy Technician license expire the second June 30 from the date of issue, which is not to exceed more than two years.

Amendments in division 31 make the Preceptor license a biennial license which expires on June 30 in odd numbered years. This corresponds with the Pharmacist biennial expiration date and renewal cycle.

Amendments in division 41 establish requirements for when there is a change in Pharmacist-in-Charge (PIC) in a non-resident pharmacy. It also requires pharmacies to notify the Board of a change in PIC within 10 business days and identify a Pharmacist employed at the location to serve as the Board contact person until a PIC is designated. An Oregon licensed PIC must be employed within 90 days.

New rules and amendments in division 60 establish new definitions in the Pharmaceutical Manufacturer rules. Amendments also incorporate outsourcing facilities as one of the Food and Drug Administration (FDA) registration types that must be registered with the Board as a Manufacturer. Third-Party Logistics Providers are directed to register as a Drug Distribution Agent.

Amendments in the division 62 Drug Distribution Agent rules require a Third-Party Logistics Provider to register as a Drug Distribution Agent. In addition, new definitions are incorporated into these rules.

Amendments in the division 65 Wholesaler rules direct Third-Party Logistics Providers to register as a Drug Distribution Agent. Amendments also establish new definitions, update minimum requirements for record keeping and inventory management, and update prohibited practices.

Amendments in division 110 update the Fee rules to reflect that a Pharmacy Technician licensed issued prior to January 1, 2015 to a person under 18 years of age expires June 30 in odd numbered years. Other updates include listing the three classifications of Manufacturers and the three classifications of Wholesalers identified in division 60 and 65.

**Rules Coordinator:** Karen MacLean—(971) 673-0001

**855-025-0010**
**Licensure as a Pharmacy Technician**

(1) The license of a Pharmacy Technician expires the second June 30 from the date of issue and is not to exceed more than two years.

(2) The Pharmacy Technician license is not renewable except by petition to the Board.

(3) An individual may reapply for a Pharmacy Technician license if his or her previous license is lapsed for a period greater than five years or by petition to the Board.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155
Hist.: BP 1-2006, f. & cert. ef. 6-9-06; BP 10-2014, f. 12-30-14, cert. ef. 1-1-15; BP 4-2015, f. & cert. ef. 7-1-15

**855-031-0045**
**School and Preceptor Registration and Responsibilities**

(1) A preceptor license may be issued by the Board upon receipt of a completed application.

(2) A pharmacist preceptor must have been an actively practicing pharmacist for at least one year immediately prior to supervising an intern.

(3) A preceptor license must be renewed biennially and will expire on June 30 in odd numbered years.

(4) The preceptor may report to the Board voluntarily, the progress and aptitude of an intern under the preceptor's supervision, or must do so upon request of the Board.

(5) The preceptor must be responsible for supervision of the majority of the intern's SRI hours and must provide the intern with internship experiences, which in the preceptor's judgment will increase the intern's competency in the practice of pharmacy.

(6) Before supervising an intern in an SRI program, a preceptor must complete any training program required by the school of pharmacy.

(7) A preceptor must advise each school of pharmacy when they are supervising students from more than one school at the same time. This applies to both in-state and out-of-state schools or colleges of pharmacy.

(8) A preceptor must verify that their intern is currently licensed with the Board.

(9) A pharmacist acting as a preceptor in a federal facility is not required to be licensed as a pharmacist in Oregon, but is required to be licensed as a preceptor with the Board.

(10) The school of pharmacy must maintain a record of each intern's SRIs. This record must be made available to the Board upon request.

(11) A school of pharmacy located in Oregon must submit a report on their experiential education program to the Board at the end of each academic year. This report must include the names of students who successfully completed the program and graduated from the school. The school must maintain a list of preceptors and SRI sites, in and out-of-state, approved by the school and must make this list available to the Board upon request.

(12) All records related to a student must be available for three years after the student graduates.

Stat. Auth.: ORS 689.151 & 689.205
Stats. Implemented: ORS 689.255
Hist.: 1PB 2-1979(Temp), f. & ef. 10-3-79; 1PB 2-1980, f. & ef. 4-3-80; PB 7-1990, f. & cert. ef. 12-5-90; PB 1-1994, f. & cert. ef. 2-2-94; PB 1-1996, f. & cert. ef. 4-5-96; BP 1-2002, f. & cert. ef. 1-8-02; BP 1-2004, f. & cert. ef. 3-12-04; BP 1-2007, f. & cert. ef. 6-29-07; BP 3-2010, f. 4-29-10, cert. ef. 4-30-10; BP 9-2011, f. 12-30-11, cert. ef. 1-1-12; BP 1-2015(Temp), f. & cert. ef. 4-10-15 thru 10-6-15; BP 4-2015, f. & cert. ef. 7-1-15

**855-031-0055**
**Eligibility for Exams and Pharmacist Licensure**

(1) An intern is eligible to take the North American Pharmacist Licensure Examination (NAPLEX) and the MPJE, upon graduation and notification to the Board by the school of pharmacy that their degree, with not less than 1440 hours of SRI, has been conferred.

(2) Upon meeting all requirements for pharmacist licensure, and before practicing pharmacy in the State of Oregon, a person must:

(a) Complete an application for licensure including providing any fingerprint card or other documentation required by the Board to conduct a criminal background check;

(b) Pay the license fee as prescribed in OAR 855-110; and

(c) Obtain a license, which will expire on June 30 in odd numbered years.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.135, 689.207, 689.225 & 689.275
Hist.: 1PB 2-1979(Temp), f. & ef. 10-3-79; 1PB 2-1980, f. & ef. 4-3-80; PB 1-1989, f. & cert. ef. 1-3-89; PB 5-1990, f. & cert. ef. 4-12-90; PB 7-1990, f. & cert. ef. 12-5-90; BP 1-2002, f. & cert. ef. 1-8-02; BP 1-2007, f. & cert. ef. 6-29-07; BP 3-2010, f. 4-29-10, cert. ef. 4-30-10; BP 1-2015(Temp), f. & cert. ef. 4-10-15 thru 10-6-15; BP 4-2015, f. & cert. ef. 7-1-15

**855-041-1060**
**Non-Resident Pharmacies**

(1) For the purpose of these rules, a non-resident pharmacy includes, but is not limited to: Retail, Institutional, Remote Processing, Central Fill, and Drugless/Consulting Drug Outlets.

(2) Every non-resident pharmacy that provides drugs, devices or services to a resident in this state shall be registered with the Oregon Board of Pharmacy.

(3) To qualify for registration under these rules, every non-resident pharmacy shall be registered and in good standing with the Board of Pharmacy in the pharmacy's state of residence.

(4) Every out-of-state non-resident pharmacy shall designate an Oregon licensed Pharmacist-in-Charge (PIC), who shall be responsible for all pharmacy services provided to residents in Oregon, and to provide supervision and control in the pharmacy. To qualify for this designation, the person must:

(a) Hold a license to practice pharmacy in the resident state;

(b) Be normally present in the pharmacy for a minimum of 20 hours per week;

(c) Complete the annual non-resident PIC self-inspection report prior to February 1 each year; and

(d) Provide the PIC self-inspection report as requested by the Board.

(5) Every non-resident pharmacy will have a pharmacist-in-charge (PIC) who is licensed in Oregon within four months of initial licensure of the pharmacy.

(6) When a change of Pharmacist-in-Charge (PIC) occurs, the non-resident pharmacy will notify the Board within ten business days and identify a contact person. The pharmacy will have an Oregon licensed PIC employed within 90 days. The contact person must be a licensed pharmacist in the pharmacy's state of residence and is responsible for the following:

(a) Supervision of pharmacy staff and ensuring compliance with laws and rules; and

(b) Responding to Board correspondence and inquiries.

(7) A new Pharmacist-in-Charge must be appointed, and communication made to the Board within 90 days, or the non-resident pharmacy will cease drug distribution and provision of pharmacy services in Oregon.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.151, 689.155 & 689.225
Hist.: PB 1-1994, f. & cert. ef. 2-2-94; BP 2-2008, f. & cert. ef. 2-20-08; Renumbered from 855-041-0300, BP 7-2012, f. & cert. ef. 12-17-12; BP 4-2015, f. & cert. ef. 7-1-15

**855-060-0002**
**Definitions**

(1) "Affiliate" means a business entity that has a relationship with a second business entity if, directly or indirectly:

(a) One business entity controls, or has the power to control, the other business entity; or

(b) A third party controls, or has the power to control, both of the business entities.

(2) "Co-Manufacturing Partner" means a pharmaceutical manufacturer that has entered into an agreement with another pharmaceutical manufacturer to engage in a business activity or occupation related to the manufacture or distribution of a prescription drug.

(3) "Illegitimate Product" means a product for which credible evidence shows that the product is:

(a) Counterfeit, diverted, or stolen;

(b) Intentionally adulterated such that the product would result in serious adverse health consequences or death to humans;

(c) The subject of a fraudulent transaction; or

(d) Otherwise unfit for distribution such that the product would be reasonably likely to result in serious adverse health consequences or death.

(4) "Manufacturer" means anyone, including a manufacturer's co-manufacturing partner, who is engaged in manufacturing, preparing, propagating, compounding, processing, packaging, repackaging, or labeling of a drug, except when the process is part of a shared pharmacy service agreement as defined in OAR 855-006-0005.

(5)"Pedigree" for the purpose of this Division consists of:

(a) "Transaction History" means a statement in paper or electronic form, including the transaction information for each prior transaction going back to the manufacturer of the product.

(b) "Transaction Information" must include but is not limited to:

(A) The proprietary or established name or names of the product;

(B) The strength and dosage form of the product;

(C) The National Drug Code number of the product;

(D) The container size;

(E) The number of containers;

(F) The lot number of the product;

(G) The date of the transaction;

(H) The date of the shipment, if more than 24 hours after the date of the transaction;

(I) The business name and address of the person from whom ownership is being transferred; and

(J) The business name and address of the person to whom ownership is being transferred.

(c) "Transaction Statement" is a statement, in paper or electronic form, that the entity transferring ownership in a transaction is compliant with Food and Drug Administration (FDA) regulations set forth by the Drug Quality and Security Act and includes but is not limited to:

(A) Confirmation that the entity is authorized or registered as required under the Drug Supply Chain Security Act;

(B) Acknowledgement that product is received from an authorized or registered entity, as required under the Drug Supply Chain Security Act;

(C) Confirmation of receipt of transaction information and of transaction statement from the prior owner of the product, as required under the Drug Supply Chain Security Act;

(D) Verification that a suspect or illegitimate product was not knowingly shipped;

(E) Confirmation that systems and processes are in place to comply with verification requirements under the Drug Supply Chain Security Act;

(F) Confirmation that false transaction information was not knowingly provided; and

(G) Confirmation that transaction history was not knowingly altered.

(6) "Suspect Product" means a product for which there is reason to believe that such product is:

(a) Potentially counterfeit, diverted, or stolen;

(b) Potentially intentionally adulterated such that the product would result in serious adverse health consequences or death to humans;

(c) Potentially the subject of a fraudulent transaction; or

(d) Otherwise unfit for distribution such that the product would result in serious adverse health consequences or death to humans.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155
Hist.: BP 4-2015, f. & cert. ef. 7-1-15

**855-060-0004**
**Registration**

(1) Any person that manufactures, or contracts for the manufacture of a drug or prescription device that is intended for sale, distribution, dispensing or administration in Oregon must register with the Oregon Board of Pharmacy.

(2) Any person that holds one or more of the following registrations with the Food and Drug Administration (FDA) must register as a Manufacturer.

(a) A New Drug Application number (NDA);

(b) An Abbreviated New Drug Application number (ANDA);

(c) A Labeler Code number (LC) or National Drug Code number (NDC);

(d) An FDA Central File Number (CFN);

(e) An FDA Establishment Identifier number (FEI);

(f) A Biologic License Application (BLA);

(g) An Outsourcing Facility Registration.

(3) A person that is registered with the FDA as a repackager must register as a Manufacturer.

(4) A person who is a third-party logistics provider as defined in Division 62 or whose sole purpose is the marketing, brokering or arranging the initial distribution of drugs manufactured by a manufacturer must register as a Drug Distribution Agent under Division 62.

(5) A person who is registered with the FDA as the agent for a foreign manufacturer must register as a Drug Distribution Agent under Division 62.

(6) An applicant for a new or renewal of registration must provide all information specified on the form provided by the Board, and pay the fee as specified in OAR 855-110-0007. The applicant must also provide any additional information requested by the Board. An application that does not contain all required information is incomplete and will not be processed.

(7) The registration is non-transferable. Addition or deletion of an owner shall be considered as a change of ownership except where the registrant is a publicly held corporation. A new application for registration and payment of a new registration fee is required when a registrant changes ownership or location. This new application must be submitted to the Board at least 15 days prior to the change.

(8) A person who compounds a drug that is distributed in Oregon not based on a patient specific prescription must register with the Board as a Manufacturer, unless done so pursuant to a Shared Pharmacy Services agreement, as defined in OAR 855-006-0005, between two in-state entities.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155 & 689.305
Hist.: BP 9-2011, f. 12-30-11, cert. ef. 1-1-12; BP 1-2013(Temp), f. 3-6-13, cert. ef. 3-7-13 thru 9-3-13; BP 5-2013, f. & cert. ef. 8-29-13; BP 4-2015, f. & cert. ef. 7-1-15

**855-060-0015**
**Classification of Manufacturers**

(1) Class I. A Class I manufacturer is required to employ an Oregon licensed pharmacist or a person approved by the Board who by experience and education possesses the necessary qualifications to supervise manufacturing procedures for United States Pharmacopeia, National Formulary, Accepted Dental Remedies products and including the manufacture of other internal medicines, controlled substances, dangerous external preparations, injectables, products requiring the prescription legend, poisons, and pure (U.S.P. and N.F. chemicals).

(2) Class II. A Class II manufacturer is required to employ personnel with a Bachelor of Science degree or equivalent, but not necessarily a licensed pharmacist to supervise manufacturing procedures and must comply with 503B manufacturing requirements of 21 USC 353 and is exempted from labeling and research requirements.

(3) Class III. Repackagers or distributors of non-legend drugs will not be required to have a licensed pharmacist but is required to have competent supervisory personnel.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155
Hist.: 1PB 18, f. & ef. 10-14-64; 1PB 33, f. 2-14-74, ef. 3-11-74; 1PB 6-1978(Temp), f. & ef. 7-1-78; 1PB 8-1978, f. & ef. 10-17-78; 1PB 2-1979(Temp), f. & ef. 10-3-79; 1PB 2-1980, f. & ef. 4-3-80; BP 4-2015, f. & cert. ef. 7-1-15

**855-060-0027**
**Identification of Prescription Drugs**

(1) All prescription drug products in tablet or capsule form intended for oral administration will be required to be specifically identified. These drug products, when sold or distributed in Oregon, must be marked by the manufacturer with a code imprint identifying the drug product and the manufacturer or distributor of the drug product.

(2) "Code imprint" means an individual symbol, number, company name, words, letters, marking, National Drug Code, or any combination thereof, identifying the drug product and the manufacturer or distributor of the drug product.

(3) Exceptions to the requirement are:

(a) Drug products which are manufactured by or upon the order of a practitioner licensed by law to prescribe or administer drugs and which are to be used solely by the patient for whom prescribed;

(b) Drug products which are used for experimentation or research purposes.

(4) The Board of Pharmacy, upon application of a manufacturer or distributor, may also exempt a particular drug product from the requirements of this regulation on the grounds that imprinting is not feasible because of such drug product's size, texture, or other unique characteristics.

Stat. Auth.: ORS 475 & 689.205
Stats. Implemented: ORS 689.155
Hist.: 1PB 2-1981, f. & ef. 8-20-81; BP 4-2015, f. & cert. ef. 7-1-15

**855-060-0029**
**Disposal of Drugs**

Drugs that are outdated, damaged, deteriorated, misbranded, adulterated, or illegitimate shall be quarantined and physically separated from other drugs until they are destroyed or returned to their supplier.

Stat. Auth.: ORS 475.035, 689.155, 689.205, 689.305 & 689.315
Stats. Implemented: ORS 689.155
Hist.: 1PB 2-1984, f. & ef. 3-7-84; PB 1-1992, f. & cert. ef. 1-31-92; BP 4-2015, f. & cert. ef. 7-1-15

**855-062-0003**
**Application**

(1) The following persons must register as a Drug Distribution Agent under this Division of rules:

(a) A broker;

(b) An import broker;

(c) An agent for a foreign manufacturer who is registered with the Food and Drug Administration (FDA);

(d) Sales and marketing office for a drug;

(e) A Drug Order Contractor;

(f) A Third-Party Logistics Provider; and

(g) A person registered with the FDA as the holder of a New Drug Application (NDA) or an Abbreviated New Drug Application (ANDA) that contracts with a third-party for the manufacture of a drug but does not take physical possession of the drug, does not have its name on the label and is not accountable to the FDA for the purity and integrity of the drug.

(2) Any person who would otherwise be required to register as a Wholesaler under Division 65 of this Chapter of rules but who does not at any time have possession of a drug intended for distribution must register as a Drug Distribution Agent under this Division of rules.

(3) A person whose sole purpose is the marketing, brokering or arranging the initial distribution of drugs manufactured by a registered manufacturer, but does not take physical possession of a product must register as a Drug Distribution Agent.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155
Hist.: BP 2-2009(Temp), f. 6-22-09, cert. ef. 6-26-09 thru 12-23-09; BP 5-2009, f. & cert. ef. 12-24-09; BP 4-2015, f. & cert. ef. 7-1-15

**855-062-0005**
**Definitions**

(1) "Broker" means a person engaged in the marketing, offering, or contracting for wholesale distribution and sale of a drug into, within, or out of Oregon and who does not take physical possession of the drug.

(2) "Closed Door Pharmacy" means a pharmacy that provides pharmaceutical services to a defined and exclusive group of patients and is not open for dispensing to the general patient population and cannot be registered as a wholesale distributor.

(3) "Co-Manufacturing Partner" means a pharmaceutical manufacturer that has entered into an agreement with another pharmaceutical manufacturer to engage in a business activity or occupation related to the manufacture or distribution of a prescription drug.

(4)"Common Carrier" means an organization that is available to the public to transport a product or service using its facilities, or those of other carriers.

(5) "Drug": In this Division of rules, the term "drug" shall mean any drug and any prescription device as these terms are defined in ORS 689.005.

(6) "Illegitimate Product" means a product for which credible evidence shows that the product is:

(a) Counterfeit, diverted, or stolen;

(b) Intentionally adulterated such that the product would result in serious adverse health consequences or death to humans;

(c) The subject of a fraudulent transaction; or

(d) Otherwise unfit for distribution such that the product would be reasonably likely to result in serious adverse health consequences or death.

(7) "Manufacturer" means any person, including a manufacturer's co-manufacturing partner, that is engaged in the manufacture of a drug, is responsible or otherwise accountable to the Food and Drug Administration (FDA) for the manufacture of the drug, or is the private label manufacturer or distributor of product bearing its NDC number that is intended for sale, distribution, dispensing or administration in Oregon, and who holds one or more of the following registrations or licenses with the FDA:

(a) A New Drug Application number (NDA);

(b) An Abbreviated New Drug application number (ANDA);

(c) A Labeler Code number (LC) or National Drug Code Number (NDC);

(d) An FDA Central File Number (CFN);

(e) An FDA Establishment Identifier number (FEI);

(f) A Biologic License Application (BLA);

(g) An Outsourcing Facility.

(8) "Manufacture" means the preparation, propagation, compounding, or processing of a drug or device intended for human or animal use. Manufacture includes repackaging or otherwise changing the container, wrapper, or labeling of any drug package in furtherance of the distribution of the drug from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer or user, except when the process is part of a shared pharmacy service agreement as defined in OAR 855-006-0005.

(9)"Pedigree" for the purpose of this Division consists of:

(a) "Transaction History" means a statement in paper or electronic form, including the transaction information for each prior transaction going back to the manufacturer of the product.

(b) "Transaction Information" must include, but is not limited to:

(A) The proprietary or established name or names of the product;

(B) The strength and dosage form of the product;

(C) The National Drug Code number of the product;

(D) The container size;

(E) The number of containers;

(F) The lot number of the product;

(G) The date of the transaction;

(H) The date of the shipment, if more than 24 hours after the date of the transaction;

(I) The business name and address of the person from whom ownership is being transferred; and

(J) The business name and address of the person to whom ownership is being transferred.

(c) "Transaction Statement" is a statement, in paper or electronic form, that the entity transferring ownership in a transaction is compliant with FDA regulations set forth by the Drug Quality and Security Act and includes, but is not limited to:

(A) Confirmation that the entity is authorized or registered as required under the Drug Supply Chain Security Act;

(B) Acknowledgement that product is received from an authorized or registered entity, as required under the Drug Supply Chain Security Act;

(C) Confirmation of receipt of transaction information and of transaction statement from the prior owner of the product, as required under the Drug Supply Chain Security Act;

(D) Verification that a suspect or illegitimate product was not knowingly shipped;

(E) Confirmation that systems and processes are in place to comply with verification requirements under the Drug Supply Chain Security Act;

(F) Confirmation that false transaction information was not knowingly provided; and

(G) Confirmation that transaction history was not knowingly altered.

(10) "Person" means individual, corporation, partnership, association, joint-stock company, business trust or unincorporated organization.

(11) "Suspect Product" means a product for which there is reason to believe that such product is:

(a) Potentially counterfeit, diverted, or stolen;

(b) Potentially intentionally adulterated such that the product would result in serious adverse health consequences or death to humans;

(c) Potentially the subject of a fraudulent transaction; or

(d) Otherwise unfit for distribution such that the product would result in serious adverse health consequences or death to humans.

(12) "Third-Party Logistics Provider" means an entity that provides or coordinates warehousing, or other logistics services of a product in interstate commerce on behalf of a manufacturer, wholesale distributor, or dispenser of a product, but does not take ownership of the product, and not have responsibility to direct the sale or disposition of the product.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155
Hist.: BP 2-2009(Temp), f. 6-22-09, cert. ef. 6-26-09 thru 12-23-09; BP 5-2009, f. & cert. ef. 12-24-09; BP 4-2015, f. & cert. ef. 7-1-15

**855-062-0050**
**Prohibited Practices**

(1) The following practices are expressly prohibited:

(a) A Drug Distribution Agent may not participate in the purchase of a drug from a closed-door pharmacy;

(b) A Drug Distribution Agent may not participate in any way in the sale, distribution or transfer of a drug to a person who is required by the laws and rules of Oregon to be registered with the Board and who is not

appropriately registered. Before authorizing or facilitating the distribution of a drug, a Drug Distribution Agent must verify that the person supplying or receiving the drug is appropriately registered with the Board.

(2) A Drug Distribution Agent may not perform, cause the performance of, or aid the performance of any of the following:

(a) The manufacture, repackaging, sale, delivery, holding, or offering for sale of a drug that is adulterated, misbranded, counterfeit, suspected counterfeit, or is otherwise unfit for distribution;

(b) The adulteration, misbranding, or counterfeiting of a drug;

(c) The receipt of a drug that is adulterated, misbranded, stolen, obtained by fraud or deceit, counterfeit, or suspected counterfeit, and the delivery or proffered delivery of the drug for pay or otherwise;

(d) The alteration, mutilation, destruction, obliteration, or removal of the whole or a part of the labeling of a drug or the commission of another act with respect to a drug that results in the drug being misbranded;

(e) The forging, counterfeiting, simulating, or falsely representing a drug using a mark, stamp, tag, label, or other identification device;

(f) The purchase or receipt of a drug from a person that is not registered to distribute drugs to the purchaser or recipient;

(g) The sale or transfer of a drug to a person that is not authorized under the law of the jurisdiction in which the person receives the drug, to purchase or receive drugs from the person selling or transferring the drug;

(h) The failure to maintain or provide records as required under these rules;

(i) Providing the Board, a representative of the Board, or a state or federal official with false or fraudulent records or making false or fraudulent statements regarding a matter related to these rules;

(j) Participating in the wholesale distribution of a drug that was:

(A) Purchased by a public or private hospital or other health care entity under the terms of an "own-use" contract; or

(B) Donated or supplied at a reduced price to a charitable organization; or

(C) Stolen or obtained by fraud or deceit; or

(D) Illegally imported into the USA.

(k) Facilitating the distribution or attempting to facilitate the distribution of a drug by fraud, deceit, or misrepresentation;

(l) Facilitating the distribution of a drug that was previously dispensed by a retail pharmacy or a practitioner;

(m) Failing to report an act prohibited by any of the rules in OAR Chapter 855 to the appropriate state or federal authorities.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155
Hist.: BP 2-2009(Temp), f. 6-22-09, cert. ef. 6-26-09 thru 12-23-09; BP 5-2009, f. & cert. ef. 12-24-09; BP 4-2015, f. & cert. ef. 7-1-15

**855-065-0001**
**Application**

(1) These rules (OAR 855-065-0001 to 855-065-0013) apply to any person, including any business entity, located in or outside Oregon that engages in the wholesale distribution of prescription or non-prescription drugs in Oregon except that a manufacturer that is registered under division 60 of this chapter of rules does not also need to register as a wholesale distributor under these rules if they only distribute their own products or those manufactured by a Co-Manufacturing Partner as defined in OAR 855-065-0005.

(2) Any person who is a Third-Party Logistics Provider as defined in division 62 or whose sole purpose is the marketing, brokering or arranging the distribution of drugs manufactured by a manufacturer must register as a Drug Distribution Agent in accordance with division 62 of this chapter of rules.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155
Hist.: 1PB 2-1979(Temp), f. & ef. 10-3-79; 1PB 2-1980, f. & ef. 4-3-80; PB 3-1992, f. & cert. ef. 3-26-92 (and corrected 4-8-92); PB 1-1994, f. & cert. ef. 2-2-94; BP 4-2002, f. 6-27-02, cert. ef. 7-1-02; BP 12-2006, f. & cert. ef. 12-19-06; BP 2-2009(Temp), f. 6-22-09, cert. ef. 6-26-09 thru 12-23-09; BP 5-2009, f. & cert. ef. 12-24-09; BP 4-2015, f. & cert. ef. 7-1-15

**855-065-0005**
**Definitions**

(1) "Affiliate" means a business entity that has a relationship, or is an authorized trading partner, with a second business entity if, directly or indirectly:

(a) One business entity controls, or has the power to control, the other business entity; or

(b) A third party controls, or has the power to control, both of the business entities.

(2) "Authorized Distributor of Record" means a wholesale distributor with whom a manufacturer has established an ongoing relationship to distribute the manufacturer's prescription drug. An ongoing relationship is deemed to exist between such wholesale distributor and a manufacturer when the wholesale distributor, including any affiliated group of the wholesale distributor, as defined in Section 1504 of the Internal Revenue Code, complies with either or both of the following:

(a) The wholesale distributor has a written agreement currently in effect with the manufacturer evidencing such ongoing relationship; or

(b) The wholesale distributor is listed on the manufacturer's current list of authorized distributors of record, which is updated by the manufacturer no less than monthly.

(3) "Broker" means a person engaged in the marketing, offering, or contracting for wholesale distribution and sale of a drug into, within, or out of Oregon and who does not take physical possession of the brokered substance.

(4) "Chain Pharmacy Warehouse" means a physical location for drugs that acts as a central warehouse and performs intra company sales or transfers of drugs to a group of chain pharmacies that have the same common ownership and control.

(5) "Closed Door Pharmacy" means a pharmacy that provides pharmaceutical services to a defined and exclusive group of patients and is not open for dispensing to the general patient population and cannot be registered as a wholesale distributor.

(6) "Co-Manufacturing Partner" means a pharmaceutical manufacturer that has entered into an agreement with another pharmaceutical manufacturer to engage in a business activity or occupation related to the manufacture or distribution of a prescription drug.

(7) "Designated Representative" means an individual designated by each wholesale distributor registered by the Board who will serve as the primary contact person for the wholesale distributor with the Board and who is responsible for managing the company's operations at that registered location.

(8) "Drug Sample" means a unit of a drug that is intended to promote the sale of the drug, but which is not itself for sale.

(9) "Illegitimate Product" means a product for which credible evidence shows that the product is:

(a) Counterfeit, diverted, or stolen;

(b) Intentionally adulterated such that the product would result in serious adverse health consequences or death to humans;

(c) The subject of a fraudulent transaction; or

(d) Otherwise unfit for distribution such that the product would be reasonably likely to result in serious adverse health consequences or death.

(10) "Intra Company Transfer" means the transfer of any drug between a division, subsidiary, parent, and an affiliated or related company under the common ownership and control of a corporate entity.

(11) "Manufacturer" means anyone, including a manufacturer's co-manufacturing partner, who is engaged in manufacturing, preparing, propagating, compounding, processing, packaging, repackaging, or labeling of a drug, except when the process is part of a shared pharmacy service agreement as defined in OAR 855-006-0005.

(12) "Pedigree" for the purpose of this Division consists of:

(a) "Transaction History," which means a statement in paper or electronic form, including the transaction information for each prior transaction going back to the manufacturer of the product.

(b) "Transaction Information," which must include, but is not limited to:

(A) The proprietary or established name or names of the product;

(B) The strength and dosage form of the product;

(C) The National Drug Code number of the product;

(D) The container size;

(E) The number of containers;

(F) The lot number of the product;

(G) The date of the transaction;

(H) The date of the shipment, if more than 24 hours after the date of the transaction;

(I) The business name and address of the person from whom ownership is being transferred; and

(J) The business name and address of the person to whom ownership is being transferred.

(c) "Transaction Statement," which is a statement, in paper or electronic form, that the entity transferring ownership in a transaction is compliant with Food and Drug Administration (FDA) regulations set forth by the Drug Quality and Security Act and includes but is not limited to:

(A) Confirmation that the entity is authorized or registered as required under the Drug Supply Chain Security Act;

(B) Acknowledgement that product is received from an authorized or registered entity, as required under the Drug Supply Chain Security Act;

(C) Confirmation of receipt of transaction information and of transaction statement from the prior owner of the product, as required under the Drug Supply Chain Security Act;

(D) Verification that a suspect or illegitimate product was not knowingly shipped;

(E) Confirmation that systems and processes are in place to comply with verification requirements under the Drug Supply Chain Security Act;

(F) Confirmation that false transaction information was not knowingly provided; and

(G) Confirmation that transaction history was not knowingly altered.

(13) "Prescription Drug" means any drug required by law to be dispensed only by a prescription.

(14) "Quarantine" means the storage or identification of a product, to prevent distribution or transfer of the product, in a physically separate area clearly identified for such use or through other procedures.

(15) "Repackage" means repackaging or otherwise changing the container, wrapper, or labeling to further the distribution of a prescription drug excluding that completed by the pharmacist responsible for dispensing the product to a patient.

(16) "Repackager" means a person who owns or operates an establishment that repacks and relabels a product or package for:

(a) Further sale; or

(b) Distribution without a further transaction.

(17) "Suspect Product" means a product for which there is reason to believe that such product is:

(a) Potentially counterfeit, diverted, or stolen;

(b) Potentially intentionally adulterated such that the product would result in serious adverse health consequences or death to humans;

(c) Potentially the subject of a fraudulent transaction; or

(d) Otherwise unfit for distribution such that the product would result in serious adverse health consequences or death.

(18) "Trading Partner" means:

(a) A manufacturer, repackager, wholesale distributor, or dispenser from whom a manufacturer, repackager, wholesale distributor, or dispenser accepts direct ownership of a product or to whom a manufacturer, repackager, wholesale distributor, or dispenser transfers direct ownership of a product; or

(b) A third-party logistics provider from whom a manufacturer, repackager, wholesale distributor, or dispenser accepts direct possession of a product or to whom a manufacturer, repackager, wholesale distributor, or dispenser transfers direct possession of a product.

(19) "Validate" means to verify that each transaction listed on the pedigree and other accompanying documentation has occurred and is accurately recorded.

(20) "Wholesale Distribution" means distribution of a drug to a person other than a consumer or patient, but does not include:

(a) Delivery by a retail pharmacy of a prescription drug to a patient or patient's agent pursuant to the lawful order of a licensed practitioner.

(b) The sale of minimal quantities of a prescription drug by retail or institutional pharmacies to licensed practitioners for office use.

(c) The sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug which may include:

(A) Emergency medical reasons;

(B) Drug or devices used during a federal or state declared emergency; or

(C) The transfer of a drug by a pharmacy to another pharmacy to alleviate a temporary shortage.

(d) Intra company transfer of drugs as defined in these rules.

(e) The lawful distribution of a drug sample by a manufacturer's or a distributor's representative.

(f) The distribution of a drug or an offer to distribute a drug by a charitable organization to a non-profit affiliate of the organization to the extent permitted by law.

(g) The purchase or acquisition of a drug by a hospital or other health care entity that is a member of a group purchasing organization, for the hospital's or health care entity's own use, from the group purchasing organization or from other hospitals or health care entities that are members of the organization or under common control.

(h) The transfer of a prescription drug between pharmacies pursuant to a shared pharmacy service agreement as defined in OAR 855-006-0005.

(i) The distribution by a manufacturer, as part of a prescription assistance program, of a drug intended for a specific patient, to a person authorized to prescribe, administer or dispense prescription drugs.

(j) The sale, purchase, or trade of blood and blood components intended for transfusion.

(k) Drug returns, when conducted in accordance with state and federal laws and regulations. A drug return includes the sale or transfer from a dispenser, retail pharmacy, or chain pharmacy warehouse of expired, damaged, returned or recalled drugs to the original manufacturer, wholesale distributor, or to a reverse wholesaler, and the returns of saleable drugs to the original manufacturer or wholesaler.

(l) The sale, transfer, merger or consolidation of all or part of the business of a pharmacy from or with another pharmacy.

(m) The distribution of drugs by a manufacturer registered under division 60 of this chapter of rules of its own products to a person other than a patient.

(21) "Wholesale Distributor" means any entity engaged in the wholesale distribution of drugs. The term "Wholesale Distributor" includes but is not limited to, own-label distributors; private-label distributors; warehouses, including manufacturers' and distributors' warehouses; drug wholesalers or distributors; retail pharmacies that conduct wholesale distribution; and chain pharmacy warehouses that conduct wholesale distribution.

(22) "Wholesaler" means any wholesale distributor:

(a) "Class I Wholesaler" for the purpose of these rules means any person operating or maintaining a wholesale distribution center, wholesale business or any other business in which prescription drugs, including controlled drugs, devices containing prescription drugs, medicinal chemicals, or poisons are sold, dispensed, stocked, exposed or offered for sale at wholesale to a pharmacy or other legally licensed drug outlets or persons and is required to comply with all pedigree requirements;

(b) "Class II Wholesaler" means any person operating or maintaining a wholesale distribution center, wholesale business or any other business in which any non-prescription drugs are stored, or offered for sale or distribution at wholesale to a drug outlet or practitioner legally authorized to resell, distribute, dispense or administer.

(c) "Class III Wholesaler" means any person operating or maintaining a wholesale distribution center, wholesale business or any other business in which any of the products in paragraphs (A)-(F) below are stored, or offered for sale or distribution at wholesale to a drug outlet or practitioner legally authorized to resell, distribute, dispense or administer and is exempted from Federal recordkeeping requirements:

(A) Drugs distributed exclusively for veterinary use. If any prescription drugs not intended for veterinary use are offered for sale, the wholesaler must register as a Class I wholesaler;

(B) Prescription devices that do not contain a prescription drug;

(C) Drugs or devices possessed by a state or local government agency, or non-profit relief organization approved by the Board;

(D) Oxygen USP and medical gases;

(E) Intravenous drugs; by which formulation, are intended for the replenishment of fluids, electrolytes or calories;

(F) Medical convenience kits which includes any non controlled drug product or biological product, assembled in kit form.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155

Hist.: 1PB 2-1979(Temp), f. & ef. 10-3-79; 1PB 2-1980, f. & ef. 4-3-80; PB 3-1992, f. & cert. ef. 3-26-92 (and corrected 4-8-92); BP 12-2006, f. & cert. ef. 12-19-06; BP 2-2009(Temp), f. 6-22-09, cert. ef. 6-26-09 thru 12-23-09; BP 5-2009, f. & cert. ef. 12-24-09; BP 4-2012(Temp), f. & cert. ef. 6-19-12 thru 12-16-12; BP 6-2012, f. & cert. ef. 12-13-12; BP 4-2015, f. & cert. ef. 7-1-15

**855-065-0010**

**Minimum Requirements for Record Keeping and Inventory Management**

(1) A Wholesale distributor must establish and maintain inventories and records of all transactions regarding the receipt and distribution or other disposition of drugs. These records must comply with all federal drug laws and regulations unless exempted.

(2) Inventories and records required by this rule must be made available for inspection and copying by any authorized official of the Drug Enforcement Agency, the Food and Drug Administration, the Department of Agriculture, law enforcement agencies, and this Board.

(3) Inventories and records required under these rules must be maintained for a minimum of three years following disposition of the drugs.

(4) Records described in this section that are less than 13 months old must be kept at the inspection site or be immediately retrievable by computer or other electronic means, and must be immediately available for inspection. All other records required by this rule must be made available for inspection within three business days of a request.

(5) A wholesale distributor must establish, maintain, and adhere to written policies and procedures for the receipt, security, storage, inventory,

transport, shipping and distribution of drugs, including policies and procedures for identifying, recording, and reporting any loss, theft, counterfeiting or diversion of any drug and for correcting all errors and inaccuracies in inventories. A wholesale distributor must include in its written policies and procedures the following:

(a) A procedure whereby the oldest approved stock of a drug is distributed first. The procedure may permit deviation from this requirement if such deviation is temporary and appropriate.

(b) A procedure to be followed for handling a recall or withdrawal of a drug. Such procedure must be adequate to deal with a recall or withdrawal due to:

(A) Any action initiated at the request of the Food and Drug Administration or other federal, state, or local law enforcement or other government agency, including the Board;

(B) Any voluntary action by the manufacturer to remove a defective or potentially defective drug from the market; or

(C) Any action undertaken to promote public health and safety by replacing an existing drug with an improved product or new package design.

(c) A procedure to prepare for, protect against, and handle any crisis that affects the security or operation of the facility in the event of strike, fire, flood, or other natural disaster, or other local, state, or national emergencies.

(d) A procedure to ensure that any outdated drug is segregated from other drugs and either returned to the manufacturer or destroyed. This procedure must provide for written documentation of the disposition of an outdated drug. This documentation must be maintained for three years after disposition of the outdated drug.

(e) Disposition and destruction of containers, labels, and packaging to ensure that the containers, labels, and packaging are not used in counterfeiting activities, including necessary documentation and witnessing in accordance with state and federal law.

(f) Investigation of discrepancies in the inventory involving counterfeit, suspected counterfeit, contraband, or suspected contraband drugs and reporting of discrepancies within three business days to the Board and any other appropriate state or federal agency.

(g) Reporting of criminal or suspected criminal activities involving the inventory of drugs to the Board within three business days.

(h) Conducting for cause authentication as required under section (7) of this rule.

(i) Procedures for accurately documenting the temperature and humidity conditions of the storage facility.

(6) A wholesale distributor must maintain and adhere to written policies and procedures for all incoming and outgoing product shipments, including but not limited to the following:

(a) Upon receipt, visual examination of each shipping container sufficient to identify the drugs in the container and to determine whether the drugs may be outdated, adulterated, misbranded, contaminated, contraband, counterfeit, damaged, or otherwise unfit for distribution.

(b) Upon receipt, review of records for accuracy and completeness, considering the:

(A) Total facts and circumstances surrounding each transaction involving the drugs; and

(B) Wholesale distributors involved.

(c) Quarantine of a drug considered to be outdated, adulterated, misbranded, contaminated, contraband, counterfeit, damaged, or otherwise unfit for distribution until:

(A) Examination and a determination is made that the drug is fit for distribution; or

(B) The drug is destroyed or returned to the manufacturer or wholesale distributor from which the drug was acquired.

(d) If the wholesale distributor identifies a suspect product, the wholesale distributor must quarantine the product and promptly conduct an investigation to determine whether the suspect product is illegitimate. If it is determined to be an illegitimate product the wholesale distributor must provide notice to the Board, the Food and Drug Administration, and the trading partners involved in the transaction, within 24 hours.

(e) If the immediate or sealed outer or secondary container or labeling of a drug is adulterated, misbranded, counterfeit, or suspected counterfeit, the wholesale distributor must:

(A) Quarantine the drug until the drug is destroyed or returned to the manufacturer or wholesale distributor from which the drug was acquired; and

(B) Provide notice of the adulteration, misbranding, counterfeiting, or suspected counterfeiting to the Board, the Food and Drug Administration, and the manufacturer or wholesale distributor from which the drug was acquired, within 24 hours.

(f) A drug that is not adulterated, misbranded, counterfeit, or suspected counterfeit, but has been opened or used, is identified as such and quarantined until the drug is destroyed or returned to the manufacturer or wholesale distributor from which the drug was acquired.

(g) A drug that will be returned to a manufacturer or wholesale distributor is stored, handled and transported under proper conditions before the return, and documentation showing that proper conditions were maintained must be provided to the manufacturer or wholesale distributor to which the drug is returned.

(h) Inspection of each outgoing shipment to verify the identity of each drug and to ensure that each drug has not been damaged in storage or held under improper conditions.

(i) Contraband, counterfeit, or suspected counterfeit drugs, other evidence of criminal activity, and accompanying documentation are retained until a disposition is authorized by the Board or the Food and Drug Administration.

(j) Any sealed outer or secondary shipping container or labeling, and accompanying documentation, for a drug that is suspected to be counterfeit or fraudulent, is retained until a disposition is authorized by the Board and the Food and Drug Administration.

(k) Operations comply with all state and federal laws, rules and regulations applicable to wholesale drug distribution.

(l) All confidential information is stored in an area with restricted access and in such a way as to protect the integrity and confidentiality of the information.

(7) A wholesale distributor must maintain pedigree records for a minimum of three years.

(8) If the wholesale distributor is involved in the distribution of controlled substances, the distributor must register with the Drug Enforcement Administration and the Board, and comply with all laws related to the storage, handling, transport, shipment, and distribution of controlled substances including, but not limited to, the isolation of controlled substances from non-controlled substances and storage of the controlled substances in a secure area in accordance with Drug Enforcement Administration security requirements and standards.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155, 689.315, 689.325 & 689.765
Hist.: 1PB 2-1979(Temp), f. & ef. 10-3-79; 1PB 2-1980, f. & ef. 4-3-80; PB 3-1992, f. & cert. ef. 3-26-92 (and corrected 4-8-92); BP 12-2006, f. & cert. ef. 12-19-06; BP 4-2015, f. & cert. ef. 7-1-15

**855-065-0013**
**Prohibited Practices**

(1) The following practices are expressly prohibited:

(a) A wholesale distributor may not purchase drugs from a closed-door pharmacy.

(b) A wholesale distributor may not sell, distribute or transfer a drug to a person who is required by the laws and rules of Oregon to be registered with the Oregon Board of Pharmacy and who is not appropriately registered by the Board. Before furnishing a drug to any person not known to the wholesale distributor, the wholesale distributor must verify that the person is legally authorized to receive the drug.

(c) A wholesale distributor may not purchase any drug from a person who is required by the laws and rules of Oregon to be registered with the Oregon Board of Pharmacy and who is not appropriately registered by the Board. Before purchasing a drug from any person not known to the wholesale distributor, the wholesale distributor must verify that the person is legally authorized to sell the drug.

(d) A Class 1 Wholesaler who is classified as a "Specialty Wholesaler Distributor" as defined in OAR 855-065-005(20) may not:

(A) Sell, distribute or transfer a prescription drug to a pharmacy or to a practitioner who is licensed to prescribe the prescription drug, without providing a complete pedigree for the prescription drug, unless the prescription drug was purchased directly from the manufacturer or from the manufacturer's authorized distributor of record.

(B) Sell, distribute or transfer a prescription drug to a wholesale distributor, without providing a complete pedigree for the prescription drug.

(2) A wholesaler may not perform, cause the performance of, or aid the performance of any of the following:

(a) The manufacture, repackaging, sale, delivery, holding, or offering for sale of a drug that is adulterated, misbranded, counterfeit, suspected counterfeit, or is otherwise unfit for distribution.

(b) The adulteration, misbranding, or counterfeiting of a drug.

(c) The intentional receipt of a drug that is adulterated, misbranded, stolen, obtained by fraud or deceit, counterfeit, or suspected product, and the delivery or proffered delivery of the drug for pay or otherwise.

(d) The alteration, mutilation, destruction, obliteration, or removal of the whole or a part of the labeling of a drug or the commission of another act with respect to a drug that results in the drug being misbranded.

(e) The forging, counterfeiting, simulating, or falsely representing a drug using a mark, stamp, tag, label, or other identification device without the authorization of the manufacturer.

(f) The purchase or receipt of a drug from a person that is not registered to distribute drugs to the purchaser or recipient.

(g) The sale or transfer of a drug to a person that is not authorized under the law of the jurisdiction in which the person receives the drug, to purchase or receive drugs from the person selling or transferring the drug.

(h) The failure to maintain or provide records as required under these rules.

(i) Providing the Board, a representative of the Board, or a state or federal official with false or fraudulent records or making false or fraudulent statements regarding a matter related to these rules.

(j) Participating in the wholesale distribution of a drug that was:

(A) Purchased by a public or private hospital or other health care entity under the terms of an "own-use" contract; or

(B) Donated or supplied at a reduced price to a charitable organization; or

(C) Stolen or obtained by fraud or deceit; or

(D) Illegally imported into the USA.

(k) Obtaining or attempting to obtain a drug by fraud, deceit, misrepresentation, or engaging in fraud, deceit, or misrepresentation in the distribution of a drug.

(l) Failing to maintain required pedigree records.

(m) Receiving a prescription drug through wholesale distribution without receiving a required pedigree attested to as accurate and complete by the wholesale distributor.

(n) Distributing a drug that was previously dispensed by a retail pharmacy or a practitioner.

(o) Failing to report an act prohibited by any of the rules in OAR 855.065 to the appropriate state or federal authorities.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155, 689.305, 689.315 & 689.527
Hist.: BP 12-2006, f. & cert. ef. 12-19-06; BP 4-2015, f. & cert. ef. 7-1-15

**855-110-0005**
**Licensing Fees**

(1) Pharmacist license examination (NAPLEX) and re-examination fee — $50.

(2) Pharmacist jurisprudence (MPJE) re-examination fee — $25.

(3) Pharmacist licensing by reciprocity fee — $200*. (*Temporary revenue surplus fee reduction pursuant to ORS 291.055(3)). Fee reduction shall be effective retroactive to July 1, 2013.

(4) Pharmacist licensing by score transfer fee — $200*. (*Temporary revenue surplus fee reduction pursuant to ORS 291.055(3)).

(5) Intern license fee. Expires November 30 every two years — $50.

(6) Pharmacist:

(a) Biennial license fee. Expires June 30 each odd numbered year. The biennial license fee is — $120. Delinquent renewal fee, (postmarked after May 31) — $50.

(b) Electronic Prescription Monitoring Fund fee. Due by June 30 biennially— $50. (This is a mandatory fee, required by ORS 431.972 that must be paid with the pharmacist license renewal fee).

(c) Workforce Data Collection fee. Due by June 30 biennially — $5. (This is a mandatory fee, it may be charged annually at $2.50 per year as required by OAR 409-026-0130 that must be paid with the pharmacist license renewal fee.

(7) Certification of approved provider of continuing education course fee, none at this time.

(8) Pharmacy Technician license fee — $50.

(a) A Pharmacy Technician license initially issued prior to January 1, 2015 to a person under 18 years of age expires June 30 in odd numbered years — $50. Delinquent renewal fee, (postmarked after May 31) — $20.

(9) Certified Oregon Pharmacy Technician:

(a) License fee. Expires September 30 annually — $50. Delinquent renewal fee, (postmarked after August 31) — $20.

(b) Workforce Data Collection fee. Due by June 30 biennially — $5. (This is a mandatory fee, it may be charged annually at $2.50 per year as required by OAR 409-026-0130 that must be paid with the Certified Oregon Pharmacy Technician license renewal fee.

Stat. Auth.: ORS 689.205 & 291.055 & 183.705
Stats. Implemented: ORS 689.135, 431.972 & 676.410
Hist.: 1PB 2-1979(Temp), f. & ef. 10-3-79; 1PB 2-1980, f. & ef. 4-3-80; 1PB 3-1980, f. 5-3-80, ef. 5-3-80 & 7-1-80; 1PB 2-1982, f. 3-8-82, ef. 4-1-82; 1PB 1-1984, f. & ef. 2-16-84; 1PB 3-1985, f. & ef. 12-2-85; PB 3-1988, f. & cert. ef. 5-23-88; PB 7-1989, f. & cert. ef. 5-1-89; PB 15-1989, f. & cert. ef. 12-26-89; PB 10-1990, f. & cert. ef. 12-5-90; PB 3-1991, f. & cert. ef. 9-19-91; PB 1-1992, f. & cert. ef. 1-31-92 (and corrected 2-7-92); PB 4-1992, f. & cert. ef. 8-25-92; PB 1-1994, f. & cert. ef. 2-2-94; PB 1-1996, f. & cert. ef. 4-5-96; PB 2-1997(Temp), f. 10-2-97, cert. ef. 10-4-97; BP 2-1998, f. & cert. ef. 3-23-98; BP 1-2001, f. & cert. ef. 3-5-01; BP 2-2001(Temp), f. & cert. ef. 7-26-01 thru 1-22-02; BP 1-2002, f. & cert. ef. 1-8-02; BP 1-2003, f. & cert. ef. 1-14-03; BP 1-2006, f. & cert. ef. 6-9-06; BP 5-2006(Temp), f. & cert. ef. 8-25-06 thru 1-20-07; BP 9-2006, f. & cert. ef. 12-19-06; BP 5-2009, f. & cert. ef. 12-24-09; BP 5-2010(Temp), f. 5-3-10, cert. ef. 5-4-10 thru 10-30-10; BP 6-2010, f. & cert. ef. 6-29-10; BP 5-2011(Temp), f. 6-24-11, cert. ef. 7-1-11 thru 12-27-11; BP 8-2011, f. & cert. ef. 12-15-11; BP 2-2013(Temp), f. 4-4-13, cert. ef. 4-5-13 thru 9-28-13; BP 3-2013(Temp), f. 6-27-13, cert. ef. 7-1-13 thru 12-28-13; BP 4-2013(Temp), f. & cert. ef. 7-9-13 thru 1-5-14; BP 7-2013, f. & cert. ef. 9-23-13; BP 1-2014, f. & cert. ef. 1-3-14; BP 13-2014, f. 12-30-14, cert. ef. 4-1-15; BP 4-2015, f. & cert. ef. 7-1-15

**855-110-0007**
**Fees for Registration, Renewal, and Reinspection of Drug Outlets**

(1) County Health Clinic (including family planning clinics). Expires March 31 annually — $75*. Delinquent renewal fee (postmarked after February 28) — $25. (*Temporary revenue surplus fee reduction pursuant to ORS 291.055(3)). Fee reduction shall be effective retroactive to July 1, 2013.

(2) Drug Distribution Agent. Expires September 30 annually — $400. Delinquent renewal fee (postmarked after August 31) — $100.

(3) Drug Room (including correctional facility). Expires March 31 annually — $75*. Delinquent renewal fee (postmarked after February 28) — $75. (*Temporary revenue surplus fee reduction pursuant to ORS 291.055(3)). Fee reduction shall be effective retroactive to July 1, 2013.

(4) Manufacturers (including Manufacturer Class I, Manufacturer Class II and Manufacturer Class III). Expires September 30 annually — $400. Delinquent renewal fee (postmarked after August 31) — $100.

(5) Medical Device, Equipment & Gas Class C. Expires January 31 annually — $50. Delinquent renewal fee (postmarked after December 31) — $25.

(6) Nonprescription Class A. Expires January 31 annually — $50. Delinquent renewal fee (postmarked after December 31) — $25.

(7) Nonprescription Class B. Expires January 31 annually — $50. Delinquent renewal fee (postmarked after December 31) — $25.

(8) Nonprescription Class D. Expires January 31 annually — $100. Delinquent renewal fee (postmarked after December 31) — $25.

(9) Prophylactic and/or Contraceptive Wholesaler and/or Manufacturer — $50*. Expires December 31 annually. (*Temporary revenue surplus fee reduction pursuant to ORS 291.055(3)). Fee reduction shall be effective retroactive to July 1, 2013.

(10) Re-inspection fee — $100. Applies to any re-inspection of a drug outlet occasioned to verify corrections of violations found in an initial inspection.

(11) Retail or Institutional Drug Outlet. Expires March 31 annually — $175*. Delinquent renewal fee (postmarked after February 28) — $75. (*Temporary revenue surplus fee reduction pursuant to ORS 291.055(3)). Fee reduction shall be effective retroactive to July 1, 2013.

(12) Wholesalers (including Wholesaler Class I, Wholesaler Class II and Wholesaler Class III). Expires September 30 annually — $400. Delinquent renewal fee (postmarked after August 31) — $100.

(13) Remote Dispensing Machine or Remote Distribution Facility. Expires March 31 annually — $100. Due by February 28 annually.

(14) Charitable Pharmacy. Expires March 31 annually — $75. Delinquent renewal fee (postmarked after February 28) — $25.

(15) Home Dialysis. Expires March 31 annually — $175*. Delinquent renewal fee (postmarked after February 28) — $75. (*Temporary revenue surplus fee reduction pursuant to ORS 291.055(3)). Fee reduction shall be effective retroactive to July 1, 2013.

(16) Supervising Physician Dispensing Outlet. Expires March 31 annually — $175*. (*Temporary revenue surplus fee reduction pursuant to ORS 291.055(3)). Delinquent renewal fee (postmarked after February 28) — $75.

Stat. Auth.: ORS 689.205 & 291.055
Stats. Implemented: ORS 689.135, 689.774 & 2689.305
Hist.: PB 1-1996, f. & cert. ef. 4-5-96; PB 1-1997, f. & cert. ef. 9-22-97; BP 3-1998, f. & cert. ef. 3-23-98; BP 2-2001(Temp), f. & cert. ef. 7-26-01 thru 1-22-02; BP 1-2002, f. & cert. ef. 1-8-02; BP 4-2002, f. 6-27-02, cert. ef. 7-1-02; BP 2-2005, f. 2-14-05, cert. ef. 3-1-05; BP 2-2009(Temp), f. 6-22-09, cert. ef. 6-26-09 thru 12-23-09; BP 5-2009, f. & cert. ef. 12-24-09; BP 6-2010, f. & cert. ef. 6-29-10; BP 5-2011(Temp), f. 6-24-11, cert. ef. 7-1-11 thru 12-27-11; BP 8-2011, f. & cert. ef. 12-15-11; BP 5-2012(Temp), f. & cert. ef. 6-19-12 thru 12-16-12; BP 6-2012, f. & cert. ef. 12-13-12; BP 3-2013(Temp), f. 6-27-13, cert. ef. 7-1-13 thru 12-28-13; BP 4-2013(Temp), f. & cert. ef. 7-9-13 thru 1-5-14; BP 7-2013, f. & cert. ef. 9-23-13; BP 1-2014, f. & cert. ef. 1-3-14; BP 4-2015, f. & cert. ef. 7-1-15

**Rule Caption:** Amends record keeping requirements in Drug Distribution Agent rules.
**Adm. Order No.:** BP 5-2015(Temp)
**Filed with Sec. of State:** 7-1-2015
**Certified to be Effective:** 7-1-15 thru 12-27-15
**Notice Publication Date:**
**Rules Amended:** 855-062-0040
**Subject:** Amendments update record keeping requirements for Drug Distribution Agents. These amendments identify the information that a Drug Distribution Agent who distributes product to a Wholesaler or Pharmacy must contain in their records. Amendments also reflect that a pedigree must be maintained if a Drug Distribution Agent distributes product to another Drug Distribution Agent.
**Rules Coordinator:** Karen MacLean—(971) 673-0001

**855-062-0040**
**Record Keeping**

(1) A Drug Distribution Agent must establish and maintain records regarding the distribution or other disposition of a drug.

(a) If a Drug Distribution Agent distributes product to a wholesaler or pharmacy, the record must contain, but is not limited to the following:

(A) The source of the drug, including the name and physical address of the seller or transferor and any broker or other person involved in the transaction, the address of the location from which the drug was shipped and the address of the location to which the drug was shipped;

(B) The name, dose and quantity of the drug distributed;

(C) The date of distribution or other disposition of the drug.

(b) If a Drug Distribution Agent distributes product to another Drug Distribution Agent, the pedigree must be maintained and provided to the recipient of the distribution.

(2) Records required by this rule must be made available for inspection and copying by any authorized official of the Drug Enforcement Agency, the Food and Drug Administration, the Department of Agriculture, authorized law enforcement agencies, and this Board.

(3) Records required under these rules must be maintained for three years.

(4) Records required under these rules that are less than 13 months old must be kept at the address of record or be immediately retrievable by computer or other electronic means, and must be immediately available for inspection. All other records required by these rules must be made available for inspection within three business days of a request.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155
Hist.: BP 2-2009(Temp), f. 6-22-09, cert. ef. 6-26-09 thru 12-23-09; BP 5-2009, f. & cert. ef. 12-24-09; BP 5-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

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## Bureau of Labor and Industries
## Chapter 839

**Rule Caption:** Amendments to clarify, conform with authorities, correct citations; adoption to implement new statute.
**Adm. Order No.:** BLI 8-2015
**Filed with Sec. of State:** 6-24-2015
**Certified to be Effective:** 6-24-15
**Notice Publication Date:** 10-1-2014
**Rules Amended:** 839-009-0210, 839-009-0220, 839-009-0230, 839-009-0240, 839-009-0250, 839-009-0260, 839-009-0325, 839-009-0330, 839-009-0340, 839-009-0350, 839-009-0355, 839-009-0360, 839-009-0362, 839-009-0363, 839-009-0365, 839-009-0380, 839-009-0410, 839-009-0420, 839-009-0460
**Rules Repealed:** 839-009-0335
**Subject:** This permanent rule filing supersedes a permanent rule filing on 5/18/15 amending the same rules. The 5/18/15 filing had technical errors, invalidating the filing.

This permanent rule filing consists of amendments to rules to clarify, conform with authorities, correct citations. The purposes of the amendments are to clarify OFLA requirements for sick child leave, leave for the death of a family member, definition of child, employee discipline for failure to give notice of OFLA leave, clarifying OFLA provisions regarding employer payment of benefits, clarifying relationship between workers' compensation and OFLA with respect to employer relationship to employee, and other clarifications and edits based on current law.

This permanent rule filing reinstates the temporary rule that was in effect from 11/20/14 to 5/15/15, which redefines "spouse" to include individuals in marriages recognized by any state's law or by a foreign jurisdiction, individuals in common law marriages and those in domestic partnerships or similar relationships recognized by any state.
**Rules Coordinator:** Marcia Ohlemiller—(971) 673-0784

**839-009-0210**
**Definitions: OFLA**

(1) "Alternate duty" means work assigned to an employee that may consist of:

(a) The employee's same duties worked on a different schedule; or

(b) Different duties worked on the same or different schedule.

(2) "Child," for the purposes of parental and sick child leave only (not for the purposes of serious health condition leave or leave for the death of a family member under ORS 659A.159 (1) (e)), means a biological, adopted, foster or stepchild, the child of an employee's same-gender domestic partner or a child with whom the employee is or was in a relationship of in loco parentis. The child must be:

(a) Under the age of 18; or

(b) An adult dependent child substantially limited by a physical or mental impairment as defined by ORS 659A.104 (1)(a), (3), and (4).

(3) "Covered employer" means any employer employing 25 or more persons in the state of Oregon for each working day during each of 20 or more calendar work weeks in the year in which the leave is to be taken or in the year immediately preceding the year in which the leave is to be taken.

(4) "Domestic partner" means an individual joined in a domestic partnership.

(5) "Domestic partnership" for the purposes of ORS chapter 659A means two individuals of the same sex who have received a Certificate of Registered Domestic Partnership from the State of Oregon in compliance with ORS 432.173 and rules adopted by the State Registrar of the Center for Health Statistics.

(6) "Eligible employee" means an employee employed in the state of Oregon on the date OFLA leave begins. For eligibility of employees reemployed following a period of uniformed service, see subsections (c) and (d) of this section.

(a) For the purpose of taking parental leave, an employee must be employed by a covered employer for at least 180 calendar days immediately preceding the date on which OFLA leave begins.

(b) For purposes of taking all other types of OFLA leave, including pregnancy disability leave, an employee must have worked for a covered employer for an average of at least 25 hours per week during the 180 calendar days immediately preceding the date OFLA leave begins.

(A) In determining that an employee has been employed for the preceding 180 calendar days, the employer must count the number of days an employee is maintained on the payroll, including all time paid or unpaid. If an employee continues to be employed by a successor in interest to the original employer, the number of days worked are counted as continuous employment by a single employer.

(B) In determining 25 hours average per week, the employer must count actual hours worked using guidelines set out pursuant to the federal Fair Labor Standards Act. (See 29 CFR §785).

(c) The federal Uniformed Services Employment and Reemployment Act, 38 USC §43 (USERRA) provides that an employee reemployed following a period of uniformed service is entitled to the seniority and seniority-based rights and benefits that the employee had on the date the uniformed service began, plus any seniority and seniority-based rights and benefits that the employee would have attained if the employee had remained continuously employed. U.S. Department of Labor regulation 20 CFR §1002.210 provides that in determining entitlement to seniority and seniority-based rights and benefits, the period of absence from employment due to or necessitated by uniformed service is not considered a break in employment. The rights and benefits protected by USERRA upon reemployment include those provided by the employer and those required by statute. Under USERRA, a reemployed service member would be eligible for leave under OFLA if the number of days and the number of hours of work for which the service member was employed by the civilian employer, together with the number of days and number of hours of work for which the service member would have been employed by the civilian employer during the period of uniformed service, meet OFLA's eligibility requirements. In the event that a service member is denied OFLA leave for failing

to satisfy the OFLA days and hours of work requirement due to absence from employment necessitated by uniformed service, the service member may have a cause of action under USERRA but not under OFLA.

**NOTE:** USERRA also applies to leave under the federal Family and Medical Leave Act of 1993, 29 USC §2601-2654 (FMLA).

(d) ORS 659A.082–659A.088 provides that an employee reemployed following a period of uniformed service is entitled to the seniority and seniority-based rights and benefits that the employee had on the date the uniformed service began, plus any seniority and seniority-based rights and benefits that the employee would have attained if the employee had remained continuously employed. In determining entitlement to seniority and seniority-based rights and benefits, the period of absence from employment due to or necessitated by uniformed service is not considered a break in employment. If a reemployed service member was eligible for leave under OFLA prior to the date uniformed service began, OFLA's eligibility requirements are considered met.

(e) For the purpose of qualifying as an eligible employee, the employee need not work solely in the state of Oregon.

(7) "Family member" for purposes of serious health condition leave, sick child leave or leave for the death of a family member means the spouse, same-gender domestic partner, custodial parent, non-custodial parent, adoptive parent, foster parent, biological parent, step parent, parent-in-law, parent of same-gender domestic partner, grandparent or grandchild of the employee, or a person with whom the employee is or was in a relationship of in loco parentis. It also includes the biological, adopted, foster or stepchild of an employee or the child of an employee's same-gender domestic partner. For the purposes of OFLA, an employee's child in any of these categories may be either a minor or an adult at the time serious health condition leave or leave under ORS 659.159(1)(e) is taken.

(8) "FMLA" is the federal Family and Medical Leave Act, 29 USC §2601.

(9) "Foreseeable leave" means leave taken for a purpose set out in ORS 659A.159 that is not "unforeseeable leave" as defined in OAR 839-009-0210(22).

(10) "Foster child" means a child, not adopted, but being reared as a result of legal process, by a person other than the child's biological parent.

(11) "Gender" means an individual's assigned sex at birth, gender identity, or gender expression.

(12) "Gender expression" means the manner in which an individual's gender identity is expressed, including, but not limited to, through dress, appearance, manner, speech, or lifestyle, whether or not that expression is different from that traditionally associated with the individual's assigned sex at birth.

(13) "Gender identity" means an individual's gender-related identity, whether or not that identity is different from that traditionally associated with the individual's assigned sex at birth, including, but not limited to, a gender identity that is transgender or androgynous.

(14) "Health care provider" means:

(a) A person who is primarily responsible for providing health care to an eligible employee or a family member of an eligible employee, who is performing within the scope of the person's professional license or certificate and who is:

(A) A physician licensed to practice medicine under ORS 677.110, including a doctor of osteopathy;

(B) A podiatrist licensed under ORS 677.825;

(C) A dentist licensed under ORS 679.090;

(D) A psychologist licensed under ORS 675.030;

(E) An optometrist licensed under ORS 683.070;

(F) A naturopath licensed under ORS 685.080;

(G) A registered nurse licensed under ORS 678.050;

(H) A nurse practitioner certified under ORS 678.375;

(I) A direct entry midwife licensed under ORS 687.420;

(J) A licensed registered nurse who is certified by the Oregon State Board of Nursing as a nurse midwife nurse practitioner;

(K) A regulated social worker authorized to practice regulated social work under ORS 675.510 to 675.600;

(L) A chiropractic physician licensed under ORS 684.054, but only to the extent the chiropractic physician provides treatment consisting of manual manipulation of the spine to correct a subluxation demonstrated to exist by X-rays;

(M) A physician's assistant licensed under ORS 677.512.

(b) A person who is primarily responsible for the treatment of an eligible employee or a family member of an eligible employee solely through spiritual means, including but not limited to a Christian Science practitioner.

(15) "In loco parentis" means in the place of a parent, having financial or day-to-day responsibility for the care of a child. A legal or biological relationship is not required.

(16) "Intermittent leave" means leave taken in multiple blocks of time and/or requiring an altered or reduced work schedule.

(17) "OFLA" is the Oregon Family Leave Act, ORS 659A.150 to 659A.186.

(18) "OFLA leave" means a leave of absence for purposes described in ORS 659A.159 and OAR 839-009-0230(1) through (5). Except that "OFLA leave" does not include leave taken by an eligible employee who is unable to work because of a disabling compensable injury, as defined in ORS 656.005, unless the employee has refused a suitable offer of light duty or modified employment under ORS 659A.043(3)(a)(D) or 659A.046(3)(d). See ORS 659A.162, OAR 839-006-0131(2) and 839-006-0136(4).

(19) "OFLA leave year," for calculating the OFLA leave year entitlement, means a calendar year (January to December), a fixed 12-month period such as a fiscal year, a 12-month period measured forward from the date of the employee's first OFLA leave, or a 12-month period measured backward from the date the employee uses any OFLA leave. The option selected must be applied to all employees. In the absence of an employer policy or collective bargaining agreement defining how an OFLA leave year will be measured, a calendar year will be used.

(20) "Serious health condition" means an illness, injury, impairment or physical or mental condition of an employee or family member:

(a) That requires inpatient care in a medical care facility such as a hospital, hospice or residential facility such as a nursing home. When a family member resides in a long-term residential care facility, leave applies only to:

(A) Transition periods spent moving the family member from one home or facility to another, including time to make arrangements for such transitions;

(B) Transportation or other assistance required for a family member to obtain care from a physician; or

(C) Serious health conditions as described in (b) through (h) of section (20) of this rule.

(b) That the treating health care provider judges to pose an imminent danger of death, or that is terminal in prognosis with a reasonable possibility of death in the near future;

(c) That requires constant or continuing care such as home care administered by a health care professional;

(d) That involves a period of incapacity. Incapacity is the inability to perform at least one essential job function, or to attend school or perform regular daily activities for more than three consecutive calendar days and any subsequent required treatment or recovery period relating to the same condition. This incapacity must involve:

(A) Two or more treatments by a health care provider; or

(B) One treatment plus a regimen of continuing care.

(e) That results in a period of incapacity or treatment for a chronic serious health condition that requires periodic visits for treatment by a health care provider, continues over an extended period of time, and may cause episodic rather than a continuing period of incapacity, such as asthma, diabetes or epilepsy;

(f) That involves permanent or long-term incapacity due to a condition for which treatment may not be effective, such as Alzheimer's disease, a severe stroke or terminal stages of a disease. The employee or family member must be under the continuing care of a health care provider, but need not be receiving active treatment;

(g) That involves multiple treatments for restorative surgery or for a condition such as chemotherapy for cancer, physical therapy for arthritis, or dialysis for kidney disease that if not treated would likely result in incapacity of more than three days; or

(h) That involves any period of disability of a female due to pregnancy or childbirth or period of absence for prenatal care.

(21) "Spouse" includes:

(a) Individuals in a marriage recognized under state law in the state in which the marriage was entered into;

(b) Individuals in a marriage validly performed in a foreign jurisdiction;

(c) Individuals in a common law marriage that was entered into in a state that recognizes such marriages; and

(d) Individuals who have lawfully established a civil union, domestic partnership or similar relationship under the laws of any state. Individuals described in this subsection are not required to obtain a marriage license, establish a record of marriage or solemnize their relationship.

(22) "Unforeseeable leave" means leave taken as a result of:

(a) An unexpected serious health condition of an employee or family member of an employee; or

(b) An unexpected illness, injury or condition of a child of the employee that requires home care;

(c) A premature birth or a placement for adoption or foster care the exact date of which cannot be previously determined with certainty; or

(d) The death of a family member.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.150 - 659A.186, 659A.043, 659A.046

Hist.: BL 2-1995, f. 9-8-95, cert. ef. 9-9-95; BLI 5-2000, f. & cert. ef. 2-1-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 35-2006, f. 10-3-06, cert. ef. 10-4-06; BLI 44-2007, f. 12-31-07, cert. ef. 1-1-08; BLI 10-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11; BLI 16-2013, f. & cert. ef. 12-31-13; BLI 14-2014(Temp), f. & cert. ef. 11-20-14 thru 5-15-15; BLI 5-2015, f. & cert. ef. 5-18-15; BLI 8-2015, f. & cert. ef. 6-24-15

**839-009-0220**

**Relationship of OFLA to FMLA**

(1) Leave taken under FMLA counts as OFLA leave provided the employee is also eligible for OFLA leave.

(2) Provisions of OFLA will be construed to the extent possible in a manner that is consistent with any similar provisions of FMLA; however, employers subject to both OFLA and FMLA must apply in a given leave situation the provision that is more beneficial to the employee's circumstances.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.150 - 659A.186

Hist.: BL 2-1995, f. 9-8-95, cert. ef. 9-9-95; BLI 5-2000, f. & cert. ef. 2-1-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 10-2010, f. & cert. ef. 2-24-10; BLI 5-2015, f. & cert. ef. 5-18-15; BLI 8-2015, f. & cert. ef. 6-24-15

**839-009-0230**

**Purposes for Taking OFLA Leave**

Eligible employees may take OFLA leave for the purposes commonly referred to as parental leave, serious health condition leave, pregnancy disability leave, sick child leave, and the death of a family member.

(1) Parental leave is leave taken for the birth of the employee's child, to care for the employee's newborn, newly adopted or newly placed foster child under 18 years of age or for a newly adopted or newly placed foster child 18 years of age or older who is incapable of self-care because of a physical or mental impairment. It includes leave time to effectuate the legal process required for placement of a foster child or the adoption of a child.

(2) Serious health condition leave is leave taken:

(a) To provide care for a family member with a serious health condition as defined in OAR 839-009-0210(20); or

(b) To recover from or seek treatment for a serious health condition that renders an employee unable to perform at least one essential function of the employee's regular position.

(3) Pregnancy disability leave is leave taken by a female employee for a disability related to pregnancy or childbirth, occurring before, during or after the birth of the child, or for prenatal care. Pregnancy disability leave is a form of serious health condition leave.

(4) Sick child leave is leave taken to care for an employee's child suffering from an illness or injury that requires home care but is not a serious health condition. An employer is not required to grant leave for routine medical or dental appointments.

(5) Leave to deal with the death of a family member is leave taken to attend the funeral or alternative to a funeral of the family member, to make arrangements necessitated by the death of the family member, or to grieve the death of the family member.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.150 - 659A.186

Hist.: BL 2-1995, f. 9-8-95, cert. ef. 9-9-95; BLI 5-2000, f. & cert. ef. 2-1-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 16-2013, f. & cert. ef. 12-31-13; BLI 5-2015, f. & cert. ef. 5-18-15; BLI 8-2015, f. & cert. ef. 6-24-15

**839-009-0240**

**Length of Leave and Other Conditions of OFLA Leave**

(1) An eligible employee is entitled to up to a total of 12 weeks of OFLA leave in any one-year period.

(2) In addition to the 12 weeks of leave authorized by ORS 659A.162 (1), a female eligible employee may take a total of 12 weeks of leave within the same leave year for an illness, injury or condition related to pregnancy or childbirth that disables the employee from performing any available job duties offered by the employer. The employee may use all or part of the 12 weeks of leave authorized by 659A.162(1) and all or part of the 12 weeks of pregnancy disability leave in any order. The employee need not exhaust either type of leave in order to use the other.

(3) An eligible employee taking the entire 12 weeks of OFLA leave authorized by ORS 659A.162 (1) for parental leave may take an additional 12 weeks of sick child leave within the same leave year. If the employee uses less than 12 weeks of parental leave, however, no additional sick child leave is available, except that the balance of the 12 weeks of OFLA leave authorized by ORS 659A.162 may be used for sick child leave or for any OFLA leave purpose.

(4) A female eligible employee may take up to 36 weeks of OFLA leave in one leave year that includes up to 12 weeks of pregnancy disability leave, 12 weeks of parental leave, and up to 12 weeks of sick child leave.

(5) An eligible employee may take up to 24 weeks of OFLA leave in one leave year under the following circumstances:

(a) The employee takes 12 weeks of parental leave, followed by:

(b) Up to 12 weeks of sick child leave.

(6) An eligible employee taking leave under ORS 659A.159(1)(e) and OAR 839-009-0230(5) to deal with the death of a family member is entitled to take up to a total of two weeks of OFLA leave for that purpose.

(a) An eligible employee is entitled to take up to two weeks of OFLA leave upon the death of each family member of the employee within any one-year period, except that the leave taken to deal with the deaths of family members may not exceed the total in ORS 659A.159(1) and subsection (1) of this rule.

(b) A covered employer may not require an eligible employee to take multiple leave periods concurrently if more than one family member of the employee dies during the one year period. If multiple family members of an eligible employee die concurrently, an eligible employee may take up to two weeks of leave for the death of each family member.

(c) All leave taken under ORS 659A.159 (1)(e) and OAR 839-009-0230(5) shall be counted toward the total period of OFLA leave authorized in ORS 659A.159(1) and subsection (1) of this rule.

(d) All leave taken for the death of a family member must be completed within 60 days of the date on which the eligible employee receives notice of the death of the family member. Notice of the death of a family member may be by any means and from any source.

(7) Two or more eligible employees who are family members of each other as defined in OAR 839-009-0210(7), working for the same covered employer, may take OFLA leave at the same time with that covered employer only under the following circumstances:

(a) One eligible family member needs to care for another eligible family member who is suffering from a serious health condition;

(b) One eligible family member needs to care for a child suffering from a serious or non-serious health condition while another eligible family member is suffering from a serious health condition;

(c) Two or more eligible family members are suffering from one or more serious health conditions;

(d) The employer allows family members to take concurrent leave; or

(e) The eligible family members are taking leave for the death of a family member pursuant to ORS 659A.159(1)(e) and OAR 839-009-0230 (5).

(8) Unless the covered employer approves otherwise, parental leave shall be taken in one uninterrupted period, and shall be completed within 12 months of the birth, adoption or placement of the child. Exceptions shall be made:

(a) To allow intermittent parental leave to effectuate adoption or foster placement of a child. Parental leave taken to effectuate adoption or foster placement of a child is part of the total amount of parental leave available to the employee, but need not be taken in one, uninterrupted period with any remaining parental leave taken after the actual placement of the child.

(b) To allow parental leave to attend the birth of or give birth to the employee's child. Such leave need not be taken in one, uninterrupted period with any remaining parental leave taken after the birth of the child.

(9) The birth, adoption or foster placement of multiple children at one time entitles the employee to take only one 12-week period of parental leave.

(10) A covered employer need not grant sick child leave to an eligible employee if another family member of the child is willing and able to care for the child.

(11) A covered employer may not reduce the amount of OFLA leave available to an eligible employee under this section by any period the employee is unable to work because of a disabling compensable injury as defined in ORS 656.005.

(a) If an employee uses OFLA leave for a workplace injury pending acceptance of a workers' compensation claim, upon acceptance of the claim any OFLA leave used for the workplace injury must be restored to the employee. If the claim is denied, OFLA leave will be deducted from the employee's entitlement.

(b) If a worker's compensation claim is first denied and then accepted, the employer must restore any OFLA leave taken for the condition covered by worker's compensation in the leave year in which the worker's compensation claim is accepted.

(c) Notwithstanding this rule, the employer may reduce the amount of OFLA leave available to an eligible employee under this section by any period the employee is unable to work because of a disabling compensable injury as defined in ORS 656.005 after the employee has refused a suitable offer of light duty or modified employment under ORS 659A.043 (3) (a) (D) or 659A.046(3)(d). See ORS 659A.043(4), 659A.046(5), 659A.162, OAR 839-006-0131(2) and 839-006-0136(4).

(d) An employee unable to work for an employer because of a disabling compensable injury arising out of and in the course of employment for that employer, but who is also employed by and able to work for another employer, may be eligible and qualify to use OFLA leave under the other employer.

(12) For the purpose of intermittent leave, OFLA leave entitlement is calculated for an employee by multiplying the number of hours the employee normally works per week by 12. (For example, an employee normally employed to work 30 hours per week is entitled to 12 times 30 hours, or a total of 360 hours OFLA intermittent leave; an employee normally employed to work 50 hours per week is entitled to 12 times 50 hours, or a total of 600 hours OFLA intermittent leave.)

(a) If an employee's schedule varies from week to week, a weekly average of the hours worked over the 12 months worked prior to the beginning of the leave period must be used for calculating the employee's normal work week. (For example, an employee working an average of 25 hours per week is entitled to 12 times 25 hours, or a total of 300 hours OFLA leave.)

(b) If an employee takes intermittent or reduced work schedule OFLA leave, only the actual number of hours of leave taken may be counted toward the 12 weeks of OFLA leave to which the employee is entitled.

(13) An employee who has previously qualified for and taken some portion of OFLA leave must requalify as an "eligible employee" as defined in OAR 839-009-0210(6) each time the employee begins additional OFLA leave within the same leave year. Exceptions:

(a) An employee who has been granted OFLA leave for a qualifying serious health condition of the employee or family member need not requalify under OAR 839-009-0210(6) each time the employee takes leave for the same individual and the same serious health condition during the same leave year.

(b) A female eligible employee taking, in any order, some or all of 12 weeks of OFLA pregnancy disability leave and some or all of 12 weeks of OFLA leave for any other purpose, need not requalify under OAR 839-009-0210(6) each time she takes OFLA leave within the same leave year.

(c) An employee who has taken 12 weeks of OFLA parental leave, need not requalify under OAR 839-009-0210(6) for up to an additional 12 weeks of leave within the same leave year when used for the purposes of OFLA sick child leave.

(d) An employee unable to work because of a disabling compensable injury as defined in ORS 656.005 need not requalify under OAR 839-009-0210(6) in order to use OFLA leave following a period the employee is off work due to the compensable injury.

(e) An employee who has taken serious health condition leave to care for a family member who dies during the employee's serious health condition leave, need not requalify under OAR 839-009-0210(6) to take leave for the death of that family member.

(14) An exempt employee is a salaried executive, administrative or professional employee under the federal Fair Labor Standards Act (see 29 CFR § 541 through 541.315) or the state minimum wage and overtime laws (ORS chapters 652 and 653).

(a) When OFLA leave is also covered by FMLA and the employee takes intermittent leave in blocks of less than one day, the employer may reduce the employee's salary for the part-day absence without the loss of the employee's exempt status in accordance with OAR 839-020-0004(30)(a).

(b) When OFLA leave is not covered by FMLA (e.g., the employer has 25 to 49 employees, the leave is taken for a sick child, for the serious health condition of a parent-in-law, for the serious health condition of a registered domestic partner or for the serious health condition of a registered domestic partner's parents or for the death of a family member), and the employee takes intermittent leave in blocks of less than one day, an employer will jeopardize the employee's exempt status if the employer reduces the employee's salary for the part-day absence.

(15) The requirements of OFLA do not apply to any employer offering eligible employees a nondiscriminatory cafeteria plan, as defined by section 125 of the Internal Revenue Code of 1986, that provides as one of its options employee leave at least as generous as the leave required by OFLA.

(16) ORS 659A.150 to 659A.186 and these rules do not limit any right of an employee to any leave that is similar to the leave described in 695A.159(1) and OAR 839-009-0230 and to which the employee may be entitled under any agreement between the employer and the employee, collective bargaining agreement or employer policy.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.150 - 659A.186, 659A.043, 659A.046
Hist.: BL 2-1995, f. 9-8-95, cert. ef. 9-9-95; BLI 5-2000, f. & cert. ef. 2-1-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 3-2005, f. 1-6-05, cert. ef. 1-7-05; BLI 44-2007, f. 12-31-07, cert. ef. 1-1-08; BLI 10-2010, f. & cert. ef. 2-24-10; BLI 16-2013, f. & cert. ef. 12-31-13; BLI 5-2015, f. & cert. ef. 5-18-15; BLI 8-2015, f. & cert. ef. 6-24-15

**839-009-0250**
**OFLA Leave: Notice by Employee; Designation by Employer; Notice by Employer Regarding Eligibility or Qualification**

(1) Except in situations described in sections (2) and (3) of this rule, a covered employer may require an eligible employee to give 30 days' written notice of the need for foreseeable leave, including an explanation of the need for leave, before starting OFLA leave. The employee is not required to specify that the request is for OFLA leave.

(a) An employee able to give advance notice of the need to take OFLA leave must follow the employer's known, reasonable and customary procedures for requesting any kind of leave, absent unusual circumstances.

(b) An employer may request additional information to determine that a requested leave qualifies for designation as OFLA leave, except in cases of parental leave.

(c) The employer may provisionally designate an absence as OFLA leave until sufficient information is received to make a determination. An employee who calls in sick without providing further information will not be considered to have provided sufficient notice to trigger an employer's obligations under OFLA.

(d) An employee on OFLA leave who needs to take more leave than originally authorized must give the employer reasonable notice prior to the end of the authorized leave, following the employer's known, reasonable and customary procedures for requesting any kind of leave. However, when an authorized period of OFLA leave has ended and an employee does not return to work, an employer having reason to believe the continuing absence may qualify as OFLA leave must request additional information, and may not treat a continuing absence as unauthorized unless requested information is not provided or does not support OFLA qualification.

(2) When an employee is unable to give the employer 30 days' notice but has some advance notice of the need for leave, the employee must give the employer as much advance notice as is practicable.

(3) When taking OFLA leave in an unforeseeable situation, an employee must give verbal or written notice within 24 hours before or after commencement of the leave. This notice may be given by any other person on behalf of an employee taking unforeseeable OFLA leave. The employer may require written notice by the employee within three days of the employee's return to work.

(4) When an employee fails to give notice of foreseeable leave as required by sections (1), (2), and (3) of this rule or the employer's policies:

(a) If the leave qualifies under OFLA only and not under FMLA, the employer may reduce the total period of unused OFLA leave by an amount no greater than the number of days of leave the employee has taken without providing timely notice of leave. This reduction of leave may not exceed three weeks in a one-year leave period; and the employer may subject the employee to disciplinary action under a uniformly applied policy or practice of the employer. See ORS 659A.165 (4).

(b) If the leave qualifies under FMLA only, FMLA regulations apply: 29 CFR § 825.302 (Employee Notice Requirements for Foreseeable FMLA Leave) and 29 CFR §825.304 (Employee Failure to Provide Notice). FMLA regulation 29 CFR §825.304 provides that an employer may delay coverage until up to 30 days after notice was received and the employer may take appropriate action under its internal rules and procedures for failure to follows its usual and customary notification rules, as long as the actions are taken in a manner that does not discriminate against employees taking FMLA leave.

(c) If the leave qualifies under both OFLA and FMLA the employer may:

(A) Delay FMLA coverage until up to 30 days after notice was received as permitted by the FMLA regulations at 29 CFR §825.304 (this applies only to leave to which the employee is entitled under FMLA);

(B) Reduce the total period of unused OFLA leave by an amount no greater than the number of days of leave the employee has taken without providing timely notice of leave. This reduction of leave may not exceed three weeks in a one-year leave period (see ORS 659A.165 (4)). This applies only to leave to which the employee is entitled under OFLA; and

(C) In addition to actions permitted under (A) and (B), the employer may also take appropriate action under its internal rules and procedures for failure to follow its usual and customary notification rules, as long as the actions are taken in a manner that does not discriminate against employees taking OFLA or FMLA leave.

(d) A reduction of OFLA leave under (4)(a) or (4)(c)(B) of this rule may not limit OFLA leave under ORS 659A.159(e ) and OAR 839-009-0230(5) for the death of a family member.

(5) An employer may not reduce an employee's available OFLA leave or take disciplinary action under (4)(a) or (c) of this rule unless the employer has posted the required Bureau of Labor and Industries Family Leave Act notice or the employer can otherwise establish that the employee had actual knowledge of the notice requirement.

(6) Except in the case of sick child leave and leave for the death of a family member, when an employee requests OFLA leave, or when the employer acquires knowledge that an employee's leave may be for an OFLA-qualifying reason, the employer must provide the employee within five business days a written request for information to verify whether the leave is OFLA-qualifying. Within five business days of receiving the requested information, the employer must notify the employee whether or not the employee is eligible and qualifies to take OFLA leave absent extenuating circumstances. All OFLA absences for the same qualifying reason are considered a single leave event and employee qualification as to that reason for leave does not change during the applicable 12-month period unless the reason is no longer qualifying. If an employer determines that an employee does not qualify for OFLA leave for the reason requested, the employer must notify the employee in writing that the employee does not qualify.

(a) The written notice that the employee does not qualify must state that the employee is ineligible or the reason for requested leave does not qualify for OFLA leave and at least one reason why the employee is not eligible or the reason does not qualify for leave.

(b) If an employer determines that an employee does not qualify for OFLA leave for the reason requested because a medical verification is incomplete or insufficient, the written notice that the employee does not qualify must state what additional information is required to make the verification complete or sufficient, and the employee must be afforded a reasonable period of time to correct the deficiency.

(7) An employer may not request medical verification of the need for sick child leave until after an employee's third occurrence of sick child leave in the same OFLA leave year.

(8) When an employee fails to respond to reasonable employer requests for medical verification of the employee's requested reason for leave to determine whether the leave is OFLA qualifying, the employer may deny use of OFLA leave until medical verification is received.

(9) An employer may not request medical verification of the need for OFLA leave for the death of a family member under ORS 659A.159 (e) and OAR 839-009-0230(5).

(10) An employee who has refused a suitable offer of light duty or modified employment under ORS 659A.043(3)(a)(D) or 659A.046(3)(d) and who otherwise is entitled to OFLA leave under 659A.150 to 659A.186:

(a) Automatically commences a period of OFLA leave upon refusing the offer of employment; and

(b) Need not give notice to the employer that would otherwise be required by this rule that the employee is commencing a period of leave. See ORS 659A.162, OAR 839-006-0131(2) and 839-006-0136(4).

(11) A covered employer may provide an OFLA leave request form. An example of a form that includes information for determining eligibility for OFLA leave as well as leave covered by OFLA and FMLA is found at Appendix A of this rule.

[ED. NOTE: Appendix referenced are available from the agency.]

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.150–659A.186, 659A.043, 659A.046

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.150–659A.186, 659A.043, 659A.046

Hist.: BL 2-1995, f. 9-8-95, cert. ef. 9-9-95; BLI 5-2000, f. & cert. ef. 2-1-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 1-2007, f. 1-16-07, cert. ef. 1-17-07; BLI 44-2007, f. 12-31-07, cert. ef. 1-1-08; BLI 10-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11; BLI 16-2013, f. & cert. ef. 12-31-13; BLI 5-2015, f. & cert. ef. 5-18-15; BLI 8-2015, f. & cert. ef. 6-24-15

**839-009-0260**

**Medical Verification and Scheduling of Treatment**

(1) An employer may require an employee to provide medical verification of the need for OFLA leave, except that an employer may not require medical verification for parental leave or for the death of a family member.

(2) All requests for medical verification must be in writing and must state the consequences for failure to provide the requested medical verification.

(3) Consistent with ORS 659A.306, the employer must pay the cost of any medical verification not covered by insurance or another benefit plan.

(4) When an employer requires eligible employees to give advance written notice of foreseeable leave and an eligible employee gives such notice, the employer may require the employee to provide medical verification of the need for OFLA leave before the leave starts.

(5) When an employee commences unforeseeable OFLA leave as defined in ORS 659A.165 (2) without prior notice, the employee must provide medical verification within 15 days of the employer's request for verification.

(6) If an employer determines that a medical verification provided by an employee is incomplete or insufficient, the employer must provide written notice that states the verification is incomplete or insufficient and the additional information needed to make it complete or sufficient.

(7) When an employee fails to respond to reasonable employer requests for medical verification of the employee's eligibility for foreseeable leave to determine whether the leave is OFLA qualifying, the employer may deny use of OFLA leave until complete or sufficient medical verification is received.

(8) An employer may not delay the use of OFLA leave when medical verification is not received before the commencement of unforeseeable leave. The employer may designate the leave as provisionally approved, subject to medical verification.

(9) If an employee submits medical verification signed by a health care provider, the employer may not directly request additional information from the employee or family member's health care provider. However, with permission from the employee or family member, a health care provider representing the employer may contact the employee or family member's health care provider to clarify or authenticate the medical verification.

(10) An employer may not request subsequent medical verifications more often than every 30 days and then only in connection with the employee's absence except when:

(a) Circumstances described by the previous medical verification have changed significantly (e.g., the duration or frequency of absences, the severity of conditions, or complications); or

(b) The employer receives information that casts doubt upon the employee's stated reason for the absence.

(11) If an employee requests OFLA leave for any purpose except parental leave or leave for the death of a family member, the employer may require the employee to obtain the opinion of a second health care provider designated by the employer, at the employer's expense. If the opinion of the second provider conflicts with the medical verification provided by the employee, the employer may require the two providers to designate a third health care provider to provide an opinion at the employer's expense (see ORS 659A.168). The opinion of the third provider is binding on both the employer and the employee.

(12) Upon request by the employee, the employer is required to provide the employee with a copy of any second and third medical opinions required under section (11) of this rule. Absent extenuating circumstances, the requested copies must be provided within five business days after the receipt of the employee's request.

(13) When OFLA leave is taken for the employee's serious health condition, the employer may require the employee to present verification from the employee's health care provider that the employee is able to resume work before restoring the employee to work. The employer may not require the employee to obtain a second opinion about the employee's ability to return to work after taking OFLA leave. (See OAR 839-009-0270(7)).

(14) If an employee has taken sick child leave on all or any part of three separate days during a leave year, the employer may require medical verification from a health care provider on the fourth day or subsequent occurrence of sick child leave within that leave year. The employer must pay the cost of the verification not covered by insurance or another benefit plan (see ORS 659A.306). The opinion of the health care provider is binding, and the employer may not require the employee to obtain a second opinion.

(15) When possible, an employee must make a reasonable effort to schedule medical treatment or supervision at times that will minimize disruption of the employer's operation.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.150 - 659A.186
Hist.: BL 2-1995, f. 9-8-95, cert. ef. 9-9-95; BLI 5-2000, f. & cert. ef. 2-1-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 3-2005, f. 1-6-05, cert. ef. 1-7-05; BLI 24-2005, f. 11-15-05, cert. ef. 11-16-05; BLI 12-2006, f. 3-22-06, cert. ef. 3-24-06; BLI 44-2007, f. 12-31-07, cert. ef. 1-1-08; BLI 10-2010, f. & cert. ef. 2-24-10; BLI 5-2015, f. & cert. ef. 5-18-15; BLI 8-2015, f. & cert. ef. 6-24-15

**839-009-0325**
**Purpose and Scope**

(1) The Civil Rights Division of the Bureau of Labor and Industries ("division") enforces ORS 659A.270 to 659A.285 which require certain employers to grant leave for victims of domestic violence, harassment, sexual assault or stalking. These rules implement and interpret 659A.270 to 659A285.

(2) The division also enforces ORS 659A.290, requiring all employers to provide reasonable safety accommodation (including use of available paid leave from employment) for, and prohibiting discrimination or retaliation against, victims of domestic violence, harassment, sexual assault or stalking. Additional rules implementing and interpreting ORS 659A.290 are found at OAR 839-005-0160 and 839-005-0170.

(3) ORS 659A.190 to 659A.198 provide for leave for crime victims to attend criminal proceedings. The division does not have authority to enforce ORS 659A.190 to 659A.198.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.270 - 659A.285
Hist.: BLI 32-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 10-2010, f. & cert. ef. 2-24-10; BLI 14-2011, f. 12-30-11, cert. ef. 1-1-12; BLI 3-2012, f. & cert. ef. 2-8-12; BLI 16-2013, f. & cert. ef. 12-31-13; BLI 5-2015, f. & cert. ef. 5-18-15; BLI 8-2015, f. & cert. ef. 6-24-15

**839-009-0330**
**Unlawful Practice under ORS 659A.270-.290; Prohibited Discrimination; Notice Obligations of All Employers; Obligations of State of Oregon as Employer**

(1) It is an unlawful employment practice for an employer covered under ORS 659A.270 to 659A.285 to deny leave for victims of domestic violence, harassment, sexual assault or stalking to an eligible employee or to discharge, threaten to discharge, demote, suspend or in any manner discriminate or retaliate against an employee with regard to promotion, compensation or other terms, conditions or privileges of employment because the employee inquires about, applies for, or takes leave as provided under 659A.270 to 659A.285 for victims of domestic violence, harassment, sexual assault or stalking.

(2) It is an unlawful employment practice under ORS 659A.290 for any employer to discriminate against an individual because an individual is a victim of domestic violence, harassment, sexual assault or stalking. See OAR 839-005-0160 and 839-005-0170.

(3) Every employer covered under ORS 659A.270 to 659A.285 shall keep summaries of 659A.270 to 695A.285 and summaries of all rules promulgated for the enforcement of these statutes posted in a conspicuous and accessible place in or about the premises where the employees of the covered employer are employed. Employers may download any number of summaries from the website of the Bureau of Labor and Industries at no charge, or upon request of a printed copy from the bureau, the first copy shall be furnished without charge.

(4) Upon request, the bureau shall furnish the complete text of all rules promulgated pursuant to ORS 659A.270 to 659A.285 to any employer without charge.

(5) The State of Oregon shall annually inform all its employees of the provisions of 659A.290, regarding reasonable safety accommodations.

(6) If the State of Oregon has knowledge, or reasonably should have knowledge, that its employee is a victim of domestic violence, harassment, sexual assault or stalking and that any direct or indirect communication from a suspected or convicted perpetrator is made or attempted to be made in the workplace to the eligible employee, the State of Oregon shall immediately inform the employee and offer to report the communication to law enforcement.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.270 - 659A.285
Hist.: BLI 32-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11; BLI 14-2011, f. 12-30-11, cert. ef. 1-1-12; BLI 3-2012, f. & cert. ef. 2-8-12; BLI 16-2013, f. & cert. ef. 12-31-13; BLI 5-2015, f. & cert. ef. 5-18-15; BLI 8-2015, f. & cert. ef. 6-24-15

**839-009-0340**
**Definitions: Leave under ORS 659A.270–659A.285**

(1) "Covered employer" means an employer who employs 6 or more individuals in the state of Oregon for each working day during each of 20 or more calendar workweeks in the year in which an eligible employee takes leave under ORS 659A.270 to 659A.285 for victims of domestic violence, harassment, sexual assault or stalking or in the year immediately preceding the year in which an eligible employee takes the leave.

(2) "Eligible employee" means an employee who is employed in the state of Oregon on the date leave begins under ORS 659A.270 to 659A.285 for victims of domestic violence, harassment, sexual assault or stalking and is a victim of domestic violence, harassment, sexual assault or stalking or is the parent or guardian of a minor child or dependent who is the victim of domestic violence, harassment, sexual assault or stalking.

(3) "Dependent" includes an adult dependent child substantially limited by a physical or mental impairment as defined by ORS 659A.104(1)(a), (3), and (4) or any adult over whom the employee has guardianship.

(4) "Immediate family" of a "victim" as defined in this section includes the victim's spouse as defined in OAR 839-009-0210(21); domestic partner; custodial parent; non-custodial parent; adoptive parent; foster parent; biological parent; step parent; parent-in-law; parent of domestic partner; sibling; child; stepchild; grandparent; grandchild; a person with whom the victim of domestic violence, harassment, sexual assault or stalking is or was in a relationship of in loco parentis; or any person who had the same primary residence as the victim at the time of the domestic violence, harassment, sexual assault or stalking.

(5) "In loco parentis" means in the place of a parent, having financial or day-to-day responsibility for the care of a child. A legal or biological relationship is not required.

(6) "Minor child" for purposes of OAR 839-009-0325-.0365 and ORS 659A.270-.285 has the same meaning as "child" as defined in OAR 839-009-0210(2) for purposes of parental and sick child leave.

(7) "Parent or guardian" for purposes of an employee taking leave for a minor child or dependent who is a victim of domestic violence, harassment, sexual assault or stalking means a custodial parent, non-custodial parent, step parent, adoptive parent, foster parent, biological parent, same-gender domestic partner of a parent or an employee who is or was in relationship of in loco parentis with a minor child or a dependent.

(8) "Victim of domestic violence" means an individual who has been threatened with abuse or who is a victim of abuse as defined in ORS 107.705.

(9) "Victim of harassment" means an individual against whom harassment has been committed as described in Oregon's criminal code at ORS 166.065.

(10) "Victim services provider" means a prosecutor-based victim assistance program or a nonprofit program offering safety planning, counseling, support or advocacy related to domestic violence, harassment, sexual assault or stalking.

(11) "Victim of sexual assault" means an individual against whom a sexual offense has been threatened or committed as described in ORS 163.305 to 163.467 or 163.525

(12) "Victim of stalking" means:

(a) An individual against whom stalking has been threatened or committed as described in ORS 163.732; or

(b)An individual who has obtained a temporary or permanent court's stalking protective under ORS 30.866.

(13) "Victim" includes any other person who has suffered financial, social, psychological or physical harm as a result of domestic violence, harassment, sexual assault or stalking committed against a victim as defined in subsections (8), (9), (11), and (12), including a member of the victim's immediate family as defined in this rule.

(14) In no event will an alleged perpetrator of domestic violence, harassment, sexual assault, or stalking be considered a victim for the purposes of these rules.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.270 - 659A.285
Hist.: BLI 32-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 10-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11; BLI 14-2011, f. 12-30-11, cert. ef. 1-1-12; BLI 3-2012, f. & cert. ef. 2-8-12; BLI 16-2013, f. & cert. ef. 12-31-13; BLI 14-2014(Temp), f. & cert. ef. 11-20-14 thru 5-15-15; BLI 5-2015, f. & cert. ef. 5-18-15; BLI 8-2015, f. & cert. ef. 6-24-15

**839-009-0350**
**Length of Leave and Other Conditions**

(1) A covered employer must allow an eligible employee to take reasonable leave for the purposes provided in ORS 659A.272.

(2) Reasonable leave means any amount of leave that does not cause an undue hardship on a covered employer's business.

(3) An eligible employee must follow the covered employer's known, reasonable, and customary procedures regarding periodic reporting to the covered employer of the eligible employee's current status.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.270 - 659A.285
Hist.: BLI 32-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 10-2010, f. & cert. ef. 2-24-10; BLI 5-2015, f. & cert. ef. 5-18-15; BLI 8-2015, f. & cert. ef. 6-24-15

**839-009-0355**
**Undue Hardship: Leave under ORS 659A.270-.285**

Undue Hardship means a significant difficulty and expense to a covered employer's business and includes consideration of the size of the covered employer's business and the covered employer's critical need for the eligible employee. Other factors to consider in determining whether granting leave under ORS 659A.270 to 659A.285 for victims of domestic violence, harassment, sexual assault or stalking will cause an undue hardship on a covered employer's business include, but are not limited to:

(1) The length of leave under ORS 659A.270 to 659A.285 for victims of domestic violence, harassment, sexual assault or stalking requested and the relative cost to a covered employer's business;

(2) The overall financial resources of the covered employer's facility or facilities, the number of persons employed at the facility and the effect on expenses and resources or other impacts on the operation of the facility if the leave under ORS 659A.270 to 659A.285 for victims of domestic violence, harassment, sexual assault or stalking were granted;

(3) The overall financial resources of the covered employer, the overall size of the business of the covered employer with respect to the number of its employees and the number, type and location of the covered employer's facilities;

(4) The type of operations conducted by the covered employer, including the composition, structure and functions of the covered employer's workforce.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.270 - 659A.285
Hist.: BLI 32-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 10-2010, f. & cert. ef. 2-24-10; BLI 14-2011, f. 12-30-11, cert. ef. 1-1-12; BLI 3-2012, f. & cert. ef. 2-8-12; BLI 5-2015, f. & cert. ef. 5-18-15; BLI 8-2015, f. & cert. ef. 6-24-15

**839-009-0360**
**Intermittent Leave and Alternate Duty**

(1) An eligible employee may take leave under ORS 659A.270 to 659A.285 for victims of domestic violence, harassment, sexual assault or stalking in multiple blocks of time and/or requiring an altered or reduced work schedule.

(2) A covered employer may transfer an employee on intermittent leave or a reduced work schedule into an alternate position under the same requirements for OFLA intermittent leave found in OAR 839-009-0245 (1) and (2).

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.270 - 659A.285, OL 2011 c. 687
Hist.: BLI 32-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 10-2010, f. & cert. ef. 2-24-10; BLI 14-2011, f. 12-30-11, cert. ef. 1-1-12; BLI 3-2012, f. & cert. ef. 2-8-12; BLI 5-2015, f. & cert. ef. 5-18-15; BLI 8-2015, f. & cert. ef. 6-24-15

**839-009-0362**
**Notice by Employee: Leave under ORS 659A.270-659A.285**

(1) An eligible employee seeking leave under ORS 659A.270 to 659A.285 for victims of domestic violence, harassment, sexual assault or stalking will give the covered employer reasonable advance notice of the employee's intention to take leave unless giving the advance notice is not feasible.

(2) When taking leave in an unanticipated or emergency situation, an eligible employee must give oral or written notice as soon as is practicable. This notice may be given by any other person on behalf of an eligible employee taking unanticipated leave.

(3) An eligible employee able to give advance notice of the need to take leave must follow the covered employer's known, reasonable and customary procedures for requesting any kind of leave;

(4) The covered employer may require the eligible employee to provide certification that:

(a) The eligible employee or the eligible employee's minor child or dependent is a victim of domestic violence, harassment, sexual assault or stalking as defined in OAR 839-009-0340(14), (15), (16) and (17); and

(b) The leave taken is for one of the purposes identified in OAR 839-009-0345.

(5) Any of the following constitutes sufficient certification:

(a) A copy of a police report indicating that the eligible employee or the eligible employee's minor child or dependent was a victim or alleged victim of domestic violence, harassment, sexual assault or stalking as defined in OAR 839-009-0340 (8), (9), (11) and (12); or

(b) A copy of a protective order (defined as an order authorized by ORS 30.866, 107.095(1)(c), 107.700 to 107.735, 124.005 to 124.040 or 163.730 to 163.750 or any other order that restrains an individual from contact with an eligible employee or the employee's minor child or dependent, an order authorized by ORS 30.866, 107.095(1)(c), 107.700 to 107.735, 124.005 to 124.040 or 163.730 to 163.750) or other evidence from a court or attorney that the eligible employee appeared in or is preparing for a civil or criminal proceeding related to domestic violence, harassment, sexual assault or stalking as defined in OAR 839-009-0340 (8), (9), (11) and (12); or

(c) Documentation from an attorney; law enforcement officer (defined as all police, corrections, and parole and probation officers who are included in the Public Safety Standards and Training Act as described in ORS 181.610 and 181.651); health care professional (defined as a physician or other health care practitioner who is licensed, certified or otherwise authorized by law to provide health care services); licensed mental health professional or counselor[,]; member of the clergy or victim services provider with or from whom the eligible employee or the eligible employee's minor child or dependent is receiving services including but not limited to treatment or counseling; assistance with relocating as a result of domestic violence, harassment, sexual assault or stalking as defined in OAR 839-009-0340 (8), (9), (11) and (12).

(6) Consistent with ORS 659A.306, the covered employer must pay the cost of any medical verification related to OAR 839-009-0345(1)(b) and (c) not covered by insurance or other benefit plan.

(7) The eligible employee will provide the certification within a reasonable time after receiving the covered employer's written request for the certification.

(8) The covered employer may provisionally designate an absence as leave under ORS 659A.270 to 659A.285 for victims of domestic violence, harassment, sexual assault or stalking until sufficient certification is received, if requested, to make a determination.

(9) An eligible employee on leave who needs to take more leave than originally authorized should give the covered employer notice as soon as is practicable prior to the end of the authorized leave, following the covered employer's known, reasonable and customary procedures for requesting any kind of leave. However, when an authorized period of leave has ended and an eligible employee does not return to work, a covered employer having reason to believe the continuing absence may qualify as leave under ORS 659A.270 to 659A.285 for victims of domestic violence, harassment, sexual assault or stalking may request additional information. If the covered employer requests additional information the eligible employee will provide the requested information as soon as is practicable. The covered employer may not treat a continuing absence as unauthorized unless requested information is not provided or does not support leave qualification.

(10) All records and information kept by a covered employer regarding an eligible employee's leave under ORS 659A.270 to 659A.285 for victims of domestic violence, harassment, sexual assault or stalking, including the fact that the eligible employee has requested or obtained such leave, are confidential and may not be released without the express permission of the eligible employee, unless otherwise required by law.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.270 - 659A.285
Hist.: BLI 32-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 10-2010, f. & cert. ef. 2-24-10; BLI 14-2011, f. 12-30-11, cert. ef. 1-1-12; BLI 3-2012, f. & cert. ef. 2-8-12; BLI 16-2013, f. & cert. ef. 12-31-13; BLI 5-2015, f. & cert. ef. 5-18-15; BLI 8-2015, f. & cert. ef. 6-24-15

**839-009-0363**
**Use of Paid Leave: ORS 659A.270-659A.285**

(1) Leave is unpaid leave unless otherwise provided by:

(a) A collective bargaining agreement;

(b) The terms of an agreement between the eligible employee and the covered employer; or

(c) A covered employer's policy.

(2) An eligible employee taking leave pursuant to an agreement between the eligible employee and the covered employer, a collective bargaining agreement or a covered employer policy may use any paid accrued vacation leave or may use any other paid leave that is offered by the covered employer in lieu of vacation leave during the period of leave.

(3) Subject to the terms of any agreement between the eligible employee and the covered employer or the terms of a collective bargaining agreement or a covered employer policy, the covered employer may determine the order in which paid accrued leave is to be used when more than one type of paid accrued leave is available to the employee.

(4) An eligible employee of the State of Oregon shall be granted leave with pay for the purposes in ORS 659A.272 and OAR 839-009-0345.

(a) Leave with pay taken under this subsection is in addition to any vacation, sick, personal business, or other forms of paid or unpaid leave available to the eligible employee.

(b) The eligible employee must exhaust all other forms of paid leave before the employee may use the paid leave under this section.

(c) An eligible employee may take up to 160 hours of leave with pay authorized by ORS 659A.283 in each calendar year.

(e) The State of Oregon shall allow its eligible employee who has exhausted the 160 hours of leave with pay authorized by ORS 659A.283 to take reasonable additional unpaid leave for the purposes in ORS 659A.272 and OAR 839-009-0345.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.270 - 659A.285
Hist.: BLI 32-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 10-2010, f. & cert. ef. 2-24-10; BLI 16-2013, f. & cert. ef. 12-31-13; BLI 5-2015, f. & cert. ef. 5-18-15; BLI 8-2015, f. & cert. ef. 6-24-15

**839-009-0365**
**Enforcement and Denial of leave under ORS 659A.270 to 659A.285 for Victims of Domestic Violence, Harassment, Sexual Assault or Stalking**

(1) A covered employer's duties and obligations under ORS 659A.270 to 659A.285 extend to a successor employer as defined in federal Family and Medical Leave Act rules at 29 CFR §825.107.

(2) It is an unlawful employment practice for a covered employer to count leave under ORS 659A.270 to 659A.285 against an employee in determining the employee's compliance with attendance policies or to count such leave against an employee when determining eligibility for bonuses based on attendance. An employee is entitled to continue eligibility for a bonus based on attendance upon return from leave under ORS 659A.270 to 659A.285 and may not be disqualified from the bonus as a result of taking leave.

(3) Pursuant to ORS 659A.030(1)(g), it is an unlawful employment practice for any person, whether an employer or an employee, to aid, abet, incite, compel or coerce the doing of any of the acts in violation of ORS 659A.270 to 659A.285 or to attempt to do so.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.270 - 659A.285
Hist.: BLI 32-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 10-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11; BLI 14-2011, f. 12-30-11, cert. ef. 1-1-12; BLI 3-2012, f. & cert. ef. 2-8-12 BLI 5-2015, f. & cert. ef. 5-18-15; BLI 8-2015, f. & cert. ef. 6-24-15

**839-009-0380**
**Definitions: OMFLA**

(1) "Active duty or call to active duty status" means duty under a call or order to active duty, or notification of an impending call or order to active duty, during a contingency operation, pursuant to Title 10 of the United States Code. "Contingency operation" means a military operation that:

(A) Is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or

(B) Results in the call or order to, or retention on, active duty of members of the uniformed services under section 688, 12301(a), 12302, 12304, 12305, or 12406 of Title 10 of the United States Code, chapter 15 of Title 10 of the United States Code, or any other provision of law during a war or during a national emergency declared by the President or Congress. (See 10 U.S.C. §101(a)(13))

(2) "Covered employer" means:

(a) The State of Oregon and a department, agency, board or commission of the State of Oregon;

(b) A local government, including but not limited to a county, city, town, municipal corporation, independent public corporation or political subdivision of the State of Oregon; and

(c) A person, firm, corporation, partnership, legal representative, or other business entity that engages in any business, industry, profession, or activity in the state of Oregon and that employs 25 or more individuals in the state of Oregon for each working day during each of 20 or more calendar workweeks in the year in which an eligible employee takes OMFLA leave or in the year immediately preceding the year in which an eligible employee takes OMFLA leave.

(3) "Domestic partner" means an individual joined in a domestic partnership.

(4) "Domestic partnership" for the purposes of ORS chapter 659A means two individuals of the same sex who have received a Certificate of Registered Domestic Partnership from the State of Oregon in compliance with ORS 432.405(1) and rules adopted by the State Registrar of the Center for Health Statistics.

(5) "Eligible employee" means an individual who performs services for compensation for an employer for an average of at least 20 hours per week and includes all individuals employed at any site owned or operated in Oregon by an employer, but does not include independent contractors.

(a) In determining an average of at least 20 hours per week, the employer must count actual hours worked using guidelines set out pursuant to the federal Fair Labor Standards Act. (See 29 CFR § 785)

(b) For the purpose of qualifying as an eligible employee, the employee need not perform services solely in the state of Oregon.

(c) Eligibility of employees reemployed following a period of uniformed service: The federal Uniformed Services Employment and Reemployment Act, 38 USC 43 (USERRA) provides that an employee reemployed following a period of uniformed service is entitled to the seniority and seniority-based rights and benefits that the employee had on the date the uniformed service began, plus any seniority and seniority-based rights and benefits that the employee would have attained if the employee had remained continuously employed. U.S. Department of Labor regulation 20 CFR §1002.210 provides that in determining entitlement to seniority and seniority-based rights and benefits, the period of absence from employment due to or necessitated by uniformed service is not considered a break in employment. The rights and benefits protected by USERRA upon reemployment include those provided by the employer and those required by statute. Under USERRA, a reemployed service member would be eligible for OMFLA leave if the number of days and the number of hours of work for which the service member was employed by the civilian employer, together with the number of days and number of hours of work for which the service member would have been employed by the civilian employer during the period of uniformed service, meet the eligibility requirements of these rules. In the event that a service member is denied OMFLA leave for failing to satisfy the days and hours of work requirement due to absence from employment necessitated by uniformed service, the service member may have a cause of action under USERRA but not under OMFLA.

(d) ORS 659A.082–659A.088 provides that an employee reemployed following a period of uniformed service is entitled to the seniority and seniority-based rights and benefits that the employee had on the date the uniformed service began, plus any seniority and seniority-based rights and benefits that the employee would have attained if the employee had remained continuously employed. In determining entitlement to seniority and seniority-based rights and benefits, the period of absence from employment due to or necessitated by uniformed service is not considered a break in employment. If a reemployed service member was eligible for leave under OMFLA prior to the date uniformed service began, OMFLA's eligibility requirements are considered met.

(6) "Intermittent leave" means leave taken in multiple blocks of time and/or requiring an altered or reduced work schedule.

(7) "Period of Military Conflict" means a period of war:

(a) Declared by the United States Congress;

(b) Declared by executive order of the President of the United States; or

(c) In which a reserve component of the Armed Forces of the United States is ordered to active duty pursuant to Title 32 of the United States Code or section 12301 or 12302 of Title 10 of the United States Code.

(8) "Spouse" has the meaning given in OAR 839-009-0210(21).

Stat. Auth.: ORS 659A.093(6)
Stats. Implemented: ORS 659A.090 - 659A.099
Hist.: BLI 10-2010, f. & cert. ef. 2-24-10; BLI 16-2013, f. & cert. ef. 12-31-13; BLI 5-2015, f. & cert. ef. 5-18-15; BLI 8-2015, f. & cert. ef. 6-24-15

**839-009-0410**
**Relationship of OMFLA to OFLA**

(1) An eligible employee need not be eligible for protected leave under the Oregon Family Leave Act ("OFLA") in order to take protected leave under the Oregon Military Family Leave Act ("OMFLA").

(2) Protected leave taken by an eligible employee under OMFLA may be included in the total amount of leave authorized under ORS 659A.162(1) of OFLA if the employee is also eligible for OFLA leave and has any leave entitlement remaining.

Stat. Auth.: ORS 659A.093(6)
Stats. Implemented: ORS 659A.090 - 659A.099
Hist.: BLI 10-2010, f. & cert. ef. 2-24-10; BLI 10-2010, f. & cert. ef. 2-24-10; BLI 12-2012, f. & cert. ef. 11-21-12; BLI 5-2015, f. & cert. ef. 5-18-15; BLI 8-2015, f. & cert. ef. 6-24-15

**839-009-0420**
**Relationship of OMFLA to FMLA**

To the extent the employee's need for OMFLA leave is also covered by the Qualifying Exigency entitlements of the federal Family and Medical Leave Act (FMLA) under 29 CFR §825.126, the employer may run OMFLA leave and FMLA leave concurrently.

Stat. Auth.: ORS 659A.093(6)
Stats. Implemented: ORS 659A.090 – 659A.099
Hist.: BLI 10-2010, f. & cert. ef. 2-24-10; BLI 5-2015, f. & cert. ef. 5-18-15; BLI 8-2015, f. & cert. ef. 6-24-15

**839-009-0460**
**Enforcement and Retaliation**

(1) A covered employer's duties and obligations under OMFLA extend to a successor employer as defined in the federal Family and Medical Leave Act (FMLA) regulations at 29 CFR§ 825.107.

(2) In accordance with the provisions of OMFLA an eligible employee claiming a violation of the OMFLA may file a complaint with the Civil Rights Division of the Bureau of Labor and Industries in the manner provided by ORS 659A.820.

(3) It is an unlawful employment practice for a covered employer to retaliate or in any way discriminate against any person with respect to hiring, tenure or any other term or condition of employment because the person has inquired about OMFLA leave, submitted a request for OMFLA leave or invoked any provision of OMFLA.

(4) Pursuant to ORS 659A.030(1)(f), it is an unlawful employment practice for a covered employer to discharge, expel or otherwise discriminate against any person because the person has filed a complaint, testified or assisted in any proceeding in connection with OMFLA.

(5) It is an unlawful employment practice for a covered employer to count OMFLA leave against an employee in determining the employee's compliance with attendance policies, or to count OMFLA leave against an employee when determining eligibility for bonuses based on attendance.

(6) Pursuant to ORS 659A.030(1)(g), it is an unlawful employment practice for any person, whether an employer or an employee, to aid, abet, incite, compel or coerce the doing of any of the acts in violation of OMFLA or to attempt to do so.

Stat. Auth.: ORS 659A.093(6)
Stats. Implemented: ORS 659A.090 – 659A.099
Hist.: BLI 10-2010, f. & cert. ef. 2-24-10; BLI 5-2015, f. & cert. ef. 5-18-15; BLI 8-2015, f. & cert. ef. 6-24-15

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**Rule Caption:** Amendments to clarify, conform with authorities, correct citations; implement new statute.
**Adm. Order No.:** BLI 9-2015
**Filed with Sec. of State:** 6-29-2015
**Certified to be Effective:** 6-29-15
**Notice Publication Date:** 10-1-2014
**Rules Amended:** 839-003-0000, 839-003-0005, 839-003-0010, 839-003-0015, 839-003-0020, 839-003-0025, 839-003-0031, 839-003-0040, 839-003-0045, 839-003-0050, 839-003-0055, 839-003-0060, 839-003-0065, 839-003-0070, 839-003-0080, 839-003-0085, 839-003-0090, 839-003-0095, 839-003-0100, 839-003-0200, 839-003-0205, 839-003-0210, 839-003-0215, 839-003-0220, 839-003-0225, 839-003-0230, 839-003-0235, 839-003-0240, 839-003-0245
**Subject:** Amendments to clarify, conform with authorities, correct citations. Clarify procedure for unlawful practice settlements, replace "complainant" with "aggrieved person" to conform with statute, add citations to federal housing laws, clarify enforcement of settlement agreements and commissioner orders through civil actions, replace references to "OSEA" with citation to Oregon Safe Employment Act, clarify statutes of limitations in certain types of civil rights cases that are different from the usual deadlines, clarify that settlement discussions and documents are exempt from disclosure. Edits to and rearrangements within rules to integrate chronology of processes and make them more understandable to the reader.
**Rules Coordinator:** Marcia Ohlemiller—(971) 673-0784

**839-003-0000**
**Purpose and Scope**

(1) The policy of the State of Oregon guarantees all citizens of the state the right to employment, housing, access to places of public accommodation and private vocational, professional or trade schools without unlawful discrimination.

(2) These rules govern the Civil Rights Division procedures for processing all complaints filed with the division.

(3) In any matter not governed by these rules, the Commissioner of the Bureau of Labor and Industries will exercise discretion under the law.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.003 & 659A.805
Hist.: BL 7-1981, f. & ef. 6-25-81; BL 4-1996, f. & cert. ef. 3-12-96; BLI 11-2000, f. & cert. ef. 3-24-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0005**
**Definitions**

For purposes of these rules:

(1) "Administrator" means the Administrator of the Civil Rights Division of the Bureau of Labor and Industries or a designee of the administrator.

(2) "Aggrieved person" means:

(a) A person who is, or was at any time, eligible to file a complaint under ORS 659A.820 or who is otherwise similarly situated;

(b) A person who files a complaint personally or through an attorney under ORS 659A.825; or

(c) A person on whose behalf the commissioner files a complaint as provided in OAR 839-003-0100 or -0245.

(3) "Bureau" means the Bureau of Labor and Industries.

(4) "Commissioner" means the commissioner of the Bureau of Labor and Industries or a designee of the commissioner.

(5) "Complaint" means for the purposes of ORS chapter 659A, (except complaints under the Oregon Safe Employment Act (OSEA) in ORS chapter 654, housing discrimination complaints under ORS 659A.145, 659A.421 or the federal Fair Housing Act, or a commissioner's complaint under ORS 659A.825) a written, verified statement that:

(a) Gives the name and address of the aggrieved person and the respondent;

(b) Identifies the protected class basis of the complaint;

(c) Is signed by the aggrieved person;

(d) Describes the actions complained of, including:

(A) The date(s) of occurrence;

(B) What the action was and how it harmed the aggrieved person; and

(C) The causal connection between the aggrieved person's protected class and the alleged harm.

(6) "Days," unless otherwise stated in the text of a document, means calendar days.

(7) "Division" means the Civil Rights Division of the Bureau of Labor and Industries.

(8) "EEOC" means the federal Equal Employment Opportunity Commission.

(9) "Notice" means written information delivered personally or sent by mail to the person's last known personal or business address or business address of the person's designated representative.

(10) "OSEA" means the Oregon Safe Employment Act, ORS 654.001 to 654.295, 654.412 to 654.423, 654.750 to 654.780 and 654.991.

(11) "Protected class" means a group of people protected by law from discrimination on the basis of a shared characteristic, or a perception of that characteristic, such as race, sex, age, disability or other.

(12) "Person" has the meaning given in ORS 659A.001 (9).

(13) "Respondent" includes any person or other entity against whom a complaint or charge of unlawful practices is filed with the division or whose name has been added to such complaint or charge pursuant to ORS 659A.835(1).

(14) "Formal charges" are charges drafted and issued by the bureau's Administrative Prosecution Unit.

(15) "Substantial evidence" means:

(a) Proof that a reasonable person would accept as sufficient to support the allegations of the complaint, except complaints under ORS 659A.145 or 659A.421 or the federal Fair Housing Act (42 U.S.C. 3601 – 3614a),

(b) Under ORS 659A.145 or 659A.421 or the federal Fair Housing Act (42 U.S.C. 3601 – 3614a), reasonable cause for the commissioner to believe the facts concerning the alleged discriminatory housing practice are sufficient to warrant the initiation of an administrative action or a civil action in circuit court.

(16) "Substantial evidence determination" means the division's written findings of substantial evidence.

(17) "Written verified complaint" means a complaint that is in writing or print; and under oath or affirmation by the aggrieved person or the parent or legal guardian of an aggrieved person who is an unemancipated minor.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A
Hist.: BL 7-1981, f. & ef. 6-25-81; BL 7-1982, f. & ef. 4-22-82; BL 4-1996, f. & cert. ef. 3-12-96; BLI 11-2000, f. & cert. ef. 3-24-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 36-2007 f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 6-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11; BLI 5-2012(Temp), f. & cert. ef. 6-13-12 thru 12-10-12; BLI 7-2012, f. & cert. ef. 8-8-12; BLI 8-2012(Temp), f. & cert. ef. 8-8-12 thru 1-31-13; BLI 11-2012, f. & cert. ef. 10-10-12; BLI 13-2013, f. & cert. ef. 12-30-13; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0010**
**Who May File**

(1) This section does not apply to housing discrimination complaints under ORS 659A.145 or 659A.421 or the federal Fair Housing Act (42 U.S.C. 3601–3614a). Complaints of housing discrimination must be filed in accordance with OAR 839-003-0200.

(2) Any person claiming to be aggrieved by an unlawful practice may file a complaint with the division personally or through an attorney.

(3) Any employee, or a representative authorized to do so by ORS 654.062(2), may file a complaint with the division alleging discrimination by an employer against the employee for raising issues of employee safety or health in the workplace.

(4) The commissioner of the Bureau of Labor and Industries or attorney general of the State of Oregon may file a complaint whenever there is reason to believe that a person has committed unlawful practices.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.820 & 659A.825
Hist.: BL 7-1981, f. & ef. 6-25-81; BL 7-1982, f. & ef. 4-22-82; BL 4-1996, f. & cert. ef. 3-12-96; BLI 11-2000, f. & cert. ef. 3-24-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0015**
**Equal Employment Opportunity Commission**

If an aggrieved person wants to file a complaint alleging facts that would also violate federal discrimination statutes administered by the federal Equal Employment Opportunity Commission (EEOC) and the complaint meets federal filing requirements, the division may accept it on behalf of EEOC and co-file the complaint with EEOC. Under a work-sharing agreement between the division and EEOC the division, in most instances, will process the complaint for both agencies.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.820, 42 USC Sec. 706(c) & (d) (Title VII of the Civil Rights Act of 1964, as amended), 42 USC Sec. 101-108 (Title I of the Americans with Disabilities Act) & 29 USC Sec. 621-634 (The Age Discrimination in Employment Act of 1967)
Hist.: BL 7-1981, f. & ef. 6-25-81; BLI 11-2000, f. & cert. ef. 3-24-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0020**
**Civil Action**

(1) Civil actions in state or federal court alleging unlawful practices under 659A.145 or 659A.421 or the federal Fair Housing Act (42 U.S.C. 3601 – 3614a are covered under OAR 839-003-0235 and not under this rule.

(2) An aggrieved person alleging unlawful practices may file a civil action in state or federal court as provided in ORS 659A.870 to 659A.885.

(a) An aggrieved person is not required to file a complaint of unlawful practices with the division before filing a civil action alleging the unlawful practices.

(b) An aggrieved person filing a civil action alleging unlawful practices waives the right to file a complaint with the division with respect to those matters alleged in the civil action.

(3) After filing a complaint with the division, an aggrieved person may file a civil action in state or federal court alleging the same matters as those alleged in the complaint. The aggrieved person should notify the division of the civil action. When the division receives notice from the aggrieved person or aggrieved person's attorney, or court documents indicating that such a civil action has been filed, the division will dismiss the complaint. The division will notify the aggrieved person and respondent that the division has dismissed the complaint.

(4) The commissioner will notify the aggrieved person in writing of the right to file a civil action as provided in ORS 659A.870 to 659A.885, when a complaint is dismissed by the division or on the one-year anniversary of the complaint filing, whichever occurs first. Except as provided in section (5) of this rule, the aggrieved person has 90 days from the notice mailing date to file a civil action.

(5) A civil action under ORS 659A.885 alleging an unlawful practice in violation of ORS 659A.403 or 659A.406 (public accommodation) must be commenced within one year of the occurrence of the unlawful practice, whether or not the aggrieved person first files a complaint with the division.

(6) An aggrieved person filing a complaint with the division alleging unlawful practices by a public body or any officer, employee or agent of a public body, as defined in ORS 30.260, need not file a tort claim notice with the public body. However, ORS 30.275 requires a tort claim notice be sent by the aggrieved person to the public body within 180 days of the alleged unlawful practice if: the aggrieved person files a civil action in court instead of filing a complaint with the division; or a complaint is dismissed by or withdrawn from the division, and the aggrieved person then files a civil action. The division encourages aggrieved persons filing complaints against public bodies to file a tort claim notice at the same time they file the complaint.

(7) A civil action or an action for a writ of mandamus alleging breach of a settlement agreement to which the division is a party may be filed as provided by ORS 659A.840 and 659A.860 in the manner provided by ORS 659A.885(3). An aggrieved person may instead file a complaint with the commissioner to seek enforcement of a settlement agreement to which the division is a party, within one year after the act or omission alleged to be a violation of the agreement. The commissioner will process the complaint in the same manner as provided for a complaint filed under ORS 659A.820.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.800- 659A.890
Hist.: BL 7-1981, f. & ef. 6-25-81; BL 12-1982, f. & ef. 8-10-82; BL 4-1996, f. & cert. ef. 3-12-96; BLI 11-2000, f. & cert. ef. 3-24-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 9-2006, f. 3-16-06, cert. ef. 3-20-06; BLI 24-2006(Temp), f. 7-5-06, cert. ef. 7-7-06 thru 1-3-07; BLI 38-2006, f. 10-25-06, cert. ef. 10-27-06; BLI 36-2007 f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 13-2013, f. & cert. ef. 12-30-13; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0025**
**Filing a Complaint**

(1) Complaints under the Oregon Safe Employment Act (OSEA), which includes ORS 654.001 to 654.295, 654.412 to 654.423, 654.750 to 654.780 and 654.991, must be filed in accordance with OAR 839-003-0031.

(2) Complaints under ORS 659A.145 or 659A.421 or the federal Fair Housing Act (42 U.S.C. 3601 – 3614a) must be filed in accordance with OAR 839-003-0200, or 839-003-0245 (Commissioner's Housing Complaint).

(3) Commissioner's complaints other than commissioner's housing complaints must be filed in accordance with OAR 839-003-0100.

(4) An aggrieved person or the aggrieved person's attorney may file a complaint alleging unlawful practices, in person or by mail, with the division at any bureau office in the state of Oregon. The complaint must meet the standards provided in OAR 839-003-0005(4).

(5) The filing date is the date the division receives a complaint that meets the standards provided in OAR 839-003-0005(4).

(6) A complaint must be filed with the division no later than one year after the alleged unlawful practice occurred. If the alleged unlawful practice is of a continuing nature, the right to file a complaint exists so long as the person files the complaint within one year of the most recent date the unlawful practice occurred.

(7) An aggrieved person alleging constructive discharge from employment must file a discrimination complaint with the division within one year of the date the discharge occurred.

(8) The procedures for filing a complaint are as follows:

(a) An aggrieved person or the aggrieved person's attorney makes an inquiry to the division;

(b) The division may provide the aggrieved person or the aggrieved person's attorney with a letter of information and/or questionnaire to assist in determining whether there is a basis for filing a complaint;

(c) If the division determines the aggrieved person has a basis for filing a complaint, the division will draft a complaint based upon the information provided by the aggrieved person and send or give the complaint to the aggrieved person or the aggrieved person's attorney for review. The aggrieved person or the aggrieved person's attorney will request any necessary changes to the complaint.

(d) The aggrieved person will verify and sign the complaint. The complaint will then be submitted to the division.

(e) If the aggrieved person is an unemancipated minor the complaint must be signed by the minor and the parent or legal guardian of the minor.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 654.062 & 659A
Hist.: BL 7-1981, f. & ef. 6-25-81; BL 4-1996, f. & cert. ef. 3-12-96; BL 2-1998, f. & cert. ef. 2-3-98; BLI 11-2000, f. & cert. ef. 3-24-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 12-2004, f. 10-22-04 cert. ef. 10-25-04; BLI 19-2007(Temp), f. & cert. ef. 7-18-07 thru 1-1-08; BLI 29-2007, f. 9-27-07 cert. ef. 10-1-07; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08

thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 6-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11; BLI 5-2012(Temp), f. & cert. ef. 6-13-12 thru 12-10-12; BLI 7-2012, f. & cert. ef. 8-8-12; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0031**
**Filing a Complaint under the Oregon Safe Employment Act (OSEA)**

(1) An aggrieved person or the aggrieved person's attorney may file a complaint under the Oregon Safe Employment Act, ORS 654.001 to 654.295, 654.412 to 654.423, 654.750 to 654.780 and 654.991 (OSEA), in person or by mail, with the division at any bureau office in the state of Oregon.

(2) "Complaint" means a written statement signed by the aggrieved person that:

(a) Gives the name and address of the aggrieved person and the respondent;

(b) Identifies the protected class basis of the complaint;

(c) Is signed by the aggrieved person;

(d) Describes the actions complained of, including:

(A) The date(s) of occurrence;

(B) What the action was and how it harmed the aggrieved person; and

(C) The causal connection between the aggrieved person's protected class and the alleged harm.

(3) A person alleging discrimination or retaliation for reporting or opposing unsafe or unhealthy work conditions under ORS 654.062 must contact the division within 90 days of having reasonable cause to believe that such violation has occurred. An employee would have reasonable cause to believe a violation has occurred on the earliest date that the employee:

(a) Believed retaliation had occurred against the employee for opposing employee health and safety hazards; and

(b) Knew or should have known of the right to file a complaint with the division and of the requirement that the complaint be filed within 90 days of the alleged retaliation.

(A) If a notice required by OSEA, as provided in OAR 437-001-0275(2)(a), was properly posted in the employee's workplace, continuously on and following the date of the alleged retaliation, the division will find that the employee knew or should have known of the 90-day filing requirement.

(B) If the employer failed to post the required OSEA poster, the 90-day filing requirement will begin on the date the employee learned of the right to file a complaint and of the 90-day filing requirement. The employee may establish this date based on the employee's own statement or other evidence offered by the employee.

(C) If the employer disagrees with the employee's presented date as the date the employee learned of the right to file a complaint, the burden is on the employer to show that the employee knew or should have known on an earlier date.

(D) If extenuating circumstances exist, the division may extend the 90-day period as provided in 29 CFR §1977.15 (3).

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 654.062; ORS 659A.800 - 659A.865
Hist.: BLI 5-2012(Temp), f. & cert. ef. 6-13-12 thru 12-10-12; BLI 7-2012, f. & cert. ef. 8-8-12; BLI 13-2013, f. & cert. ef. 12-30-13; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0040**
**Amendment of Complaints**

(1) This section does not apply to housing discrimination complaints under ORS 659A.145 or 659A.421 or the federal Fair Housing Act (42 U.S.C. 3601 – 3614a). Complaints of housing discrimination must be amended in accordance with OAR 839-003-0205.

(2) The division may amend a complaint to correct technical defects and to add additional persons as respondents. The division may amend a complaint on its own initiative or at the aggrieved person's request (with the division's agreement) at any time prior to the issuance of formal charges, except that respondents may only be added during the course of investigation. Examples of technical defects include: clerical errors, additions or deletions, name and address corrections, and statute or rule citation errors.

(3) A complaint may be amended to add a protected class only if the addition is supported by facts already alleged. New facts may not be added. If new facts are alleged, the aggrieved person must file a new complaint meeting the standards provided in OAR 839-003-0005(5).

(4) Amended complaints need not be verified or signed by the aggrieved person.

(5) The division will send a copy of the amended complaint to the aggrieved person and all respondents.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.820
Hist.: BL 7-1981, f. & ef. 6-25-81; BL 4-1996, f. & cert. ef. 3-12-96; BLI 11-2000, f. & cert. ef. 3-24-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 2-2005, f. 1-6-05, cert. ef. 1-7-05; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 6-2010, f. & cert. ef. 2-24-10; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0045**
**Withdrawal of Complaint**

(1) This rule does not apply to housing discrimination complaints under ORS 659A.145 or 659A.421 or the federal Fair Housing Act (42 U.S.C. 3601 – 3614a). The withdrawal of a housing discrimination complaint is addressed in OAR 839-003-0210.

(2) An aggrieved person may voluntarily withdraw a complaint at any time by giving the division written notice of the aggrieved person's decision to withdraw. If the aggrieved person wants a federal "right to sue letter," the aggrieved person must provide a written request to EEOC or to the division. If the aggrieved person makes the request to the division, the division will forward the request to EEOC.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A
Hist.: BL 7-1981, f. & ef. 6-25-81; BL 4-1996, f. & cert. ef. 3-12-96; BLI 11-2000, f. & cert. ef. 3-24-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0050**
**Administrative Dismissal**

(1) This section does not apply to housing discrimination complaints under ORS 659A.145 or 659A.421 or the federal Fair Housing Act (42 U.S.C. 3601 – 3614a). Administrative dismissal of a housing discrimination complaint is addressed in OAR 839-003-0215.

(2) The division will dismiss the complaint if it determines that the bureau has no jurisdiction over the allegations of the complaint.

(3) The division may dismiss the complaint if the aggrieved person files a proceeding, based on the same set of facts, with another state or federal agency having the authority to provide remedy to the aggrieved person for the alleged discrimination.

(4) If an aggrieved person or the aggrieved person's attorney fails to cooperate with the division, the division may dismiss the complaint.

(5) The aggrieved person must notify the division in writing of address and telephone number changes. When an aggrieved person cannot be located by reasonable efforts, the division may dismiss the complaint.

(6) The division will dismiss a complaint unless substantial evidence of unlawful discrimination is found. Such dismissal notice will include a statement that the complaint has been dismissed and a notice of the aggrieved person's right to file a civil action, if such right exists.

(7) The division will dismiss complaints alleging violation of federal discrimination statutes administered by EEOC (see OAR 839-003-0015) in accordance with federal requirements.

(8) The division may elect to administratively dismiss a complaint without investigation. In such instances, the division will notify the aggrieved person and respondent of the dismissal and issue notice of the aggrieved person's right to file a civil action, if such right exists.

(9) The division will dismiss a complaint if it learns that the aggrieved person has filed a civil action alleging the same matters, as provided in OAR 839-003-0020.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 30.680, 659A.835, 659A.850 & 659A.870 - 659A.885
Hist.: BL 7-1981, f. & ef. 6-25-81; BL 4-1996, f. & cert. ef. 3-12-96; BLI 11-2000, f. & cert. ef. 3-24-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0055**
**Conciliation Agreements Prior to Completion of the Investigation**

As used in enforcing ORS chapter 659A, including housing discrimination under ORS 659A.145 or 659A.421 or the federal Fair Housing Act (42 U.S.C. 3601 – 3614a):

(1) The division encourages aggrieved persons and respondents to resolve complaints by mutual agreement at any time. The division will facilitate settlement negotiations between the aggrieved person and respondent, as provided in this rule, at any time during the investigation.

(2) If the aggrieved person and respondent agree upon settlement, the division will draft a settlement agreement that states:

(a) That a "no fault" settlement has been reached;

(b) That the aggrieved person, the respondent and the Civil Rights Division accept the terms of the agreement as a resolution of the complaint;

(c) The specific action(s) the aggrieved person and respondent will take as a result of the complaint settlement and the time within which the action(s) will be taken; and

(d) That the division may investigate any alleged breach of the agreement.

(3) The settlement agreement will not include release language that applies to any forum other than the Civil Rights Division.

(4) The aggrieved person, the respondent and a representative of the division will sign the division's settlement agreement. Upon execution of this agreement, the division will notify the aggrieved person and respondent that the complaint is dismissed. The aggrieved person and respondent will receive copies of the signed agreement.

(5) The division may allow the aggrieved person and the respondent to enter into a private agreement with release language in addition to the division's agreement. The division will not be a party to nor enforce private agreements and they do not become part of the agency record.

(6) Nothing in these rules is intended to preclude private settlement between the aggrieved person and the respondent.

(7) Nothing said or done in the course of settlement discussions concerning a complaint alleging an unlawful practice may be disclosed in any manner, including but not limited to disclosure under ORS 192.410 to 192.505 (public records law), or be used as evidence in a subsequent proceeding without the written consent of the persons concerned.

Stat. Auth.: ORS 659A.805

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

Hist.: BL 7-1981, f. & ef. 6-25-81; BL 4-1996, f. & cert. ef. 3-12-96; BLI 11-2000, f. & cert. ef. 3-24-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 36-2007 f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0060**
**Fact-Finding Conference**

(1) This rule applies to complaints of unlawful practices, including housing discrimination under ORS 659A.145 or 659A.421 or the federal Fair Housing Act (42 U.S.C. 3601 – 3614a).

(2) At its discretion, the division may hold a fact-finding conference. This conference may encompass part or all of the division's investigation of the complaint. The aggrieved person and the respondent will attend the conference and a division representative will conduct the conference. The purposes of the conference will be to:

(a) Review evidence regarding the complaint;

(b) Identify the undisputed elements of the complaint;

(c) Define and, if possible, resolve the disputed elements of the complaint; and

(d) Attempt to settle the complaint.

(3) The division will schedule the conference, notifying the aggrieved person and the respondent of the time and place. The division may require the aggrieved person and the respondent to provide information and documents relevant to the complaint. The division may issue subpoenas ad testificandum to compel the respondent's representatives to attend the conference and issue subpoenas duces tecum to compel the production of documents at the conference.

(4) The conference may be rescheduled, subject to the division's approval, at the request of the aggrieved person] or the respondent, or at the division's discretion.

(5) The aggrieved person's failure to attend the conference may cause the complaint to be administratively dismissed if the division determines that the aggrieved person has failed to cooperate pursuant to OAR 839-003-0050(3).

(6) If the aggrieved person attends the conference but the respondent's representatives fail to attend, the division representative may proceed based on the information in the division's possession.

(7) The respondent's representatives at a fact-finding conference should include persons with:

(a) Knowledge of the facts bearing on the complaint; and

(b) Authority to negotiate a settlement agreement.

(8) The aggrieved person and the respondent may be accompanied by legal counsel, but counsel's role is strictly limited to providing legal advice to the counsel's client.

(9) The division's representative conducting the conference may:

(a) Question the participants about facts alleged in the complaint, or the response;

(b) Ask for additional statements and documentation from the aggrieved person and the respondent;

(c) Terminate discussion of a particular point when further discussion would be irrelevant or repetitive;

(d) Exclude witnesses with the exception of the aggrieved person, the respondent and counsel;

(e) Order unruly participants to leave the conference;

(f) Audio-record the conference with the knowledge of the participants;

(g) Attempt to negotiate a settlement agreement between the parties; and

(h) Recess or terminate the conference at any time.

(10) If the conference does not result in settlement, the division will either continue the investigation or dismiss the complaint. This subsection does not apply to housing discrimination complaints under ORS 659A.145 or 659A.421 or the federal Fair Housing Act (42 U.S.C. 3601 – 3614a).

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.800, 659A.850 & 659A.860

Hist.: BL 7-1981, f. & ef. 6-25-81; BL 1-1993, f. 3-25-93, cert. ef. 4-1-93; BL 4-1996, f. & cert. ef. 3-12-96; BLI 11-2000, f. & cert. ef. 3-24-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 36-2007 f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0065**
**Investigations**

(1) This rule does not apply to housing discrimination complaints under ORS 659A.145 or 659A.421 or the federal Fair Housing Act (42 U.S.C. 3601 – 3614a). Investigation of housing discrimination complaints is addressed in OAR 839-003-0220.

(2) The division may investigate the allegations contained in a complaint to determine objectively whether there is substantial evidence of unlawful discrimination. The division will determine the method by which complaints will be investigated or otherwise processed. The division will not investigate allegations occurring more than one year prior to the date the complaint was filed unless the allegations constitute a continuing violation or the circumstances occurring more than one year prior to the date the complaint was filed pertain to timely allegations.

(3) The investigation may include interviews with the aggrieved person, the respondent's representatives, and any other persons whom the division chooses to interview. The investigation may also involve the examination and analysis of written documents.

(4) The investigator may audio-record statements with the knowledge of the participants.

(5) The respondent has the right to have a representative present during interviews of current supervisory employees.

(6) The respondent's current, non-supervisory, or former employees, may request that a representative for the respondent be present during interviews by a division representative.

(7) An aggrieved person, respondent or witness interviewed by the division may request a copy of the summary report of the individual's own interview. The division may request that the aggrieved person, respondent or witness confirm by signature that the summary report is an accurate representation of the interview. The aggrieved person, respondent or witness may submit to the division additional comments regarding the interview.

(8) The division representative may make written request to the respondent for documents, records, files or other sources of evidence. The respondent will provide such information within 21 days of the date of the division's written request. The division may grant the respondent additional time in which to respond.

(9)The division may issue subpoenas compelling division access to premises, records and witnesses. Failure to respond to a subpoena may result in the division making a determination based on available information.

(10) Upon conclusion of the investigation, the division will either issue a substantial evidence determination or will dismiss the complaint. The division will mail a copy of the substantial evidence determination or dismissal notice to the aggrieved person and respondent.

(11) If the division does not find substantial evidence of unlawful discrimination, the division will dismiss the complaint, notify the aggrieved person and respondent of the dismissal and notify the aggrieved person of the right to file a civil action, if such right exists.

(12) If the division finds substantial evidence of unlawful discrimination, the complaint may be assigned to a division representative for settlement. However, the commissioner may proceed directly to a contested case hearing if the interests of justice so require.

(13) A substantial evidence determination or dismissal may not be appealed to the division.

(14) The division may reopen a case at its own discretion.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.800, 659A.805, 659A.835, 659A.870 - 659A.885

Hist.: BL 7-1981, f. & ef. 6-25-81; BL 13-1981, f. & ef. 11-18-81; BL 12-1982, f. & ef. 8-10-82; BL 12-1992(Temp), f. & cert. ef. 11-3-92; BL 2-1993, f. 3-25-93, cert. ef. 4-1-93; BL 4-1996, f. & cert. ef. 3-12-96; BL 2-1998, f. & cert. ef. 2-3-98; BLI 11-2000, f. & cert. ef. 3-24-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0070**
**Settlement Process After Substantial Evidence Determination**

(1) This section does not apply to housing discrimination complaints under ORS 659A.145 or 659A.421 or the federal Fair Housing Act (42 U.S.C. 3601 – 3614a). The settlement process after a substantial evidence determination in housing discrimination complaints is addressed in OAR 839-003-0225.

(2) If the division finds substantial evidence of unlawful practices, the division may seek to eliminate the effects of the unlawful discriminatory act(s) by conference, settlement and persuasion. The division will facilitate settlement negotiations between the aggrieved person and respondent as provided in OAR 839-003-0055.

(3) If no settlement agreement is reached in the period of time set aside for settlement after a substantial evidence determination, the division retains the discretion to further negotiate settlement, administratively dismiss the complaint, or proceed to a contested case hearing.

(4) The aggrieved person may withdraw the aggrieved person's own complaint at any time.

(5) Nothing said or done in the course of settlement discussions concerning a complaint alleging an unlawful practice may be disclosed in any manner, including but not limited to disclosure under ORS 192.410 to 192.505 (public records law), or be used as evidence in a subsequent proceeding, without the written consent of the persons concerned.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.835 & 659A.840
Hist.: BL 7-1981, f. & ef. 6-25-81; BL 4-1996, f. & cert. ef. 3-12-96; BLI 11-2000, f. & cert. ef. 3-24-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0080**
**Access to Records in Investigative Files**

(1) Investigatory information relating to any complaint filed under ORS 659A.820 or 659A.825, until such time as the complaint is resolved under ORS 659A.835, or a final order is issued under ORS 659A.850, is exempt from disclosure under Oregon Public Records Law (ORS 192.410 to 192.505) unless the public interest requires disclosure in the particular instance, as determined by the division.

(2) Section (1) of this rule applies to all records in the investigative file of a complaint other than the complaint document.

(3) Notwithstanding sections (1) and (2) of this rule, [However,] an aggrieved person, respondent or witness interviewed by the division may request a copy of the summary report of the individual's own interview, and may request to inspect or receive copies of records that the individual has given to the division.

(4) After a complaint is closed, any person may request to inspect or obtain a copy of the file as provided under Oregon Public Records Law by following the procedures set out by the division in the case closing letter, or by following the procedures for requesting public records as set out on the Bureau of Labor and Industries's web site at http://www.oregon.gov/boli/Pages/Public-Records-Requests/Landing.aspx.

(5) The division will not disclose information prohibited from disclosure by ORS 659A.840(6) or by any other state or federal law or under any contractual agreement between the bureau and federal, state and local agencies.

(6) An aggrieved person's or respondent's designation of information as confidential will not supersede the Oregon Public Records Law.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 192.440(3) & 192.501(8)
Hist.: BL 7-1981, f. & ef. 6-25-81; BL 10-1984(Temp), f. & ef. 9-6-84; BL 4-1996, f. & cert. ef. 3-12-96; BLI 11-2000, f. & cert. ef. 3-24-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 36-2007 f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0085**
**Subpoenas**

As used in enforcing ORS chapter 659A, including housing discrimination under ORS 659A.145 or 659A.421 or the federal Fair Housing Act (42 U.S.C. 3601 – 3614a):

(1) The commissioner or the commissioner's designee may issue a subpoena to require:

(a) The presence and testimony of witnesses;

(b) The production of evidence, including but not limited to books, records, correspondence or documents in the possession or under the control of the person subpoenaed; and

(c) Access to evidence to be examined or copied.

(2) If any person fails to comply with a subpoena issued under this rule, the commissioner may initiate the legal procedures necessary to enforce compliance.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.800(4)
Hist.: BL 7-1981, f. & ef. 6-25-81; BL 4-1996, f. & cert. ef. 3-12-96; BLI 11-2000, f. & cert. ef. 3-24-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0090**
**Remedy**

(1) This section does not apply to housing discrimination complaints under ORS 659A.145 or 659A.421 or the federal Fair Housing Act (42 U.S.C. 3601 – 3614a). Remedies in complaints of housing discrimination are addressed in OAR 839-003-0230.

(2) In cases of unlawful employment practices, remedy includes, but is not limited to:

(a) Employment or reemployment;

(b) Wages or other benefits lost due to the unlawful practice;

(c) Out-of-pocket expenses attributable to the unlawful practice;

(d) Compensation for emotional distress and impaired personal dignity; and

(e) Interest.

(3) Consideration of all acts alleged to comprise a hostile work environment in a complaint, including alleged acts occurring outside the one year statute of limitations for filing a complaint, is permissible for the purposes of assessing liability, so long as any act contributing to that hostile work environment takes place within the statutory period.

(3) In order to recover damages for lost wages, the aggrieved person will generally be required to mitigate damages by seeking employment.

(a) Earned income from employment may be deducted from lost wage damages.

(b) In most cases, unearned income such as unemployment or public assistance benefits will not be deducted from lost wage damages.

(4) Settlements of complaints and the awards in commissioner's Final Orders do not necessarily include all possible remedies named in sections (2) and (3) of this rule. Nothing in this rule will be construed to limit or alter the statutory powers of the commissioner to protect the rights of persons similarly situated to the aggrieved person or to order the performance of an act or a series of acts designed to eliminate the effect of any unlawful practice found.

(5) The commissioner may order the respondent to eliminate the effects of any unlawful practice found and may require respondent to:

(a) Perform a designated act or series of acts that are calculated to carry out the policy of these rules in order to eliminate the effects of an unlawful practice and to protect the rights of those affected;

(b) Take action and submit reports to the commissioner on the manner of compliance with the terms and conditions specified in the commissioner's order or agreement;

(c) Refrain from any action prohibited by the order or agreement that would jeopardize the rights of the individuals or groups named in the complaint or would frustrate the purpose and the policy of these rules and relevant statutes.

(6) When the respondent makes an offer of remedy, the division will inform the aggrieved person of the offer. If the aggrieved person does not accept an offer that the division has determined will eliminate the effects of the unlawful practice, the division may dismiss the complaint.

(7) Any settlement agreement signed by the division or order issued by the commissioner may be enforced by mandamus or injunction or by civil action to compel specific performance.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.800 - 659A.865
Hist.: BL 7-1981, f. & ef. 6-25-81; BL 4-1996, f. & cert. ef. 3-12-96; BLI 11-2000, f. & cert. ef. 3-24-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 20-2005, f. 10-20-05, cert. ef. 10-21-05; BLI 8-2006, f. 3-16-06 cert. ef. 3-20-06; BLI 36-2007 f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 13-2013, f. & cert. ef. 12-30-13; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0095**
**Enforcement of Settlement Agreements and Orders**

(1) This section does not apply to housing discrimination complaints under ORS 659A.145 or 659A.421 or the federal Fair Housing Act (42 U.S.C. 3601 – 3614a). Enforcement of settlement agreements and orders in housing cases is addressed in OAR 839-003-0240.

(2) The commissioner or any person aggrieved by the violation of the terms and conditions of any settlement agreement may file a civil action or an action for a writ of mandamus alleging breach of a settlement agreement to which the division is a party as provided under ORS 659A.840 and 659A.860 in the manner provided by ORS 659A.885(3) for unlawful practices.

(3) The commissioner and any person aggrieved by the violation of the terms and conditions of a cease and desist order issued by the commissioner whether by a respondent or by any agent or successor in interest of the respondent, may bring a civil action in the manner provided by ORS 659A.885 (3) and recover the same relief as provided by ORS 659A.885 (3) for unlawful practices.

(4) An aggrieved person may also file a complaint with the commissioner to seek enforcement of a settlement agreement to which the division is a party, within one year after the act or omission alleged to be a violation of the agreement. The commissioner will process the complaint in the same manner as provided for a complaint filed under ORS 659A.820.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.850, 659A.860 & 659A.865
Hist.: BL 7-1981, f. & ef. 6-25-81; BL 4-1996, f. & cert. ef. 3-12-96; BLI 11-2000, f. & cert. ef. 3-24-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0100**
**Commissioner's Complaint**

(1) This section does not apply to housing discrimination complaints under ORS 659A.145 or 659A.421 or the federal Fair Housing Act (42 U.S.C. 3601 – 3614a). Commissioner's complaints of housing discrimination are addressed in OAR 839-003-0245.

(2)The commissioner of the Bureau of Labor and Industries may make, sign and file a complaint whenever the commissioner has reason to believe that any person or group of persons has been denied rights due to an unlawful practice or employment practice. The complaint will be processed in the same manner as any other complaint filed under OAR 839-003-0025.

(3) The commissioner may identify an aggrieved person or persons in a commissioner's complaint, by name, pseudonym or by general description as being aggrieved by an alleged unlawful practice or otherwise similarly situated to a person eligible to file a complaint under ORS 659A.820.

(4) Any cease and desist order issued in a proceeding in which the commissioner filed a complaint may, in addition to any other action authorized by law, include remedies for an aggrieved person or persons.

(5) In the matter of concurrent complaints, nothing in these rules will be construed to:

(a) Require or prohibit the filing of a commissioner's complaint involving the same or similar issues or allegations stated in any other complaint filed with the division or circuit court by an individual under ORS 659A.820, 659A.825, or 659A.885;

(b) Require or prohibit the continued processing or initiation of a commissioner's complaint in the event that a complaint filed with the division or circuit court by an individual under ORS 659A.820, 659A.825, or 659A.885, is resolved or dismissed, with or without remedy to the individual; or

(c) Alter or limit an individual's private right of action provided under ORS 659A.870 to 659A.885.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.800 - 659A.865
Hist.: BL 7-1985(Temp), f. & ef. 10-17-85; BL 11-1986, f. & ef. 10-29-86; BL 4-1996, f. & cert. ef. 3-12-96; BLI 11-2000, f. & cert. ef. 3-24-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11; BLI 13-2013, f. & cert. ef. 12-30-13; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0200**
**Filing a Complaint Under State and Federal Housing Discrimination Laws**

(1) An aggrieved person alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under the federal Fair Housing Act (42 U.S.C. 3601 – 3614a) includes a person alleging they have been injured by an unlawful practice or discriminatory housing practice or will be injured by an unlawful practice or discriminatory housing practice that is about to occur.

(2) An aggrieved person alleging unlawful practices under ORS 659A.145 or 659A.421 or discrimination under the federal Fair Housing Act (42 U.S.C. 3601 – 3614a), or the person's attorney, or the commissioner may file a complaint, in person or by mail, with the division at any bureau office in the state of Oregon. Complaint means a written statement signed by the aggrieved person that:

(a) Gives the name and address of the aggrieved person and the respondent;

(b) Describes the acts or omissions alleged to be an unlawful practice, including those acts or omissions the aggrieved person believes are about to occur and;

(c) Describes how the aggrieved person was harmed or will be harmed by such actions.

(3) The filing date is the date the division receives a complaint that meets the standards contained in OAR 839-003-0200(2).

(4) An aggrieved person must file a complaint with the division no later than one year after the alleged unlawful practice. If the alleged unlawful practice is of a continuing nature, the right to file a complaint exists so long as the aggrieved person files the complaint within one year of the most recent date the alleged unlawful practice occurred.

(5) The procedures for filing a complaint are as follows:

(a) An aggrieved person or the aggrieved person's attorney makes an inquiry to the division;

(b) The division may provide the aggrieved person or the aggrieved person's attorney with a letter of information and/or questionnaire;

(c) If the division determines the aggrieved person has a basis for filing a complaint, the division will draft a complaint based upon the information provided by the aggrieved person and send or give the complaint to the aggrieved person or the aggrieved person's attorney for verification. The aggrieved person or the aggrieved person's attorney will request any necessary changes to the complaint.

(d) The aggrieved person will verify and sign the complaint. The complaint will then be submitted to the division.

(e) If the aggrieved person is an unemancipated minor, the complaint must be signed on behalf of the minor by the parent or legal guardian of the minor.

(6) The division will serve notice upon the aggrieved person acknowledging the filing of the complaint and advising the aggrieved person of the time limits and choice of forums provided under ORS chapter 659A and the federal Fair Housing Act (42 U.S.C. 3601 – 3614a).

(7) Within 10 days after the filing of a complaint, the division will serve the respondent with a copy of the original complaint that identifies the alleged discriminatory housing practice and a notice that advises the respondent of the procedural rights and obligations of the respondent, including the respondent's right to file an answer to the complaint.

(8) Each respondent may file, not later than 10 days after receipt of notice from the division, an answer to such complaint.

Stat. Auth.: ORS 659A.805
Stats. Implemented: 659A.145, 659A.421, 659A.820, 42 U.S.C. 3601 et seq.
Hist.: BLI 36-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 6-2010, f. & cert. ef. 2-24-10; BLI 5-2012(Temp), f. & cert. ef. 6-13-12 thru 12-10-12; BLI 7-2012, f. & cert. ef. 8-8-12; BLI 8-2012(Temp), f. & cert. ef. 8-8-12 thru 1-31-13; BLI 11-2012, f. & cert. ef. 10-10-12; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0205**
**Amending a Housing Discrimination Complaint**

(1) The division may amend a complaint to correct technical defects, to add additional persons as respondents and to add additional information found during the investigation of a complaint, including new factual allegations. The division may amend a complaint on its own initiative or at the aggrieved person's request (with the division's agreement) at any time prior to the issuance of formal charges, except that respondents may only be added during the course of investigation. Examples of technical defects include: clerical errors, additions or deletions, name and address corrections, and statute citation errors.

(2) Within 10 days after identifying an additional person who will named as a respondent, the division will serve the person with a copy of the complaint that identifies the alleged discriminatory housing practice and a notice that advises the person of the procedural rights and obligations of the person, including the person's right to file an answer to the complaint.

(a) Such notice, in addition to meeting the requirements of subsection (1)(a), will explain the basis for the division's belief that the person to whom the notice is addressed is properly joined as a respondent.

(b) Each respondent may file, not later than 10 days after receipt of notice from the division, an answer to such complaint.

(3) The division will send a copy of the amended complaint to the aggrieved person and all respondents.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.145, 659A.421, 659A.820
Hist.: BLI 36-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0210**
**Withdrawal of a Housing Discrimination Complaint**

An aggrieved person may voluntarily withdraw a complaint at any time by giving the division written notice of the aggrieved person's decision to withdraw. The division will then close the case.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.145, 659A.421
Hist.: BLI 36-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0215**
**Administrative Dismissal of a Housing Discrimination Complaint**

(1) The division will dismiss the complaint if it determines that the bureau has no jurisdiction over the allegations of the complaint.

(2) If an aggrieved person or the aggrieved person's attorney fails to cooperate with the division, the division may dismiss the complaint.

(3) The aggrieved person will notify the division in writing of address and telephone number changes. When an aggrieved person cannot be located by reasonable efforts, the division may dismiss the complaint.

(4) The division will dismiss a complaint unless substantial evidence of unlawful practices is found. The division will provide written notice of such dismissal to the aggrieved person and respondent.

(5) The division cannot issue a finding of substantial evidence of discrimination after an aggrieved person has filed a civil action alleging the same matters as provided in OAR 839-003-0235, and the trial for the civil action has commenced.

(6) The division will dismiss complaints alleging discrimination under the federal Fair Housing Act (42 U.S.C. 3601 – 3614a) administered by the U.S. Department of Housing and Urban Development in accordance with federal requirements.

(7) The division will notify the aggrieved person in writing of the right to file a civil action in state court, as provided in ORS 659A.870 to 659A.885, when a complaint is dismissed by the division. An aggrieved person filing a civil action against a public body must also file a tort claim notice as required by ORS 30.275.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 30.680, 659A.145, 659A.421, 659A.835, 659A.850 & 659A.870 - 659A.885
Hist.: BLI 36-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0220**
**Housing Discrimination Investigations**

(1) The division will investigate the allegations contained in any complaint filed under ORS 659A.820 or 659A.825 alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under the federal Fair Housing Act (42 U.S.C. 3601 – 3614a) to determine whether there is substantial evidence of unlawful discrimination. The division will determine the method by which complaints will be investigated or otherwise processed. The division will not investigate allegations occurring more than one year prior to the date the complaint was filed unless the allegations constitute a continuing violation or the circumstances occurring more than one year prior to the date the complaint was filed pertain to timely allegations.

(2) The division will commence an investigation of any complaint alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under the federal Fair Housing Act (42 U.S.C. 3601 – 3614a) within 30 days after the timely filing of the complaint.

(3)(a) At the end of each investigation of a complaint alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under the federal Fair Housing Act (42 U.S.C. 3601 – 3614a) the division will prepare a final investigative report containing:

(A) The names and dates of the contacts with witnesses;

(B) A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;

(C) A summary description of other pertinent records;

(D) A summary of witness statements; and

(E) Answers to interrogatories.

(b) A final investigative report under this section may be amended if additional evidence is later discovered.

(c) The division will make the final investigative report available, upon request, to both the aggrieved person and the respondent.

(4) The division will complete an investigation of any complaint alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under the federal Fair Housing Act (42 U.S.C. 3601 – 3614a) within 100 days after the filing of the complaint, unless it is impracticable to do so. If the division is unable to complete the investigation of the complaint within 100 days after the filing of the complaint the division will notify the aggrieved person and respondent in writing of the reasons for not doing so.

(5) The division will make final disposition of any complaint alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under the federal Fair Housing Act (42 U.S.C. 3601 – 3614a) within one year after the filing of the complaint, unless it is impracticable to do so. If the division is unable to make final disposition of the complaint within one year the division will notify the aggrieved person and respondent in writing of the reasons for not doing so.

(6) If the division determines that it is impracticable to complete an investigation and make final disposition of any complaint within one year the commissioner's authority to conduct investigations or other proceedings to resolve a complaint alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under the federal Fair Housing Act (42 U.S.C. 3601 – 3614a) does not cease after the one year period, under ORS 659A.830 (3).

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.145, 659A.421, 659A.800, 659A.805, 659A.835 & 659A.870 - 659A.885
Hist.: BLI 36-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0225**
**Settlement Process After Substantial Evidence Determination in Housing Discrimination Complaints**

(1) During the period beginning with the filing of a complaint and ending with the filing of a charge or a dismissal by the division, the division will, to the extent feasible, seek to eliminate the effects of the unlawful discriminatory act(s) by engaging in conciliation, settlement and persuasion. The division will facilitate any settlement negotiations between the aggrieved person and respondent as provided in OAR 839-003-0055.

(2) Nothing said or done in the course of settlement discussions concerning a complaint alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under the federal Fair Housing Act (42 U.S.C. 3601 – 3614a) may be disclosed under ORS 192.410 to 192.505 (the Oregon Public Records Act) or in any other manner, or used as evidence in a subsequent proceeding under this chapter or the federal Fair Housing Act (42 U.S.C. 3601 – 3614a) without the written consent of the persons concerned.

(3) If no settlement agreement is reached, the division retains the discretion to further negotiate settlement, administratively dismiss the complaint, or proceed to a contested case hearing.

(4) The aggrieved person may withdraw the aggrieved person's complaint at any time.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.145, 659A.421, 659A.835, 659A.840
Hist.: BLI 36-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0230**
**Remedies in Housing Discrimination Complaints**

(1) In cases of unlawful practices in housing, remedy includes, but is not limited to:

(a) Rental, lease or sale of real property;

(b) Service lost;

(c) Expenses or lost benefits attributable to the unlawful practice;

(d) Compensation for emotional distress and for impaired personal dignity; and

(e) Interest.

(2) Settlements of complaints and the awards in commissioner's final orders do not necessarily include all possible remedies named in sections (1) of this rule. Nothing in this rule will be construed to limit or alter the statutory powers of the commissioner to protect the rights of persons simi-

larly situated to the aggrieved person or to order the performance of an act or a series of acts designed to eliminate the effect of any unlawful practice found.

(3) The commissioner may order the respondent to eliminate the effects of any unlawful practice found and may require respondent to do one or more of the following:

(a) Perform a designated act or series of acts that are calculated to carry out the policy of these rules in order to eliminate the effects of an unlawful practice and to protect the rights of those affected;

(b) Take action and submit reports to the commissioner on the manner of compliance with the terms and conditions specified in the commissioner's order or agreement;

(c) Refrain from any action prohibited by the order or agreement that would jeopardize the rights of the individuals or groups named in the complaint or would frustrate the purpose and the policy of these rules and relevant statutes.

(4) Any person aggrieved by the violation of terms of a settlement agreement signed by a representative of the division, or the commissioner, may file an action for mandamus or injunction or civil action to compel specific performance.

(5) Any person aggrieved by a violation of an order issued by the commissioner, or the commissioner, may file an action for mandamus or injunction or civil action to compel compliance.

(6) Any person aggrieved by violation of a settlement agreement to which the division is a party, may file a complaint with the commissioner to seek enforcement of the settlement agreement within one year after the act or omission alleged to be a violation of the agreement. The commissioner will process the complaint in the same manner as provided for a complaint filed under ORS 659A.820.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.145, 659A.421, 659A.800, 659A.850, 659A.860, 659A.865 & 659A.885
Hist.: BLI 36-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0235**
**Civil Action under State and Federal Housing Law**

(1) An aggrieved person alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under the federal Fair Housing Act (42 U.S.C. 3601 – 3614a) may file a civil action as provided in ORS 659A.870 to 659A.885, or ORS 30.680. A person is not required to file a complaint of a violation of state law with the division before filing a civil action.

(2) A civil action alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under the federal Fair Housing Act (42 U.S.C. 3601 – 3614a), may be filed no later than two years after the occurrence or termination of an alleged discriminatory housing practice, or within two years after the breach of any settlement agreement entered into under ORS 659A.840, whichever occurs last. The two-year period may not include any time during which an administrative proceeding was pending with respect to the housing practice.

(3) After filing a complaint with the division, an aggrieved person may file a civil action in state or federal court alleging the same matters as those alleged in the complaint filed with the division. The aggrieved person should notify the division of the civil action. When the division receives notice from the aggrieved person or aggrieved person's attorney, or court documents indicating that a civil action has been filed, the division will not dismiss the complaint until the civil trial commences. The division will notify the aggrieved person and respondent that the division has dismissed the complaint and will take no further action.

(4) If formal charges have been issued with respect to a housing discrimination complaint, and an administrative law judge has commenced a hearing on the record under ORS chapter 659A, the aggrieved person may not commence a civil action in court that alleges the same matters.

(5) When the commissioner of the Bureau of Labor and Industries or the attorney general of the State of Oregon has reasonable cause to believe that a person or group of persons is engaged in a pattern or practice of resistance to the rights protected by ORS 659A.145 or 659A.421 or the federal Fair Housing Act (42 U.S.C. 3601 – 3614a), the commissioner or the attorney general may file a civil action on behalf of the aggrieved individuals in the same manner as an individual or group of individuals may file a civil action under ORS 659A.885.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.800 - 659A.890
Hist.: BLI 36-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 13-2013, f. & cert. ef. 12-30-13; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0240**
**Enforcement of Settlement Agreements and Orders in Housing Discrimination Complaints**

(1) The commissioner or any person aggrieved by violation of the terms of a settlement agreement to which the division is a party, may file a civil action or an action for a writ of mandamus as provided under ORS 659A.840 and 659A.860 in the manner provided by ORS 659A.885(3).

(2) Any person aggrieved by the violation of terms of a settlement agreement to which the division is a party, may file a complaint with the commissioner to seek enforcement within one year after the act or omission alleged to be a violation of the agreement. The commissioner will process the complaint in the same manner as provided for a complaint filed under ORS 659A.820.

(3) The commissioner or any person aggrieved by violation of an order issued by the commissioner, may file a civil action or an action for a writ of mandamus as provided under ORS 659A.840 and 659A.860.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.145, 659A.421, 659A.850, 659A.860, 659A.865
Hist.: BLI 36-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 9-2015, f. & cert. ef. 6-29-15

**839-003-0245**
**Commissioner's Complaint in Housing Discrimination Cases**

(1) The commissioner of the Bureau of Labor and Industries may make, sign and file a complaint whenever the commissioner has reason to believe that any person or group of persons has been denied rights or is about to be denied rights due to an unlawful practice under ORS 659A.145 or 659A.421 or the federal Fair Housing Act (42 U.S.C. 3601 – 3614a). The complaint will be processed in the same manner as any other complaint filed under OAR 839-003-0200.

(2) The commissioner may identify an aggrieved person or persons in a commissioner's complaint, by name, pseudonym or by general description as being affected by an alleged unlawful practice or otherwise similarly situated to a person eligible to file a complaint under ORS 659A.820.

(3) Any cease and desist order issued in a proceeding in which the commissioner filed a complaint may, in addition to any other action authorized by law, include remedies for an aggrieved person or persons.

(4) In the matter of concurrent complaints, nothing in these rules will be construed to:

(a) Require or prohibit the filing of a commissioner's complaint involving the same or similar issues or allegations stated in any other complaint filed with the division or circuit court by an individual under ORS 659A.820, 659A.825, or 659A.885;

(b) Require or prohibit the continued processing or initiation of a commissioner's complaint in the event that a complaint filed with the division or circuit court by an individual under ORS 659A.820, 659A.825, or 659A.885, is resolved or dismissed, with or without remedy to the individual; or

(c) Alter or limit an individual's private right of action provided under ORS 659A.870 to 659A.885.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 659A.800 - 659A.885
Hist.: BLI 36-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 13-2013, f. & cert. ef. 12-30-13; BLI 9-2015, f. & cert. ef. 6-29-15

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## Citizens' Initiative Review Commission
## Chapter 710

**Rule Caption:** amendment of rules related to the 2015–2017 budget and administration for Citizens' Initiative Review Commission
**Adm. Order No.:** CIRC 1-2015
**Filed with Sec. of State:** 6-23-2015
**Certified to be Effective:** 7-1-15
**Notice Publication Date:** 5-1-2015
**Rules Amended:** 710-005-0005
**Subject:** The Citizens' Initiative Review Commission hereby adopts by reference the Citizens' Initiative Review Commission 2015–2017 Biennium Budget of $202,110 covering the period from July 1, 2015 through June 30, 2017. The Chair of the Commission, in consultation with the Commission, will amend budgeted accounts as necessary within the approved budget of $202,110 for the effective

operation of the Commission. The Commission will not exceed the approved 2015-2017 Biennium Budget without amending this rule and holding a public hearing thereon as required, by ORS 182.462(1). The draft budget can be found on the Commission's website.

**Rules Coordinator:** Sarah Giles—(503) 725-5248

**710-005-0005**
**Commission Budget**

The Citizens' Initiative Review Commission hereby adopts by reference the Citizens' Initiative Review Commission 2015–2017 Biennium Budget of $202,110 covering the period from July 1, 2015 through June 30, 2017. The Chair of the Commission, in consultation with the Commission, will amend budgeted accounts as necessary within the approved budget of $202,110 for the effective operation of the Commission. The Commission will not exceed the approved 2015–2017 Biennium Budget without amending this rule and holding a public hearing thereon as required, by ORS 182.462(1). The draft budget can be found on the Commission's website..

Stat. Auth.: ORS 250.137(3)(b), 182.462(1) & 2013 OL Ch. 722, Sec. 11
Stats. Implemented: ORS 182.462(1) & 2013 OL Ch. 722, Sec. 11
Hist.: CIRC 1-2014, f. & cert. ef. 2-11-14; CIRC 1-2015, f. 6-23-15, cert. ef. 7-1-15

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## Construction Contractors Board
## Chapter 812

**Rule Caption:** Home Inspector Examination
**Adm. Order No.:** CCB 1-2015
**Filed with Sec. of State:** 7-1-2015
**Certified to be Effective:** 10-1-15
**Notice Publication Date:** 5-1-2015
**Rules Amended:** 812-008-0020, 812-008-0040, 812-008-0050, 812-008-0060, 812-008-0110
**Subject:** Rule amendments to become effective starting October 1, 2015.

812-008-0020 is amended to change the definition of "certified individual" to include both individuals: (1) who previously passed the agency's examination, or (2) who pass the National Home Inspector Examination (NHIE).

812-008-0040 is amended to require that, after the effective date of the rule: (1) an individual must have passed the National Home Inspector Examination, and (2) signed a statement indicating the individual has read and understands the home inspector standards of behavior and standards of practice. The amendment eliminates the maximum number of hours credited toward certain experience criteria.

812-008-0050 is amended to delete provisions relating to the agency examination; replaces the agency examination with the National Home Inspector Examination (NHIE); permits an individual to use passage of the NHIE examination before October 1, 2015, for Oregon home inspector certification after the effective date of the rule. The rule specifies that this requirement does not apply to already certified home inspectors.

812-008-0060 is amended to update the reference to OAR 812-008-0110 to match the revisions made in OAR 812-008-0110.

812-008-0110 is amended to eliminate the agency's application fee of $50, test fee of $50, and the re-take fee of $25. Applicants will pay approximately $225 to the Examination Board of Professional Examiners to take or retake the national examination.

**Rules Coordinator:** Catherine Dixon—(503) 934-2185

**812-008-0020**
**Definitions**

The following definitions apply to Division 8 of OAR chapter 812:

(1) "Administrator" means the Administrator of the agency.

(2) "Agency" means the Oregon Construction Contractors Board.

(3) "Automatic safety controls" means the devices designed and installed to protect systems and components from excessively high or low pressures and temperatures, excessive electrical current, loss of water, loss of ignition, fuel, leaks, fire, freezing, or other unsafe conditions.

(4) "Central air conditioning" means a system that uses ducts to distribute cooled and/or dehumidified air to more than one room or uses pipes to distribute chilled water to heat exchangers in more than one room, and that is not plugged into an electrical convenience outlet.

(5) "Certified individual" means an individual who successfully passed a test accredited by the agency or who successfully passed the National Home Inspector Examination and who completes the education required for renewal[,] and satisfies any other requirements established by OAR chapter 812.

(6) "Component" means a readily accessible and observable aspect of a system, such as a floor, or wall, but not individual pieces such as boards or nails where many similar pieces make up the component. "Component" also includes, but is not limited to, the separate parts of an installed appliance or an electric or gas-powered system, including, but not limited to, a water heater, furnace or air conditioning unit.

(7) "Conspicuous" as used in these regulations shall mean a term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NONNEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous." Whether a term or clause is "conspicuous" or not is for decision by the court.

(8) "Cross connection" means any physical connection or arrangement between potable water and any source of contamination.

(9) "Dangerous or adverse situations" means situations that pose a threat of injury to the Oregon certified home inspector, or damage to the property.

(10) "Describe" means report in writing a system or component by its type, or other observed characteristics, to distinguish it from other components or system used for the same purpose.

(11) "Dismantle" means to take apart or remove any component, device or piece of equipment that is bolted, screwed or fastened by other means and that would not be dismantled by a homeowner in the course of normal household maintenance.

(12) "Energy audit" means evaluation or testing of components or systems with a focus on energy efficiency or renewable energy, which may lead to recommendations that improve energy efficiency or renewable energy generation. "Energy audit" also includes quality assurance review or verification of installed or retrofitted components or systems impacting energy efficiency or renewable energy generation.

(13) "Enter" means to go into an area and observe all visible components.

(14) "Forensic evaluation" means evaluation or testing of components or systems for purposes of envelope analysis, materials testing or failure due to water intrusion or other external causes.

(15) "Functional drainage" means a drain is functional when it empties in a reasonable amount of time.

(16) "Functional flow" means a reasonable flow at the highest fixture in a dwelling when another fixture is operated simultaneously.

(17) "Home performance testing" means evaluation or testing of components or systems for purposes of comfort, energy efficiency, safety or indoor air quality.

(18) "Home inspection" means an inspection of substantially all of the components or systems as set forth in 812-008-0205 through 812-008-0214 for the purpose of determining the overall physical condition and habitability of the inspected structure at the time of inspection. A home inspection is not a re-inspection of isolated repairs made as part of a real estate transaction. A home inspection does not include energy audit, forensic evaluation or home performance testing.

(19) "Installed" means attached or connected such that the installed item requires tools for removal.

(20) "Normal operating controls" means homeowner-operated devices such as but not limited to thermostat, wall switch, or safety switch.

(21) "Observe" means the act of making a visual examination.

(22) "On-site water supply quality" means water quality based on the bacterial, chemical, mineral, and solids content of the water.

(23) "On-site water supply quantity" means the water quantity based on the rate of flow of water.

(24) "Operate" means to cause systems or equipment to function.

(25) "Oregon certified home inspector" means a person certified pursuant to ORS chapter 701, chapter 814, 1997 Oregon Laws and OAR chapter 812.

(26) "Readily accessible panel" means a panel provided for homeowner inspection and maintenance that has removable or operable fasteners or latch devices in order to be lifted off, swung open, or otherwise removed by one person; and its edges and fasteners are not painted into place. This definition is limited to those panels within normal reach or from

a four-foot stepladder, and that are not blocked by stored items, furniture, or building components.

(27) "Representative number" for multiple identical components such as windows and electrical outlets means one such component per room; for multiple identical exterior components, one such component on each side of the building.

(28) "Roof drainage systems" means gutters, downspouts, leaders, splash blocks, and similar components used to carry water off a roof and away from a building.

(29) "Shut down" means a piece of equipment or a system is shut down when it cannot be operated by the device or control that a homeowner should normally use to operate it or detached from a plug source. If its safety switch or circuit is in the "off" position, or its fuse is missing or blown, the inspector is not required to reestablish the circuit for the purpose of operating the equipment or system.

(30) "Solid fuel heating device" means any wood, coal, or other similar organic fuel burning device, including but not limited to fireplaces whether masonry or factory built, fireplace inserts and stoves, wood stoves (room heaters), central furnaces, and combinations of these devices.

(31) "Structural component" means a component that supports nonvariable forces or weights (dead loads) and variable forces or weights (live loads).

(32) "System" means a combination of interacting or interdependent components, assembled to carry out one or more functions. "System" also includes, but is not limited to, an installed appliance or an electric or gas-powered system, including but not limited to, a water heater, furnace or air conditioning unit.

(33) "Technically exhaustive" means an inspection involving the extensive use of measurements, instruments, testing, calculations, and other means to develop scientific or engineering findings, conclusions, and recommendations.

(34) "Test" means a test administered by the agency.

(35) "Underfloor crawl space" means the area within the confines of the foundation and between the ground and the underside of the lowest floor structural component.

Stat. Auth.: ORS 670.310, 701.235, 701.350 & 701.355
Stats. Implemented: ORS 701.350 & 701.355
Hist.: CCB 1-1998, f. & cert. ef. 2-6-98; CCB 9-2004, f. & cert. ef. 12-10-04; CCB 7-2006, f. & cert. ef. 6-23-06; CCB 17-2011, f. 12-13-11, cert. ef. 1-1-12; CCB 1-2015, f. 7-1-15, cert. ef. 10-1-15

**812-008-0040**
**Application Requirements and Eligibility Requirements**

(1) An individual must submit the following to qualify for certification:

(a) An application on a form provided by the agency;

(b) The fee established in OAR 812-008-0110;

(c) If applicable, CCB number and name of employing licensee;

(d) Proof of minimum of 20 education points as set forth in sections (3) and (4) of this rule;

(e) Evidence of successful passage of the National Home Inspector Examination; and

(f) A signed statement that the individual has read and understands the home inspector standards of behavior, as set forth in OAR 812-008-0201, and the home inspector standards of practice, as set forth in 812-008-0202 through 812-008-0214.

(2) A business must do the following to qualify for a license:

(a) Become licensed with the agency as a residential general contractor, a residential specialty contractor or a home inspection services contractor;

(b) Have as an owner or employee one or more individuals who have obtained a certificate from the agency to undertake certified home inspections;

(c) Submit an application on a form prescribed by the agency; and

(d) Submit the fee as prescribed in OAR chapter 812.

(3) An individual applicant must provide the agency with acceptable documentation that the applicant has accumulated a minimum of 20 education points from the following choices:

(a) Ten points for a completed, 3-credit hour minimum class with a passing grade in home inspection at an accredited college or university.

(b) One point for each completed 3-hour minimum class with a passing grade in construction, remodeling, engineering, architecture, building design, building technology, or real estate at an accredited college or university.

(c) One point for each completed "ride-along" inspection performed under the direct supervision of an Oregon certified home inspector.

(d) One point for each completed 3-hour minimum class with a passing grade in approved subject areas in OAR 812-008-0074(1) by approved education providers under 812-008-0074(2) that are not colleges or universities.

(4) The individual applicant may substitute the following experiences for all or part of the education requirements in OAR 812-008-0040(3):

(a) Four points for each completed 12 months legally working as a home inspector in Oregon or another state or country.

(b) Two points for each completed 12 months working or teaching at an accredited college or university, trade school or private business for monetary compensation in construction, remodeling, engineering, architecture, building design, building technology, real estate, or building inspections.

(c) One-half point for each letter of recommendation from an Oregon-certified home inspector.

(d) One point for each building codes certification issued by a government agency.

Stat. Auth.: ORS 670.310, 701.235, 701.350 & 701.355
Stats. Implemented: ORS 701.081, 701.084, 701.350 & 701.355
Hist.: CCB 1-1998, f. & cert. ef. 2-6-98; CCB 2-1999, f. & cert. ef. 5-4-99; CCB 3-1999(Temp), f. & cert. ef. 6-29-99 thru 12-25-99; CCB 2-2000, f. 2-25-00, cert. ef. 3-1-00; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 9-2000, f. & cert. ef. 8-24-00; CCB 12-2000(Temp), f. & cert. ef 10-16-00 thru 4-13-01; CCB 14-2000, f. & cert. ef. 12-4-00; CCB 2-2001, f. & cert. ef 4-6-01; CCB 6-2001, f. & cert. ef. 9-27-01; CCB 7-2001(Temp), f. & cert. ef. 10-31-01 thru 4-29-02; CCB 3-2002, f. & cert. ef. 3-1-02; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 14-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 7-2007, f. 12-13-07, cert. ef. 1-1-08; CCB 5-2008, f. 2-29-08, cert. ef. 7-1-08; CCB 6-2013, f. 12-19-13, cert. ef. 1-1-14; CCB 1-2015, f. 7-1-15, cert. ef. 10-1-15

**812-008-0050**
**Examination Requirements**

(1) Beginning October 1, 2015, home inspector applicants shall successfully pass the National Home Inspector Examination created and graded by the Examination Board of Professional Home Inspectors.

(2) National Home Inspector Examinations passed before October 1, 2015, may be used if the applicant applies for certification on or after October 1, 2015.

(3) The examination shall be administered at a test center in Oregon designated by the Examination Board of Professional Home Inspectors or in any other state that administers the National Home Inspector Examination.

(4) Successful applicants will submit their official score sheet to the agency. The agency may verify with the Examination Board of Professional Home Inspectors the validity of any official score sheet.

(5) Retesting after a failed examination will be administered in accordance with protocols of the Examination Board of Professional Home Inspectors.

(6) This requirement does not apply to any home inspector certified by the agency before October 1, 2015, whose certification is current and in good standing.

Stat. Auth.: ORS 670.310, 701.235 & 701.350
Stats. Implemented: ORS 701.350 & 701.355
Hist.: CCB 1-1998, f. & cert. ef. 2-6-98; CCB 4-1998, f. & cert. ef. 4-30-98; CCB 5-1998(Temp), f. & cert. ef 5-28-98 thru 7-1-98; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 6-1999, f. 9-10-99, cert. ef. 11-1-99; CCB 6-2001, f. & cert. ef. 9-27-01; CCB 4-2003, f. & cert. ef. 6-3-03; CCB 2-2004, f. 2-27-04, cert. ef. 3-1-04; CCB 3-2006, f. & cert. ef. 3-2-06; CCB 1-2015, f. 7-1-15, cert. ef. 10-1-15

**812-008-0060**
**Certification Issuance**

(1) The effective date of the certificate will be the date applicant meets all agency requirements, including but not limited the receipt of the fee required under OAR 812-008-0110.

(2) A unique certification number will be assigned to each certificate.

(3) All certificates shall be issued in the name of the individual who passed the test.

(4) An application for certification may be withdrawn upon receipt of a written request to the agency at any time prior to the issuance of the certification.

(5) When granted, the certificate shall be mailed to the applicant.

(6) If denied, the agency shall state, in writing, the reasons for denial.

(7) A certificate shall be non-transferable and shall be effective for two years from date of issue.

Stat. Auth.: ORS 670.310, 701.235 & 701.350
Stats. Implemented: ORS 701.350 & 701.355
Hist.: CCB 1-1998, f. & cert. ef. 2-6-98; CCB 9-2000, f. & cert. ef. 8-24-00; CCB 4-2003, f. & cert. ef. 6-3-03; CCB 7-2007, f. 12-13-07, cert. ef. 1-1-08; CCB 1-2015, f. 7-1-15, cert. ef. 10-1-15

**812-008-0110**
**Prescribed Fees**

The following prescribed fees are established:

(1) Initial two-year Certification, $150.

(2) Certification renewal (two years), $150.

(3) Refunds:

(a) The agency shall not refund fees or civil penalties overpaid by an amount of $20 or less unless requested by the payer in writing within three years after the date payment is received by the agency, as provided by ORS 293.445.

(b) Except as set forth in subsection (3)(c) of this rule, all fees are non-refundable and nontransferable.

(c) When an applicant withdraws their application for a certification or a certification renewal prior to issuance of a certification or certification renewal, or fails to complete the certification process, the agency may refund the certification fee but shall retain a processing fee of $40.

(d) If the agency receives payment of any fees or penalty by check and the check is returned to the agency as an NSF check, the payer of the fees will be assessed an NSF charge of $25 in addition to the required payment of the fees or penalty.

(4)(a) Any certified home inspector in the United States armed forces need not pay a renewal fee if such fee would be due during the certified home inspector's active duty service.

(b) A certified home inspector in the United States armed forces shall pay the next license renewal fee that will become due after the certified home inspector is discharged from active duty service.

(c) The agency may request that the certified home inspector provide documentation of active duty status and of discharge.

Stat. Auth.: ORS 293.445, 670.310, 701.235 & 701.350
Stats. Implemented: ORS 293.445, 701.350 & 701.355
Hist.: CCB 1-1998, f. & cert. ef. 2-6-98; CCB 4-1999, f. & cert. ef. 6-29-99; CCB 6-2001, f. & cert. ef. 9-27-01; CCB 1-2003(Temp), f. & cert. ef. 1-14-03 thru 7-13-03; CCB 4-2003, f. & cert. ef. 6-3-03; CCB 9-2004, f. & cert. ef. 12-10-04; CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 7-2007, f. 12-13-07, cert. ef. 1-1-08; CCB 7-2009, f. 11-30-09, cert. ef. 1-1-10; CCB 1-2015, f. 7-1-15, cert. ef. 10-1-15

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## Department of Administrative Services, Chief Financial Office
## Chapter 122

**Rule Caption:** Establishes expenditure limits allowing agencies without a 2015–17 Legislatively Adopted Budget to continue operating.
**Adm. Order No.:** DCFO 1-2015(Temp)
**Filed with Sec. of State:** 6-29-2015
**Certified to be Effective:** 6-29-15 thru 8-17-15
**Notice Publication Date:**
**Rules Adopted:** 122-001-0038
**Subject:** This rule establishes expenditure limits allowing state agencies without a 2015–17 Legislatively Adopted Budget to continue operating after June 30, 2015.
**Rules Coordinator:** Janet Chambers—(503) 378-5522

**122-001-0038**
**Continuing Resolution for State Agency Expenditure Limitations**

(1) A state agency, as defined in House Bill 5046 (Oregon Laws 2015), may incur obligations and authorized expenditures to continue operations into the 2015–2017 biennium at:

(a) The agency's 2013-2015 eighth quarter allotment level; or

(b) For the Department of Human Services, the agency's 2013-2015 seventh quarter allotment level; or

(c) For the Oregon Health Authority, the agency's 2013-2015 sixth quarter allotment level; or

(d) A higher or lower level as approved by the Chief Financial Office.

(e) In establishing an alternative expenditure level, the Chief Financial Office shall consider pending legislative budget direction.

(2) Each state agency without a legislatively adopted budget as of June 30, 2015, shall send a signed letter of verification to the Chief Financial Office on or before June 30, 2015, acknowledging:

(a) The agency does not have a legislatively adopted budget as of June 30, 2015;

(b) The continuing resolution ends August 17, 2015 or when an adopted budget is signed by the Governor;

(c) Expenditures will not be authorized above the level established pursuant to section (1) of this rule;

(d) Expenditures incurred under the continuing resolution will be part of the 2015-2017 adopted budget and not permanently charged against 2013-2015 expenditure limitation or appropriation; and

(e) The agency will not begin new programs or hire new staff positions until an adopted budget is signed by the Governor.

(3) Upon receipt of the signed verification letter, the Chief Financial Office shall establish an allotment level pursuant to section (1) of this rule. The Chief Financial Office shall notify each agency of the action taken.

Stat.Auth.: ORS 184.340
Stats. Implemented: Oregon Laws 2015 (2015 HB 5046)
Hist.: DCFO 1-2015(Temp), f. & cert. ef. 6-29-15 thru 8-17-15

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

**Rule Caption:** Disqualification from obtaining license, registration, certificate, or certification.
**Adm. Order No.:** BCD 5-2015(Temp)
**Filed with Sec. of State:** 7-1-2015
**Certified to be Effective:** 7-1-15 thru 12-27-15
**Notice Publication Date:**
**Rules Adopted:** 918-001-0034
**Subject:** This rule provides that a disqualification under ORS 455.127(2) shall be for a period of five years. The rule also allows the Director or appropriate advisory board discretion to consider mitigating factors and order a disqualification of fewer than five years.
**Rules Coordinator:** Holly A. Tucker—(503) 378-5331

**918-001-0034**
**Disqualification from Obtaining License, Registration, Certificate, or Certification**

(1) Disqualification under ORS 455.127(2) shall be for a period of five years except as provided in subsection (2) of this rule.

(2) The Director of the Department of Consumer and Business Services or an appropriate advisory board may, in its discretion, order a disqualification fewer than five years. In doing so the Director of the Department of Consumer and Business Services or appropriate advisory board may, but is not required to, consider any mitigating factors.

Stat. Auth.: ORS 455.127 & 455.117
Stat. Implemented: ORS 455.127
Hist: BCD 5-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

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## Department of Corrections
## Chapter 291

**Rule Caption:** Possession and Storage of Personal Handguns for Authorized Staff at Department of Corrections Facilities
**Adm. Order No.:** DOC 7-2015(Temp)
**Filed with Sec. of State:** 7-1-2015
**Certified to be Effective:** 7-1-15 thru 12-27-15
**Notice Publication Date:**
**Rules Amended:** 291-016-0020, 291-016-0120
**Subject:** These temporary rule amendments are necessary to implement 2015 legislation (HB 2424) which allows employees of the Department of Corrections, Board of Parole and Post-Prison Supervision, and Oregon Corrections Enterprises to possess and store a personal handgun and ammunition at facilities owned or occupied by the Department of Corrections. The personal handgun may be stored in the employee's personal vehicle if the department has not provided a secure and locked location for the storage of the personal handgun and ammunition.
**Rules Coordinator:** Janet R. Worley—(503) 945-0933

**291-016-0020**
**Definitions**

(1) Authorized Staff: Employees of the Department of Corrections, and employees of the State Board of Parole and Post-Prison Supervision and Oregon Corrections Enterprises, who are assigned to work in or at a public building owned or occupied by the department.

(2) Concealed Handgun License (CHL): A current and valid Oregon Concealed Handgun License issued by the employee's county of residence in accordance with ORS 166.291 and 166.292.

(3) Contractor: Any person under contractual arrangement to provide services to the Department of Corrections.

(4) Employee: Any person employed full time, part time or under temporary appointment by the department.

(5) Facility: The building and grounds area operated by a functional unit which physically houses inmates.

(6) Facility Access: The designated location in a facility which is the only authorized entrance (except as authorized by the functional unit manager or designee) and exit for persons desiring access into or out of the perimeter of the facility.

(7) Facility Visitor: Any person authorized access inside the secure perimeter of a facility who is not a department employee, contractor, volunteer, other agency liaison or who is not an inmate visitor at the facility.

(8) Functional Unit: Any organizational component within the Department of Corrections responsible for the delivery of program services or coordination of program operations. In a correctional facility, the functional unit manager is the superintendent.

(9) Functional Unit Facility: A term used to declare any Department of Corrections facility in which a functional unit person performs his/her duties or services.

(10) Functional Unit Manager: Any person within the Department of Corrections who reports to either the Director, an Assistant Director or an administrator and has responsibility for the delivery of program services or coordination of program operations.

(11) Functional Unit Person: Any employee, contractor, approved carded volunteer, or other agency liaison assigned to work or provide services at a functional unit facility.

(12) Identification Card (ID Card): A picture identification card authorized by the Department of Corrections and issued to a department employee, contractor, volunteer or other agency liaison.

(13) Inmate Visitor: A person approved by the functional unit manager or designee to visit an inmate who resides in a facility.

(14) Oregon Corrections Enterprises: A semi-independent state agency that is a non-Department of Corrections agency or division, which is under the authority of the Director of the Department of Corrections. For purposes of this rule only, Oregon Corrections Enterprises shall not be considered an external organization.

(15) Oregon Corrections Enterprises (OCE) Employee: Any person employed full-time, part-time, or under temporary appointment by the Oregon Corrections Enterprises. For the purposes of this rule only, employee shall also include any person under contractual arrangement to provide services to the agency; any person employed by private or public sector agencies who is serving under agency-sanctioned special assignment to provide services or support to agency programs.

(16) Other Agency Liaison: Employees from other state and local agencies that have ongoing business need serving inmates and employees of the department. These employees include, but are not limited to, county parole and probation officers and state police detectives.

(17) Personal Handgun: A handgun possessed by an authorized staff member. "Handgun" includes any pistol or revolver using a fixed cartridge containing a propellant charge, primer and projectile, and designed to be aimed or fired otherwise than from the shoulder.

(18) Reception Center (Inmate): The designated location(s) in a facility which is designed for transport officials to deliver or pick up an inmate housed in a functional unit.

(19) Reception Center (Public): The designated location(s) in a facility designed to control access for persons to enter the general inmate population area(s).

(20) Secure Perimeter: A manufactured structure (usually a fence or wall) that encloses a portion of the grounds and buildings and is designed to control entry or exit within the enclosure. The manufactured structure may use electronic detection for intrusion, doors and/or gates for entry and exit, lighting for visibility, and other physical restrictions such as razor ribbon, no climb fencing, and buried concrete curbing.

(21) Vehicle: A vehicle that is self-propelled vehicle and commonly known as a passenger car, van, truck or motorcycle.

(22) Volunteer: An approved person who donates time, knowledge, skills, and effort to enhance the mission, activities, and programs of the department. A carded volunteer has completed a volunteer application, volunteer training, facility orientation, and functional unit orientation, and has been approved by a functional unit manager or his/her designee.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 26-1992, f. 12-11-92, cert. ef. 1-2-93; DOC 24-1999(Temp), f. 7 cert ef. 12-22-99 thru 6-19-00; DOC 12-2000, f. & cert. ef. 6-19-00; DOC 10-2006, f. & cert. ef. 10-9-06; DOC 14-2014(Temp), f. 6-5-14, cert. ef. 6-6-14 thru 12-3-14; DOC 17-2014(Temp), f. & cert. ef. 7-2-14 thru 12-3-14; DOC 23-2014, f. & cert. ef. 12-3-14; DOC 7-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**291-016-0120**
**Possession and Storage of Personal Handguns at Facilities Owned or Occupied by the Department of Corrections**

(1) In accordance with 2015 Or Laws, Ch 246, authorized staff of the Department of Corrections, Oregon Board of Parole and Post-Prison Supervision, and Oregon Corrections Enterprises may possess and store a personal handgun and ammunition in their personal vehicle when the vehicle is parked in a department parking lot at a Department of Corrections facility only if the authorized staff:

(a) Has a valid concealed handgun license issued pursuant to ORS 166.291 and 166.292; and

(b) Has secured the handgun and ammunition in a closed and locked container designed for the storage of a firearm inside a vehicle.

(2) Use of Department Storage Facilities Required Where Provided: If the department has provided a secure and locked location for authorized staff to store their personal handgun and ammunition at a Department of Corrections facility, the authorized staff must promptly store the personal handgun and ammunition in the storage location designated by the department, and not in their personal vehicle.

(3) Ammunition: Authorized staff who bring personal handguns to a Department of Corrections facility in accordance with these rules may possess and store with their personal handgun only that amount of ammunition that the personal handgun is designed to hold plus two additional magazines or speed loaders.

(4) Under no circumstance may an authorized staff member carry a personal handgun within the secure perimeter of the correctional facility, unless authorized by the correctional facility's confidential procedure in order to securely store the staff member's personal handgun.

(5) Personal firearms shall not be carried or used during the performance of official duties.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 14-2014(Temp), f. 6-5-14, cert. ef. 6-6-14 thru 12-3-14; DOC 17-2014(Temp), f. & cert. ef. 7-2-14 thru 12-3-14; DOC 23-2014, f. & cert. ef. 12-3-14; DOC 7-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

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**Rule Caption:** Planned Use of Force and Security Equipment by DOC Employees
**Adm. Order No.:** DOC 8-2015(Temp)
**Filed with Sec. of State:** 7-9-2015
**Certified to be Effective:** 7-9-15 thru 1-4-16
**Notice Publication Date:**
**Rules Amended:** 291-013-0010, 291-013-0070, 291-013-0104, 291-013-0110
**Subject:** These temporary rule amendments are necessary to remove references to DOC policies, which are internal management directives applicable to DOC staff; provide clarification for the planned use of force for inmates identified with serious mental health treatment needs; and set time limits for the use of the restraint chair.
**Rules Coordinator:** Janet R. Worley—(503) 945-0933

**291-013-0010**
**Definitions**

(1) Behavioral Health Services (BHS): A Health Services unit with primary responsibility for the assessment and treatment of inmates with mental illness and developmental disabilities.

(2) Carotid Hold: Application of a hold to the neck that restricts deoxygenated blood leaving the brain, which may result in the person to whom it is applied becoming unconscious.

(3) Chemical Agents: Chemical compounds that when deployed are designed to cause sufficient physiological effect to stop, control or temporarily incapacitate an individual.

(4) Choke Hold: Application of physical pressure applied directly to the neck area to restrict air from entering the lungs.

(5) Co-Located Minimum Security Facility/Level 2: A minimum security facility on the grounds of a medium or higher security facility, but not within the fenced perimeter of this higher security facility.

(6) Corporal Punishment: The use of physical force for the purpose of punishment.

(7) Department of Corrections Facility: Any institution, facility or staff office, including the grounds, operated by the Department of Corrections.

(8) Electronic Control Devices: Security equipment designed to stop, control or temporarily incapacitate through the use of high voltage, low amperage electric stimulation; e.g., conducted electrical weapons, electronic shield, etc.

(9) Excessive Force: A type or amount of force beyond that which is reasonably necessary to control the situation and achieve the correctional objective; or the continued use of force after it is no longer reasonably necessary.

(10) Functional Unit Manager: Any person within the Department of Corrections who reports to the Director, an Assistant Director or administrator and has responsibility for delivery of program services or coordination of program operations.

(11) Hogtie Method: Binding a person's wrists and ankles together behind the back while in a prone position.

(12) Less Lethal Force: Systems that are explicitly designed and primarily employed so as to incapacitate while minimizing fatalities or permanent injury.

(13) Lethal Force: Physical force that has substantial risk of causing death.

(14) Level of Force: The type of force employed, amount of that type of force employed, and the circumstances within which the force is employed.

(15) Medium or Higher Security Facility/Level 3 or Higher: A medium or higher security facility may house multiple custody classifications of inmates within its secure perimeter, including custody Level 1 and 2 inmates. Medium or higher security facilities will treat all inmates as if they are classified Level 3 or higher custody.

(16) Negligent Discharge: An unintentional discharge caused by an action or event that an employee could and should have foreseen or prevented.

(17) Officer-in-Charge: That person designated by the functional unit manager to supervise and make operational decisions in accordance with department policy, rule or procedure during periods when the functional unit manager or officer-of-the-day is not readily available.

(18) Physical Force: The use of hands, other parts of the body, objects, instruments, chemical devices, electronic devices, firearms or other physical methods used to restrain, subdue, control, intimidate or to compel persons to act in a particular way, or to stop acting in a particular way.

(19) Planned Use of Force: The use of force in situations where time and circumstances allow for consultation and approval with higher ranking employees, and where there is some opportunity to plan the actual use of force.

(20) Prone Restraint: The process of placing an individual "face-down" upon a surface and then securing or limiting the movement of the arms, legs, or trunk from that surface.

(21) Reactive Use of Force: The use of force in situations where time and circumstances do not permit approval by higher ranking employees, or consultation or planning.

(22) Reasonable Force: The use of physical force to achieve a legitimate correctional objective, where the type and amount of force are consistent with the situation and the objective to be achieved; and where alternatives to physical force are unavailable or ineffective; and where the force used is the minimum necessary to control the situation.

(23) Restraint Chair: A restraining device that allows for a person to sit upright in a chair that is designed to immobilize the person.

(24) Secure Custody: Custody exercised upon a person under the jurisdiction of the Department of Corrections by means of physical confinement within a facility of the Department of Corrections, or direct physical supervision of a person with or without use of restraints while outside a Department of Corrections facility.

(25) Security Equipment: Firearms, ammunition, batons, chemical agents, security restraints, electronic control devices, and similar devices.

(26) Security Restraints: Handcuffs, temporary cuffs, leg irons, belly chains, restraining chairs, and other similar equipment designed to restrict and control the person's movement from injuring himself/herself, others, and escape.

(27) Serious Mental Illness (SMI): An MH3 code designation used to identify inmates with the highest mental health treatment needs.

(28) Serious Physical Injury: Physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ.

(29) Show of Force: A demonstration of the current ability to use force, such as the massing of officers or tactical squads.

(30) Stand Alone Minimum Security Facility: A minimum security facility that is not on the grounds of a medium or higher security facility.

(31) Specialty Impact Munitions: Munitions designed to incapacitate, distract, and control a subject with less likelihood of life threatening injury.

(32) Therapeutic Restraints: A type of restraint applied to an inmate for medical or mental health purposes, and designed to limit an inmate's movement. The kinds of restraints that may be used for therapeutic purposes include, but are not limited to, leather, rubber or canvas restraints for the arms, legs and upper torso.

(33) Use of Force: Any situation in which an employee uses physical force against an inmate or other person, except those situations in which security restraints are used in a standard manner for arrest, escort, or transport, or in which therapeutic restraints are used.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 35-1978, f. 11-9-78, ef. 11-13-78; CD 7-1982(Temp), f. & ef. 1-29-82; CD 12-1982, f. & ef. 3-19-82; CD 3-1983, f. & ef. 1-20-83; CD 40-1985, f. & ef. 8-16-85; CD 42-1986, f. & ef. 10-17-86; CD 26-1987, f. & ef. 6-5-87; CD 12-1988, f. & cert. ef. 9-30-88; CD 21-1988(Temp), f. & cert. ef. 12-30-88; CD 9-1989, f. & cert. ef. 6-20-89; CD 20-1991, f. & cert. ef. 8-28-91; CD 3-1995, f. & cert. ef. 1-19-95; CD 20-1995, f. 10-26-95, cert. ef. 11-1-95; DOC 14-1998, f. & cert. ef. 6-18-98; DOC 3-2004(Temp), f. & cert. ef. 1-27-04 thru 7-25-04; Administrative correction 8-19-04; DOC 15-2004, f. & cert. ef. 11-2-04; DOC 19-2008, f. & cert. ef. 8-7-08; DOC 6-2013, f. & cert. ef. 6-21-13; DOC 8-2015(Temp), f. & cert. ef. 7-9-15 thru 1-4-16

**291-013-0070**
**Planned Use of Force**

(1) The functional unit manager or designee will be contacted for authorization of the planned use of force involving firearms, batons, water hoses, electronic control devices, specialty impact munitions, and chemical agents other than aerosol sprays.

(2) Any planned use of force shall be carried out under the personal direction of supervisory or higher level staff, and only after consultation with and approval of the officer-in-charge. The officer-in-charge may be present when the use of force is employed if there is no anticipated danger of becoming a hostage.

(a) Chemical agents, electronic control device, baton, water force, or specialty impact munitions may be used prior to the arrival of the supervising employee if immediate use is essential to prevent and/or control death, serious injury, major disturbance or substantial destruction of property.

(b) If an employee is assaulted, he/she will not participate in a planned use of force, unless no other option is available; e.g., no other employees are readily available to participate in the planned use of force.

(3) A health care professional shall be contacted, if on duty at the facility, prior to the planned use of force to ensure medical assistance is readily available, if necessary, and to evaluate the inmate if he/she is medically high risk.

(4) Inmates Designated as SMI:

(a) If an inmate has been designated as SMI, the officer-in-charge shall consult with a BHS manager or designee before the planned use of force. If no BHS manager is on-site, the officer-in-charge will contact Medical Services, if available.

(b) Based on the circumstances and if time permits, the BHS manager or designee may evaluate the inmate prior to the application of force.

(5) Every planned use of force situation shall be videotaped provided that time and circumstances permit.

(a) The video recording should include a briefing, the use of force incident, and debriefing. The video recording should not be stopped during the use of force incident.

(b) The original video recording will be stored by the functional unit in accordance with the approved retention schedules from the date of the incident, or the time stored will be extended until the resolution of pending or actual litigation, or as otherwise directed by the department's legal counsel.

(c) A back-up video recording will be made and sent to the Office of the Inspector General. The Office of the Inspector General's will store the back-up tape in accordance with the approved retention schedule.

(d) Back-up tapes will be returned to the originating facility for disposition. A use of force video recording may be released with the approval of the functional unit manager or designee.

(6) The commander shall authorize the type and amount of force used during any declared emergency at a facility except for reactive use of force.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 3-1995, f. & cert. ef. 1-19-95; CD 20-1995, f. 10-26-95, cert. ef. 11-1-95; DOC 14-1998, f. & cert. ef. 6-18-98, Renumbered from 291-013-0125; DOC 15-2004, f. & cert. ef. 11-2-04; DOC 19-2008, f. & cert. ef. 8-7-08; DOC 6-2013, f. & cert. ef. 6-21-13; DOC 8-2015(Temp), f. & cert. ef. 7-9-15 thru 1-4-16

**291-013-0104**
**Security Equipment**

(1) General Provisions:

(a) The Institutions Administrator will review all security equipment. The Director or designee shall approve all security equipment before it is issued and used as department authorized security equipment.

(b) Only department authorized and/or issued equipment shall be used to apply physical force to individuals.

(c) Security equipment shall not be issued to or used by an employee who has not been trained in the proper use of such devices.

(d) The above three sections (a)–(c) apply to all use of force incidents except for situations that require reactive use of force where there is a clear and imminent threat of death or great bodily injury, and where there is no other reasonable alternative.

(e) The storage and use of security equipment will be authorized by the Director through the appropriate functional unit manager.

(2) Security Restraints — General Use of Restraints:

(a) Security restraints are authorized to restrict, immobilize and control the movement of an inmate.

(b) The standard routine use of security restraints for escort or transportation of an inmate is not a use of force within the context of these rules. Situations in which an inmate has refused to be placed in security restraints, or has resisted after being placed in restraints are considered use of force within the context of these rules.

(3) Restricting Movement:

(a) Security restraints may be used to restrain an inmate with the express approval of the officer-in-charge, upon a demonstration that the inmate is out of control and engaged in behavior which, if unrestrained could:

(A) Result in significant destruction of property;

(B) Constitute a serious health or injury hazard to the inmate or others; or

(C) Escalate into a serious disturbance.

(b) Security restraints used to restrain an out-of-control inmate shall be terminated when the inmate has demonstrated behavior which would not result in the above three sections (A)–(C).

(c) Placing an inmate in security restraints or a restraint chair shall be considered a use of force within the context of these rules, except when placing an inmate in handcuffs/restraints for transportation or escort.

(d) Security restraints will not be placed around the neck or head, nor in any manner that restricts blood circulation or breathing.

(e) The hogtie method will not be used as a security restraint.

(f) Employees in general shall ensure that unnecessary pressure is not placed on the inmate's chest, back or neck while applying restraints. Employees shall maintain close observation of a restrained inmate in order to detect breathing difficulties and/or loss of consciousness.

(g) While using the prone restraint position when the correctional objective is met the inmate should be placed on his/her side or moved into a sitting position as soon as feasible. Employees will assess the inmate's physical condition.

(h) Restrained inmates will never be transported on their stomach.

(i) An employee shall check at least every 30 minutes and verify security restraints are not causing obvious injury or an obvious medical problem when an inmate has been placed in restraints as a result of a use of force situation. Each check of the restraints will be documented. A copy of the documentation shall accompany the unusual incident report.

(j) The officer-in-charge shall evaluate the need to restrain an out-of-control inmate every two hours with written documentation for the reason(s) to continue or discontinue security restraints or restraint chair. The documentation shall accompany the use-of-force review documentation.

(k) The officer-in-charge will notify a health care professional immediately upon the application of security restraints or restraint chair.

(l) The health care professional, when notified, will perform the following:

(A) Evaluate the inmate's condition to verify the security restraints are not causing injury or an obvious medical problem;

(B) Evaluate the inmate's mental status and notify a qualified mental health professional, if necessary;

(C) Consider treatment or intervention as an alternative, or in conjunction with security restraints;

(D) Document the results of the evaluation; and

(E) Physically re-evaluate sections (A)–(D) above every two hours.

(m) Use of security restraints or restraint chair to restrain an out-of-control inmate will be documented and reported by the officer-in-charge to the functional unit manager or designee. The documentation shall accompany the use of force review documentation.

(n) Continued use of security restraints applied for a time period longer than eight hours, and every eight hours thereafter, shall require the written approval of the functional unit manager or designee in addition to the requirements of sections (j), (k), and (l) above.

(o) Continued use of the restraint chair for a time period longer than two hours, and every two hours thereafter, shall require the written or verbal approval of the functional unit manager or designee in addition to the requirements of sections (j), (k), and (l) above. The use of the restraint chair shall not exceed ten consecutive hours.

(p) Continued use of the restraint chair for a time period longer than two hours, and every two hours thereafter, during the transporting of an inmate shall require the verbal approval of the functional unit manager or designee. The use of the restraint chair shall not exceed ten consecutive hours during transport.

(A) The officer-in-charge of the transport shall ensure that observation of the inmate is maintained and documented on the Trip Documentation Sheet every 30 minutes. The officer-in-charge shall ensure that the inmate is evaluated by a health care professional once the final destination is reached.

(B) Placing an inmate in the restraint chair shall be considered a use of force within the context of these rules, except when the restraint chair is being utilized as additional seating for inmates during transfers.

(q) Therapeutic Restraints: The documentation, application and use of therapeutic restraints will not be considered a use of force situation, but shall be in accordance with the department's rule on Therapeutic Restraints (OAR 291-071). Therapeutic restraints will be:

(A) Applied to an inmate only for medical or mental health treatment to limit the inmate's movement; and

(B) Applied to an inmate only upon the documented verbal or written order of a physician, except in the absence of a physician, a registered nurse may authorize the application of therapeutic restraints for a period not to exceed one hour.

(4) Chemical Agents, Electronic Control Devices, Batons, Water Force and Specialty Impact Munitions:

(a) The use of chemical agents other than aerosol spray, electronic control devices, batons, water force, and specialty impact munitions shall be authorized only by the functional unit manager or designee. The decision to use chemical agents, electronic control devices, batons, water force and specialty impact munitions shall be based on the level of force that, in the judgment of the functional unit manager or designee, is most likely to resolve the situation with the least amount of injury to all parties involved.

(b) The use of chemical agents, electronic control devices, batons, water force and specialty impact munitions may be used to subdue an inmate when the level of physical hands-on force required to subdue the inmate would potentially subject the employee, inmate or others to greater injury than would be incurred through the use of this security equipment.

(5) Use of Chemical Agents:

(a) The amount and type of chemical agent used and the means of dispersal shall be limited to that necessary to achieve the correctional objective and be used in accordance with the manufacturer's instructions and departmental training.

(b) Prior to the use of any chemical agent, and where time and circumstances permit, the inmate against whom it is directed shall be warned chemical agents will be used.

(c) If possible, a chemical agent shall not be used against an inmate known to suffer cardio-vascular, convulsive or respiratory ailments.

(d) An employee recently assaulted by an inmate shall not approve or apply chemical agents to the particular inmate, unless there is no reasonable alternative.

(e) An inmate shall not be restrained or held for the sole purpose of rendering him/her a more stationary target for a chemical agent. If chemical agents are administered to a handcuffed inmate, staff shall document the reason why the removal of the handcuffs was not feasible.

(f) Those affected by a chemical agent shall be permitted to wash their face, eyes and other exposed skin areas, as soon as possible after the chemical agent has been used.

(g) Those affected by a chemical agent in a closed area shall be permitted to move to an uncontaminated area as soon as possible after the chemical agent has been used.

(h) Clothing exposed to a chemical agent shall be removed as soon as feasible and clean clothing made immediately available.

(i) An employee(s) or inmate(s) affected by a chemical agent shall be examined by a health care professional as soon as feasible after the chemical agent has been used.

(j) An inmate(s) receiving an application of a chemical agent shall be under continuous staff observation for the first ten minutes.

(A) The inmate shall then be observed approximately every ten minutes for the first 30 minutes after receiving the application of a chemical agent.

(B) All observations shall be documented with a date and time reference.

(C) The documentation shall accompany the use of force review documentation.

(6) Use of Electronic Control Devices:

(a) Only agency approved electronic control devices shall be used.

(b) Medical Considerations:

(A) As soon as feasible following each use of an electronic control device, the inmate shall be afforded medical examination and treatment.

(B) An electronic control device shall not be deployed if there is knowledge that the inmate is pregnant.

(C) If the electronic control device utilizes probes that penetrate the skin, the probes shall be removed when the inmate is under control. Medical staff, if on duty at the facility, shall remove the probes. Trained security staff may remove the probes if medical staff are not available.

(D) If probes are embedded in soft tissue areas such as the head, neck, face and groin, removal shall be done by medical staff only.

(c) Electronic control devices will not be used in conjunction with aerosol propelled chemical agents.

(d) Prior to the deployment of an electronic control device, the supervisor and person assigned to be the operator shall have attended the approved departmental training on the operation and protocol associated with its use.

(7) Use of Specialty Impact Weapons:

(a) Specialty impact munitions are intended as a less lethal alternative to the use of deadly force. Use of specialty impact munitions shall be authorized by the functional unit manager or designee prior to deployment.

(b) After each use of specialty impact munitions, exposed inmates shall be examined by Health Services personnel.

(8) Firearms:

(a) The functional unit manager or designee will authorize the location and carrying of a department issued firearm on the grounds of a facility.

(b) A Transportation Unit officer or facility correctional officer may carry a firearm in the performance of his/her duties as authorized by the functional unit manager/designee and in accordance with the department policy.

(c) Prior to resorting to the use of firearms against an inmate or other persons, time and circumstances permitting, an employee shall first issue an appropriate warning to the inmate or other person in a readily understandable fashion. An appropriate warning may include, but is not limited to, one or more of the following:

(A) Shouting;

(B) Blowing a whistle;

(C) Hand signals; or

(D) Firing a warning shot.

(d) The discharge of a firearm will be handled in accordance with the departmental policy. The State Police or local law enforcement officials shall be notified to investigate any discharge of a firearm except for training or negligent discharge where injury or significant property damage has not occurred. The external law enforcement investigation shall be separate from the full review.

(e) Any employee involved in the discharge of a firearm in a situation on duty shall immediately report the incident to the officer-in-charge.

(f) A warning shot is the least preferred method of warning. It should be used only in situations where other warning methods are not practical or effective, and when there is a target that is sufficiently large to minimize the risk of harm to others from a missed shot or ricochet.

(g) Time and circumstances permitting, an employee shall attempt to warn an inmate that is observed to be:

(A) Entering or inside a restricted security perimeter zone;

(B) Tampering with or cutting security perimeter equipment or fence/wall;

(C) On or climbing a security fence/wall;

(D) Moving toward any motor vehicle or airborne craft in an obvious attempt to escape;

(E) Engaged in any other behavior that is a clear or obvious attempt to escape; or

(F) Engaged in any behavior that poses serious bodily injury or death to oneself or another person.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 14-1998, f. & cert. ef. 6-18-98; Renumbered from 291-013-0090, DOC 15-2004, f. & cert. ef. 11-2-04; DOC 14-2005, f. 10-14-05, cert. ef. 10-24-05; DOC 19-2008, f. & cert. ef. 8-7-08; DOC 6-2013, f. & cert. ef. 6-21-13; DOC 8-2015(Temp), f. & cert. ef. 7-9-15 thru 1-4-16

**291-013-0110**
**Bloodborne Pathogens**

When a person has been exposed to blood or body fluid resulting from the use of force, standard universal precautions shall be implemented.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: CD 3-1995, f. & cert. ef. 1-19-95; DOC 14-1998, f. & cert. ef. 6-18-98, Renumbered from 291-013-0075; DOC 19-2008, f. & cert. ef. 8-7-08; DOC 6-2013, f. & cert. ef. 6-21-13; DOC 8-2015(Temp), f. & cert. ef. 7-9-15 thru 1-4-16

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**Rule Caption:** Use of Force by Parole and Probation Officers
**Adm. Order No.:** DOC 9-2015(Temp)
**Filed with Sec. of State:** 7-9-2015
**Certified to be Effective:** 7-9-15 thru 1-4-16
**Notice Publication Date:**
**Rules Amended:** 291-022-0160, 291-022-0170, 291-022-0180, 291-022-0200
**Subject:** These temporary rule amendments are necessary to remove references to DOC policies, which are internal management directives applicable to DOC staff.
**Rules Coordinator:** Janet R. Worley—(503) 945-0933

**291-022-0160**
**Security Equipment**

(1) Security Equipment:

(a) All security equipment requires the approval of the Director or designee before being issued and used as department authorized security equipment.

(b) Security equipment shall not be issued to or used by an employee who has not been trained in the proper use of such devices.

(c) Unless authorized by the Assistant Director for Community Corrections or designee, the carrying or use of personal security equipment is prohibited.

(d) The local state director shall authorize the storage and use of security equipment.

(2) Security Restraints:

(a) The standard routine use of security restraints for arrest, escort or transportation of an offender is not a use of force within the context of this rule.

(b) The use of security restraints is authorized to restrict, immobilize, and control the movement of offenders or for the purpose of officer safety.

(c) An offender shall be placed in security restraints with their hands behind their back, before and during transport. Exceptions may exist due to physical and/or medical conditions, at which point alternative methods may be utilized.

(d) Security restraints shall be applied consistent with the training and experience of the officer. Restraints will be checked for tightness and double locked.

(e) Officers shall ensure that unnecessary pressure is not placed on the offender's chest, back or neck while applying restraints. Officers shall maintain close observation of a restrained offender in order to detect breathing difficulties and/or loss of consciousness.

(f) The officer shall check at least every 30 minutes and verify the security restraints are not causing injury or an obvious medical problem for the restrained offender.

(3) Chemical Agents:

(a) Authorization to carry a chemical agent shall be granted by the local state director.

(b) Authorization to carry department issued chemical agents shall be limited to the performance of official duties.

(c) Officers authorized to carry a chemical agent shall carry the chemical agent or another approved less than lethal force option whenever:

(A) Protective body armor is worn;

(B) A firearm is carried;

(C) An arrest is anticipated or when making an arrest; or

(D) A confrontation with vicious dogs or other dangerous animals is anticipated.

(d) An officer shall only discharge a chemical agent for the following:

(A) To defend the officer or another person from an animal attack;

(B) To defend the officer or another person from imminent danger; or

(C) To enforce a valid order(s) to a threat to submit to the application of restraints; or

(D) Other circumstances where it is objectively reasonable given the totality of the circumstances and facts known to the officer at the time.

(e) When feasible, the officer shall provide a verbal warning to the threat prior to the discharge of a chemical agent.

(f) Those affected by a chemical agent shall be permitted to wash their face, eyes and other exposed skin areas, as soon as safely practical after the chemical agent has been used.

(g) Those affected by a chemical agent in a closed area shall be permitted to move to an uncontaminated area as soon as safely possible after the chemical agent has been used.

(h) A threat who has received an application of a chemical agent shall be observed for symptoms of an abnormal reaction while the officer has custody of the threat. Medical assistance shall be summoned as soon as an abnormal reaction is observed.

(4) Electronic Control Device:

(a) Authorization to carry an electronic control device may be granted by the local state director.

(b) Authorization to carry an electronic control device shall be limited to the performance of official duties.

(c) Use of the electronic control device will be in accordance with these rules.

(5) Mandatory Use: Officers shall carry a chemical agent or an electronic control device or another approved less than lethal force option whenever:

(a) Protective body armor is worn;

(b) A firearm is carried;

(c) An arrest is anticipated or when making an arrest; or

(d) A confrontation with vicious dogs or other dangerous animals is anticipated.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 6-2005, f. & cert. ef. 5-24-05; DOC 28-2008(Temp), f. & cert. ef. 11-25-08 thru 5-22-09; DOC 7-2009, f. 5-22-09, cert. ef. 5-23-09; DOC 10-2013, f. & cert. ef. 10-23-13; DOC 9-2015(Temp), f. & cert. ef. 7-9-15 thru 1-4-16

**291-022-0170**
**Firearms**

(1) Prior to resorting to the use of firearms against any threat, time and circumstances permitting, an officer shall first issue an appropriate verbal warning.

(2) Any officer involved in the discharge of a firearm in a situation on duty shall immediately report, by the quickest means possible, the incident to the local state director. The employee shall prepare a report as soon as reasonably possible.

(3) The State Police or local law enforcement officials shall be notified to investigate any discharge of a firearm unless the discharge was during training, off duty practice, or negligent discharge where injury or significant property damage did not occur. This investigation shall be separate from the full review.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 6-2005, f. & cert. ef. 5-24-05; DOC 10-2013, f. & cert. ef. 10-23-13; DOC 9-2015(Temp), f. & cert. ef. 7-9-15 thru 1-4-16

**291-022-0180**
**Blood Borne Pathogens**

When a person has been exposed to a blood or body fluid resulting from the use of force, standard universal precautions shall be implemented.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 6-2005, f. & cert. ef. 5-24-05; DOC 9-2015(Temp), f. & cert. ef. 7-9-15 thru 1-4-16

**291-022-0200**
**Notifications**

(1) Any time an officer unholsters and/or points his/her firearm or electronic control device at another, the local state director will be notified according to procedure. The local state director will notify the Assistant Director of Community Corrections of the incident.

(2) Any time an officer is required to use physical or deadly force, the officer shall immediately notify his/her supervisor and/or local state director.

(3) All employees witnessing or directly involved in a use of physical force incident shall individually prepare and submit a use of force report describing their involvement and observation regarding the incident.

(4) All employees witnessing or directly involved in a use of deadly force incident shall report the incident.

(5) The local state director shall make a verbal report to the Assistant Director of Community Corrections.

(6) In cases of serious or life-threatening injury to a person(s) that requires transport to a medical facility or where deadly force has been used:

(a) The appropriate investigatory agency in the jurisdiction shall be immediately contacted by the local state director.

(b) The investigatory agency can include the Attorney General's office if a conflict of interest exists.

(6) Prior to any administrative action, the local state director shall confer with the Assistant Director of Community Corrections.

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Hist.: DOC 6-2005, f. & cert. ef. 5-24-05; DOC 10-2013, f. & cert. ef. 10-23-13; DOC 9-2015(Temp), f. & cert. ef. 7-9-15 thru 1-4-16

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## Department of Fish and Wildlife
## Chapter 635

**Rule Caption:** Recreational Coho Salmon Fisheries for Oregon Coastal Zones.
**Adm. Order No.:** DFW 73-2015
**Filed with Sec. of State:** 6-22-2015
**Certified to be Effective:** 6-23-15
**Notice Publication Date:** 5-1-2015
**Rules Amended:** 635-014-0090, 635-016-0090
**Rules Repealed:** 635-014-0090(T)
**Subject:** Amend rules relating to sport fishing for coho salmon in the Northwest and Southwest zones consistent with guidelines established by the Oregon Fish and Wildlife Commission and Pacific Fishery Management Council. Housekeeping and technical corrections were made to ensure rule consistency.
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-014-0090**
**Inclusions and Modifications**

(1) The 2015 Oregon Sport Fishing Regulations provide requirements for the Northwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the 2015 Oregon Sport Fishing Regulations pamphlet.

(2) Notwithstanding all other requirements provided in the 2015 Oregon Sport Fishing Regulations pamphlet, the following additional rules apply to wild coho salmon angling in waters of the Northwest Zone during the period September 1–December 31, 2015:

(a) For the purposes of regulations described in section (2) of this rule, wild coho are defined as fish with an intact adipose fin.

(b) For all waters in the Northwest and Southwest zones that are open to wild coho harvest, anglers may not take more than 1 wild adult coho and 1 wild jack coho per day regardless of location. There is no seasonal limit on wild coho jacks regardless of location. The seasonal limit on wild coho adults for the Northwest and Southwest zones is 5 fish in aggregate from all waters. Harvest of wild coho salmon is allowed in the following waterbodies with restrictions as specified in sections (2)(c) through (2)(i) of this rule.

(A) No more than 1 adult wild coho may be harvested for the season from either the Nestucca River Basin or the Tillamook River Basin. Wild adult coho taken from these areas do not count towards the 2 fish limit described in section (2)(b)(B) of this rule, but do count towards the overall 5 fish aggregate limit for the Northwest and Southwest zones;

(B) No more than 2 adult wild coho in total for the season may come from any combination of the following areas: Siletz River, Yaquina River, Alsea River, Siuslaw River, Umpqua River, Beaver Creek (Ona Beach), Floras Creek/New River, Coos River, and Coquille River. Wild adult coho taken from these areas do not count towards the 1 fish limit described in section (2)(b)(A) of this rule, but do count towards the overall 5 fish aggregate limit for the Northwest and Southwest zones; and

(C) No more than 5 adult wild coho in total for the season may come from any combination of the following areas: Siltcoos Lake, Tahkenitch Lake, and Tenmile Lake (SW Zone). Wild adult coho taken from these areas do not count against aggregate limits described in sections (2)(b)(A) and (2)(b)(B) of this rule, but do count towards the overall 5 fish limit for

the Northwest and Southwest zones as specified in section (2)(b) of this rule.

(c) Tillamook Bay tidewater from the jetty tips upstream to Highway 101 Bridge on Miami, Kilchis, Wilson, and Trask rivers and Burton Bridge on Tillamook River is open on Fridays and Saturdays only for wild coho salmon from September 18 through October 31. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(d) Nestucca Bay tidewater (excluding Little Nestucca tidewater) from the bay mouth upstream to the Cloverdale Bridge (RM 7.1) is open on Sundays and Mondays only for wild coho salmon from September 20 through November 2. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(e) Siletz River and Bay upstream to an ODFW marker sign approximately 1,200 feet upstream of Ojalla Bridge (RM 31) is open for wild coho salmon from September 15 through October 6; Siletz River and Bay upstream to Illahee Boat Ramp is open for wild coho salmon from October 7–November 30. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(f) The Yaquina River and Bay upstream to the confluence of the Yaquina River and Big Elk Creek are open for wild coho salmon from September 15 through November 30. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(g) The Alsea River and Bay upstream to the USFS River Edge Boat Landing are open for wild coho salmon from September 15 through October 15. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(h) The Siuslaw River and Bay upstream to the confluence of the Siuslaw River with Lake Creek is open for wild coho salmon from September 15 through October 15. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(i) Beaver Creek (at Ona Beach between Newport and Waldport) from footbridge west of Highway 101 upstream to the power line crossing near the the confluence of South Fork Beaver Creek (Ona Beach) open for wild coho salmon from November 1–30 or until attainment of an adult wild coho quota of 150 fish. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119

Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 28-1995(Temp), f. 3-31-95, cert. ef. 5-1-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 19-1996, f. & cert. ef. 5-16-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 29-1996, f. & cert. ef. 5-31-96; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 55-1996(Temp), f. 9-25-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 58-1997, f. 9-8-97, cert. ef. 10-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 69-1998, f. 8-28-98, cert. ef. 9-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 81-2001, f. & cert. ef. 8-29-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp) f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 118-2002(Temp), f, 10-22-02, cert. ef. 12-1-02 thru 3-31-03; DFW 120-2002(Temp), f. 10-24-02, cert. ef. 10-26-02 thru 3-31-03; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp) f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 38-2003(Temp), f. 5-7-03, cert. ef. 5-10-03 thru 10-31-03; DFW 51-2003(Temp), f. & cert. ef. 6-13-03 thru 10-31-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 108-2003(Temp), f. 10-28-03, cert. ef. 12-1-03 thru 3-31-04; DFW 123-2003(Temp), f. 12-10-03, cert. ef. 12-11-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 126-2003(Temp), f. 12-11-03, cert. ef. 1-1-04 thru 3-31-04; DFW 60-2004(Temp), f. 6-29-04, cert. ef 7-1-04 thru 7-15-04; DFW 90-2004(Temp), f. 8-30-04, cert. ef. 10-1-04 thru 12-31-04; DFW 103-2004(Temp), f. & cert, ef, 10-4-04 thru 12-31-04; DFW 108-2004(Temp), f. & cert. ef. 10-18-04 thru 12-31-04; DFW 111-2004(Temp), f. 11-16-04, cert. ef. 11-20-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 62-2005(Temp), f. 6-29-05, cert. ef. 7-1-05 thru 7-10-05; Administrative correction 7-20-05; DFW 105-2005(Temp), f. 9-12-05, cert. ef. 10-1-05 thru 12-15-05; DFW 127-2005(Temp), f. & cert. ef. 11-23-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 53-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 7-9-06; Administrative correction 7-20-06; DFW 64-2006(Temp), f. 7-17-06, cert. ef. 8-1-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 104-2006(Temp), f. 9-19-06, cert. ef. 10-1-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 63-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 25-2008(Temp), f. 3-13-08, cert. ef. 3-15-08 thru 9-10-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 43-2009(Temp), f. 5-5-09, cert. ef. 5-22-09 thru 10-31-09; DFW 67-2009(Temp), f. 6-9-09, cert. ef. 6-15-09 thru 10-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 99-2009(Temp), f. 8-26-09, cert. ef. 9-1-09 thru 12-31-09; DFW 115-2009(Temp), f. & cert. ef. 9-22-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 44-2010(Temp), f. 4-20-10, cert. ef. 4-21-10 thru 9-30-10; DFW 73-2010(Temp), f. 5-27-10, cert. ef. 6-1-10 thru 9-30-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 89-2010(Temp), f. 6-28-10, cert. ef. 7-1-10 thru 9-30-10; Administrative correction 10-26-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 57-2011(Temp), f. 5-27-11, cert. ef. 6-1-11 thru 6-30-11; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 139-2011(Temp), f. 10-3-11, cert. ef. 10-6-11 thru 12-31-11; DFW 141-2011(Temp), f. 10-6-11, cert. ef. 10-10-11 thru 12-31-11; DFW 143-2011(Temp), f. 10-10-11, cert. ef. 10-11-11 thru 12-31-11; DFW 148-2011(Temp), f. 10-20-11, cert. ef. 10-21-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 53-2012(Temp), f. 5-29-12, cert. ef. 6-1-12 thru 10-31-12; DFW 62-2012, f. 6-12-12, cert. ef. 7-1-12; DFW 63-2012(Temp), f. & cert. ef. 6-12-12 thru 10-31-12; DFW 71-2012(Temp), f. 6-27-12, cert. ef. 7-1-12 thru 11-30-12; DFW130-2012(Temp), f. 10-10-12, cert. ef. 10-13-12 thru 12-31-12; DFW 135-2012(Temp), f. 10-22-12, cert. ef. 10-24-12 thru 12-31-12; DFW 139-2012(Temp), f. 10-30-12, cert. ef. 10-31-12 thru 12-31-12; DFW 152-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 23-2013(Temp), f. 3-20-13, cert. ef. 4-1-13 thru 9-27-13; DFW 43-2013(Temp), f. 5-29-13, cert. ef. 6-1-13 thru 10-31-13; DFW 50-2013, f. 6-10-13, cert. ef. 7-1-13; DFW 60-2013(Temp), f. 6-24-13, cert. ef. 6-30-13 thru 9-30-13; Administrative correction 11-1-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 74-2014(Temp), f. 6-23-14, cert. ef. 6-30-14 thru 9-30-14; DFW 110-2014, f. & cert. ef. 8-4-14; DFW 111-2014(Temp), f. & cert. ef. 8-4-14 thru 9-30-14; DFW 133-2014(Temp), f. 9-16-14 & cert. ef. 9-17-14 thru 12-31-14; DFW 148-2014(Temp), f. 10-13-14, cert. ef. 10-15-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 23-2015(Temp), f. & cert. ef. 4-1-15 thru 7-31-15; DFW 73-2015, f. 6-22-15, cert. ef. 6-23-15

**635-016-0090**

**Inclusions and Modifications**

(1) The **2015 Oregon Sport Fishing Regulations** provide requirements for the Southwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the 2015 Oregon Sport Fishing Regulations pamphlet

(2) Notwithstanding all other requirements provided in the **2015 Oregon Sport Fishing Regulations** pamphlet, the following additional rules apply to wild coho salmon angling in waters of the Southwest Zone during the period September 1–December 31, 2015:

(a) For the purposes of regulations described in section (2) of this rule, wild coho are defined as fish with an intact adipose fin.

(b) For all waters in the Northwest and Southwest zones that are open to wild coho harvest, anglers may not take more than 1 wild adult coho and 1 wild jack coho per day regardless of location. There is no seasonal limit on wild coho jacks regardless of location. The seasonal limit on wild coho adults for the Northwest and Southwest zones is 5 fish in aggregate from all waters. Harvest of wild coho salmon is allowed in the following waterbodies with restrictions as specified in sections (2)(c)–(2)(i) of this rule.

(A) No more than 1 adult wild coho may be harvested from either the Nestucca River Basin or the Tillamook River Basin. Wild adult coho taken from these areas do not count towards the 2 fish limit described in section (2)(b)(B) of this rule, but do count towards the overall 5 fish aggregate limit for the Northwest and Southwest zones;

(B) No more than 2 adult wild coho in total may come from any combination of the following areas: Siletz River, Yaquina River, Alsea River, Siuslaw River, Umpqua River, Beaver Creek (Ona Beach), Floras Creek/New River, Coos River, and Coquille River. Wild adult coho taken from these areas do not count towards the 1 fish limit described in section (2)(b)(A) of this rule, but do count towards the overall 5 fish aggregate limit for the Northwest and Southwest zones; and

(C) No more than 5 adult wild coho in total may come from any combination of the following areas: Siltcoos Lake, Tahkenitch Lake, and Tenmile Lake (SW Zone). Wild adult coho taken from these areas do not count against aggregate limits described in sections (2)(b)(A) and (2)(b)(B) of this rule, but do count towards the overall 5 fish limit for the Northwest and Southwest zones as specified in section (2)(b) of this rule.

(c) Open for wild coho salmon in the Mainstem Umpqua River and Bay from the mouth to Scottsburg Bridge at RM 27.5 from September 15 through October 15. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(d) Coos Basin open for wild coho salmon from the tips of the jetties upstream to the head of tide at Dellwood at RM 10.0 on the South Coos River and to the East Fork/West Fork Millicoma confluence from September 15 through November 30. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(e) Open for wild coho salmon in Coquille River and Bay upstream to the Highway 42S bridge (Sturdivant Park) at RM 24.0 from September 15 through November 30. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(f) Within the Tenmile Lakes Basin the following additional rules apply: North and South Tenmile Lakes (Coos County) upstream from Hilltop Bridge are open for wild coho salmon from October 1 through December 31. Daily and seasonal catch limits as described in section (2)(b) of this rule apply. Only 1 rod per angler may be used while angling for coho. Streams that empty into North and South Tenmile Lakes are not open to coho salmon angling, nor is the canal that connects North and South Tenmile Lakes.

(g) Floras Creek/New River from the Bureau of Land Management boat ramp at Storm Ranch upstream to the confluence with the Floras Lake outlet open for wild coho salmon from November 1-30 or until attainment of an adult coho quota of 200 fish. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119

Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129

Hist.: FWC 80-1993(Temp), f. 12-21-93, cert. ef. 1-1-94; FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 79-1994(Temp), f. 10-21-94, cert. ef. 7-22-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 57-1995(Temp), f. 7-3-95, cert. ef. 7-4-95; FWC 59-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 82-1995(Temp), f. 9-29-95, cert. ef. 10-1-95; FWC 90-1995(Temp), f. 11-29-95, cert. ef. 1-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 52-1996, f. & cert. ef. 9-11-96; FWC 61-1996, f. & cert. ef. 10-9-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 32-1997(Temp), f. & cert. ef. 5-23-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 24-1998(Temp), f. & cert. ef. 3-25-98 thru 9-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 52-1998(Temp), f. 7-10-98, cert. ef. 7-11-98 thru 7-24-98; DFW 55-1998(Temp), f. & cert. ef. 7-24-98 thru 12-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 48-2000(Temp), f. 8-14-00, cert. ef. 8-15-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 8-2001, f. & cert. ef. 3-5-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 42-2001(Temp), f. 5-25-01, cert. ef. 5-29-01 thru 7-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 97-2001(Temp), f. 10-4-01, cert. ef. 11-1-01 thru 12-31-01; DFW 105-2001(Temp), f. 10-26-01, cert. ef. 11-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp) f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 55-2002(Temp), f. 5-28-02, cert. ef. 7-1-02 thru 11-31-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 124-2002(Temp), f. & cert. ef. 10-30-02 thru 12-31-02 (Suspended by DFW 125-2002(Temp), f. 11-8-02, certe. ef. 11-9-2002); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 127-2004, f. 12-22-04, cert. ef. 1-1-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 24-2006(Temp), f. 4-25-06, cert. ef. 5-13-06 thru 10-31-06; DFW 37-2006(Temp), f. 6-2-06, cert. ef. 6-5-06 thru 12-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 47-2007(Temp), f. 6-18-07, cert. ef. 6-21-07 thru 10-31-07; DFW 56-2007(Temp), 7-6-07, cert. ef. 8-1-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 137-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 54-2008(Temp), f. 5-28-08, cert. ef. 6-1-08 thru 7-31-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 138-2008(Temp), f. 10-28-08, cert. ef. 11-1-08 thru 11-30-08; DFW 140-2008(Temp), f. 11-4-08, cert. ef. 11-5-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 57-2009(Temp), f. 5-27-09, cert. ef. 6-1-09 thru 7-31-09; DFW 77-2009(Temp), f. 6-29-09, cert. ef. 7-1-09 thru 7-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 113-2009(Temp), f. & cert. ef. 9-18-09 thru 12-31-09; DFW 141-2009(Temp), f. 11-4-09, cert. ef. 11-7-09 thru 12-21-09; DFW 143-2009(Temp), f. 11-17-09, cert. ef. 11-19-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 65-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 5-31-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 143-2010(Temp), f. 10-8-10, cert. ef. 10-10-10 thru 12-31-10; DFW 152-2010(Temp), f. 10-27-10, cert. ef. 10-30-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 31-2011(Temp), f. 4-18-11, cert. ef. 5-1-11 thru 10-27-11; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 137-2011(Temp), 9-30-11, cert. ef. 10-1-11 thru 12-31-11; DFW 145-2011(Temp), f. 10-11-11, cert. ef. 10-12-11 thru 12-31-11; DFW 149-2011(Temp), f. 10-20-11, cert. ef. 10-22-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 62-2012, f. 6-12-12, cert. ef. 7-1-12; DFW 138-2012(Temp), f. 10-29-12, cert. ef. 10-31-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 155-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-29-13; DFW 23-2013(Temp), f. 3-20-13, cert. ef. 4-1-13 thru 9-27-13; DFW 50-2013, f. 6-10-13, cert. ef. 7-1-13; DFW 124-2013(Temp), f. 10-29-13, cert. ef. 11-1-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 110-2014, f. & cert. ef. 8-4-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 73-2015, f. 6-22-15, cert. ef. 6-23-15

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**Rule Caption:** Umpqua River Sport Salmon Regulation Changes.
**Adm. Order No.:** DFW 74-2015(Temp)
**Filed with Sec. of State:** 6-23-2015
**Certified to be Effective:** 6-23-15 thru 12-19-15
**Notice Publication Date:**
**Rules Amended:** 635-016-0090
**Subject:** Fisheries managers believe the rule amendment to end the spring Chinook season on the Umpqua River on June 30 rather than July 31, as per permanent rule, will have little to no biological impact or conservation concerns and is necessary for both fishers and law enforcement personnel. Further, the amendments should provide increased angling opportunity and benefit to the local economies of Reedsport and the Winchester Bay area. And, due to abnormally low water conditions and high water temperatures in the basin, fisheries managers believe rule modifications to prohibit angling within 200 feet (in any direction) of the mouths of Umpqua River tributaries is necessary.
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-016-0090**
**Inclusions and Modifications**

(1) The **2015 Oregon Sport Fishing Regulations** provide requirements for the Southwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the 2015 Oregon Sport Fishing Regulations pamphlet

(2) Notwithstanding all other requirements provided in the **2015 Oregon Sport Fishing Regulations** pamphlet, the following additional rules apply to wild coho salmon angling in waters of the Southwest Zone during the period September 1-December 31, 2015:

(a) For the purposes of regulations described in section (2) of this rule, wild coho are defined as fish with an intact adipose fin.

(b) For all waters in the Northwest and Southwest zones that are open to wild coho harvest, anglers may not take more than 1 wild adult coho and 1 wild jack coho per day regardless of location. There is no seasonal limit on wild coho jacks regardless of location. The seasonal limit on wild coho adults for the Northwest and Southwest zones is 5 fish in aggregate from all waters. Harvest of wild coho salmon is allowed in the following waterbodies with restrictions as specified in sections (2)(c)–(2)(i) of this rule.

(A) No more than 1 adult wild coho may be harvested from either the Nestucca River Basin or the Tillamook River Basin. Wild adult coho taken from these areas do not count towards the 2 fish limit described in section (2)(b)(B) of this rule, but do count towards the overall 5 fish aggregate limit for the Northwest and Southwest zones;

(B) No more than 2 adult wild coho in total may come from any combination of the following areas: Siletz River, Yaquina River, Alsea River, Siuslaw River, Umpqua River, Beaver Creek (Ona Beach), Floras Creek/New River, Coos River, and Coquille River. Wild adult coho taken from these areas do not count towards the 1 fish limit described in section (2)(b)(A) of this rule, but do count towards the overall 5 fish aggregate limit for the Northwest and Southwest zones; and

(C) No more than 5 adult wild coho in total may come from any combination of the following areas: Siltcoos Lake, Tahkenitch Lake, and Tenmile Lake (SW Zone). Wild adult coho taken from these areas do not count against aggregate limits described in sections (2)(b)(A) and (2)(b)(B) of this rule, but do count towards the overall 5 fish limit for the Northwest and Southwest zones as specified in section (2)(b) of this rule.

(c) Open for wild coho salmon in the Mainstem Umpqua River and Bay from the mouth to Scottsburg Bridge at RM 27.5 from September 15 through October 15. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(d) Coos Basin open for wild coho salmon from the tips of the jetties upstream to the head of tide at Dellwood at RM 10.0 on the South Coos River and to the East Fork/West Fork Millicoma confluence from September 15 through November 30. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(e) Open for wild coho salmon in Coquille River and Bay upstream to the Highway 42S bridge (Sturdivant Park) at RM 24.0 from September 15 through November 30. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(f) Within the Tenmile Lakes Basin the following additional rules apply: North and South Tenmile Lakes (Coos County) upstream from Hilltop Bridge are open for wild coho salmon from October 1 through December 31. Daily and seasonal catch limits as described in section (2)(b) of this rule apply. Only 1 rod per angler may be used while angling for coho. Streams that empty into North and South Tenmile Lakes are not open to coho salmon angling, nor is the canal that connects North and South Tenmile Lakes.

(g) Floras Creek/New River from the Bureau of Land Management boat ramp at Storm Ranch upstream to the confluence with the Floras Lake outlet open for wild coho salmon from November 1–30 or until attainment of an adult coho quota of 200 fish. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(3) Umpqua River mainstem, including tidewater, from the tips of the jetties upstream to confluence with North and South Forks (includes Winchester Bay):

(a) Open for spring Chinook salmon February 1 through June 30, 2015. Bag limit is 2 adult non adipose fin-clipped Chinook per day, 5 per year.

(b) Open for fall Chinook salmon July 1 through December 31, 2015. Bag limit is 2 adult non adipose fin-clipped Chinook per day, 20 per year in combination with all other salmon or steelhead marked on your tag.

(c) Closed to all angling within a radius of 200 feet from the mouths of all tributaries (including 200 feet into the tributary) of the Umpqua River

between the Scottsburg Bridge (Hwy 38) and the Riverforks Park Boat Ramp until October 1, 2015.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119
Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129
Hist.: FWC 80-1993(Temp), f. 12-21-93, cert. ef. 1-1-94; FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 79-1994(Temp), f. 10-21-94, cert. ef. 7-22-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 57-1995(Temp), f. 7-3-95, cert. ef. 7-4-95; FWC 59-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 82-1995(Temp), f. 9-29-95, cert. ef. 10-1-95; FWC 90-1995(Temp), f. 11-29-95, cert. ef. 1-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 52-1996, f. & cert. ef. 9-11-96; FWC 61-1996, f. & cert. ef. 10-9-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 32-1997(Temp), f. & cert. ef. 5-23-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 24-1998(Temp), f. & cert. ef. 3-25-98 thru 9-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 52-1998(Temp), f. 7-10-98, cert. ef. 7-11-98 thru 7-24-98; DFW 55-1998(Temp), f. & cert. ef. 7-24-98 thru 12-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 48-2000(Temp), f. 8-14-00, cert. ef. 8-15-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 8-2001, f. & cert. ef. 3-5-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 42-2001(Temp), f. 5-25-01, cert. ef. 5-29-01 thru 7-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 97-2001(Temp), f. 10-4-01, cert. ef. 11-1-01 thru 12-31-01; DFW 105-2001(Temp), f. 10-26-01, cert. ef. 11-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp) f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 55-2002(Temp), f. 5-28-02, cert. ef. 7-1-02 thru 11-31-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 124-2002(Temp), f. & cert. ef. 10-30-02 thru 12-31-02 (Suspended by DFW 125-2002(Temp), f. 11-8-02, certe. ef. 11-9-2002); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 127-2004, f. 12-22-04, cert. ef. 1-1-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 24-2006(Temp), f. 4-25-06, cert. ef. 5-13-06 thru 10-31-06; DFW 37-2006(Temp), f. 6-2-06, cert. ef. 6-5-06 thru 12-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 47-2007(Temp), f. 6-18-07, cert. ef. 6-21-07 thru 10-31-07; DFW 56-2007(Temp), 7-6-07, cert. ef. 8-1-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 137-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 54-2008(Temp), f. 5-28-08, cert. ef. 6-1-08 thru 7-31-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 138-2008(Temp), f. 10-28-08, cert. ef. 11-1-08 thru 11-30-08; DFW 140-2008(Temp), f. 11-4-08, cert. ef. 11-5-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 57-2009(Temp), f. 5-27-09, cert. ef. 6-1-09 thru 7-31-09; DFW 77-2009(Temp), f. 6-29-09, cert. ef. 7-1-09 thru 7-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 113-2009(Temp), f. & cert. ef. 9-18-09 thru 12-31-09; DFW 141-2009(Temp), f. 11-4-09, cert. ef. 11-7-09 thru 12-21-09; DFW 143-2009(Temp), f. 11-17-09, cert. ef. 11-19-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 65-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 5-31-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 143-2010(Temp), f. 10-8-10, cert. ef. 10-10-10 thru 12-31-10; DFW 152-2010(Temp), f. 10-27-10, cert. ef. 10-30-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 31-2011(Temp), f. 4-18-11, cert. ef. 5-1-11 thru 10-27-11; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 137-2011(Temp), 9-30-11, cert. ef. 10-1-11 thru 12-31-11; DFW 145-2011(Temp), f. 10-11-11, cert. ef. 10-12-11 thru 12-31-11; DFW 149-2011(Temp), f. 10-20-11, cert. ef. 10-22-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 62-2012, f. 6-12-12, cert. ef. 7-1-12; DFW 138-2012(Temp), f. 10-29-12, cert. ef. 10-31-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 155-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-29-13; DFW 23-2013(Temp), f. 3-20-13, cert. ef. 4-1-13 thru 9-27-13; DFW 50-2013, f. 6-10-13, cert. ef. 7-1-13; DFW 124-2013(Temp), f. 10-29-13, cert. ef. 11-1-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 110-2014, f. & cert. ef. 8-4-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 73-2015. f. 6-22-15, cert. ef. 6-23-15; DFW 74-2015(Temp), f. & cert. ef. 6-23-15 thru 12-19-15

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**Rule Caption:** 2015 Chinook Salmon Seasons on the Siletz River.
**Adm. Order No.:** DFW 75-2015(Temp)
**Filed with Sec. of State:** 6-23-2015
**Certified to be Effective:** 6-24-15 thru 7-31-15
**Notice Publication Date:**
**Rules Amended:** 635-014-0090
**Subject:** This amended rule re-instates modifications needed to clarify the regulations for recreational harvest of Chinook salmon on the Siletz River for the period beginning April 1 through July 31, 2015. The modifications were repealed on June 23 upon filing of permanent rule modifications adopted June 5 by the Oregon Fish and Wildlife Commission.

The re-instated modifications, based on the updated permanent rule, are: A daily bag limit of one non fin-clipped spring Chinook salmon per day and 2 per year; and all salmon that do not have a healed clipped fin must be released unharmed. All other limits and restrictions remain unchanged from those listed in the 2015 Oregon Sport Fishing Regulations, on page 27, for the Siletz River and Bay.
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-014-0090**
**Inclusions and Modifications**

(1) The **2015 Oregon Sport Fishing Regulations** provide requirements for the Northwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the 2015 Oregon Sport Fishing Regulations pamphlet.

(2) Notwithstanding all other requirements provided in the 2015 Oregon Sport Fishing Regulations pamphlet, the following additional rules apply to wild coho salmon angling in waters of the Northwest Zone during the period September 1-December 31, 2015:

(a) For the purposes of regulations described in section (2) of this rule, wild coho are defined as fish with an intact adipose fin.

(b) For all waters in the Northwest and Southwest zones that are open to wild coho harvest, anglers may not take more than 1 wild adult coho and 1 wild jack coho per day regardless of location. There is no seasonal limit on wild coho jacks regardless of location. The seasonal limit on wild coho adults for the Northwest and Southwest zones is 5 fish in aggregate from all waters. Harvest of wild coho salmon is allowed in the following waterbodies with restrictions as specified in sections (2)(c) through (2)(i) of this rule.

(A) No more than 1 adult wild coho may be harvested for the season from either the Nestucca River Basin or the Tillamook River Basin. Wild adult coho taken from these areas do not count towards the 2 fish limit described in section (2)(b)(B) of this rule, but do count towards the overall 5 fish aggregate limit for the Northwest and Southwest zones;

(B) No more than 2 adult wild coho in total for the season may come from any combination of the following areas: Siletz River, Yaquina River, Alsea River, Siuslaw River, Umpqua River, Beaver Creek (Ona Beach), Floras Creek/New River, Coos River, and Coquille River. Wild adult coho taken from these areas do not count towards the 1 fish limit described in section (2)(b)(A) of this rule, but do count towards the overall 5 fish aggregate limit for the Northwest and Southwest zones; and

(C) No more than 5 adult wild coho in total for the season may come from any combination of the following areas: Siltcoos Lake, Tahkenitch Lake, and Tenmile Lake (SW Zone). Wild adult coho taken from these areas do not count against aggregate limits described in sections (2)(b)(A) and (2)(b)(B) of this rule, but do count towards the overall 5 fish limit for the Northwest and Southwest zones as specified in section (2)(b) of this rule.

(c) Tillamook Bay tidewater from the jetty tips upstream to Highway 101 Bridge on Miami, Kilchis, Wilson, and Trask rivers and Burton Bridge on Tillamook River is open on Fridays and Saturdays only for wild coho salmon from September 18 through October 31. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(d) Nestucca Bay tidewater (excluding Little Nestucca tidewater) from the bay mouth upstream to the Cloverdale Bridge (RM 7.1) is open on Sundays and Mondays only for wild coho salmon from September 20 through November 2. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(e) Siletz River and Bay upstream to an ODFW marker sign approximately 1,200 feet upstream of Ojalla Bridge (RM 31) is open for wild coho salmon from September 15 through October 6; Siletz River and Bay upstream to Illahee Boat Ramp is open for wild coho salmon from October 7 –November 30. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(f) The Yaquina River and Bay upstream to the confluence of the Yaquina River and Big Elk Creek are open for wild coho salmon from September 15 through November 30. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(g) The Alsea River and Bay upstream to the USFS River Edge Boat Landing are open for wild coho salmon from September 15 through October 15. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(h) The Siuslaw River and Bay upstream to the confluence of the Siuslaw River with Lake Creek is open for wild coho salmon from September 15 through October 15. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(i) Beaver Creek (at Ona Beach between Newport and Waldport) from footbridge west of Highway 101 upstream to the power line crossing near the the confluence of South Fork Beaver Creek (Ona Beach) open for wild coho salmon from November 1-30 or until attainment of an adult wild coho quota of 150 fish. Daily and seasonal catch limits as described in section (2)(b) of this rule apply.

(3) Siletz River and Bay, upstream to painted boulder located 900 feet downstream from Siletz Falls at rivermile 64.4 including tidewater:

(a) Open for adipose fin-clipped steelhead all year;

(b) Open for spring Chinook salmon April 1-July 31, upstream to deadline marker at Moonshine Park boat ramp, one non fin-clipped spring Chinook salmon per day and 2 per year;

(c) Open for fall Chinook salmon August 1-December 31 upstream to marker sign approximately 1200 feet upstream of Ojalla Bridge;

(d) Open for fall Chinook salmon October 7-December 31 upstream to Illahee boat ramp; and

(e) Use of bait is allowed.

Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119

Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 28-1995(Temp), f. 3-31-95, cert. ef. 5-1-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 19-1996, f. & cert. ef. 5-16-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 29-1996, f. & cert. ef. 5-31-96; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 55-1996(Temp), f. 9-25-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 58-1997, f. 9-8-97, cert. ef. 10-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 69-1998, f. 8-28-98, cert. ef. 9-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 81-2001, f. & cert. ef. 8-29-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp) f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 118-2002(Temp), f, 10-22-02, cert. ef. 12-1-02 thru 3-31-03; DFW 120-2002(Temp), f. 10-24-02, cert. ef. 10-26-02 thru 3-31-03; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp) f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 38-2003(Temp), f. 5-7-03, cert. ef. 5-10-03 thru 10-31-03; DFW 51-2003(Temp), f. & cert. ef. 6-13-03 thru 10-31-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 108-2003(Temp), f. 10-28-03, cert. ef. 12-1-03 thru 3-31-04; DFW 123-2003(Temp), f. 12-10-03, cert. ef. 12-11-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 126-2003(Temp), f. 12-11-03, cert. ef. 1-1-04 thru 3-31-04; DFW 60-2004(Temp), f. 6-29-04, cert. ef 7-1-04 thru 7-15-04; DFW 90-2004(Temp), f. 8-30-04, cert. ef. 10-1-04 thru 12-31-04; DFW 103-2004(Temp), f. & cert, ef, 10-4-04 thru 12-31-04; DFW 108-2004(Temp), f. & cert. ef. 10-18-04 thru 12-31-04; DFW 111-2004(Temp), f. 11-16-04, cert. ef. 11-20-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 62-2005(Temp), f. 6-29-05, cert. ef. 7-1-05 thru 7-10-05; Administrative correction 7-20-05; DFW 105-2005(Temp), f. 9-12-05, cert. ef. 10-1-05 thru 12-15-05; DFW 127-2005(Temp), f. & cert. ef. 11-23-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 53-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 7-9-06; Administrative correction 7-20-06; DFW 64-2006(Temp), f. 7-17-06, cert. ef. 8-1-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 104-2006(Temp), f. 9-19-06, cert. ef. 10-1-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 63-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 25-2008(Temp), f. 3-13-08, cert. ef. 3-15-08 thru 9-10-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 43-2009(Temp), f. 5-5-09, cert. ef. 5-22-09 thru 10-31-09; DFW 67-2009(Temp), f. 6-9-09, cert. ef. 6-15-09 thru 10-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 99-2009(Temp), f. 8-26-09, cert. ef. 9-1-09 thru 12-31-09; DFW 115-2009(Temp), f. & cert. ef. 9-22-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 44-2010(Temp), f. 4-20-10, cert. ef. 4-21-10 thru 9-30-10; DFW 73-2010(Temp), f. 5-27-10, cert. ef. 6-1-10 thru 9-30-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 89-2010(Temp), f. 6-28-10, cert. ef. 7-1-10 thru 9-30-10; Administrative correction 10-26-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 57-2011(Temp), f. 5-27-11, cert. ef. 6-1-11 thru 6-30-11; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 139-2011(Temp), f. 10-3-11, cert. ef. 10-6-11 thru 12-31-11; DFW 141-2011(Temp), f. 10-6-11, cert. ef. 10-10-11 thru 12-31-11; DFW 143-2011(Temp), f. 10-10-11, cert. ef. 10-11-11 thru 12-31-11; DFW 148-2011(Temp), f. 10-20-11, cert. ef. 10-21-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 53-2012(Temp), f. 5-29-12, cert. ef. 6-1-12 thru 10-31-12; DFW 62-2012, f. 6-12-12, cert. ef. 7-1-12; DFW 63-2012(Temp), f. & cert. ef. 6-12-12 thru 10-31-12; DFW 71-2012(Temp), f. 6-27-12, cert. ef. 7-1-12 thru 11-30-12; DFW130-2012(Temp), f. 10-10-12, cert. ef. 10-13-12 thru 12-31-12; DFW 135-2012(Temp), f. 10-22-12, cert. ef. 10-24-12 thru 12-31-12; DFW 139-2012(Temp), f. 10-30-12, cert. ef. 10-31-12 thru 12-31-12; DFW 152-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 23-2013(Temp), f. 3-20-13, cert. ef. 4-1-13 thru 9-27-13; DFW 43-2013(Temp), f. 5-29-13, cert. ef. 6-1-13 thru 10-31-13; DFW 50-2013, f. 6-10-13, cert. ef. 7-1-13; DFW 60-2013(Temp), f. 6-24-13, cert. ef. 6-30-13 thru 9-30-13; Administrative correction 11-1-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 74-2014(Temp), f. 6-23-14, cert. ef. 6-30-14 thru 9-30-14; DFW 110-2014, f. & cert. ef. 8-4-14; DFW 111-2014(Temp), f. & cert. ef. 8-4-14 thru 9-30-14; DFW 133-2014(Temp), f. 9-16-14 & cert. ef. 9-17-14 thru 12-31-14; DFW 148-2014(Temp), f. 10-13-14, cert. ef. 10-15-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 23-2015(Temp), f. & cert. ef. 4-1-15 thru 7-31-15; DFW 73-2015. f. 6-22-15, cert. ef. 6-23-15; DFW 75-2015(Temp), f. 6-23-15, cert. ef. 6-24-15 thru 7-31-15

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**Rule Caption:** 2015 Commercial Spring Fishery for the Blind Slough Select Area Modified.

**Adm. Order No.:** DFW 76-2015(Temp)

**Filed with Sec. of State:** 6-23-2015

**Certified to be Effective:** 6-25-15 thru 7-31-15

**Notice Publication Date:**

**Rules Amended:** 635-042-0160

**Rules Suspended:** 635-042-0160(T)

**Subject:** This amended rule authorizes three additional 12-hour commercial fishing periods, in the Oregon state waters of Blind Slough, to the end of the spring Chinook season for Blind and Knappa sloughs in the Select Areas of the Columbia River. Rule modifications are consistent with action taken June 23, 2015 by Columbia River Fisheries Managers at the Oregon Department of Fish and Wildlife.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-042-0160**

**Blind Slough and Knappa Slough Select Area Salmon Season**

(1) Salmon and shad may be taken for commercial purposes during open 2015 fishing periods described as the winter fishery and the spring fishery in subsections (1)(a)(A) and (1)(a)(B) respectively, of this rule in those waters of Blind Slough and Knappa Slough. Retention and sale of white sturgeon is prohibited. The following restrictions apply:

(a) The open fishing periods are established in segments categorized as the winter fishery in Blind Slough and Knappa Slough in subsection (1)(a)(A), the winter fishery in Blind Slough only in subsection (1)(a)(B), and the spring fishery in Blind Slough and Knappa Slough in subsections (1)(a)(C) and (1)(a)(D). The seasons are open nightly from 7:00 p.m. to 7:00 a.m. the following morning (12 hours), as follows:

(A) Blind Slough and Knappa Slough: Monday and Thursday nights beginning Monday, February 9 through Friday, March 20 (12 nights);

(B) Blind Slough Only: Monday and Thursday nights beginning Monday, March 23 through Tuesday, March 31 (3 nights);

(C) Blind Slough and Knappa Slough Monday and Thursday nights beginning Monday, May 11 through Friday, June 12 (10 nights);

(D) Blind Slough and Knappa Slough Tuesday, June 16 through Wednesday, June 17 and Thursday, June 18 through Friday, June 19 (2 nights); and

(E) Blind Slough (Oregon state waters only) Thursday, June 25 through Friday, June 26, Monday, June 29 through Tuesday, June 30 and Thursday, July 2 through Friday, July 3 (3 nights).

(b) The fishing areas for the winter and spring seasons are:

(A) Blind Slough are those waters from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge.

(B) Knappa Slough are all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

(C) During the period from May 4 through June 19, 2015, the Knappa Slough fishing area extends downstream to the boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon shore.

(D) During the period from June 25 through July 3, 2015, the lower boundary of the Blind Slough fishing area is defined as the railroad bridge located approximately 1.25 miles upstream from the mouth of Blind Slough.

(c) Gear restrictions are as follows:

(A) During the winter and spring fisheries, outlined above in subsections (1)(a)(A), (1)(a)(B), (1)(a)(C) and (1)(a)(D), gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. The attachment of additional weight and/or anchors directly to the lead line is permitted.

(B) It is unlawful to use a gill net having a mesh size that is less than 7-inches during the winter fishery or greater than 9.75-inches during the spring fishery.

(C) Nets not specifically authorized for use in these areas may be onboard a vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

(2) Oregon licenses are required in the open waters upstream from the railroad bridge.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 48-1999(Temp), f. & cert. ef. 6-24-99 thru 7-2-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 65-2000(Temp) f. 9-22-00, cert. ef. 9-25-00 thru 12-31-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. 2-13-02, cert. ef. 2-18-02 thru 8-17-02; DFW

96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert.ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 16-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 16-2006(Temp), f. 3-23-06 & cert. ef. 3-26-06 thru 7-27-06; DFW 18-2006(Temp), f. 3-29-06, cert. ef. 4-2-06 thru 7-27-06; DFW 20-2006(Temp), f. 4-7-06, cert. ef. 4-9-06 thru 7-27-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 75-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 92-2006(Temp), f. 9-1-06, cert. ef. 9-5-06 thru 12-31-06; DFW 98-2006(Temp), f. & cert. ef. 9-12-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert . ef. 8-1-08 thru 12-31-08; DFW 103(Temp), f. 8-26-08, cert. ef. 9-2-08 thru 10-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 15-2010(Temp), f. 2-19-10, cert. ef. 2-21-10 thru 6-11-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 44-2011(Temp), f. & cert. ef. 5-11-11 thru 6-10-11; Administrative correction 6-28-11; DFW 113-2011(Temp), f. 8-10-11, cert. ef. 8-15-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; DFW 104-2012(Temp), f. 8-6-12, cert. ef. 8-13-12 thru 10-31-12; Administrative correction 11-23-12; DFW 11-2013(Temp), f. 2-8-13, cert. ef. 2-11-13 thru 7-31-13; DFW 24-2013(Temp), f. & cert. ef. 3-21-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 91-2013(Temp), f. 8-22-13, cert. ef. 8-26-13 thru 10-31-13; DFW 110-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; Administrative correction, 11-22-13; DFW 8-2014(Temp), f. & cert. ef. 2-10-14 thru 7-31-14; DFW 35-2014(Temp), f. & cert. ef. 4-24-14 thru 7-31-14; DFW 39-2014(Temp), f. 5-7-14, cert. ef. 5-8-14 thru 7-31-14; DFW 115-2014(Temp), f. 8-5-14, cert. ef. 8-18-14 thru 10-31-14; DFW 135-2014(Temp), f & cert. ef. 9-19-14 thru 10-31-14; Administrative correction 11-24-14; DFW 10-2015(Temp), f. 2-3-15, cert. ef. 2-9-15 thru 7-30-15; DFW 29-2015(Temp), f. & cert. ef. 4-21-15 thru 7-30-15; DFW 37-2015(Temp), f. 5-1-15, cert. ef. 5-4-15 thru 7-30-15; DFW 70-2015(Temp), f. 6-15-15, cert. ef. 6-16-15 thru 7-31-15; DFW 76-2015(Temp), f. 6-23-15, cert. ef. 6-25-15 thru 7-31-15

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**Rule Caption:** Coastal Pelagic Species Fisheries Rules Modified.
**Adm. Order No.:** DFW 77-2015
**Filed with Sec. of State:** 6-29-2015
**Certified to be Effective:** 6-29-15
**Notice Publication Date:** 5-1-2015
**Rules Adopted:** 635-004-0376
**Rules Amended:** 635-004-0370, 635-004-0375, 635-004-0405, 635-004-0430
**Rules Repealed:** 635-004-0370(T), 635-004-0375(T), 635-004-0405(T), 635-004-0430(T), 635-004-0420, 635-004-0500, 635-004-0520, 635-004-0535, 635-004-0376(T)
**Subject:** These adopted, amended and repealed administrative rules for commercial pelagic species fisheries bring the State of Oregon concurrent with federally adopted regulations. Housekeeping and technical corrections to the regulations were made to ensure rule consistency.
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-004-0370**
**Organization of Rules**

(1) Administrative rules contained in OAR 635-004-0375 and 635-004-0376 shall apply to all fisheries in the Coastal Pelagic and Smelt Species section, and are in addition to and not in lieu of Division 004 General Regulations contained in OAR 635-004-0200 through OAR 635-004-0265. The Coastal Pelagic and Smelt Species Section includes regulations for the Sardine, Inland Waters Herring, Yaquina Bay Roe-Herring, Pacific Ocean Herring, Anchovy and Smelt Fisheries.

(2) Market squid are managed under the Coastal Pelagic Species Fishery Management Plan and through the regulations adopted by reference in OAR 635-004-0375. However, market squid are managed as a shellfish when landed in Oregon, and are subject to regulations in the Squid Fishery Section in Division 005.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 47-2015(Temp), f. 5-21-15, cert. ef. 5-27-15 thru 11-22-15; DFW 77-2015, f. & cert. ef. 6-29-15

**635-004-0375**
**Scope, Inclusion, and Modification of Rules**

(1) The commercial coastal pelagic species fishery in the Pacific Ocean off Oregon is jointly managed by the state of Oregon and the federal government through the Pacific Fishery Management Council process. The Code of Federal Regulations provides federal requirements for this fishery, including but not limited to the time, place, and manner of taking coastal pelagic species. However, additional regulations may be promulgated subsequently by publication in the Federal Register, and these supersede, to the extent of any inconsistency, the Code of Federal Regulations. Therefore, the following publications are incorporated into Oregon Administrative Rule by reference:

(a) Code of Federal Regulations, Part 660, Subpart I, (October 1, 2013 ed.); and

(b) Federal Register Vol. 80, No. 124, dated June 29, 2015 (80 FR 36933).

(2) Persons must consult the federal regulations in addition to Division 004 to determine all applicable coastal pelagic species fishing requirements. Where federal regulations refer to the fishery management area, that area is extended from shore to three nautical miles from shore coterminous with the Exclusive Economic Zone.

(3) The Commission may adopt additional or modified regulations that are more conservative than federal regulations, in which case Oregon Administrative Rule takes precedence. See OAR 635-004-0205 through 635-004-0235 and 635-004-0380 through 635-004-0545 for additions or modifications to federal coastal pelagic species regulations.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 496.162, 506.109 & 506.129
Hist.: DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 110-2012(Temp), f. 8-21-12, cert. ef. 8-23-12 thru 9-14-12; Administrative correction 9-20-12; DFW 58-2013, f. & cert. ef. 6-19-13; DFW 90-2013(Temp), f. 8-20-13, cert. ef. 8-22-13 thru 9-14-13; DFW 76-2014(Temp), f. 6-24-14, cert. ef. 6-25-14 thru 7-31-14; DFW 99-2014, f. 7-21-14, cert. ef. 7-22-14 thru 9-30-14; DFW 104-2014(Temp), f. 7-29-14, cert. ef. 8-1-14 thru 9-30-14; DFW 114-2014, f. & cert. ef. 8-5-14; Suspended by DFW 129-2014(Temp), f. 9-10-14, cert. ef. 9-15-14 thru 9-30-14; DFW 136-2014(Temp), f. 9-19-14, cert. ef. 9-20-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 30-2015(Temp), f. 4-22-15, cert. ef. 4-25-15 thru 6-30-15; DFW 47-2015(Temp), f. 5-21-15, cert. ef. 5-27-15 thru 11-22-15; DFW 77-2015, f. & cert. ef. 6-29-15

**635-004-0376**
**Logbook Required**

(1) The Department shall make available a logbook to each licensed commercial fishing vessel used to take any Coastal Pelagic Species with purse seine gear.

(2) The vessel operator of such vessel is responsible for maintaining the logbook in an accurate and truthful manner and in accordance with the instructions contained therein.

(3) Upon request of an authorized representative of the Department or the Oregon State Police, the vessel operator shall permit examination and transcription of information of such logbook.

(4) Upon request of an authorized representative of the Department, the vessel operator shall surrender a legible copy of such logbook.

(5) For Coastal Pelagic Species fisheries requiring a Restricted Participation Permit, the permit holder and vessel operator are jointly responsible for complying with sections (2) through (4) of this rule.

(6) Information so received by the Department shall be considered confidential.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129
Stats. Implemented: ORS 506.109, 506.129, 508.765
Hist.: DFW 47-2015(Temp), f. 5-21-15, cert. ef. 5-27-15 thru 11-22-15; DFW 77-2015, f. & cert. ef. 6-29-15

**635-004-0405**
**Renewal of Permit**

(1) Sardine Permits may be renewed for the following year:

(a) By submitting a $100.00 fee (plus a $2.00 license agent fee) and a complete application to the Department date-stamped or postmarked by December 31 of the year the permit is sought for renewal; and

(b) If all logbooks required under OAR 635-004-0376 were submitted;

(2) An application for renewal of a Sardine Permit shall be considered complete if it is legible, has all information requested in the form, and is accompanied by the required fee in full. Any application which is not complete shall be returned, and unless it is thereafter resubmitted and deemed complete by December 31 of the permit year sought, the individual shall not be considered to have applied for renewal in a timely manner.

(3) It is the responsibility of the permittee to ensure that an application is complete and is filed in a timely manner. Failure of the Department to return an application for incompleteness or of an individual to receive a returned application shall not be grounds for treating the application as having been filed in a timely and complete manner.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 47-2015(Temp), f. 5-21-15, cert. ef. 5-27-15 thru 11-22-1; 5; DFW 77-2015, f. & cert. ef. 6-29-15

**635-004-0430**
**Sardine Catching Vessel**

(1) Only a sardine catching vessel may pump fish onboard, directly from the pursed seine of another sardine catching vessel, and lawfully land that catch.

(2) Any sardine catching vessel involved in pumping fish from the pursed seine of another sardine catching vessel must have onboard legal seine gear capable of catching sardine including, but not limited to seine net, skiff, and pumping gear. All gear must be in working order.

(3) Any sardine catching vessels involved in pumping fish from a pursed seine with other sardine catching vessels shall document in the logbooks required under OAR 635-004-0376 the vessel(s) that made the set, any other vessel(s) pumping fish from the pursed seine, as well as all appropriate information on catch and location.

(4) No more that 20% of the landings made by a sardine catching vessel may contain fish pumped from pursed seines of other sardine catching vessels.

(5) For the purposes of this rule, "Sardine catching vessel" means a vessel holding a valid Sardine Permit pursuant to OAR 635-004-0385 that lawfully deployed purse seine gear during the current year and pumped resultant catch onboard the same vessel for delivery to a port of landing or fish dealer.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: DFW 38-2009, f. & cert. ef. 4-22-09; Renumbered from 635-004-0012, DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 47-2015(Temp), f. 5-21-15, cert. ef. 5-27-15 thru 11-22-15; DFW 77-2015, f. & cert. ef. 6-29-15

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**Rule Caption:** Purse Seine Fishery Requirements for Coastal Pelagic Species.
**Adm. Order No.:** DFW 78-2015(Temp)
**Filed with Sec. of State:** 6-29-2015
**Certified to be Effective:** 6-29-15 thru 12-25-15
**Notice Publication Date:**
**Rules Amended:** 635-004-0375
**Subject:** This amended rule places requirements on commercial directed purse seine fisheries for coastal pelagic species (mackerels, anchovy, and herring) consistent with appropriate conservation and management requirements currently in place for sardine fisheries. These requirements include logbooks, measures to minimize bycatch mortality, and limits on landings allowed to be processed for reduction purposes. To minimize wastage, these rules allow purse seine vessels to pump catch from another purse seine vessel and land this catch into Oregon.
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-004-0375**
**Scope, Inclusion, and Modification of Rules**

((1) The commercial coastal pelagic species fishery in the Pacific Ocean off Oregon is jointly managed by the state of Oregon and the federal government through the Pacific Fishery Management Council process. The Code of Federal Regulations provides federal requirements for this fishery, including but not limited to the time, place, and manner of taking coastal pelagic species. However, additional regulations may be promulgated subsequently by publication in the Federal Register, and these supersede, to the extent of any inconsistency, the Code of Federal Regulations. Therefore, the following publications are incorporated into Oregon Administrative Rule by reference:

(a) Code of Federal Regulations, Part 660, Subpart I, (October 1, 2013 ed.); and

(b) Federal Register Vol. 80, No. 124, dated June 29, 2015 (80 FR 36933).

(2) Persons must consult the federal regulations in addition to Division 004 to determine all applicable coastal pelagic species fishing requirements. Where federal regulations refer to the fishery management area, that area is extended from shore to three nautical miles from shore coterminous with the Exclusive Economic Zone.

(3) Notwithstanding the above, the third allocation period for the 2014-2015 commercial directed sardine fishery is closed as of 12:01 a.m. Saturday, April 25, 2015. Fishing vessels with Pacific sardine on board taken in the directed harvest fishery must be at shore/dock and in the process of offloading at the time of closure.

(4) The Commission may adopt additional or modified regulations that are more conservative than federal regulations, in which case Oregon Administrative Rule takes precedence. See OAR 635-004-0205 through 635-004-0235 and 635-004-0380 through 635-004-0545 for additions or modifications to federal coastal pelagic species regulations. The following additions and modifications also apply to any coastal pelagic species in the ocean, except sardine and market squid:

(a) Fisheries using purse seine gear to fish for coastal pelagic species must comply with the fishing gear and bycatch restriction provisions as described in OAR 635-004-0425 and 635-004-0435 for the sardine fishery.

(b) No directed reduction fishery is allowed for any coastal pelagic species, as described in OAR 635-004-0440 for sardines.

(c) A vessel using purse seine gear to fish for a coastal pelagic species may operate as a coastal pelagic species catching vessel as described in provisions in OAR 635-004-0430 for the sardine fishery except for the purposes of this rule, "Coastal pelagic species catching vessel" means a vessel that lawfully deployed purse seine gear during the current year and pumped resultant catch onboard the same vessel for delivery to a port of landing or fish dealer in Oregon.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 496.162, 506.109 & 506.129
Hist.: DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 110-2012(Temp), f. 8-21-12, cert. ef. 8-23-12 thru 9-14-12; Administrative correction 9-20-12; DFW 58-2013, f. & cert. ef. 6-19-13; DFW 90-2013(Temp), f. 8-20-13, cert. ef. 8-22-13 thru 9-14-13; DFW 76-2014(Temp), f. 6-24-14, cert. ef. 6-25-14 thru 7-31-14; DFW 99-2014, f. 7-21-14, cert. ef. 7-22-14 thru 9-30-14; DFW 104-2014(Temp), f. 7-29-14, cert. ef. 8-1-14 thru 9-30-14; DFW 114-2014, f. & cert. ef. 8-5-14; Suspended by DFW 129-2014(Temp), f. 9-10-14, cert. ef. 9-15-14 thru 9-30-14; DFW 136-2014(Temp), f. 9-19-14, cert. ef. 9-20-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 30-2015(Temp), f. 4-22-15, cert. ef. 4-25-15 thru 6-30-15; DFW 47-2015(Temp), f. 5-21-15, cert. ef. 5-27-15 thru 11-22-15; DFW 77-2015, f. & cert. ef. 6-29-15; DFW 78-2015(Temp), f. & cert. ef. 6-29-15 thru 12-25-15

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**Rule Caption:** 2015 Columbia River Summer Recreational Fisheries Modified.
**Adm. Order No.:** DFW 79-2015(Temp)
**Filed with Sec. of State:** 6-30-2015
**Certified to be Effective:** 7-3-15 thru 7-31-15
**Notice Publication Date:**
**Rules Amended:** 635-023-0128
**Rules Suspended:** 635-023-0128(T)
**Subject:** This amended rule modifies the ongoing 2015 summer recreational salmon fishing seasons in the Columbia River. Modifications extend the season from the Astoria-Megler Bridge upstream to Bonneville Dam through July 31, 2015 and amend the daily bag limit for adult salmonids to include only one Chinook (marked or unmarked) from The Astoria-Megler Bridge upstream to the OR/WA border. Modifications are consistent with action taken June 30, 2015 by the Oregon and Washington Departments of Fish and Wildlife at a meeting of the Columbia River Compact.
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-023-0128**
**Summer Sport Fishery**

(1) The **2015 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the **2015 Oregon Sport Fishing Regulations**.

(2) Retention of sockeye and summer Chinook is allowed in the mainstem Columbia River:

(a) From the Astoria-Megler Bridge upstream to the Oregon/Washington border beginning July 3 through July 31.

(b) The daily bag limit is two adult salmonids, only one of which may be Chinook; and five jack Chinook (between 12 and 24 inches in total length). All sockeye are considered adults in the daily limit and must be recorded as adults on the combined angling tag.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162 & 506.129
Hist.: DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 52-2005(Temp), f. 6-3-05, cert. ef. 6-16-05 thru 7-31-05; DFW 64-2005(Temp), f. 6-30-05, cert. ef. 7-1-05 thru 7-31-05; Administrative correction 8-17-05; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 51-2007(Temp), f. 6-29-07, cert. ef. 7-2-07 thru 7-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 36-2008, f. 4-21-08, cert. ef. 5-1-08; DFW 61-2008(Temp), f. 6-13-08, cert. ef. 6-16-08 thru 7-31-08; DFW 68-2008(Temp), f. 6-20-08, cert. ef. 6-21-08 thru 8-31-08; DFW 71-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; Administrative correction 9-29-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 69-2009(Temp), f. 6-11-09, cert. ef. 6-16-09 thru 7-31-09; Administrative correction 8-21-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 77-2010, f. 6-8-10, cert. ef. 6-16-10; DFW 88-2010(Temp), f. 6-25-10, cert. ef. 6-26-10 thru 7-31-10; Administrative correction 8-18-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 65-2011(Temp), f. 6-14-11, cert. ef. 6-16-11 thru 7-31-11; DFW 95-2011(Temp), f. 7-15-11, cert. ef. 7-18-11 thru 7-31-11; Administrative correction 9-23-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 64-2012(Temp), f. 6-12-12, cert. ef. 6-16-12 thru 7-31-12; [DFW 85-2012(Temp), f. 7-6-12, cert. ef. 7-9-12 thru 8-31-12; Temporary Suspended by DFW 100-2012(Temp), f. 7-31-12, cert. ef. 8-1-12 thru 12-31-12]; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 55-2013(Temp), f. 6-12-13, cert. ef. 6-16-13 thru 7-31-13; DFW 66-2013(Temp), f. & cert. ef. 6-27-13 thru 7-31-13; DFW 70-2013(Temp), f. 7-11-13, cert. ef. 7-13-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 68-2014(Temp), f. 6-12-14, cert. ef. 6-16-14 thru 7-31-14; DFW 85-2014(Temp), f. 7-2-14, cert. ef. 7-3-14 thru 7-31-14; DFW 92-2014(Temp), f. 7-10-14, cert. ef. 7-11-14 thru 7-31-14; Administrative correction, 8-28-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 61-2015(Temp), f. 6-8-15, cert. ef. 6-16-15 thru 7-31-15; DFW 79-2015(Temp), f. 6-30-15, cert. ef. 7-3-15 thru 7-31-15

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**Rule Caption:** Columbia River Zone 6 Treaty Indian Summer Chinook Commercial Fishery Extended.
**Adm. Order No.:** DFW 80-2015(Temp)
**Filed with Sec. of State:** 6-30-2015
**Certified to be Effective:** 7-6-15 thru 7-31-15
**Notice Publication Date:**
**Rules Amended:** 635-041-0076
**Rules Suspended:** 635-041-0076(T)
**Subject:** This amended rule authorizes sales of fish caught in a 2.5 day Treaty tribal commercial gill net fishery in the Columbia River beginning 6:00 a.m. Monday, July 6, 2015. Modifications are consistent with action taken June 30, 2015 by the Departments of Fish & Wildlife for the States of Oregon and Washington in cooperation with the Columbia River Treaty Tribes at a meeting of the Columbia River Compact.
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-041-0076**
**Summer Salmon Season**

(1) Salmon, steelhead, shad, walleye, catfish, bass, yellow perch, and carp may be taken for commercial purposes from Zone 6, in the Columbia River Treaty Indian Fishery, from 12:01 a.m. Tuesday, June 16 through 11:59 p.m. Thursday, July 31, 2015. Fish caught during an open period may be sold after the period concludes.

(a) White sturgeon between 43-54 inches in fork length caught in The Dalles Pool and John Day pools and white sturgeon between 38-54 inches in fork length caught in the Bonneville Pool may not be sold but may be retained for subsistence use.

(b) Gear is restricted to subsistence fishing gear which includes hoopnets, dipnets, and rod and reel with hook-and-line. Fish may also be taken by gill net from 6:00 a.m. Monday, July 6 through 6:00 p.m. Wednesday, July 8, 2015 (2.5 days). Gill nets have a 7-inch minimum mesh size restriction.

(c) Closed areas as set forth in OAR 635-041-0045 remain in effect with the exception of Spring Creek Hatchery sanctuary.

(2) Beginning 12:01 a.m. Tuesday, June 16 through 11:59 p.m. Friday, July 31, 2015, commercial sales of salmon, steelhead, walleye, shad, catfish, carp, bass and yellow perch caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; and Drano Lake are allowed for Yakama Nation members during those days and hours when these tributaries are open under lawfully enacted Yakama Nation fishing periods.

(a) Sturgeon between 43-54 inches in fork length harvested in tributaries within The Dalles or John Day pools and sturgeon between 38-54 inches in fork length harvested in tributaries within Bonneville Pool may not be sold but may be kept for subsistence purposes.

(b) Gear is restricted to subsistence fishing gear which includes hoopnets, dipnets, and rod and reel with hook-and-line. Gillnets may only be used in Drano Lake.

Stat. Auth.: ORS 496.118 & 506.119
Stats. Implemented: ORS 506.109, 506.129 & 507.030
Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 39-2006(Temp), f. & cert. ef. 6-8-06 thru 7-31-06; DFW 46-2006(Temp), f. & cert. ef. 6-20-06 thru 7-31-06; DFW 49-2006(Temp), f. 6-26-06, cert. ef. 6-27-06 thru 7-31-06; DFW 56-2006(Temp), f. 6-30-06, cert. ef. 7-3-06 thru 7-31-06; DFW 58-2006(Temp), f. 7-6-06, cert. ef. 7-10-06 thru 7-31-06; Administrative correction 8-22-06; DFW 46-2007(Temp), f. 6-15-07, cert. ef. 6-16-07 thru 9-13-07; DFW 49-2007(Temp), f. 6-22-07, cert. ef. 6-26-07 thru 9-13-07; DFW 53-2007(Temp), f. & cert. ef. 7-6-07 thru 7-31-07; Administrative correction 9-16-07; DFW 45-2008(Temp), f. 5-2-08, cert. ef. 5-5-08 thru 7-31-08; DFW 47-2008(Temp), f. 5-9-08, cert. ef. 5-11-08 thru 7-31-08; DFW 62-2008(Temp), f. 6-13-08, cert. ef. 6-16-08 thru 8-31-08; DFW 68-2008(Temp), f. 6-20-08, cert. ef. 6-21-08 thru 8-31-08; DFW 71-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; DFW 80-2008(Temp), f. & cert. ef. 7-10-08 thru 8-31-08; DFW 87-2008(Temp), f. & cert. ef. 7-25-08 thru 8-31-08; DFW 94-2008(Temp), f. & cert. ef. 8-14-08 thru 9-30-08; Administrative correction 10-21-08; DFW 50-2009(Temp), f. 5-14-09, cert. ef. 5-16-09 thru 7-31-09; DFW 56-2009(Temp), f. 5-26-09, cert. ef. 5-27-09 thru 7-31-09; DFW 71-2009(Temp), f. 6-15-09, cert. ef. 6-16-09 thru 7-31-09; DFW 76-2009(Temp), f. 6-26-09, cert. ef. 6-30-09 thru 7-31-09; DFW 82-2009(Temp), f. 7-6-09, cert. ef. 7-8-09 thru 7-31-09; DFW 84-2009(Temp), f. 7-13-09, cert. ef. 7-15-09 thru 7-31-09; Administrative correction 8-21-09; DFW 48-2010(Temp), f. 4-26-10, cert. ef. 4-27-10 thru 7-31-10; DFW 51-2010(Temp), f. & cert. ef. 4-29-10 thru 7-31-10; DFW 56-2010(Temp), f. 5-10-10, cert. ef. 5-11-10 thru 7-31-10; DFW 68-2010(Temp), f. 5-18-10, cert. ef. 5-19-10 thru 7-31-10; DFW 71-2010(Temp), f. 5-19-10, cert. ef. 5-21-10 thru 6-16-10; DFW 74-2010(Temp), f. & cert. ef. 6-2-10 thru 7-31-10; DFW 80-2010(Temp), f. 6-14-10, cert. ef. 6-16-10 thru 7-31-10; DFW 87-2010(Temp), f. 6-25-10, cert. ef. 6-29-10 thru 7-31-10; DFW 97-2010(Temp), f. 7-8-10, cert. ef. 7-13-10 thru 7-31-10; DFW 101-2010(Temp), f. 7-19-10, cert. ef. 7-20-10 thru 7-31-10; DFW 105-2010(Temp), f. 7-23-10, cert. ef. 7-26-10 thru 7-31-10; Administrative correction 8-18-10; DFW 43-2011(Temp), f. & cert. ef. 5-10-11 thru 10-31-11; DFW 66-2011(Temp), f. 6-14-11, cert. ef. 6-16-11 thru 10-31-11; DFW 75-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 10-31-11; DFW 84-2011(Temp), f. 7-1-11, cert. ef. 7-5-11 thru 10-31-11; DFW 88-2011(Temp), f. 7-8-11, cert. ef. 7-10-11 thru 10-31-11; DFW 94-2011(Temp), f. 7-14-11, cert. ef. 7-18-11 thru 10-31-11; DFW 98-2011(Temp), f. 7-20-11, cert. ef. 7-25-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 66-2012(Temp), f. 6-14-12, cert. ef. 6-18-12 thru 7-31-12; DFW 81-2012(Temp), f. 6-29-12, cert. ef. 7-3-12 thru 8-31-12; [DFW 87-2012(Temp), f. 7-11-12, cert. ef. 7-12-12 thru 8-31-12; Temporary Suspended by DFW 94-2012(Temp), f. & cert. ef. 7-27-12 thru 10-31-12]; DFW 57-2013(Temp), f. 6-12-13, cert. ef. 6-16-13 thru 7-31-13; DFW 63-2013(Temp), f. 6-27-13, cert. ef. 6-29-13 thru 7-31-13; DFW 69-2013(Temp), f. 7-5-13, cert. ef. 7-6-13 thru 7-31-13; DFW 71-2013(Temp), f. 7-11-13, cert. ef. 7-15-13 thru 7-31-13; DFW 77-2013(Temp), f. 7-18-13, cert. ef. 7-22-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 66-2014(Temp), f. 6-12-14, cert. ef. 6-16-14 thru 7-31-14; DFW 79-2014(Temp), f. 6-26-14, cert. ef. 6-30-14 thru 7-31-14; DFW 91-2014(Temp), f. 7-10-14, cert. ef. 7-14-14 thru 7-31-14; DFW 95-2014(Temp), f. 7-17-14, cert. ef. 7-21-14 thru 7-31-14; DFW 103-2014(Temp), f.7-23-14, cert. ef. 7-28-14 thru 7-31-14; Administrative correction, 8-28-14; DFW 71-2015(Temp), f. 6-15-15, cert. ef. 6-16-15 thru 7-31-15; DFW 80-2015(Temp), f. 6-30-15, cert. ef. 7-6-15 thru 7-31-15

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**Rule Caption:** Spring Chinook Fisheries Close In the Grande Ronde, Imnaha and Wallowa Rivers.
**Adm. Order No.:** DFW 81-2015(Temp)
**Filed with Sec. of State:** 7-1-2015
**Certified to be Effective:** 7-5-15 thru 8-31-15
**Notice Publication Date:**
**Rules Amended:** 635-019-0090
**Rules Suspended:** 635-019-0090(T)
**Subject:** This amended rule closes recreational spring Chinook fisheries in the Grande Ronde, Imnaha and Wallowa rivers. The Grande Ronde River spring Chinook fishery will close at 12:01 a.m. Monday, July 6, 2015. Also, the Imnaha and Wallowa rivers' spring Chinook fisheries will close at 12:01 a.m. Monday, July 13, 2015.
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-019-0090**
**Inclusions and Modifications**

(1) The **2015 Oregon Sport Fishing Regulations** provide requirements for the Northeast Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2015 Oregon Sport Fishing Regulations**.

(2) Lookingglass Creek from the Moses Creek Lane Bridge (County Road 42) to the confluence of Jarboe Creek is open to angling for adipose fin-clipped spring Chinook salmon from May 23, 2015 until further notice.

(a) The daily bag limit is two (2) adipose fin-clipped adult Chinook and five (5) adipose fin-clipped jacks; two daily limits in possession. It is illegal to continue fishing for jack Chinook once the adult bag limit is met.

(b) During the duration of the spring Chinook angling season, the area closure listed for Lookinglass Creek in the Northeast Zone Special

Regulations is modified to: Lookingglass Creek closed between Jarboe Creek and 200 feet upstream of the hatchery water intake.

(c) Hook gap restrictions listed in the Northeast Zone Special Regulations for Lookingglass Creek are removed for the duration of the spring Chinook angling season.

(d) All other General, Statewide and Northeast Zone regulations, as provided in the **2015 Oregon Sport Fishing Regulations**, remain in effect.

(3) The Imnaha River from the mouth to Summit Creek Bridge (River Mile 45) is open to angling for adipose fin-clipped adult Chinook salmon from June 6, 2015 until July 12, 2015.

(a) The daily bag limit is two (2) adipose fin-clipped adult Chinook and five (5) adipose fin-clipped jacks; two daily jack salmon limits in possession. It is illegal to continue fishing for jack Chinook once the adult bag limit is met.

(b) All other General, Statewide and Northeast Zone Regulations, as provided in the **2015 Oregon Sport Fishing Regulations**, remain in effect.

(4) The Wallowa River from a deadline at the lower end of Minam State Park upstream to the confluence with the Lostine River is open to angling for adipose fin-clipped adult Chinook salmon from June 6, 2015 until July 12, 2015.

(a) The daily bag limit is two (2) adipose fin-clipped adult Chinook and five (5) adipose fin-clipped jacks; two daily jack salmon limits in possession. It is illegal to continue fishing for jack Chinook once the adult bag limit is met.

(b) All other General, Statewide and Northeast Zone Regulations, as provided in the **2015 Oregon Sport Fishing Regulations**, remain in effect.

(5) The Grande Ronde River from the Oregon State line upstream to a deadline posted 300 feet upstream of the Grande Ronde River Road bridge below Wildcat Creek, with exception of the reach of river approximately 200 feet upstream and 1300 feet downstream of the footbridge at the town of Troy, is open to angling for adult Chinook salmon from June 13 until July 5, 2015.

(a) The daily bag limit is two (2) adult Chinook and five (5) jacks; two daily limits in possession. It is illegal to continue fishing for jack Chinook once the adult daily bag limit is met.

(b) Statewide salmon gear restrictions apply.

(c) All other General, Statewide and Northeast Zone Regulations, as provided in the **2015 Oregon Sport Fishing Regulations**, remain in effect.

Stat. Auth.: ORS 183.325, 496.138 & 496.146

Stats. Implemented: ORS 496.162

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 57-1994(Temp), f. 8-30-94, cert. ef. 10-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 70-1995, f. 8-29-95, cert. ef. 9-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 27-1996(Temp), f. 5-24-96, cert. ef. 5-25-96; FWC 57-1996(Temp), f. 9-27-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 26-1997(Temp), f. 4-23-97, cert. ef. 5-17-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 13-1998(Temp), f. & cert. ef. 2-26-98 thru 4-15-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 5-1999(Temp), f. 2-5-99, cert. ef. 2-6-99 thru 2-19-99; DFW 8-1999(Temp), f. & cert. ef. 2-23-99 thru 4-15-99; DFW 37-1999(Temp), f. 5-24-99, cert. ef. 5-29-99 thru 6-5-99; DFW 43-1999(Temp), f. & cert. ef. 6-10-99 thru 6-13-99; DFW 45-1999(Temp), f. & cert. ef. 6-14-99 thru 6-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 17-2000(Temp), f. 4-10-00, cert. ef. 4-16-00 thru 6-30-00; DFW 64-2000(Temp), f. 9-21-00, cert. ef. 9-22-00 thru 3-20-01; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 5-2001(Temp), f. 2-22-01, cert. ef. 2-24-01 thru 4-15-01; DFW 39-2001(Temp) f. 5-23-01, cert. ef. 5-26-01 thru 7-1-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 45-2001(Temp), f. 6-1-01, cert. ef. 6-2-01 thru 7-31-01; DFW 49-2001(Temp), f. 6-19-01, cert. ef. 6-22-01 thru 7-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 71-2001(Temp), f. 8-10-01, cert. ef. 9-1-01 thru 12-31-01; DFW 96-2001(Temp), f. 10-4-01, cert. ef. 12-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 52-2002(Temp), f. 5-22-02, cert. ef. 5-26-02 thru 7-1-02; DFW 53-2002(Temp), f. 5-24-02, cert. ef. 5-26-02 thru 7-1-02; DFW 57-2002(Temp), f. & cert. ef. 5-30-02 thru 7-1-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 44-2003(Temp), f. 5-23-03, cert. ef. 5-28-03 thru 7-1-03; DFW 48-2003(Temp), f. & cert. ef. 6-5-03 thru 7-1-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 40-2004(Temp), f. 5-7-04, cert. ef. 5-13-04 thru 7-1-04; DFW 46-2004(Temp), f. 5-21-04, cert. ef. 5-22-04 thru 7-1-04; DFW 55-2004(Temp), f. 6-16-04, cert. ef. 6-19-04 thru 7-5-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 42-2005(Temp), f. & cert. ef. 5-13-05 thru 9-1-05; DFW 61-2005(Temp), f. 6-22-05, cert. ef. 6-25-05 thru 7-4-05; Administrative correction 7-20-05; DFW 99-2005(Temp), f. 8-24-05, cert. ef. 8-26-05 thru 9-30-05; Administrative correction 10-19-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 28-2006(Temp), f. & cert. ef. 5-15-06 thru 6-30-06; DFW 33-2006(Temp), f. 5-24-06, cert. ef. 5-25-06 thru 6-30-06; Administrative correction 7-21-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 12-2007(Temp), f. 2-28-07, cert. ef. 3-1-07 thru 8-27-07; DFW 30-2007(Temp), f. 5-9-07, cert. ef. 5-10-07 thru 9-30-07; DFW 34-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 9-30-07; Administrative correction 10-16-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 56-2008(Temp), f. 5-30-08, cert. ef. 5-31-08 thru 6-30-08; DFW 76-2008(Temp), f. & cert. ef. 7-9-08 thru 9-1-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 128-2009(Temp), f. 10-12-09, cert. ef. 10-18-09 thru 4-15-10; DFW 131-2009(Temp), f. 10-14-09, cert. ef. 10-18-09 thru 4-15-10; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 54-2010(Temp), f. 5-6-10, cert. ef. 5-22-10 thru 9-1-10; DFW 95-2010(Temp), f. 7-1-10, cert. ef. 7-11-10 thru 9-1-10; DFW 102-2010(Temp), f. 7-20-10, cert. ef 7-25-10 thru 9-1-10; Administrative correction 9-22-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 49-2011(Temp), f. 5-16-11, cert. ef. 5-28-11 thru 9-1-11; DFW 64-2011(Temp), f. 6-10-11, cert. ef. 6-13-11 thru 9-1-11; DFW 90-2011(Temp), f. & cert. ef. 7-11-11 thru 9-1-11; DFW 92-2011(Temp), f. 7-12-11, cert. ef. 7-16-11 thru 10-31-11; DFW 99-2011(Temp), f. 7-21-11, cert. ef. 7-23-11 thru 9-1-11; DFW 104-2011(Temp), f. 8-1-11, cert. ef. 8-7-11 thru 9-1-11; Administrative correction 9-23-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 48-2012(Temp), f. 5-18-12, cert. ef. 5-23-12 thru 9-1-12; DFW 50-2012(Temp), f. 5-22-12, cert. ef. 5-24-12 thru 9-1-12; DFW 61-2012(Temp), f. & cert. ef. 6-11-12 thru 8-31-12; DFW 69-2012(Temp), f. 6-20-12, cert. ef. 6-22-12 thru 9-1-12; DFW 70-2012(Temp), f. 6-26-12, cert. ef. 6-27-12 thru 9-1-12; DFW 72-2012(Temp), f. 6-29-12, cert. ef. 7-1-12 thru 8-31-12; DFW 86-2012(Temp), f. 7-10-12, cert. ef. 7-15-12 thru 9-1-12; Administrative correction 9-20-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 153-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 4-30-13; DFW 31-2013(Temp), f. 5-14-13, cert. ef. 5-16-13 thru 6-30-13; DFW 39-2013(Temp), f. 5-22-13, cert. ef. 5-24-13 thru 11-19-13; DFW 46-2013(Temp), f. 5-30-13, cert. ef. 6-1-13 thru 11-26-13; DFW 62-2013(Temp), f. 6-26-13, cert. ef. 7-5-13 thru 12-31-13; DFW 74-2013(Temp), f. 7-15-13, cert. ef. 7-19-13 thru 9-1-13; Administrative correction 11-1-13; DFW 121-2013(Temp), f. 10-24-13, cert. ef. 11-1-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 42-2014(Temp), f. 5-12-14, cert. ef. 5-17-14 thru 6-1-14; DFW 47-2014(Temp), f. 5-27-14, cert. ef. 5-31-14 thru 7-31-14; DFW 53-2014(Temp), f. 5-28-14, cert. ef. 6-1-14 thru 7-31-14; DFW 58-2014(Temp), f. 6-9-14, cert. ef. 6-21-14 thru 8-31-14; DFW 71-2014(Temp), f. 6-16-14, cert. ef. 6-18-14 thru 9-1-14; DFW 72-2014(Temp), f. & cert. ef. 6-19-14 thru 9-1-14; DFW 75-2014(Temp), f. 6-23-14, cert. ef. 6-27-14 thru 9-1-14; DFW 82-2014(Temp), f. 7-1-14, cert. ef. 7-5-14 thru 9-1-14; DFW 86-2014(Temp), f. 7-2-14, cert. ef. 7-5-14 thru 9-1-14; DFW 97-2014(Temp), f. 7-18-14, cert. ef. 7-21-14 thru 9-30-14; Administrative correction, 10-24-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 45-2015(Temp), f. 5-15-15, cert. ef. 5-20-15 thru 6-30-15; DFW 53-2015(Temp), f. 5-27-15, cert. ef. 6-6-15 thru 8-31-15; DFW 64-2015(Temp), f. & cert. ef. 6-9-15 thru 8-31-15; DFW 81-2015(Temp), f. 7-1-15, cert. ef. 7-5-15 thru 8-31-15

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**Rule Caption:** Cumulative Trip Limits for Black Rockfish and Greenling in 2015 Periods 4 through 6 Increased.

**Adm. Order No.:** DFW 82-2015(Temp)

**Filed with Sec. of State:** 7-1-2015

**Certified to be Effective:** 7-5-15 thru 12-31-15

**Notice Publication Date:**

**Rules Amended:** 635-004-0355

**Subject:** This amended rule increases the 2015 commercial nearshore fishery cumulative trip limits for black rockfish from 1,600 to 1,800 pounds in period 4; from 1,400 to 1,600 pounds in period 5; and from 1,000 to 1,200 pounds in period 6. In addition, this rule increases the 2015 trip limits for greenling from 300 to 400 pounds for each of periods 4, 5 and 6.

**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-004-0355**

**Trip Limits**

(1) The trip limits outlined in this rule are set at the beginning of each calendar year based on commercial harvest caps and projected fishing effort, and are subject to in-season adjustments and closures. Fishers should refer to Nearshore Commercial Fishery Industry Notices on the Marine Resources Program Commercial Fishing Rules and Regulations webpage for the most up-to-date information regarding trip limits and other regulations affecting the Nearshore Commercial Fishery.

(2) Vessels with a Black Rockfish/Blue Rockfish/Nearshore Fishery Permit, with or without a Nearshore Endorsement, may land no more than the following cumulative trip limits:

(a) Black rockfish:

(A) 1200 pounds in period 1;

(B) 1400 pounds in period 2;

(C) 1700 pounds in period 3;

(D) 1,800 in period 4;

(E) 1,600 pounds in period 5;

(F) 1,200 pounds in period 6; and

(b) 15 pounds of blue rockfish in each period.

(3) For all other nearshore species, vessels with a Black Rockfish/Blue Rockfish/Nearshore Fishery Permit with Nearshore Endorsement may land no more than the following cumulative trip limits in each period:

(a) 100 pounds of other nearshore rockfish combined;

(b) 1,500 pounds of cabezon; and

(c) 400 pounds of greenling species.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 506.109 & 506.129

Hist.: DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 79-2012(Temp), f. 6-28-12, cert. ef. 7-1-12 thru 12-27-12; DFW 118-2012(Temp), f. 9-10-12, cert. ef. 9-11-12 thru 12-31-12; DFW 141-2012(Temp), f. 10-31-12, cert. ef. 11-1-12 thru 12-31-12; DFW 151-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 99-2013(Temp), f. & cert. ef. 9-9-13 thru 12-31-13; Administrative correction, 2-5-14; DFW 101-2014(Temp), f. 7-23-14, cert. ef. 8-1-14 thru 12-31-14; DFW 147-2014(Temp), f. & cert. ef. 10-13-14 thru 12-31-14; DFW 164-2014(Temp), f. 12-15-14, cert. ef. 1-1-15 thru 1-16-15; DFW 4-2015, f. 1-13-15, cert. ef. 1-15-15; DFW 82-2015(Temp), f. 7-1-15, cert. ef. 7-5-15 thru 12-31-15

**Rule Caption:** Columbia River Zone 6 Treaty Indian Summer Chinook Commercial Fishery Extended.
**Adm. Order No.:** DFW 83-2015(Temp)
**Filed with Sec. of State:** 7-7-2015
**Certified to be Effective:** 7-8-15 thru 7-31-15
**Notice Publication Date:**
**Rules Amended:** 635-041-0076
**Rules Suspended:** 635-041-0076(T)
**Subject:** This amended rule authorizes sales of fish caught in a one day extension of a Treaty tribal commercial gill net fishery in the Columbia River which began 6:00 a.m. Monday, July 6, 2015; and a 2.5 day period beginning 6:00 a.m. Monday, July 13, 2015. Modifications are consistent with action taken July 7, 2015 by the Departments of Fish & Wildlife for the States of Oregon and Washington in cooperation with the Columbia River Treaty Tribes at a meeting of the Columbia River Compact.
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-041-0076**
**Summer Salmon Season**

(1) Salmon, steelhead, shad, walleye, catfish, bass, yellow perch, and carp may be taken for commercial purposes from Zone 6, in the Columbia River Treaty Indian Fishery, from 12:01 a.m. Tuesday, June 16 through 11:59 p.m. Thursday, July 31, 2015. Fish caught during an open period may be sold after the period concludes.

(a) White sturgeon between 43-54 inches in fork length caught in The Dalles Pool and John Day pools and white sturgeon between 38-54 inches in fork length caught in the Bonneville Pool may not be sold but may be retained for subsistence use.

(b) Gear is restricted to subsistence fishing gear which includes hoopnets, dipnets, and rod and reel with hook-and-line. Fish may also be taken by gill net from 6:00 a.m. Monday, July 6 through 6:00 p.m. Thursday, July 9, 2015 (3.5 days); and from 6:00 a.m. Monday, July 13 through 6:00 p.m. Wednesday, July 15, 2015 (2.5 days). Gill nets have a 7-inch minimum mesh size restriction.

(c) Closed areas as set forth in OAR 635-041-0045 remain in effect with the exception of Spring Creek Hatchery sanctuary.

(2) Beginning 12:01 a.m. Tuesday, June 16 through 11:59 p.m. Friday, July 31, 2015, commercial sales of salmon, steelhead, walleye, shad, catfish, carp, bass and yellow perch caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; and Drano Lake are allowed for Yakama Nation members during those days and hours when these tributaries are open under lawfully enacted Yakama Nation fishing periods.

(a) Sturgeon between 43-54 inches in fork length harvested in tributaries within The Dalles or John Day pools and sturgeon between 38-54 inches in fork length harvested in tributaries within Bonneville Pool may not be sold but may be kept for subsistence purposes.

(b) Gear is restricted to subsistence fishing gear which includes hoopnets, dipnets, and rod and reel with hook-and-line. Gillnets may only be used in Drano Lake.

Stat. Auth.: ORS 496.118 & 506.119
Stats. Implemented: ORS 506.109, 506.129 & 507.030
Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 39-2006(Temp), f. & cert. ef. 6-8-06 thru 7-31-06; DFW 46-2006(Temp), f. & cert. ef. 6-20-06 thru 7-31-06; DFW 49-2006(Temp), f. 6-26-06, cert. ef. 6-27-06 thru 7-31-06; DFW 56-2006(Temp), f. 6-30-06, cert. ef. 7-3-06 thru 7-31-06; DFW 58-2006(Temp), f. 7-6-06, cert. ef. 7-10-06 thru 7-31-06; Administrative correction 8-22-06; DFW 46-2007(Temp), f. 6-15-07, cert. ef. 6-16-07 thru 9-13-07; DFW 49-2007(Temp), f. 6-22-07, cert. ef. 6-26-07 thru 9-13-07; DFW 53-2007(Temp), f. & cert. ef. 7-6-07 thru 7-31-07; Administrative correction 9-16-07; DFW 45-2008(Temp), f. 5-2-08, cert. ef. 5-5-08 thru 7-31-08; DFW 47-2008(Temp), f. 5-9-08, cert. ef. 5-11-08 thru 7-31-08; DFW 62-2008(Temp), f. 6-13-08, cert. ef. 6-16-08 thru 8-31-08; DFW 68-2008(Temp), f. 6-20-08, cert. ef. 6-21-08 thru 8-31-08; DFW 71-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; DFW 80-2008(Temp), f. & cert. ef. 7-10-08 thru 8-31-08; DFW 87-2008(Temp), f. & cert. ef. 7-25-08 thru 8-31-08; DFW 94-2008(Temp), f. & cert. ef. 8-14-08 thru 9-30-08; Administrative correction 10-21-08; DFW 50-2009(Temp), f. 5-14-09, cert. ef. 5-16-09 thru 7-31-09; DFW 56-2009(Temp), f. 5-26-09, cert. ef. 5-27-09 thru 7-31-09; DFW 71-2009(Temp), f. 6-15-09, cert. ef. 6-16-09 thru 7-31-09; DFW 76-2009(Temp), f. 6-26-09, cert. ef. 6-30-09 thru 7-31-09; DFW 82-2009(Temp), f. 7-6-09, cert. ef. 7-8-09 thru 7-31-09; DFW 84-2009(Temp), f. 7-13-09, cert. ef. 7-15-09 thru 7-31-09; Administrative correction 8-21-09; DFW 48-2010(Temp), f. 4-26-10, cert. ef. 4-27-10 thru 7-31-10; DFW 51-2010(Temp), f. & cert. ef. 4-29-10 thru 7-31-10; DFW 56-2010(Temp), f. 5-10-10, cert. ef. 5-11-10 thru 7-31-10; DFW 68-2010(Temp), f. 5-18-10, cert. ef. 5-19-10 thru 7-31-10; DFW 71-2010(Temp), f. 5-19-10, cert. ef. 5-21-10 thru 6-16-10; DFW 74-2010(Temp), f. & cert. ef. 6-2-10 thru 7-31-10; DFW 80-2010(Temp), f. 6-14-10, cert. ef. 6-16-10 thru 7-31-10; DFW 87-2010(Temp), f. 6-25-10, cert. ef. 6-29-10 thru 7-31-10; DFW 97-2010(Temp), f. 7-8-10, cert. ef. 7-13-10 thru 7-31-10; DFW 101-2010(Temp), f. 7-19-10, cert. ef. 7-20-10 thru 7-31-10; DFW 105-2010(Temp), f. 7-23-10, cert. ef. 7-26-10 thru 7-31-10; Administrative correction 8-18-10; DFW 43-2011(Temp), f. & cert. ef. 5-10-11 thru 10-31-11; DFW 66-2011(Temp), f. 6-14-11, cert. ef. 6-16-11 thru 10-31-11; DFW 75-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 10-31-11; DFW 84-2011(Temp), f. 7-1-11, cert. ef. 7-5-11 thru 10-31-11; DFW 88-2011(Temp), f. 7-8-11, cert. ef. 7-10-11 thru 10-31-11; DFW 94-2011(Temp), f. 7-14-11, cert. ef. 7-18-11 thru 10-31-11; DFW 98-2011(Temp), f. 7-20-11, cert. ef. 7-25-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 66-2012(Temp), f. 6-14-12, cert. ef. 6-18-12 thru 7-31-12; DFW 81-2012(Temp), f. 6-29-12, cert. ef. 7-3-12 thru 8-31-12; [DFW 87-2012(Temp), f. 7-11-12, cert. ef. 7-12-12 thru 8-31-12; Temporary Suspended by DFW 94-2012(Temp), f. & cert. ef. 7-27-12 thru 10-31-12]; DFW 57-2013(Temp), f. 6-12-13, cert. ef. 6-16-13 thru 7-31-13; DFW 63-2013(Temp), f. 6-27-13, cert. ef. 6-29-13 thru 7-31-13; DFW 69-2013(Temp), f. 7-5-13, cert. ef. 7-6-13 thru 7-31-13; DFW 71-2013(Temp), f. 7-11-13, cert. ef. 7-15-13 thru 7-31-13; DFW 77-2013(Temp), f. 7-18-13, cert. ef. 7-22-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 66-2014(Temp), f. 6-12-14, cert. ef. 6-16-14 thru 7-31-14; DFW 79-2014(Temp), f. 6-26-14, cert. ef. 6-30-14 thru 7-31-14; DFW 91-2014(Temp), f. 7-10-14, cert. ef. 7-14-14 thru 7-31-14; DFW 95-2014(Temp), f. 7-17-14, cert. ef. 7-21-14 thru 7-31-14; DFW 103-2014(Temp), f.7-23-14, cert. ef. 7-28-14 thru 7-31-14; Administrative correction, 8-28-14; DFW 71-2015(Temp), f. 6-15-15, cert. ef. 6-16-15 thru 7-31-15; DFW 80-2015(Temp), f. 6-30-15, cert. ef. 7-6-15 thru 7-31-15; DFW 83-2015(Temp), f. 7-7-15, cert. ef. 7-8-15 thru 7-31-15

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**Rule Caption:** Columbia River Commercial Summer Chinook Drift Net Fishery Set for July 8 and 14, 2015.
**Adm. Order No.:** DFW 84-2015(Temp)
**Filed with Sec. of State:** 7-7-2015
**Certified to be Effective:** 7-8-15 thru 7-31-15
**Notice Publication Date:**
**Rules Amended:** 635-042-0027
**Rules Suspended:** 635-042-0027(T)
**Subject:** This amended rule authorizes two 12-hour non-Indian commercial summer Chinook drift net fisheries in the mainstem Columbia River to commence on Wednesday, July 8 at 7:00 p.m. and run through 7:00 a.m. Thursday, July 9, 2015; and Tuesday, July 14 at 7:00 p.m. through 7:00 a.m. Wednesday, July 15, 2015 in all of zones 1 through 5. Modifications are consistent with action taken July 7, 2015 by the Oregon and Washington Departments of Fish and Wildlife at a meeting of the Columbia River Compact.
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-042-0027**
**Summer Salmon Season**

(1) Chinook salmon, sockeye, and shad may be taken by drift gillnet for commercial purposes from the mouth of the Columbia River upstream to Beacon Rock (Zones 1–5 during the periods:

(a) 7:00 p.m Wednesday, July 8 to 7:00 a.m. Thursday, July 9, 2015 (12 hours); and

(b) 7:00 p.m Tuesday, July 14 to 7:00 a.m. Wednesday, July 15, 2015 (12 hours).

(2) During the summer Chinook drift gillnet fishery:

(a) It is *unlawful* to use a drift gillnet having a mesh size less than 8 inches or more than 9-3/4 inches;

(b) Mesh size for the fishery is determined as described in OAR 635-042-0010(4); and

(c) Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Other permanent gear regulations remain in effect.

(3) Sturgeon and steelhead must be released immediately to the river with care and with the least possible injury to the fish.

(4) Closed waters, as described in OAR 635-042-0005 for Elokomin-A, Cowlitz River, Kalama-A, Lewis-A, Sandy and Washougal river sanctuaries are in effect during the open fishing periods identified above.

Stat. Auth.: ORS 496.118, 506.109 & 506.129
Stats. Implemented: ORS 506.119 & 507.030
Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 47-2006(Temp), f. 6-20-06, cert. ef. 6-26-06 thru 7-31-06; DFW 51-2006(Temp), f. & cert. ef. 6-29-06 thru 7-31-06; DFW 57-2006(Temp), f. 7-5-06, cert. ef. 7-6-06 thru 7-31-06; DFW 63-2006(Temp), f. 7-14-2006, cert. ef. 7-16-06 thru 7-31-06; DFW 68-2006(Temp), f. 7-28-06, cert. ef. 7-30-06 thru 7-31-06; Administrative correction 8-22-06; DFW 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 52-2007(Temp), f. & cert. ef. 7-6-07 thru 7-31-07; DFW 63-2008(Temp), f. 6-13-08, cert. ef. 6-24-08 thru 7-31-08; DFW 68-2008(Temp), f. 6-20-08, cert. ef. 6-21-08 thru 8-31-08; DFW 75-2008(Temp), f. 7-3-08, cert. ef. 7-7-08 thru 7-31-08; Administrative correction 8-21-08; DFW 72-2009(Temp), f. 6-15-09, cert. ef. 6-18-09 thru 7-31-09; Administrative correction 8-21-09; DFW 81-2010(Temp), f. 6-14-10, cert. ef. 6-17-10 thru 7-31-10; Administrative correction 8-18-10; DFW 67-2011(Temp), f. 6-14-11, cert. ef. 6-16-11 thru 7-31-11; Administrative correction 9-23-11; DFW 67-2012(Temp), f. 6-14-12, cert. ef. 6-17-12 thru 7-31-12; Administrative correction, 8-27-12; DFW 56-2013(Temp), f. 6-12-13, cert. ef. 6-16-13 thru 7-31-13; DFW 72-2013(Temp), f. 7-11-13, cert. ef 7-15-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 67-2014(Temp), f. 6-12-14, cert. ef. 6-16-14 thru 7-31-14; DFW 84-2014(Temp), f. 7-2-14, cert. ef. 7-7-14 thru 7-31-14; DFW 93-2014(Temp), f. 7-10-14, cert. ef. 7-14-14 thru 7-31-14; DFW 102-2014(Temp), f. 7-23-14, cert. ef. 7-28-14 thru 7-31-14; Administrative correction, 8-28-14; DFW 72-2015(Temp), f. 6-15-15, cert. ef. 6-17-15 thru 6-30-15; DFW 84-2015(Temp), f. 7-7-15, cert. ef. 7-8-15 thru 7-31-15

**Rule Caption:** Balm Creek Reservoir and Thief Valley Reservoir Angling Regulations.
**Adm. Order No.:** DFW 85-2015(Temp)
**Filed with Sec. of State:** 7-13-2015
**Certified to be Effective:** 7-18-15 thru 10-31-15
**Notice Publication Date:**
**Rules Amended:** 635-021-0090
**Rules Suspended:** 635-021-0090(T)
**Subject:** This amended rule liberalizes catch limits and harvest methods for Thief Valley and Balm Creek reservoirs. Due to current low water storage levels at Thief Valley Reservoir and this year's drought conditions, that reservoir will likely be drained of all storage water. Many fish trapped in isolated pools and stressed by warm and turbid water will die. Balm Creek Reservoir is scheduled to be treated with Rotenone, a fish toxicant, in late September to remove unwanted fish species and all fish remaining in that reservoir will die. These rule modifications provide the sport fishing public opportunity to salvage fish that will otherwise be killed.
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-021-0090**
**Inclusions and Modifications**

(1) **2015 Oregon Sport Fishing Regulations** provide requirements for the Southeast Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2015 Oregon Sport Fishing Regulations**.

(2) The Powder River is open to angling for spring Chinook salmon from Hughes Lane Bridge near Baker City upstream to Mason Dam from May 20 through September 1, 2015:

(a) The daily bag limit is four (4) adipose fin-clipped Chinook; two daily limits in possession.

(b) All other General, Statewide and Southeast Zone regulations, as provided in the **2015 Oregon Sport Fishing Regulations**, remain in effect.

(3) Balm Creek Reservoir is open to angling to all game species from July 18 through September 30, 2015 with the following restrictions:

(a) Allowed harvest methods are by hand, dip net or angling;

(b) There are no daily catch or possession limits; and

(c) There are no minimum length requirements.

(4) Thief Valley Reservoir is open to angling to all game species from July 18 through October 15, 2015 with the following restrictions:

(a) Allowed harvest methods are by hand, dip net or angling;

(b) There are no daily catch or possession limits; and

(c) There are no minimum length requirements.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 183.325, 496.138 & 496.146
Stats. Implemented: ORS 496.162
Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 76-1994(Temp), f. & cert. ef. 10-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 55-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 56-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 54-2002(Temp), f. 5-24-02, cert. ef. 6-15-02 thru 12-1-02; DFW 91-2002(Temp) f. 8-19-02,cert. ef 8-20-02 thru 11-1-0 2 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 93-2002(Temp), f. 8-22-02, cert. ef. 8-24-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 80-2003(Temp), f. & cert. ef. 8-22-03 thru 9-30-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 101-2005(Temp), f. 8-31-05, cert. ef. 9-2-05 thru 9-30-05; Administrative correction 10-19-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 36-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 9-30-07; DFW 54-2007(Temp), f. 7-6-07, cert. ef. 7-14-07 thru 9-30-07; DFW 62-2007(Temp), f. 7-31-07, cert. ef. 8-1-07 thru 9-30-07; Administrative correction 10-16-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 51-2008(Temp), f. 5-16-08, cert. ef. 5-31-08 thru 9-1-08; DFW 74-2008(Temp), f. 7-3-08, cert. ef. 7-4-08 thru 9-1-08; DFW 77-2008(Temp), f. & cert. ef. 7-9-08 thru 9-1-08; Administrative correction 9-29-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 53-2009(Temp), f. 5-18-09, cert. ef. 5-30-09 thru 9-1-09; DFW 62-2009(Temp), f. 6-2-09, cert. ef. 6-13-09 thru 9-1-09; DFW 79-2009(Temp), f. 6-30-09, cert. ef. 7-5-09 thru 9-1-09; Administrative correction 9-29-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 52-2010(Temp), f. 4-30-10, cert. ef. 5-1-10 thru 9-30-10; DFW 60-2010(Temp), f. 5-13-10, cert. ef. 5-22-10 thru 9-30-10; DFW 67-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 9-30-10; DFW 78-2010(Temp), f. 6-10-10, cert. ef. 6-11-10 thru 9-1-10; Administrative correction 9-22-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 50-2011(Temp), f. 5-16-11, cert. ef. 5-28-11 thru 9-1-11; Administrative correction 9-23-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 60-2012(Temp), f. 6-11-12, cert. ef. 6-13-12 thru 9-1-12; DFW 114-2012(Temp), f. 8-30-12, cert. ef. 9-1-12 thru 2-27-13; DFW 117-2012(Temp), f. 9-5-12, cert. ef. 9-7-12 thru 2-27-13; DFW 122-2012(Temp), f. 9-21-12, cert. ef. 9-21-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 61-2013(Temp), f. 6-24-13, cert. ef. 7-1-13 thru 12-27-13; DFW 93-2013(Temp), f. 8-22-13, cert. ef. 8-24-13 thru 12-31-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 57-2014(Temp), f. 6-9-14, cert. ef. 6-11-14 thru 9-1-14; DFW 90-2014(Temp), f. 7-10-14, cert. ef. 7-11-14 thru 12-31-14; DFW 116-2014(Temp), f. 8-6-14, cert. ef. 8-9-14 thru 12-31-14; DFW 149-2014(Temp), f. 10-13-14, cert. ef. 11-1-14 thru 12-31-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 44-2015(Temp), f. 5-15-15, cert. ef. 5-20-15 thru 9-1-15; DFW 85-2015(Temp), f. 7-13-15, cert. ef. 7-18-15 thru 10-31-15

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**Rule Caption:** Columbia River Commercial Summer Chinook Drift Net Fishery Set for July 14, 2015 Rescinded.
**Adm. Order No.:** DFW 86-2015(Temp)
**Filed with Sec. of State:** 7-14-2015
**Certified to be Effective:** 7-14-15 thru 7-31-15
**Notice Publication Date:**
**Rules Suspended:** 635-042-0027(T)
**Subject:** This suspended rule authorized a 12-hour non-Indian commercial summer Chinook drift net fishery in the mainstem Columbia River to commence on Tuesday, July 14 at 7:00 p.m. through 7:00 a.m. Wednesday, July 15, 2015 in all of zones 1 through 5, due to the attainment of the pre-season allocation for this fishery. Modifications are consistent with action taken July 14, 2015 by the Oregon and Washington Departments of Fish and Wildlife at a meeting of the Columbia River Compact.
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-042-0027**
**Summer Salmon Season**

(1) Chinook salmon, sockeye, and shad may be taken by drift gillnet for commercial purposes from the mouth of the Columbia River upstream to Beacon Rock (Zones 1–5 during the periods:

(a) 7:00 p.m Wednesday, July 8 to 7:00 a.m. Thursday, July 9, 2015 (12 hours); and

(b) 7:00 p.m Tuesday, July 14 to 7:00 a.m. Wednesday, July 15, 2015 (12 hours).

(2) During the summer Chinook drift gillnet fishery:

(a) It is *unlawful* to use a drift gillnet having a mesh size less than 8 inches or more than 9-3/4 inches;

(b) Mesh size for the fishery is determined as described in OAR 635-042-0010(4); and

(c) Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Other permanent gear regulations remain in effect.

(3) Sturgeon and steelhead must be released immediately to the river with care and with the least possible injury to the fish.

(4) Closed waters, as described in OAR 635-042-0005 for Elokomin-A, Cowlitz River, Kalama-A, Lewis-A, Sandy and Washougal river sanctuaries are in effect during the open fishing periods identified above.

Stat. Auth.: ORS 496.118, 506.109 & 506.129
Stats. Implemented: ORS 506.119 & 507.030
Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 47-2006(Temp), f. 6-20-06, cert. ef. 6-26-06 thru 7-31-06; DFW 51-2006(Temp), f. & cert. ef. 6-29-06 thru 7-31-06; DFW 57-2006(Temp), f. 7-5-06, cert. ef. 7-6-06 thru 7-31-06; DFW 63-2006(Temp), f. 7-14-2006, cert. ef. 7-16-06 thru 7-31-06; DFW 68-2006(Temp), f. 7-28-06, cert. ef. 7-30-06 thru 7-31-06; Administrative correction 8-22-06; DFW 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 52-2007(Temp), f. & cert. ef. 7-6-07 thru 7-31-07; DFW 63-2008(Temp), f. 6-13-08, cert. ef. 6-24-08 thru 7-31-08; DFW 68-2008(Temp), f. 6-20-08, cert. ef. 6-21-08 thru 8-31-08; DFW 75-2008(Temp), f. 7-3-08, cert. ef. 7-7-08 thru 7-31-08; Administrative correction 8-21-08; DFW 72-2009(Temp), f. 6-15-09, cert. ef. 6-18-09 thru 7-31-09; Administrative correction 8-21-09; DFW 81-2010(Temp), f. 6-14-10, cert. ef. 6-17-10 thru 7-31-10; Administrative correction 8-18-10; DFW 67-2011(Temp), f. 6-14-11, cert. ef. 6-16-11 thru 7-31-11; Administrative correction 9-23-11; DFW 67-2012(Temp), f. 6-14-12, cert. ef. 6-17-12 thru 7-31-12; Administrative correction, 8-27-12; DFW 56-2013(Temp), f. 6-12-13, cert. ef. 6-16-13 thru 7-31-13; DFW 72-2013(Temp), f. 7-11-13, cert. ef 7-15-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 67-2014(Temp), f. 6-12-14, cert. ef. 6-16-14 thru 7-31-14; DFW 84-2014(Temp), f. 7-2-14, cert. ef. 7-7-14 thru 7-31-14; DFW 93-2014(Temp), f. 7-10-14, cert. ef. 7-14-14 thru 7-31-14; DFW 102-2014(Temp), f. 7-23-14, cert. ef. 7-28-14 thru 7-31-14; Administrative correction, 8-28-14; DFW 72-2015(Temp), f. 6-15-15, cert. ef. 6-17-15 thru 6-30-15; DFW 84-2015(Temp), f. 7-7-15, cert. ef. 7-8-15 thru 7-31-15; Suspended by DFW 86-2015(Temp), f. & cert. ef. 7-14-15 thru 7-31-15

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**Rule Caption:** Columbia River Zone 6 Treaty Indian Summer Chinook Commercial Fishery Extended.
**Adm. Order No.:** DFW 87-2015(Temp)
**Filed with Sec. of State:** 7-15-2015
**Certified to be Effective:** 7-15-15 thru 7-31-15
**Notice Publication Date:**
**Rules Amended:** 635-041-0076
**Rules Suspended:** 635-041-0076(T)

**Subject:** This amended rule authorizes sales of fish caught in a Treaty tribal commercial gill net fishery in the Columbia River which began 6:00 a.m. Monday, July 13, and has been extended one additional day, to run through 6:00 p.m. Thursday, July 16, 2015 (3.5 days). Modifications are consistent with action taken July 14, 2015 by the Departments of Fish & Wildlife for the States of Oregon and Washington in cooperation with the Columbia River Treaty Tribes at a meeting of the Columbia River Compact.
**Rules Coordinator:** Michelle Tate—(503) 947-6044

**635-041-0076**
**Summer Salmon Season**

(1) Salmon, steelhead, shad, walleye, catfish, bass, yellow perch, and carp may be taken for commercial purposes from Zone 6, in the Columbia River Treaty Indian Fishery, from 12:01 a.m. Tuesday, June 16 through 11:59 p.m. Thursday, July 31, 2015. Fish caught during an open period may be sold after the period concludes.

(a) White sturgeon between 43–54 inches in fork length caught in The Dalles Pool and John Day pools and white sturgeon between 38–54 inches in fork length caught in the Bonneville Pool may not be sold but may be retained for subsistence use.

(b) Gear is restricted to subsistence fishing gear which includes hoopnets, dipnets, and rod and reel with hook-and-line. Fish may also be taken by gill net beginning 6:00 a.m. Monday, July 13 through 6:00 p.m. Thursday, July 16, 2015 (3.5 days). Gill nets have a 7-inch minimum mesh size restriction.

(c) Closed areas as set forth in OAR 635-041-0045 remain in effect with the exception of Spring Creek Hatchery sanctuary.

(2) Beginning 12:01 a.m. Tuesday, June 16 through 11:59 p.m. Friday, July 31, 2015, commercial sales of salmon, steelhead, walleye, shad, catfish, carp, bass and yellow perch caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; and Drano Lake are allowed for Yakama Nation members during those days and hours when these tributaries are open under lawfully enacted Yakama Nation fishing periods.

(a) Sturgeon between 43–54 inches in fork length harvested in tributaries within The Dalles or John Day pools and sturgeon between 38–54 inches in fork length harvested in tributaries within Bonneville Pool may not be sold but may be kept for subsistence purposes.

(b) Gear is restricted to subsistence fishing gear which includes hoopnets, dipnets, and rod and reel with hook-and-line. Gillnets may only be used in Drano Lake.

Stat. Auth.: ORS 496.118 & 506.119
Stats. Implemented: ORS 506.109, 506.129 & 507.030
Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 39-2006(Temp), f. & cert. ef. 6-8-06 thru 7-31-06; DFW 46-2006(Temp), f. & cert. ef. 6-20-06 thru 7-31-06; DFW 49-2006(Temp), f. 6-26-06, cert. ef. 6-27-06 thru 7-31-06; DFW 56-2006(Temp), f. 6-30-06, cert. ef. 7-3-06 thru 7-31-06; DFW 58-2006(Temp), f. 7-6-06, cert. ef. 7-10-06 thru 7-31-06; Administrative correction 8-22-06; DFW 46-2007(Temp), f. 6-15-07, cert. ef. 6-16-07 thru 9-13-07; DFW 49-2007(Temp), f. 6-22-07, cert. ef. 6-26-07 thru 9-13-07; DFW 53-2007(Temp), f. & cert. ef. 7-6-07 thru 7-31-07; Administrative correction 9-16-07; DFW 45-2008(Temp), f. 5-2-08, cert. ef. 5-5-08 thru 7-31-08; DFW 47-2008(Temp), f. 5-9-08, cert. ef. 5-11-08 thru 7-31-08; DFW 62-2008(Temp), f. 6-13-08, cert. ef. 6-16-08 thru 8-31-08; DFW 68-2008(Temp), f. 6-20-08, cert. ef. 6-21-08 thru 8-31-08; DFW 71-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; DFW 80-2008(Temp), f. & cert. ef. 7-10-08 thru 8-31-08; DFW 87-2008(Temp), f. & cert. ef. 7-25-08 thru 8-31-08; DFW 94-2008(Temp), f. & cert. ef. 8-14-08 thru 9-30-08; Administrative correction 10-21-08; DFW 50-2009(Temp), f. 5-14-09, cert. ef. 5-16-09 thru 7-31-09; DFW 56-2009(Temp), f. 5-26-09, cert. ef. 5-27-09 thru 7-31-09; DFW 71-2009(Temp), f. 6-15-09, cert. ef. 6-16-09 thru 7-31-09; DFW 76-2009(Temp), f. 6-26-09, cert. ef. 6-30-09 thru 7-31-09; DFW 82-2009(Temp), f. 7-6-09, cert. ef. 7-8-09 thru 7-31-09; DFW 84-2009(Temp), f. 7-13-09, cert. ef. 7-15-09 thru 7-31-09; Administrative correction 8-21-09; DFW 48-2010(Temp), f. 4-26-10, cert. ef. 4-27-10 thru 7-31-10; DFW 51-2010(Temp), f. & cert. ef. 4-29-10 thru 7-31-10; DFW 56-2010(Temp), f. 5-10-10, cert. ef. 5-11-10 thru 7-31-10; DFW 68-2010(Temp), f. 5-18-10, cert. ef. 5-19-10 thru 7-31-10; DFW 71-2010(Temp), f. 5-19-10, cert. ef. 5-21-10 thru 6-16-10; DFW 74-2010(Temp), f. & cert. ef. 6-2-10 thru 7-31-10; DFW 80-2010(Temp), f. 6-14-10, cert. ef. 6-16-10 thru 7-31-10; DFW 87-2010(Temp), f. 6-25-10, cert. ef. 6-29-10 thru 7-31-10; DFW 97-2010(Temp), f. 7-8-10, cert. ef. 7-13-10 thru 7-31-10; DFW 101-2010(Temp), f. 7-19-10, cert. ef. 7-20-10 thru 7-31-10; DFW 105-2010(Temp), f. 7-23-10, cert. ef. 7-26-10 thru 7-31-10; Administrative correction 8-18-10; DFW 43-2011(Temp), f. & cert. ef. 5-10-11 thru 10-31-11; DFW 66-2011(Temp), f. 6-14-11, cert. ef. 6-16-11 thru 10-31-11; DFW 75-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 10-31-11; DFW 84-2011(Temp), f. 7-1-11, cert. ef. 7-5-11 thru 10-31-11; DFW 88-2011(Temp), f. 7-8-11, cert. ef. 7-10-11 thru 10-31-11; DFW 94-2011(Temp), f. 7-14-11, cert. ef. 7-18-11 thru 10-31-11; DFW 98-2011(Temp), f. 7-20-11, cert. ef. 7-25-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 66-2012(Temp), f. 6-14-12, cert. ef. 6-18-12 thru 7-31-12; DFW 81-2012(Temp), f. 6-29-12, cert. ef. 7-3-12 thru 8-31-12; [DFW 87-2012(Temp), f. 7-11-12, cert. ef. 7-12-12 thru 8-31-12; Temporary Suspended by DFW 94-2012(Temp), f. & cert. ef. 7-27-12 thru 10-31-12]; DFW 57-2013(Temp), f. 6-12-13, cert. ef. 6-16-13 thru 7-31-13; DFW 63-2013(Temp), f. 6-27-13, cert. ef. 6-29-13 thru 7-31-13; DFW 69-2013(Temp), f. 7-5-13, cert. ef. 7-6-13 thru 7-31-13; DFW 71-2013(Temp), f. 7-11-13, cert. ef. 7-15-13 thru 7-31-13; DFW 77-2013(Temp), f. 7-18-13, cert. ef. 7-22-13 thru 7-31-13; Administrative correction, 8-21-13; DFW 66-2014(Temp), f. 6-12-14, cert. ef. 6-16-14 thru 7-31-14; DFW 79-2014(Temp), f. 6-26-14, cert. ef. 6-30-14 thru 7-31-14; DFW 91-2014(Temp), f. 7-10-14, cert. ef. 7-14-14 thru 7-31-14; DFW 95-2014(Temp), f. 7-17-14, cert. ef. 7-21-14 thru 7-31-14; DFW 103-2014(Temp), f.7-23-14, cert. ef. 7-28-14 thru 7-31-14; Administrative correction, 8-28-14; DFW 71-2015(Temp), f. 6-15-15, cert. ef. 6-16-15 thru 7-31-15; DFW 80-2015(Temp), f. 6-30-15, cert. ef. 7-6-15 thru 7-31-15; DFW 83-2015(Temp), f. 7-7-15, cert. ef. 7-8-15 thru 7-31-15; DFW 87-2015(Temp), f. & cert. ef. 7-15-15 thru 7-31-15

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

**Rule Caption:** Technical Revisions to Clarify "Mailing" Date Means "Postmark" Date
**Adm. Order No.:** DHSD 3-2015
**Filed with Sec. of State:** 6-18-2015
**Certified to be Effective:** 6-18-15
**Notice Publication Date:** 5-1-2015
**Rules Amended:** 407-120-1505
**Subject:** Due to several inquiries, the Department of Human Services (Department) is amending these rules to clarify that the references to "mailing date" mean "postmark date."
**Rules Coordinator:** Jennifer Bittel—(503) 947-5250

**407-120-1505**
**Provider and Contractor Audits, Appeals, and Post Payment Recoveries**

(1) Providers or entities under contract with the Department of Human Services (Department) or the Oregon Healthy Authority (Authority) (hereafter referred to as "provider") receiving payments from the Department or Authority are subject to audit or other post payment review procedures (hereafter referred to as "audit") for all payments applicable to items or services furnished or supplied by the provider to or on behalf of Department or Authority clients.

(a) Audit rules and procedures ensure proper payments were made based on requirements applicable to covered services, ensure program integrity of the Department or Authority programs and services as outlined in OAR 407-120-0310, and establish authority for the Office of Payment, Accuracy and Recovery (OPAR), Provider Audit Unit (PAU) to recover overpayments and discover possible instances of fraud, waste, and abuse.

(b) The Department and Authority share duties and functions related to audits and have the authority to determine which of the two agencies is authorized to fulfill a particular function. References in this rule to one agency should be construed to include, as the context requires, either or both agencies.

(2) The Department may employ internal staff, consultants, or contractors, or cooperate with federal or state oversight authorities or other designees to conduct an audit or perform other audit procedures. The Department shall assign a contractor or one or more individuals to conduct the audit (hereafter referred to as "auditor").

(3) The auditor or PAU management shall determine the scope, time period, objective, and subject matter covered by the audit.

(4) The authority for access to records is found in OAR 407-120-0370 and 410-120-1360 and other terms of agreements or contracts authorizing access to records for audit purposes.

(5) The auditor may conduct an on-site field audit, examine and copy records at the provider's expense, interview employees, and conduct such field work as the auditor determines shall provide sufficient and competent evidential basis for drawing conclusions about the audit subject matter.

(6) The auditor may conduct a desk audit of records requested by the auditor and supplied by the provider, at the provider's expense, or other source as necessary for the auditor to determine sufficient and competent evidential basis for drawing conclusions about the audit subject matter.

(7) The auditor may consider other audits of the provider including but not limited to reviews conducted by the appropriate federal authority and the provider's independent audit of the provider's financial statements, which may include those performed by internal auditors, audit organizations, or contractors established by the federal or state government for the auditing of the Department or Authority programs.

(a) The auditor may consider other indicators or issues related to program integrity activities. The auditor may also consider past or present program integrity activities listed in OAR 407-120-0310 that have identified same or similar instances of non-compliance.

(b) The auditor shall determine the scope of other audit work and evaluate the reliability of its relationship to the scope and objective of the audit being conducted in determining the weight to be given to the other audit work.

(8) PAU may use a random sampling method such as that detailed in the paper entitled "Development of a Sample Design for the Post-Payment Review of Medical Assistance Payments," written by Lyle Calvin, Ph.D., (Calvin Paper). The Department adopts by reference but is not limited to following the method of random sampling and calculation of overpayment described in the Calvin Paper:

(a) In determining whether to use an overpayment calculation method set forth in section (8) of this rule, the auditor or PAU management may consider:

(A) The provider's overall error rate identified in the audit;

(B) If past audits have identified the same or similar instances of non-compliance;

(C) The severity of the errors established in the audit; or

(D) Any adverse impact on the health of the Department or Authority's clients and their access to services in the provider's service area.

(b) If the auditor determines an overpayment amount by a random sampling and overpayment calculation method set forth in section (8) of this rule, the provider may request a 100 percent audit of all billings from the same time period of the audit submitted to the Department or Authority for items or services furnished or supplied to or on behalf of Department or Authority clients. If a 100 percent audit is requested:

(A) Payment and arrangement for a 100 percent audit shall be paid by the provider requesting the audit;

(B) The audit must be conducted by an independent auditor or other individual whose qualifications the Department has determined, in writing, to be acceptable, who is knowledgeable with the Oregon Administrative rules covering the payments in question, who must waive any privilege to PAU in relation to the work papers and work product of the independent auditor;

(C) The 100 percent audit must be completed within 90 calendar days of the provider's request to use such audit in lieu of the Department's random sample;

(D) The provider must waive all rights to appeal the factual findings of the independent auditor; and

(E) The independent auditor must produce a final audit report or similar document detailing the findings of the 100 percent audit, including the overpayment assessment and recommendations to the provider and PAU. The independent auditor's work papers must be made available to the Department auditor upon request.

(9) The auditor shall prepare a preliminary audit report or similar document and deliver the preliminary audit report to the provider in person, or by registered or certified mail. The preliminary audit report shall inform the provider of the opportunity to provide additional documentation to the auditor about the information within the scope of the preliminary audit report.

(a) Refusing to accept the registered or certified mail or in-person delivery shall not stop the audit process from proceeding forward.

(b) The provider shall have 30 calendar days from the postmark date of the preliminary audit report to respond to the audit or request an informal meeting with the auditor. The informal meeting to review the report shall be held within 45 days from the date of the request for an information meeting.

(c) The provider may request, in writing to the auditor, a 15-day extension to the preliminary audit report response due date for the purpose of submitting additional documentation. The extension must be authorized in writing by the auditor or PAU management. An additional 15-day extension, requested in writing, may be granted at the discretion of PAU management.

(10) The auditor shall prepare a final audit report or similar document which is also the Department or Authority's final order, and deliver the final audit report in person, or by registered or certified mail. The audit record that forms the basis for the final audit report shall be closed on the date of the final audit report. The final audit report shall include but is not limited to an overpayment assessment, findings, recommendations, and sanctions.

(a) The overpayment assessment stated in the final audit report shall include but is not limited to the amount of overpayment PAU is authorized to recover and:

(A) Is not limited to amounts determined by criminal or civil proceedings;

(B) May include interest to be charged at allowable state rates; and

(C) May include triple damages as described in section (18) of this rule.

(b) Refusing to accept the registered or certified mail or in-person delivery shall not stop the audit process from proceeding.

(c) If the provider disagrees with the final audit report or the overpayment amount, the provider must appeal the decision within 30 calendar days from the postmark date of the final audit report by submitting a written request for either an administrative review or a contested case hearing to the OPAR Administrator. The written request for appeal must outline in detail the areas of disagreement.

(A) The OPAR Administrator or designee (hereafter referred to as "Administrator") shall determine which appeals may be suitable for review as administrative review or contested case hearing, taking into consideration issues presented in the request for review and the purposes served by administrative review in section (12) or contested case hearing in section (13) of this rule.

(B) If the Administrator decides the determinations of the final audit report or the content of appeal is appropriate for a contested case hearing or denies a request for an administrative review on the basis the appeal should be heard as a contested case hearing, the Administrator shall notify the provider and refer the appeal directly to the Office of Administrative Hearings (OAH) for a contested case hearing pursuant to these rules.

(11) If a provider fails to request an appeal within the time frame specified in section (10) of this rule the final audit report, overpayment amount, and all recommendations and sanctions shall become final. Appeal requests submitted to PAU must:

(a) Be in writing to the Administrator.

(A) The appeal request is not required to follow a specific format as long as it provides clear written expression from the provider expressing disagreement with the final audit report findings.

(B) The request must specify issues or decisions being appealed and the specific reason for the appeal on each finding or decision. The request must provide specifics for each claim such as procedure code, diagnosis code, reason for denial, administrative rules, or other authority applicable to the issue, and why the provider disagrees with the decision. If this information is not included in the appeal request in a manner that reasonably permits the Administrator to understand the decision being appealed or the basis for the appeal, the request shall be returned to the provider and the provider shall be required to resubmit the appeal within 10 working days from the date PAU returned the appeal to the provider.

(b) Be received by the Administrator within 30 calendar days from the postmark date of the final audit report.

(A) Late requests require written supporting documentation explaining reason for a late request. The Administrator shall determine whether failure to file a timely request was caused by circumstances beyond the control of the provider and enter an order accordingly. The Administrator may conduct further inquiry as deemed appropriate. In determining timelines of filing a request for review, the amount of time the Administrator determines accounts for circumstances beyond the control of the provider is not counted.

(B) The untimely request may be referred to the OAH for a hearing on the question of timeliness.

(12) Administrative review allows opportunity for the Administrator to review a decision affecting the provider. Appeals are limited to legal or policy issues where there is a stipulation of factual matters to be heard.

(a) Administrative review meetings shall be:

(A) Scheduled within 45 calendar days of receipt of the written request by the Administrator;

(i) The Administrator shall prove written notice to the provider of the date, time, and place of the meeting.

(ii) If the Administrator decides a preliminary meeting between the provider and PAU staff may assist the administrative review, the Administrator shall provide written notice to the provider of the date, time, and place the preliminary meeting is scheduled.

(B) Held in Salem, unless otherwise stipulated to by all parties and PAU;

(C) Conducted by the Administrator;

(D) Department or Authority staff shall not be available for cross-examination;

(E) Department or Authority staff may attend and participate in the meeting; and

(F) The provider is not required to be represented by legal counsel and shall be given ample opportunity to present relevant information from the existing case record.

(b) If a provider fails to appear at the administrative review meeting, the final audit report, all findings including the overpayment, and recommendations and sanctions as specified in the report shall become final. In addition, the provider may not appeal the final audit report.

(c) The results of the meeting shall be sent to the provider, in writing, by registered or certified mail within 30 calendar days of the conclusion of the administrative review proceedings. The result of the administrative review is final.

(d) All administrative review decisions are subject to procedures established in OAR 137-004-0080 to 137-004-0092 and judicial review under ORS 183.484 in the Circuit Court.

(13) The contested case hearing process is conducted in accordance with ORS 183.411 to 183.497 and the Attorney General's Uniform and Model Rules of Procedure for the Office of Administrative Hearings, OAR 137-003-0501 to 137-003-0700.

(a) If the Administrator decides a contested case pre-hearing conference between the provider and PAU staff shall assist the contested case hearing, the Administrator shall notify the provider of the time and place of contested case pre-hearing conference without the presence of an administrative law judge. The purpose of the pre-hearing conference is to:

(A) Provide an opportunity to settle the matter or discuss Model Rules of Procedure for contested case hearings listed in OAR 137-003-0575. Any agreement reached in a pre-hearing conference shall be submitted to the administrative law judge in writing or presented orally on the record at the contested case hearing;

(B) Provide an opportunity for the provider and PAU to review the information, correct any misunderstanding of facts, and understand the reason for the action that is the subject of the contested case hearing; or

(C) Determine if the parties wish to have witness subpoenas issued when the contested case hearing is conducted.

(b) Prior to the date of the contested case hearing, the provider may request an additional pre-hearing conference with PAU representatives. The request shall be made in writing to the Administrator. An additional pre-hearing conference may be granted at the sole discretion of the Administrator if the additional pre-hearing conference is determined to facilitate the contested case hearing process or resolution of disputed issues.

(c) The contested case hearing shall be held in Salem, unless otherwise stipulated to by all parties and PAU.

(d) The OAH shall serve a proposed order on behalf of PAU unless PAU notifies the parties that PAU shall issue the final order. The proposed order shall become the final order if no exceptions are filed within the time specified in this rule.

(e) The provider may file exceptions or written argument to the proposed order to be considered by PAU. The exceptions must be in writing and received by OPAR within 10 calendar days after the date the proposed order is issued. No additional evidence may be submitted. After receiving the exceptions or argument, PAU may adopt the proposed order as the final order, amend the order, or prepare a new order.

(f) A provider may withdraw a contested case hearing request at any time. The OAH shall send a final order confirming the withdrawal to the provider.

(14) If neither the provider nor the provider's legal representative appears at the contested case hearing, PAU may elect one of the following options in its sole discretion:

(a) The contested case hearing request may be dismissed by order. PAU may cancel the dismissal order upon request of the party on a showing that the party was unable to attend the hearing and unable to request a postponement for reasons beyond the provider's control.

(b) PAU may enter a final order by default. Entry of a final order by default may be made when PAU determines that the issuance of a final order with findings is appropriate as a basis of sanction authority or to establish a basis for future sanction authority or other reason consistent with the administration of the Department or Authority programs. The designated record, for purposes of a default order, shall be the record as designated in the notice issued to the provider. If not so designated, the designated record shall consist of the files and records held by PAU in the contested case hearing packet prepared by PAU.

(15) Final orders are effective immediately upon being signed or as otherwise provided in the order.

(a) Final orders resulting from a provider's withdrawal of a contested case hearing request is effective the date the provider's request is received by PAU or the OAH, whichever is sooner.

(b) When the provider fails to appear for the contested case hearing, the effective date of the dismissal order or the final order by default is the date of the scheduled contested case hearing.

(16) The burden of presenting evidence to support a fact or position rests on the proponent of the fact or position. Pursuant to OAR 410-120-1360, payment on a claim shall only be made for services that are adequately documented and billed in accordance with OAR 410-120-1280 and 407-120-0330 and include all applicable administrative rules and applicable contract terms related to covered services for the client's benefit package, and the establishment of conditions under which services, supplies or items are covered, including but not limited to the Prioritized List, diagnosis and procedure coding, medical appropriateness, and other applicable standards.

(17) The Administrator, in consultation with appropriate Department or Authority authorities, may grant the provider the relief sought at any time.

(18) Overpayments must be paid within 30 calendar days from the postmark date of the final audit report. The provider may submit a request to the auditor or PAU management for a payment plan to satisfy this requirement. The auditor and PAU management may not waive this overpayment requirement.

(a) A request for an administrative review or contested case hearing shall not change the date the overpayment is due or a payment plan is to commence, unless otherwise stipulated in writing by the Administrator.

(b) PAU management may extend the reimbursement period or accept an offer of payment terms. PAU must make any change in the reimbursement period or terms in writing.

(A) The request for a payment plan must be made in writing to PAU management. The auditor or PAU management shall notify the provider, in writing, of the decision regarding acceptance or denial of the request.

(B) If the payment plan is agreeable to all parties, the auditor or PAU management shall ensure the payment plan is in writing and signed by all parties. A payment plan may include charging interest at the allowable state rate.

(c) If the provider refuses to reimburse the overpayment or does not adhere to an agreed upon payment schedule, PAU may:

(A) Recoup, in any manner available to PAU, future provider payments up to the amount of the overpayment;

(B) Pursue civil action to recover the overpayment; or

(C) Recommend suspension or termination of the provider's enrollment in the Oregon Medicaid Program.

(d) As a result of a contested case hearing or an administrative review, the amount of the overpayment may be reduced in part or in full.

(e) PAU may at any time change the amount of the overpayment in accordance with this rule. The provider shall be notified of any changes in writing by certified or registered mail. PAU shall refund the provider any monies paid to PAU in excess of the overpayment.

(f) If a provider is terminated from participation in Department or Authority programs or sanctioned for any reason, PAU may pursue civil action to recover any amounts due and payable.

(g) If the auditor, in the course of an audit, discovers the provider has continued in the same or similar improper billing practices as established or upheld if appealed, in a previously published final audit report by PAU, or has been warned in writing by the Department or Authority, PAU, or the Department of Justice about improper billing practices, the provider may be liable to PAU for up to triple the amount of the current final audit report establishing the overpayment received by the provider as a result of such violation.

(19) Providers who conduct electronic data transactions with the Department or Authority must adhere to requirements of OAR 407-120-0100 to 407-120-0200. This rule only applies to services or items paid for by the Department or Authority. If the provider maintains financial or clinical records electronically, the provider must ensure the use of electronic record keeping systems does not alter the requirements of OAR 407-120-0370.

(a) The provider's electronic record keeping system includes electronic transactions governed by HIPAA transaction and code set requirements and records, documents, and documentation, whether maintained or stored in electronic media, including electronic record-keeping systems and information stored or backed up in an electronic medium.

(b) If the provider maintains financial or clinical records electronically, the provider must be able to provide PAU with hard copy versions, if requested. The provider must also be able to provide an auditable means of demonstrating the date the record was created, the identity of the creator of a record, the date the record was modified, what was modified in the record, and the identity of any individual who has modified the record. The provider must supply the information to individuals authorized to review the provider's records pursuant to OAR 407-120-0370(3)(e).

(c) If the provider maintains records electronically or permits the use of electronic signatures, the provider must document any aspect of the provision of services. The provider must maintain appropriate safeguards to

assure the authenticity of the electronic records and signatures. The provider may not challenge the authenticity or admissibility of the electronic signature or documents in any audit, review, hearing, or other legal proceeding.

(d) Providers must comply with the documentation review requirements in OAR 407-120-0370 by providing the electronic record in an electronic format acceptable to an authorized reviewer. The authorized reviewer must agree to receive the documentation electronically.

Stat. Auth.: ORS 409.050, 411.060 & 413.032
Stats. Implemented: ORS 409.010, 409.180, 414.025, & 414.065
Hist.: OMAP 39-2005, f. 9-2-05, cert. ef. 10-1-05; Renumbered from 410-120-1505 by DHSD 9-2010, f. & cert. ef. 9-1-10; DHSD 3-2015, f. & cert. ef. 6-18-15

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

**Rule Caption:** Oregon Project Independence Pilot for Adults with Disabilities
**Adm. Order No.:** APD 11-2015(Temp)
**Filed with Sec. of State:** 6-24-2015
**Certified to be Effective:** 7-1-15 thru 12-27-15
**Notice Publication Date:**
**Rules Amended:** 411-032-0050
**Subject:** The Department is immediately amending 411-032-0050 to continue providing services to adults with physical disabilities that are currently receiving such services in regionally diverse pilot locations under the Oregon Project Independence Pilot. This rulemaking expands the date of the pilot program to allow the Department to continue providing services. Minor formatting adjustments were made to the rule as well.
**Rules Coordinator:** Kimberly Colkitt-Hallman—(503) 945-6398

**411-032-0050**
**Pilot for Adults with Disabilities**

This rule applies only until December 27, 2015.

(1) The purpose of this rule is to set out the policies that apply to the expansion of Oregon Project Independence services to adults with physical disabilities. The pilot allows the Department to study the potential to transition Oregon Project Independence to a statewide, age neutral, program that assesses and serves seniors and persons with physical disabilities based on their functional needs.

(2) "Disability" means, for the purposes of this rule, a physical, cognitive, or emotional impairment which, for an individual, constitutes or results in a functional limitation in one or more of the activities of daily living defined in OAR 411-015-0006, or in one or more of the instrumental activities of daily living defined in OAR 411-015-0007.

(3) "Adult" means, for purposes of this rule, any person 19 to 59 years of age.

(4) OAR 411-032-0000 to 411-032-0044 apply to this pilot program, except as noted below:

(a) Authorized Services and Allowable Costs. Authorized services may not be available in all service areas. Authorized services for the pilot funds include home care supportive services, service coordination, and other services, including the following:

(A) Home care.
(B) Chore services.
(C) Assistive Technology.
(D) Personal care services.
(E) Adult day services.
(F) Registered nurse services.
(G) Home delivered meals.
(H) Services to support community caregivers and strengthen the natural support system of individuals.
(I) Evidence-based health promotion services.
(J) Options counseling.
(K) Assisted transportation options that allow individuals to live at home and access the full range of community resources.

(b) Eligibility.

(A) In order to qualify for authorized services under this pilot, an individual must:

(i) Be an adult with a disability;
(ii) Be a resident of a designated pilot area and seek services at that location;
(iii) Not be receiving Medicaid;
(iv) Meet the requirements of the long-term care services priority rules in OAR chapter 411, division 015.

(B) The Area Agencies on Aging must determine eligibility prior to an individual receiving authorized services.

(c) The fees described in OAR 411-032-0044(1)(a) do not apply to this pilot program.

Stat. Auth.: ORS 409.050, 410.070, 410.435
Stats. Implemented: ORS 409.010, 410.410-480
Hist.: APD 19-2014(Temp), f. 6-26-14, cert. ef. 7-1-14 thru 12-28-14; APD 38-2014, f. 12-16-14, cert. ef. 12-28-14; APD 11-2015(Temp), f. 6-24-15, cert. ef. 7-1-15 thru 12-27-15

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**Rule Caption:** Residential Care Facility Building Requirements
**Adm. Order No.:** APD 12-2015
**Filed with Sec. of State:** 6-24-2015
**Certified to be Effective:** 6-24-15
**Notice Publication Date:** 12-1-2014
**Rules Amended:** 411-054-0200
**Subject:** The Department of Human Services (Department) is permanently updating 411-054-0200 for residential care and assisted living facilities to fix a drafting error from the January 15, 2015 permanent rulemaking. The intent of the Department was to have all effective dates in the rule start in 2015. One date, however, was incorrectly put as 01/15/2014. This rulemaking fixes the drafting error by putting the effective date as 01/15/2015, and accurately reflects the Department's original intent when filing the rule.
**Rules Coordinator:** Kimberly Colkitt-Hallman—(503) 945-6398

**411-054-0200**
**Residential Care Facility Building Requirements**

A residential care facility (RCF), as defined by OAR 411-054-0005, shall be built to the following requirements and may have individual or shared living units.

(1) Applicability for 411-054-0200 shall apply to the following;

(a) A RCF not licensed prior to 01/15/2015,with the exception of 411-054-0200 (5)(a) related to lockable doors . This will apply to all existing and new construction on the effective date as indicated.

(b) A major alteration to a RCF for which plans were not submitted to Facilities, Planning, and Safety (FPS) prior to 01/15/2015; or

(c) OAR 411-054-0200 shall apply only to the major alteration and shall not apply to any other area of the facility.

(2) BUILDING CODES. Each RCF must meet the requirements of the facility standards set forth in these rules and with the building codes in effect at the time of original licensure.

(a) Subsequent modifications made to a RCF after original licensure, including, but not limited to demolition, remodeling, construction, maintenance, repair, or replacement must comply with all applicable state and local building, electrical, plumbing, and zoning codes in place at the time of the modification.

(b) If a change in use and building code occupancy classification occurs, license approval shall be contingent on meeting the requirements of the building codes.

(c) A RCF must comply with FPS program requirements for submission of building drawings and specifications as described in OAR 333-675-0000 through 333-675-0050.

(3) GENERAL BUILDING EXTERIOR.

(a) All exterior pathways and accesses to the RCF common- use areas, entrance, and exit ways must be made of hard, smooth material, be accessible, and maintained in good repair.

(b) A RCF must take measures to prevent the entry of rodents, flies, mosquitoes, and other insects. There must be locked storage for all poisons, chemicals, rodenticides, and other toxic materials. All materials must be properly labeled.

(c) RCF grounds must be kept orderly and free of litter and refuse. Garbage must be stored in covered refuse containers.

(d) As described in OAR 411, division 057, memory care communities licensed as a RCF must be located on the ground floor.

(e) A RCF must provide storage for all maintenance equipment, including yard maintenance tools, if not provided by a third party contract.

(f) A RCF must provide an accessible outdoor recreation area. The outdoor recreation area must be available to all residents. Lighting must be equal to a minimum of five foot candles. Memory Care Communities must provide residents with direct access to a secure outdoor recreation area as described in OAR chapter 411, division 057.

(g) Outdoor perimeter fencing may not be secured to prevent exit unless the RCF has written approval from the Department or the RCF is in compliance with OAR chapter 411, division 057 (Memory Care Communities) or OAR 309-032-1500 through 309-032-1565(Enhanced Care Services).

(h) A RCF must have an entry and exit drive to and from the main building entrance that allows for a vehicle to pick up and drop off residents and mail deliveries without the need for vehicles to back up.

(4) GENERAL BUILDING INTERIOR. The design of a RCF must emphasize a residential appearance while retaining the features required to support special resident needs as outlined in this rule.

(a) RECEPTION AREA. A reception area must be visible and accessible to residents and visitors when entering the doors of the main entrance to the RCF.

(b) CORRIDORS. Resident-use areas and units must be connected through temperature controlled common corridors.

(A) Resident-use corridors exceeding 20 feet in length to an exit or common-use area, must have a minimum width of 72 inches.

(B) Corridors shall not exceed 150 feet in length from any resident unit to a seating or other common-use area.

(C) Handrails must be installed at one or both sides of resident-use corridors.

(c) FLOORS.

(A) Hard surface floors and base must be free from cracks and breaks.

(B) Carpeting and other floor materials must be constructed and installed to minimize resistance for passage of wheelchairs and other ambulation aids.

(C) Thresholds and floor junctures must be maintained to allow for the passage of wheelchairs and to prevent a tripping hazard.

(d) INTERIOR DOORS. Lever-type door handles must be provided on all doors used by residents.

(e) EXIT DOORS. Exit doors may not include locks that delay evacuation except as specified by the building codes. Such locks may not be installed except with written approval of the Department.

(A) Exit doors may not include locks that prevent evacuation.

(B) If an electronic code must be entered to use an exit door that code must be clearly posted for residents, visitors, and staff use.

(f) WALLS AND CEILINGS. Walls and ceilings must be cleanable in kitchen, laundry, and bathing areas. Kitchen walls must be finished smooth per OAR 333-150-0000 (Food Sanitation Rules).

(g) ELEVATORS. A RCF with residents on more than one floor must provide at least one elevator that meets Oregon Elevator Specialty Code (OESC) requirements.

(h) The interior of the facility must be free from unpleasant odors.

(i) All interior and exterior materials and surfaces (e.g., floors, walls, roofs, ceilings, windows, and furniture) and all equipment necessary for the health, safety, and comfort of the resident will be kept clean and in good repair.

(5) RESIDENT UNITS. Resident units may be limited to a bedroom only, with bathroom facilities centrally located off common corridors. Each resident unit shall be limited to not more than two residents.

(a) Resident units must have a lockable door with lever type handles, effective 01/15/2017. This applies to all existing and new construction.

(b) For bedroom units, the door must open to an indoor, temperature controlled common-use area or common corridor. Residents may not enter a room through another resident's bedroom.

(c) Resident units must include a minimum of 80 square feet per resident, exclusive of closets, vestibules, and bathroom facilities and allow for a minimum of three feet between beds;

(d) All resident bedrooms must be accessible for individuals with disabilities and meet the requirements of the building codes. Adaptable units are not acceptable.

(e) A lockable storage space (e.g., drawer, cabinet, or closet) must be provided for the safekeeping of a resident's small valuable items and funds. Both the administrator and resident may have keys.

(f) WARDROBE CLOSET. A separate wardrobe closet must be provided for each resident's clothing and personal belongings. Resident wardrobe and storage space must total a minimum volume of 64 cubic feet for each resident. The rod must be adjustable for height or fixed for reach ranges per building codes. In calculating useable space closet height may not exceed eight feet and a depth of two feet.

(g) WINDOWS.

(A) Each sleeping and living unit must have an exterior window that has an area at least one tenth of the floor area of the room.

(B) Unit windows must be equipped with curtains or blinds for privacy and control of sunlight.

(C) Operable windows must be designed to prevent accidental falls when sill heights are lower than 36 inches and above the first floor.

(h) RESIDENT UNIT BATHROOMS. If resident bathrooms are provided within a resident unit, the bathroom must be a separate room and include a toilet, hand wash sink, mirror, towel bar, and storage for toiletry items. The bathrooms must be accessible for individuals who use wheelchairs.

(i) UNIT KITCHENS. If cooking facilities are provided in resident units, cooking appliances must be readily removable or disconnect-able and the RCF must have and carry out a written safety policy regarding resident-use and nonuse. A microwave is considered a cooking appliance.

(6) COMMON-USE AREAS.

(a) BATHING FACILITIES. Centralized bathing fixtures must be provided at a minimum ratio of one tub or shower for each ten residents not served by fixtures within their own unit.

(A) At least one centralized shower or tub must be designed for disabled access without substantial lifting by staff.

(B) Bathing facilities must be located or screened to allow for resident privacy while bathing and provide adequate space for an attendant.

(C) A slip-resistant floor surface in bathing areas is required.

(D) Grab bars must be provided in all resident showers.

(E) Showers must be equipped with a hand-held showerhead and a cleanable shower curtain.

(b) TOILET FACILITIES. Toilet facilities must be located for resident-use at a minimum ratio of one to six residents for all residents not served by toilet facilities within their own unit. Toilet facilities must include a toilet, hand wash sink, and mirror.

(A) Toilet facilities for all of the licensed resident capacity must be accessible to individuals with disabilities in accordance with the building codes.

(B) A RCF licensed for more than 16 residents must provide at least one separate toilet and hand wash lavatory for staff and visitor use.

(c) DINING AREA. The dining area must be provided with the capacity to seat 100 percent of the residents. The dining area must provide a minimum of 22 square feet per resident for seating, exclusive of serving carts and other equipment or items that take up space in the dining area. A RCF must have policies and equipment to assure food is served fresh and at proper temperatures.

(d) SOCIAL AND RECREATION AREAS. A RCF must include lounge and activity areas for social and recreational use totaling a minimum of 15 square feet per resident.

(e) COOKING STOVE. If a stove is provided in the activities or common-use area, and is available for resident-use, a keyed, remote switch, or other safety device must be provided to ensure staff control.

(7) SUPPORT SERVICE AREAS.

(a) MEDICATION STORAGE. A RCF must have a locked and separate closed storage area for medications, supportive of the distribution system utilized including:

(A) A method for refrigeration of perishable medications that provides for locked separation from stored food items;

(B) Medications must be stored in an area that is separate from any poisons, hazardous material, or toxic substance; and

(C) A RCF licensed for more than 16 residents must provide a medication sink.

(b) HOUSEKEEPING AND SANITATION.

(A) A RCF must have a secured janitor closet for storing supplies and equipment, with a floor or service sink.

(B) The wall base shall be continuous and coved with the floor, tightly sealed to the wall, and constructed without voids that can harbor insects or moisture.

(c) LAUNDRY FACILITIES. Laundry facilities may be located to allow for both resident and staff use, when a time schedule for resident-use is provided and equipment is of residential type. When the primary laundry is not in the building or suitable for resident-use, a RCF must provide separate resident-use laundry facilities.

(A) Laundry facilities must be operable and at no additional cost to the resident.

(B) Laundry facilities must have space and equipment to handle laundry-processing needs. Laundry facilities must be separate from food preparation and other resident-use areas.

(C) On-site laundry facilities, used by staff for facility and resident laundry, must have capacity for locked storage of chemicals and equipment.

(D) The wall base shall be continuous and coved with the floor, tightly sealed to the wall, and constructed without voids that can harbor insects or moisture.

(d) SOILED LINEN PROCESSING. For the purpose of this rule, "soiled linens and soiled clothing," means linens or clothing contaminated by an individual's bodily fluids (for example, urine, feces, or blood).

(A) There must be a separate area with closed containers that ensure the separate storage and handling of soiled linens and soiled clothing. There must be space and equipment to handle soiled linen and soiled clothing processing needs that is separate from regular linens and clothing.

(B) Arrangement must provide a one-way flow of soiled linens and soiled clothing from the soiled area to the clean area and preclude potential for contamination of clean linens and clothing.

(C) The soiled linen room or area, must include a flushing rim clinical sink with a handheld rinsing device and a hand wash sink or lavatory.

(D) When washing soiled linens and soiled clothing, washers must have a minimum rinse temperature of 140 degrees Fahrenheit unless a chemical disinfectant is used.

(E) Personnel handling soiled laundry must be provided with waterproof gloves.

(F) Covered or enclosed clean linen storage must be provided and may be on shelves or carts. Clean linens may be stored in closets outside the laundry area.

(G) The wall base shall be continuous and coved with the floor, tightly sealed to the wall, and constructed without voids that can harbor insects or moisture.

(e) KITCHEN AND FOOD STORAGE. Kitchen facilities and equipment in residential care facilities with a capacity of 16 or fewer may be of residential type except as required by the building codes. Residential care facilities licensed for a capacity of more than 16, must comply with OAR 333-150-0000 (Food Sanitation Rules). The following are required:

(A) Dry storage space, not subject to freezing, for a minimum one-week supply of staple foods.

(B) Refrigeration and freezer space at proper temperature to store a minimum two days' supply of perishable foods.

(C) Storage for all dishware, utensils, and cooking utensils used by residents must meet OAR 333-150-0000 (Food Sanitation Rules).

(D) In facilities licensed to serve 16 or fewer residents, a dishwasher must be provided (may be residential type) with a minimum final rinse temperature of 140 degrees Fahrenheit (160 degrees recommended), unless a chemical disinfectant is used in lieu of the otherwise required water temperature. In facilities of 17 or more capacity, a commercial dishwasher is required meeting OAR 333-150-0000 (Food Sanitation Rules).

(E) In residential care facilities with a capacity of 16 or fewer, a two compartment sink or separate food preparation sink and hand wash lavatory must be provided. In residential care facilities with 17 or more capacity, a triple pot wash sink (unless all pots are sanitized in the dishwasher), a food prep sink, and separate hand wash lavatory must be provided.

(F) Food preparation and serving areas must have smooth and cleanable counters.

(G) Stove and oven equipment for cooking and baking needs.

(H) Storage in the food preparation area for garbage must be enclosed and separate from food storage.

(I) Storage for a mop and other cleaning tools and supplies used for dietary areas must be separate from those used in toilet rooms, resident rooms, and other support areas. In residential care facilities with a capacity of 17 or more, a separate janitor closet or alcove must be provided with a floor or service sink and storage for cleaning tools and supplies.

(J) Storage must be available for cookbooks, diet planning information, and records.

(K) The wall base shall be continuous and coved with the floor, tightly sealed to the wall, and constructed without voids that can harbor insects or moisture.

(8) HEATING AND VENTILATION SYSTEMS. A RCF must have heating and ventilation systems that comply with the building codes in effect at the time of facility construction.

(a) TEMPERATURE. For all areas occupied by residents, design temperature for construction must be 75 degrees Fahrenheit.

(A) A RCF must provide heating systems capable of maintaining 70 degrees Fahrenheit in resident areas. Required minimum temperatures are no less than 70 degrees Fahrenheit during the day and 60 degrees Fahrenheit during sleeping hours.

(B) During times of extreme summer heat, fans must be made available when air conditioning is not provided.

(b) EXHAUST SYSTEMS. All toilet and shower rooms must be equipped with a mechanical exhaust fan or central exhaust system that discharges to the outside.

(c) FIREPLACES, FURNACES, WOODSTOVES, AND BOILERS. Where used, installation must meet standards of the building codes in effect at the time of construction. The glass and area surrounding the fireplace must not exceed 120 degrees Fahrenheit.

(d) WALL HEATERS. Covers, grates, or screens of wall heaters and associated heating elements may not exceed 120 degrees Fahrenheit when they are installed in locations that are subject to incidental contact by people or with combustible material. Effective 01/15/2015, wall heaters are not acceptable in new construction or remodeling.

(9) PLUMBING SYSTEMS. Plumbing systems must conform to the building codes in effect at the time of facility construction.

(a) Hot water temperature in residents' units must be maintained within a range of 110 - 120 degrees Fahrenheit.

(b) Hot water temperatures serving dietary areas must meet OAR 333-150-0000 (Food Sanitation Rules).

(c) An outside area drain and hot and cold water hose bibs must be provided for sanitizing laundry carts, food carts, and garbage cans.

(10) ELECTRICAL REQUIREMENTS.

(a) WIRING SYSTEMS. All wiring systems must meet the building codes in effect at the date of installation and shall be maintained and in good repair.

(b) The use of extension cords and other special taps is not allowed.

(c) LIGHTING. Lighting fixtures must be provided in each resident bedroom and bathroom, and be switchable and near the entry door.

(A) Each resident bedroom must have illumination of at least 20-foot candles measured at three feet above the floor for way finding from the room entrance, to each bed, and to the adjoining toilet room, if one exists.

(B) Lighting in toilet rooms and bathing facilities used by residents must be at least 50-foot candles, measured at the hand wash sink and three feet above the shower floor with the curtain open.

(C) Corridor lighting must equal a minimum of 20-foot candles measured from the floor.

(D) Table height lighting in dining rooms must equal a minimum of 25-foot candles, without light from windows.

(11) CALL SYSTEM. A RCF must provide a call system that connects resident units to the care staff center or staff pagers. Wireless call systems are allowed.

(a) A manually operated emergency call system must be provided in each toilet and bathing facility used by residents and visitors.

(b) EXIT DOOR ALARMS. An exit door alarm or other acceptable system must be provided for security purposes and to alert staff when residents exit the RCF. The door alarm system may be integrated with the call system.

(c) Security devices intended to alert staff of an individual resident's potential elopement may include, but not be limited to, electronic pendants, bracelets, pins.

(12) TELEPHONES. Adequate telephones must be available for resident, staff, and visitor use, including those individuals who have physical disabilities. If the only telephone is located in a staff area, it must be posted that the telephone is available for normal resident-use at any time and that staff shall ensure the resident's uninterrupted privacy. Staff may provide assistance when necessary or requested.

(13) TELEVISION ANTENNA OR CABLE SYSTEM. A RCF must provide a television antenna or cable system with an outlet in each resident unit.

Stat. Auth.: ORS 410.070 & 443.450
Stats. Implemented: ORS 443.400 - 443.455 & 443.991
Hist.: SPD 14-2007, f. 8-31-07, cert. ef. 11-1-07; SPD 13-2009, f. 9-30-09, cert. ef. 10-1-09; APD 1-2015, f. 1-14-15, cert. ef. 1-15-15; APD 12-2015, f. & cert. ef. 6-24-15

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**Rule Caption:** Investigations of Potential Elder Abuse in Nursing Facilities
**Adm. Order No.:** APD 13-2015
**Filed with Sec. of State:** 6-24-2015
**Certified to be Effective:** 6-28-15
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**Rules Amended:** 411-085-0005, 411-085-0010, 411-085-0013, 411-085-0015, 411-085-0030, 411-085-0040, 411-085-0060, 411-085-0310, 411-085-0350, 411-085-0360, 411-085-0370, 411-089-0010, 411-089-0020, 411-089-0030, 411-089-0040, 411-089-0050, 411-089-0070, 411-089-0075, 411-089-0100, 411-089-0110, 411-089-0120, 411-089-0130, 411-089-0140

**Rules Repealed:** 411-085-0005(T), 411-085-0010(T), 411-085-0013(T), 411-085-0015(T), 411-085-0030(T), 411-085-0040(T), 411-085-0060(T), 411-085-0310(T), 411-085-0350(T), 411-085-0360(T), 411-085-0370(T), 411-089-0010(T), 411-089-0020(T), 411-089-0030(T), 411-089-0040(T), 411-089-0050(T), 411-089-0070(T), 411-089-0075(T), 411-089-0100(T), 411-089-0110(T), 411-089-0120(T), 411-089-0130(T), 411-089-0140(T)

**Subject:** The Department of Human Services (Department) is permanently updating the rules in OAR chapter 411-085, 089 to make permanent temporary changes that were implemented on January 1, 2015. The amendments implement House Bill 4151 (2014 Regular Session) and make necessary changes to make the rules reflect current Department policy and practice by:

- Amending the definition of "sexual abuse" used by corrective action coordinators to determine enhanced civil penalties as required by HB 4151. Following the substantiation of alleged "abuse" in nursing facilities, this definition is used to determine the amount of an enhanced civil penalty the nursing facility corrective action coordinator applies in any given case. This definition is not used by investigators in the field; this definition is only used by corrective action coordinators to determine enhanced civil penalties.
- Replacing name of division with the new name of the office, "Office of Licensing and Regulatory Oversight (OLRO)" and listing the responsibilities of the office.
- Amending definitions to be consistent with current Department terminology.
- Amending program and division names throughout the rules to ensure current agency program names are correctly referenced.
- Amending the amount of time local APD and AAA offices have to complete an abuse investigation report to ensure consistency with the HB 4151 requirement of completing investigations within120 days.
- Making minor wording, formatting, punctuation, and grammatical adjustments to the rules.

**Rules Coordinator:** Kimberly Colkitt-Hallman—(503) 945-6398

**411-085-0005**
**Definitions**

Unless the context requires otherwise, the following definitions apply to the rules in OAR chapter 411, divisions 70, 85, and 89:

(1) "AAA" means "Area Agency on Aging" as defined in this rule.

(2) "Abuse" means:

(a) Any physical injury to a resident that has been caused by other than accidental means. This includes injuries a reasonable and prudent individual is able to prevent, such as hitting, pinching or striking, or injury resulting from rough handling.

(b) Failure to provide basic care or services to a resident that results in physical harm, unreasonable discomfort, or serious loss of human dignity.

(c) Sexual contact with a resident, including fondling, caused by an employee, agent, or other resident of a long-term care facility by force, threat, duress or coercion, or sexual contact where the resident has no ability to consent.

(d) Illegal or improper use of a resident's resources for the personal profit or gain of another individual, borrowing resident funds, spending resident funds without the resident's consent, or if the resident is not capable of consenting, spending resident funds for items or services from which the resident is unable to benefit or appreciate, or spending resident funds to acquire items for use in common areas when such purchase is not initiated by the resident.

(e) Verbal abuse as prohibited by federal law, including the use of oral, written, or gestured communication to a resident or visitor that describes a resident in disparaging or derogatory terms.

(f) Mental abuse as prohibited by law including humiliation, harassment, threats of punishment, or deprivation, directed toward the resident.

(g) Corporal punishment.

(h) Involuntary seclusion for convenience or discipline.

(3) "Abuse Complaint" means any oral or written communication to the Department, one of the Department's agents, or a law enforcement agency alleging abuse.

(4) "Activities Program" means services offered to each resident that encourage the resident to participate in physical and mental exercises that are designed to maintain or improve physical and mental well-being and social skills.

(5) "Acute Sexual Assault" means any non-consensual or unwanted sexual contact that warrants medical treatment or forensic collection.

(6) "Applicant" means the individual required to complete a nursing facility application for a license. Applicant includes a sole proprietor, each partner in a partnership, or the corporation that owns the nursing facility business. Applicant also includes a sole proprietor, each partner in a partnership, or a corporation that operates a nursing facility on behalf of the nursing facility business owner.

(7) "Area Agency on Aging (AAA)" means the Department designated agency charged with the responsibility to provide a comprehensive and coordinated system of service to individuals in a planning and service area.

(8) "Aging and People with Disabilities" means the program area of Aging and People with Disabilities, within the Department of Human Services.

(9) "APD" means "Aging and People with Disabilities."

(10) "Assessment" means a written evaluation of a resident's abilities, condition, and needs based upon resident interview, observation, clinical and social records, and other available sources of information.

(11) "Care" means services required to maximize resident independence, personal choice, participation, health, self-care, and psychosocial functioning, as well as to provide reasonable safety, all consistent with the preferences of the resident.

(12) "Certified Medication Aide" means "certified medication assistant" as defined in this rule.

(13) "Certified Medication Assistant" means a certified nursing assistant who has been certified as a medication assistant or medication aide pursuant to ORS chapter 678 and the rules adopted thereunder.

(14) "Certified Nursing Assistant" means an individual who has been certified as a nursing assistant pursuant to ORS chapter 678 and the rules adopted thereunder.

(15) "Change of Operator" means "change of ownership" as defined in this rule.

(16) "Change of Ownership" means a change in the individual or entity that owns the facility business, a change in the individual or entity responsible for the provision of services at the facility, or both. Events that change ownership include, but are not limited to:

(a) A change in the form of legal organization of the licensee;

(b) Transfer of the title to the nursing facility enterprise by the owner to another party;

(c) If the licensee is a corporation, dissolution of the corporation, merger of the corporation with another corporation, or consolidation of one or more corporations to form a new corporation;

(d) If the licensee is a partnership, any event that dissolves the partnership;

(e) Any lease, management agreement, or other contract or agreement that results in a change in the legal entity responsible for the provision of services at the facility; or

(f) Any other event that results in a change of the operating entity.

(17) "Control Interest" means "management" as defined in this rule.

(18) "Day Care Resident" means an individual who is not bedfast who receives services and care in a nursing facility for not more than 16 hours per day.

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

(20) "Drug" has the same meaning set forth in ORS chapter 689.005.

(21) "Entity" means "Individual" as defined in this rule.

(22) "Establish a Nursing Facility" means to possess or hold an incident of ownership in a nursing facility business.

(23) "Facility" means an establishment that is licensed and certified by the Department as a nursing facility.

(24) "Facility Fund" means a fund created under ORS 441.303 to meet expenses relating to the appointment of a trustee under ORS 441.277 to 441.323 or the appointment of a temporary manager under ORS 441.333 for a nursing facility or a residential care facility.

(25) "Health Care Facility" means a health care facility as defined in ORS 442.015, a residential care facility as defined in ORS 443.400, and an adult foster home as defined in ORS 443.705.

(26) "Hearing" means a contested case hearing according to the Administrative Procedures Act and the rules of the Department.

(27) "Incident of Ownership" means:

(a) An ownership interest;

(b) An indirect ownership interest; or

(c) A combination of direct and indirect ownership interest.

(28) "Indirect Ownership Interest" means an ownership interest in an entity that has an ownership interest in another entity. Indirect ownership interest includes an ownership interest in an entity that has an indirect ownership interest in another entity.

(29) "Individual" means an entity including an individual, a trust, an estate, a partnership, a corporation, or a state or governmental unit as defined in ORS 442.015 including associations, joint stock companies, insurance companies, the state, or a political subdivision or instrumentality, including a municipal corporation.

(30) "Inpatient Beds" means a bed in a facility available for occupancy by a resident who is cared for and treated on an overnight basis.

(31) "Inspection" means any on-site visit to the facility by anyone designated by the Secretary of the U.S. Department of Health and Human Services, the Department, or a "Type B" Area Agency on Aging and includes, but is not limited to, a licensing inspection, certification inspection, financial audit, Medicaid Fraud Unit review, monitoring, or complaint investigation.

(32) "Legal Representative" means an attorney at law, the individual holding a general power of attorney or special power of attorney for health care, a guardian, a conservator, any individual appointed by a court to manage the personal or financial affairs of a resident, or an individual or agency legally responsible for the welfare or support of a resident other than the facility.

(33) "Licensed Nurse" means a registered nurse or a licensed practical nurse.

(34) "Licensed Practical Nurse (LPN)" means an individual licensed under ORS chapter 678 to practice practical nursing.

(35) "Licensee" means the applicant to whom a nursing facility license has been issued.

(36) "Local Designee of the Department" means the local unit of the Department or the Area Agency on Aging.

(37) "Long Term Care Facility" means "nursing facility" as defined in this rule.

(38) "LPN" means "licensed practical nurse" as defined in this rule.

(39) "Maintain a Nursing Facility" means "establish a nursing facility" as defined in this rule.

(40) "Major Alteration" means change other than repair or replacement of building materials or equipment with materials and equipment of a similar type.

(41) "Management" means:

(a) Possessing the right to exercise operational or management control over, or to directly or indirectly conduct the day-to-day operation of, an institution, organization, or agency; or

(b) An interest as an officer or director of an institution, organization, or agency organized as a corporation.

(42) "New Construction" means:

(a) A new building;

(b) An existing building or part of a building that is not currently licensed as a nursing facility;

(c) A part of an existing building that is not currently licensed for the purpose for which such part is proposed to be licensed, such as, rooms that are proposed to be licensed as nursing facility resident rooms, but are not currently licensed as nursing facility resident rooms;

(d) A major alteration to an existing building;

(e) An addition to an existing building;

(f) A conversion in use; or

(g) Renovation or remodeling of an existing building.

(43) "NFPA" means "National Fire Protection Association".

(44) "Nurse Aide" means "nursing assistant" as defined in this rule.

(45) "Nurse Practitioner" means an individual certified under ORS chapter 678 as a nurse practitioner.

(46) "Nursing Assessment" means evaluation of fluids, nutrition, bowel or bladder elimination, respiration, circulation, skin, vision, hearing, musculoskeletal systems, allergies, personal hygiene, mental status, communicative skills, safety needs, rest, sleep, comfort, pain, other appropriate measures of physical status, and medication and treatment regimes. Nursing assessment includes data collection, comparison with previous data, analysis or evaluation of that data, and utilization of available resource information.

(47) "Nursing Assistant" means an individual who assists licensed nurses in the provision of nursing care services. "Nursing Assistant" includes, but is not limited to, a certified nursing assistant, a certified medication assistant, and individuals who have successfully completed a state approved nurse assistant training course.

(48) "Nursing Care" means direct and indirect care provided by a registered nurse, licensed practical nurse, or nursing assistant.

(49) "Nursing Facility" means an establishment with permanent facilities, including inpatient beds, that provides medical services, including nursing services, but excluding surgical procedures, and that provides care and treatment for two or more unrelated residents. In this definition, "treatment" means complex nursing tasks that may not be delegated to an unlicensed individual. "Nursing Facility" only includes facilities licensed and operated pursuant to ORS 441.020(2).

(50) "Nursing Facility Administrator" means an individual licensed under ORS chapter 678 who is responsible to the licensee and is responsible for planning, organizing, directing, and controlling the operation of a nursing facility.

(51) "Nursing Facility Law" means ORS chapter 441 and the rules for nursing facilities adopted thereunder.

(52) "Nursing Home" means "nursing facility" as defined in this rule.

(53) "Nursing Staff" means registered nurses, licensed practical nurses, and nursing assistants providing direct resident care in a facility.

(54) "The Office of Licensing and Regulatory Oversight (OLRO)," through its Nursing Facility Licensing and Survey Units, is the DHS office responsible for the licensing, inspections, surveys, sanctions, and enforcement for non-compliance of nursing facilities, and with APD, is jointly responsible for policy development.

(55) "Owner" means an individual with an ownership interest.

(56) "Ownership Interest" means the possession of equity in the capital, stock, or profits of an entity.

(57) "Pharmacist" has the same meaning as set forth in ORS 689.005.

(58) "Pharmacy" has the same meaning as set forth in ORS 689.005.

(59) "Physician" means an individual licensed under ORS chapter 677 as a physician.

(60) "Physician's Assistant" means an individual registered under ORS chapter 677 as a physician's assistant.

(61) "Podiatrist" means an individual licensed under ORS chapter 677 to practice podiatry.

(62) "Prescription" has the same meaning as set forth in ORS 689.005.

(63) "Public or Private Official" means:

(a) Physician, naturopathic physician, osteopathic physician, chiropractor, podiatric physician, physician assistant, or surgeon including any intern or resident;

(b) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide, or employee of an in-home health agency;

(c) Employee of the Department, Oregon Health Authority, Area Agency on Aging, county health department, community mental health program, community developmental disability program, or nursing facility;

(d) Individual who contracts to provide services to a nursing facility;

(e) Peace officer;

(f) Clergy;

(g) Licensed clinical social worker, psychologist, licensed professional counselor, or licensed marriage and family therapist;

(h) Physical, speech, or occupational therapist, respiratory therapist, audiologist, or speech language pathologist;

(i) Senior center employee;

(j) Information and referral or outreach worker;

(k) Any public official who comes in contact with elderly individuals in the performance of the official's official duties;

(l) Firefighter or emergency medical technician;

(m) Legal counsel for a resident; or

(n) Guardian for, or family member of, a resident.

(64) "Registered Nurse (RN)" means an individual licensed under ORS chapter 678.

(65) "Rehabilitative Services" means specialized services provided by a therapist or a therapist's assistant to a resident to attain optimal functioning, including, but not limited to, physical therapy, occupational therapy, speech and language therapy, and audiology.

(66) "Relevant Evidence" means factual information that tends to either prove or disprove the following:

(a) Whether abuse or other rule violation occurred;

(b) How abuse or other rule violation occurred; or

(c) Who was involved in the abuse or other rule violation.

(67) "Resident" means an individual who has been admitted, but not discharged from a facility.

(68) "Restorative Aide" means a certified nursing assistant primarily assigned to perform therapeutic exercises and activities to maintain or re-

establish a resident's optimum physical function and abilities according to the resident's restorative plan of care and pursuant to OAR 411-086-0150.

(69) "Restorative Nursing" means "restorative services" as defined in this rule.

(70) "Restorative Services" mean the measures provided by nursing staff and directed toward re-establishing and maintaining a residents' fullest potential.

(71) "RN" means "registered nurse" as defined in this rule.

(72) "Safety" means the condition of being protected from environmental hazards without compromise to a resident's or legal guardian's choice, or undue sacrifice of a resident's independence.

(73) "Significant Other" means an individual designated by the resident or by the court to act on behalf of the resident. If the resident is not capable of such designation and there is no court-appointed individual, then a significant other means a family member or friend who has demonstrated consistent concern for the resident. No rule using this term is intended to allow release of, or access to, confidential information to individuals who are not otherwise entitled to such information, or to allow such individuals to make decisions they are not entitled to make on behalf of a resident.

(74) "Suspected Abuse" means reasonable cause to believe abuse may have occurred.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 410.070, 441.055, 441.615 & 441.637

Stats. Implemented: ORS 410.070, 441.055, 441.615, 441.630, 441.637, 441.650

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SSD 1-1995, f. 1-30-95, cert. ef. 2-1-95; SPD 26-2004, f. 7-30-04, cert.ef. 8-1-04; SPD 1-2008(Temp), f. 2-8-08, cert. ef. 3-1-08 thru 8-28-08; SPD 10-2008, f. & cert. ef. 8-28-08; SPD 24-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 11-2010, f. 6-30-10, cert. ef. 7-1-10; APD 5-2014, f. 3-31-14, cert. ef. 4-1-14; APD 51-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 13-2015, f. 6-24-15, cert. ef. 6-28-15

**411-085-0010**
**Issuance of License**

(1) No person acting individually or jointly with any other person shall establish, conduct, maintain, manage, or operate a nursing facility without a license from the Department.

(2) Each nursing facility license issued by the Department applies only to person or persons named on the license. The license is not transferable or assignable. The license is valid only for the specific premises designated on the license and for the time period specified on the license.

(3) A license may not be issued for a new facility, an expanded facility, or a facility offering new services unless the Oregon Health Authority has issued a certificate of need for said facility or service, or has determined a certificate of need is not required.

(4) APPLICATION FOR INITIAL LICENSURE AND LICENSE RENEWAL.

(a) The application must be on a form or forms provided by the Department and must include all information requested by the Department including, but not limited to, identity and financial interest of any person, including stockholders who have an incident of ownership in the applicant representing an interest of 10 percent or more or 10 percent of a lease agreement for the facility. Facilities applying for Medicaid, Medicare, or both Medicaid and Medicare certification are required by federal law to identify applicants representing a 5 percent or more interest.

(b) If the owner of the nursing facility business is a different entity from the operator of the nursing facility, an application for licensure is required from both the operator and the owner. Only one license fee is required. Each application must be signed and dated by a legally authorized representative of the entity submitting the application. The names of owners and operators shall appear on the license.

(c) The applicant must identify any person who has 10 percent incident of ownership, direct or indirect, in a pharmacy or in any business that provides services or supplies to nursing facilities. If any such person exists, the applicant must identify the person and the name and address of the pharmacy or business.

(d) The applicant must identify the number of beds the facility is presently capable of operating considering existing equipment, ancillary service capability, and the physical requirements as specified within OAR chapter 411, divisions 85-89. The number of beds requested to be licensed may not exceed the number identified on the license to be renewed unless prior approval has been issued by the Department or a certificate of need has been issued when required pursuant to ORS chapter 442.

(e) The applicant must include a floor plan showing the location of each bed and the dimensions and room number of each room in which a bed is located. The plan must also show the location of dining and activities areas, shower and tub rooms, toilet rooms, clean and dirty utility rooms, therapy service areas, laundry areas, and dietary service areas. After the first filing, plans need only be submitted when changes in the information required in this subsection occur or when requested by the Department.

(f) The applicant must include a copy of all leases, management, and ownership of the facility.

(g) The applicant must list all states in which the applicant or persons having a 10 percent or more incident of ownership in the facility currently are or previously have been licensed to provide long-term care.

(h) If a renewal is desired, the licensee must apply at least 45 days before the expiration date of the existing license.

(i) The license fee must accompany the application.

(j) If the applicant fails to provide complete and accurate information on the application, the Department may deny or revoke the license if the Department determines the missing or corrected information is needed to determine if a license shall be granted.

(k) An application is not considered to be complete until all requested information and signatures have been provided.

(l) Each application for a new license (excludes license renewal) must include a completed and signed credit and background check authorization form for the applicant and each person with 10 percent incident of ownership in the applicant.

(m) Applicants for license renewal must provide the Department with a completed and signed credit and background check authorization form for the applicant and each person with incident of ownership in the applicant, when required by the Department.

(n) Applications must state whether or not the applicant and persons with incident of ownership in the applicant, have ever been convicted of a crime associated with operation of a health care facility or agency under federal law or the laws of any state.

(o) Applicants must provide such other information and documentation as the Department may reasonably require for proper administration of these rules including, but not limited to, information about ownership interest in other business enterprises, if relevant.

(p) The Department shall issue the license or issue a denial of licensure within 60 days of receipt of the license fee, completed application, and after determination of substantial compliance with the on-site inspection.

(5) DEMONSTRATED CAPABILITY.

(a) Before issuance of a license or a license renewal, the applicant must demonstrate to the satisfaction of the Department that the applicant is capable of providing care in a manner consistent with the requirements of the rules in OAR chapter 411, divisions 85-89.

(b) The Department may consider the background and qualifications of any person owning 10 percent or more interest in the nursing facility operation when determining whether an applicant may be licensed.

(c) The Department may consider the applicant's history of compliance with Department rules and orders, including the history of compliance of each person with a 10 percent or more incident of ownership in the applicant.

(d) Any person with a past or present interest of 10 percent or more incident of ownership in any nursing facility operation shall be considered responsible for acts occurring during, and relating to, the operation of the nursing facility for the purpose of licensing.

(6) SEPARATE BUILDINGS. Separate licenses are not required for separate buildings located contiguously and operated as an integrated unit by the same ownership or management.

Stat. Auth.: ORS 410.070, 441.025 & 441.060

Stats. Implemented: ORS 441.025 & 441.060

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SPD 26-2004, f. 7-30-04, cert.ef. 8-1-04; SPD 3-2012, f. & cert. ef. 4-10-12; APD 51-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 13-2015, f. 6-24-15, cert. ef. 6-28-15

**411-085-0013**
**New Applicant Qualifications**

For the purpose of this rule, "applicant" means each person, as defined in ORS 442.015, who holds 10 percent or greater incident of ownership in the facility. Applicants for licensure (excluding license renewal, but including all changes of ownership) must meet the following criteria:

(1) CRIMINAL HISTORY. Each applicant must complete a Criminal History Clearance conducted by the Department in accordance with OAR chapter 407, division 007. The Department conducts the fitness determination. If determined "unfit," applicants may appeal as described in OAR 407-007-0330.

(2) PERFORMANCE HISTORY. Each applicant must:

(a) Be free of incident of ownership history in any facility in Oregon that provides or provided (at the time of ownership) care to children, elderly, ill or disabled persons and was involuntarily terminated from licensure or certification, or voluntarily terminated during any state or federal termination process, during the past five years.

(b) Be free of incident of ownership history in any nursing facility in any state that was involuntarily terminated from licensure or certification, or voluntarily terminated during any state or federal termination process, during the past five years.

(c) Be free of history of termination of licensure as a nursing facility administrator or health care provider during the past five years.

(d) Failure to demonstrate required performance history may result in the Department's denial of a license.

(3) FINANCIAL HISTORY. Each applicant must:

(a) Be free of incident of ownership history in any facility or business that failed to reimburse any state for Medicaid overpayments or civil penalties during the past five years.

(b) Be free of incident of ownership history in any facility or business that failed to compensate employees or pay worker's compensation, food supplies, or other costs necessary for facility operation, during the past five years.

(c) Have a record of good credit as evidenced by a Department credit check.

(d) Submit proof of fiscal responsibility, including an auditor's certified financial statement and other verifiable documentary evidence of fiscal solvency, documenting that the prospective licensee has sufficient resources to operate the facility for 60 days. Proof of fiscal responsibility must include liquid assets sufficient to operate the facility for 45 days. Anticipated Medicaid income is not considered to be "liquid assets," but may be considered to be "financial resources." Liquid assets may be demonstrated by:

(A) An unencumbered line of credit;

(B) A joint escrow account with the Department;

(C) A performance bond; or

(D) Any other method satisfactory to the Department.

(e) Provide a pro forma (revenues, expenditures, and resident days) by month for the first 12 months of operation of the facility and demonstrate the ability to cover any cash flow problems identified by the pro forma.

(4) EXPERIENCE. If an applicant does not have experience in the provision of nursing facility care, the applicant must employ the services of a consultant with experience in the provision of nursing facility care for a period of at least six months. The consultant and the terms and length of employment are subject to the approval of the Department. Costs incurred for such consulting services are not an allowable cost for Medicaid reimbursement.

(5) DEMONSTRATION OF RIGHT TO PROPERTY AND BUSINESS. The applicant must demonstrate that they have the legal right to possess the nursing facility property and operate the nursing facility business. Examples include, but are not limited to:

(a) If purchasing the property, the applicant must include documentation demonstrating clear title and current right to possess the property; and

(b) If leasing the facility property, or planning to operate it under a management agreement, the applicant must provide all legal documents needed to demonstrate the right to possess the property and operate the business.

Stat. Auth.: ORS 410.070 & 441.055

Stats. Implemented: ORS 441.025, 441.055 & 441.615

Hist.: SSD 8-1993, f. & cert. ef. 10-1-93; SDSD 13-1999, f. 12-30-99, cert. ef. 1-1-00; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04; APD 51-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 13-2015, f. 6-24-15, cert. ef. 6-28-15

**411-085-0015**

**License Expiration, Termination of Operation, License Return**

(1) EXPIRATION. Effective May 16, 2011, unless revoked or terminated earlier, or issued for a shorter specified period, each license to operate a nursing facility expires annually, following the date of issue.

(2) TERMINATION OF OPERATION. Except as otherwise provided in this rule, if facility operation is discontinued for any reason, the license shall expire. The licensee has appeal rights under ORS chapter 183.

(3) INACTIVE LICENSE.

(a) When the licensee proposes to replace an existing (original) licensed nursing facility with a new building, the Department may grant the licensee an inactive license for up to 24 months after closure of the original facility (departure of the last resident) under the following conditions:

(A) The existing facility may not meet the physical environment requirements for new construction in OAR chapter 411, division 087;

(B) The licensee must comply with the Oregon Health Authority's certificate of need process, including the physical environment requirements for new construction;

(C) The licensee must submit to the Department a written request for an extension to continue the license, an application for license renewal, and the license fee before the annual renewal date;

(D) The licensee must comply with plan review as described in OAR 411-087-0010 and all other applicable requirements; and

(E) The licensee's written request must include information that assures the Department that the new facility shall provide an improved quality of care that is needed in the community and is determined by the Department to be in the public's interest.

(b) The licensee must provide written notice of intent to apply for an inactive license at least 30 days before closure of the original building. This notice must be provided to the Department and every licensed nursing facility, assisted living facility, and residential care facility within 20 miles of the proposed new building site.

(c) The licensee must provide a minimum of two written progress reports to the Department regarding the status of the new building.

(A) The first report must be received by the Department between six and nine months after the original facility is closed.

(B) The second report must be received by the Department between 18 and 21 months after the original facility is closed.

(4) EXTENSION. If the licensee fails to open the new building within 24 months of the closure of the original facility, the Department may extend the inactive license for an additional 18 months. The licensee must submit written request to the Department for an extension before expiration of the inactive license. The following must be included in the request for extension:

(a) NOTICE TO NEARBY FACILITIES. A statement certifying that the licensee has made a reasonable attempt to provide written notice to each nursing, assisted living, and residential care facility within 20 miles of the site of the proposed facility of the intent to request an extension. Upon request, the Department shall provide a list of the names and addresses of all nursing, assisted living, and residential care facilities in the state.

(b) SITE PLAN. A completed site plan that has been submitted to the local jurisdiction (city or county planning agency).

(c) ARCHITECTURAL DRAWINGS. Working architectural drawings that have been stamped or prepared by a licensed architect.

(d) BUILDING SITE. Evidence that the land proposed for the new building is under control of the licensee.

(e) LOCAL JURISDICTION COMMUNICATION. Evidence of continued contact with the local jurisdiction.

(f) FINANCIAL COMMITMENT. Evidence of financial commitments towards completion of the project, including proof of lender commitments and cash on hand sufficient to complete the construction.

(g) CONSTRUCTION CONTRACTS. Construction contracts or other evidence showing the project shall be completed before the expiration of the extended inactive license.

(5) RETURN OF LICENSE. Each license certificate must be returned to the Department immediately upon issuance of a final order revoking or suspending the license. If a license is terminated voluntarily or involuntarily because operation has been discontinued, the license certificate must be immediately returned to the Department.

Stat. Auth.: ORS 410.070, 441.025 & 441.060

Stats. Implemented: ORS 441.025 & 441.060

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SDSD 13-1999, f. 12-30-99, cert. ef. 1-1-00; SDSD 3-2001, f. 2-14-01, cert. ef. 2-15-01; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04; SPD 3-2012, f. & cert. ef. 4-10-12; APD 51-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 13- 2015, f. 6-24-15, cert. ef. 6-26-15

**411-085-0030**

**Required Postings**

(1) PUBLIC NOTICES:

(a) Content. Public notices required to be posted include:

(A) The most recent licensing and, if applicable, certification survey reports;

(B) The placard provided by the Department that includes information on reporting of abuse and summarizes the nursing facility rules. In addition to the location specified in subsection (1)(b) of this rule, this placard must also be prominently and conspicuously posted in close proximity to each nursing station and in any area where residents are admitted;

(C) The current week's menu and activities schedule;

(D) The facility license and the administrator's license. (It is recommended the titles and names of the administrator, the DNS, the Social Services Director, the Activities Director, the Dietary Services Supervisor and the RN Care Manager(s) are also posted);

(E) Waivers received from the Department pursuant to OAR 411-085-0040 and 411-087-0030, and waivers of any federal regulations; and

(F) Any other notice relevant to residents or visitors required by state or federal law.

(b) Location. The facility shall designate a specific area where notices listed in subsection (1)(a) of this rule must be posted. The location shall be in an area that:

(A) Is routinely accessible and conspicuous to residents and visitors, including those in wheelchairs; and

(B) Provides sufficient space for prominent, conspicuous display of each notice.

(2) NOTICES FOR STAFF. The facility must post the names of registered nurses as required by OAR 411-086-0020 and any physician available for emergencies as required by OAR 411-086-0200 at each nursing station.

Stat. Auth.: ORS 410.070 & 441.055
Stats. Implemented: ORS 441.055, 441.067 & 441.615
Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04; APD 51-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 13-2015, f. 6-24-15, cert. ef. 6-28-15

**411-085-0040**
**Alternative Methods, Waivers**

(1) APPLICATION. While all nursing facilities are required to maintain compliance with the Department's rules, these requirements do not prohibit the use of alternative concepts, methods, procedures, techniques, equipment, facilities, personnel qualifications, or the conducting of pilot projects or research. Requests for waivers to the rules must:

(a) Be submitted to the Department in writing;

(b) Identify the specific rule for which a waiver is requested;

(c) Describe the special circumstances relied upon to justify the waiver;

(d) Describe what alternatives were considered, if any, and why alternatives (including compliance) were not selected;

(e) Demonstrate the proposed waiver is desirable to maintain or improve the quality of care for the residents, maintains or improves resident potential for self-direction and self-care, and is not going to jeopardize resident health and safety; and

(f) Identify the proposed duration of the waiver.

(2) APPROVAL PERIOD. Upon finding that the licensee has satisfied the conditions of this rule, the Department may grant a waiver for a specified period of time, not to exceed a period of three years.

(3) REVOCATION. The Department may revoke any waiver or variance issued by the Department immediately upon finding that the facility's operation under the waiver or variance has endangered, or if continued may endanger, the health or safety of one or more residents.

(4) IMPLEMENTATION. The facility may implement a waiver only after written approval from the Department.

Stat. Auth.: ORS 410.070 & 441.055
Stats. Implemented: ORS 441.055 & 441.615
Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04; APD 51-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 13-2015, f. 6-24-15, cert. ef. 6-28-15

**411-085-0060**
**Specialty Nursing Facilities**

(1) APPLICATION. Facilities that have successfully obtained from the Oregon Health Authority a certificate of need for "specialty long-term care beds" pursuant to OAR 333-610 must make application to the Department for licensure as a "Specialty Nursing Facility" in accordance with OAR 411-085-0010.

(2) ISSUANCE OF LICENSE. Licenses shall only be issued to a Specialty Nursing Facility after written notification from the Oregon Health Authority that the facility is eligible for such licensure. The license issued shall state "Specialty Nursing Facility" and shall identify the type of residents and specialized services the facility is authorized to admit and retain.

(3) COMPLIANCE WITH RULES. Specialty Nursing Facilities are required to meet all Oregon Administrative Rules that apply to Nursing Facilities.

(4) ADMISSIONS. Facilities and distinct parts of facilities licensed as Specialty Nursing Facilities must only admit and provide services for residents consistent with the Certificate of Need issued by the Oregon Health Authority.

Stat. Auth.: ORS 410.070 & 441.055
Stats. Implemented: ORS 441.055 & 441.615
Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04; APD 51-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 13-2015, f. 6-24-15, cert. ef. 6-28-15

**411-085-0310**
**Residents' Rights: Generally**

The facility must protect, encourage, and assist the resident in exercising the rights identified in OAR 411-085-0300 – OAR 411-085-0350. Each resident and the resident's legal representative, as appropriate, have the right to:

(1) Be encouraged and assisted while in the facility to exercise rights as a citizen or resident of Oregon and of the United States.

(2) Be fully informed, orally and in writing, in a language the resident understands of these rights, and of all facility guidelines for resident conduct and responsibilities. This must be documented by the resident's written acknowledgment, before or at the time of admission.

(3) Be fully informed, before or at the time of admission and during the resident's stay, of services available in the facility, including Medicaid and Medicare certification status and the potential consequences thereof to the resident. The facility must assist the resident to apply for Medicaid and Medicare benefits, by ensuring the resident is able to contact the local Medicaid agency, whenever a resident may be eligible.

(4) Be fully informed of his or her total health status, including, but not limited to medical status. The resident must be informed of the right to choose his or her own physician and to be fully informed in advance of any changes in care or treatment. The facility staff must encourage the resident to exercise the right to make his or her own decisions and fully participate in care and care planning unless the resident has been found legally incapable of doing so.

(5) Refuse any medication, treatment, care, or any participation in experimental research unless the resident has been found legally incapable of doing so.

(6) Be encouraged, but not required, to perform activities for therapeutic purposes when identified in the resident's care plan.

(7) Be free from verbal, sexual, mental and physical abuse, corporal punishment, and involuntary seclusion. Chemical and physical restraints may only be used to ensure the physical safety of the residents and may not be used for discipline or convenience. Except as provided in OAR 411-086-0140, restraints may only be used on order of a physician.

(8) Be transferred or discharged only in accordance with the Aging and People with Disabilities transfer and discharge rules in OAR chapter 411, division 088.

(9) Not be reassigned to a new room within the facility without cause and without adequate preparation for the move in order to avoid harmful effects.

(a) Involuntary reassignment of rooms may only be made after reasonable advance notification (oral or written) and preparation. Unless there is clear and adequate written justification for a shorter time frame, "reasonable advance notification" means no less than 14 days.

(b) Residents must not be involuntarily reassigned rooms within the facility if such reassignment may have a significant adverse impact on the resident's medical or psychological status.

(c) Moving residents on the basis of source of payment is not just cause for intra-facility transfers.

(d) Residents and significant others must receive prior notice of any move and any change in roommate assignment.

(10) Voice grievances and suggest changes in policies and services to either staff or outside representatives without fear of restraint, interference, coercion, discrimination, or reprisal. The facility staff must listen to and act promptly upon grievances and recommendations received from residents and family groups.

(11) Be treated with consideration, respect, and dignity and assured complete privacy during treatment and when receiving personal care.

(12) Associate and communicate privately with persons of the resident's choice, to send and receive personal mail unopened, and to have regular access to the private use of a telephone.

(13) Be provided privacy for visits when requested, including meetings with other residents and family groups.

(14) Have clinical and personal records kept confidential. Copies of the records must not be transferred outside the facility unless the resident is transferred, or examination of the records is required by the attending physician, the third party payment contractor, Aging and People with Disabilities, Type B Area Agency on Aging, or the Long Term Care Ombudsman. Nothing in this rule is intended to prevent a resident from authorizing access to the resident's clinical and personal records by another person.

(15) Promptly inspect all records pertaining to the resident.

(16) Purchase photocopies of records pertaining to the resident. Photocopies requested by the resident must be promptly provided, but in no

case require more than two business days (days excluding Saturdays, Sundays and state holidays).

(17) Participate in social, religious, and community activities at the discretion of the resident.

(18) Keep and use personal clothing and possessions as space permits unless to do so infringes on other residents' rights. The resident must be permitted to have a lockable storage space for personal property. Both the resident and facility management may have keys.

(19) Be free of retaliation. After the resident, or the resident's legal representative, has exercised rights provided by law or rule, the facility, or any person subject to the supervision, direction, or control of the facility, shall not retaliate by:

(a) Increasing charges or decreasing services, rights, or privileges;

(b) Threatening to increase charges or decrease services, rights, or privileges;

(c) Taking or threatening any action to coerce or compel the resident to leave the facility; or

(d) Abusing, harassing, or threatening to abuse or harass a resident.

(20) Not be required to sign any contract or agreement that purports to waive any resident's right, including the right to collect payment for lost or stolen articles.

(21) Be fully informed of the facility policy on possession of firearms and ammunition within the facility.

(22) Receive care from facility staff trained to provide care that is specific to the resident's disease or medical condition.

(23) Receive a modified or special diet that meets the specific requirements of the resident's disease or medical condition.

Stat. Auth.: ORS 410.070 & 441.055
Stats. Implemented: ORS 441.055, 441.600, 441.610, 441.615 & 441.700
Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SDSD 13-1999, f. 12-30-99, cert. ef. 1-1-00; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04; SPD 3-2008, f. & cert. ef. 3-6-08; APD 51-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 13-2015, f. 6-24-15, cert. ef. 6-28-15

**411-085-0350**
**Residents' Rights: Personal Funds**

(1) RESIDENT HELD FUNDS. The resident has the right to manage his or her financial affairs and the facility may not require residents to deposit personal funds with the facility.

(2) FACILITY HELD FUNDS.

(a) Resident Request. The facility must hold, safeguard, manage, and account for the personal funds of the resident when requested in writing. The resident must be fully informed of the facility's system for protecting personal funds. When the resident requests the facility hold such funds, the facility must ensure the request is in writing.

(b) Accounting System. The facility must establish and maintain a system that assures a full and complete and separate accounting, according to generally accepted accounting principles, of each resident's personal funds entrusted to the facility. The system may allow resident funds to be pooled together, however, it must preclude any commingling of resident funds with facility funds.

(c) Report to Resident. The facility must provide a copy of the individual financial record to the resident no less often than quarterly and upon the request of the resident. The statement must include the following information:

(A) Identification number and location of the account in which the resident's personal funds have been deposited.

(B) The resident's account balance at the beginning of the statement period.

(C) A listing of each deposit and withdrawal, to and from the resident's account. Each withdrawal must include an explanation of the reason for the withdrawal (e.g., If money is requested by the resident, facility may document "resident request").

(D) The interest earned, if any, and the current interest rate.

(E) The ending balance.

(d) Resident Control of Funds. The facility must take all reasonable precautions to ensure the resident's funds are handled according to the resident's wishes. If the resident's wishes are unable to be determined, funds must be handled in accordance with the best interests of the resident.

(e) Resident Access to Funds. The facility must allow residents access to funds on weekdays, (Monday through Friday, excluding holidays) during business office hours, (no less than six hours per day) and at least two hours per day on all other days.

(f) Funds Under $50. The facility may hold up to $50 for each resident in a non-interest-bearing, petty cash fund. All resident funds held by the facility that are not in the petty cash fund must be deposited in an interest-bearing account as described in subsection (g) of this rule.

(g) Funds $50 and over.

(A) Whenever money held by the facility for a resident exceeds $50, the excess above $50 must, within 7 days of receipt, be deposited in the resident's interest-bearing account, unless the money is managed in a Trust and Agency Account held by the Department.

(B) If the interest-bearing account for residents is pooled, the facility must have a system that accurately and promptly allocates earned interest to the appropriate resident.

(h) SSI Resource Limit Exceeded. The facility must notify any resident receiving Medicaid benefits whenever his or her account reaches within $200 of the SSI resource limit for one person; and that, if the amount in the account and the value of the resident's non-exempt resources reaches the SSI resource limit for one person, the resident may lose eligibility for Medicaid or SSI.

(i) Death of Resident. Upon the death of a Medicaid or General Assistance resident with no known surviving spouse, any personal incidental funds held by the facility for the resident must be forwarded to the Department of Human Services, Estate Administration Unit, P.O. Box 14021, Salem, OR 97309, within 10 business days of the death of the resident. The facility must maintain documentation of the action taken and the amount of funds conveyed.

(j) Surety Bond. The licensee must purchase a surety bond, or provide self-insurance to assure the security of all personal funds of residents deposited with the facility. The amount of the bond must be sufficient to cover the highest amount of the account with resident funds, plus the petty cash funds, during the previous 12 months.

(3) CHANGE OF OWNERSHIP OR LICENSEE. At the time of a change of ownership or licensee, the new owner or licensee must ensure:

(a) Written Accounting of Funds. Each resident or delegate receives a written accounting of his or her funds held by the facility at the time of the change. A copy of the written accounting for each resident must be provided to the local APD or Type B AAA.

(b) Resident Wishes Respected. That the wishes of each resident regarding management of facility held funds is determined and documented (see OAR 411-070-0095 for Medicaid clients), and that funds held by the prior owner or licensee are transferred to the new owner or licensee, or to another party designated by the resident.

Stat. Auth.: ORS 410.070 & 441.055
Stats. Implemented: ORS 441.055 & 441.615
Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SDSD 13-1999, f. 12-30-99, cert. ef. 1-1-00; SDSD 9-2001, f. 11-30-01, cert. ef. 12-1-01; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04; APD 51-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 13-2015, f. 6-24-15, cert. ef. 6-28-15

**411-085-0360**
**Abuse**

(1) ABUSE IS PROHIBITED. The facility employees, agents, and licensee must not permit, aid, or engage in abuse of residents under their care.

(2) REPORTERS AND MANDATORY REPORTERS. All persons are encouraged to report abuse and suspected abuse. The following persons are required to immediately report abuse and suspected abuse to The Department or law enforcement agency:

(a) Physicians, including any resident physician or intern;

(b) Licensed practical or registered nurses;

(c) Employees of the Department, Area Agency on Aging, county health department, or community mental health program;

(d) Nursing facility employees or any individual who contracts to provide services in a nursing facility;

(e) Peace officers;

(f) Clergy;

(g) Licensed social workers;

(h) Physical, speech, or occupational therapists; and

(i) Family members of a resident, guardians, or legal counsel for a resident.

(3) FACILITY REPORTING OF ABUSE OR SUSPECTED ABUSE.

(a) The nursing facility administration must immediately notify the Department, local designee of the Department, or local law enforcement agency of any incident of abuse or suspected abuse. Physical injury of an unknown cause must be reported to the Department as suspected abuse, unless an immediate facility investigation reasonably concludes the physical injury is not the result of abuse.

(b) The local law enforcement agency must be called first when the suspected abuse is believed to be a crime (for example, rape, murder, assault, burglary, kidnapping, or theft of controlled substances).

(c) The local law enforcement agency must be called if the offices of the Department or designee are closed and there are no arrangements for after hours investigation.

(4) ABUSE COMPLAINT. The oral or written abuse complaint must include the following information when available;

(a) Names, addresses, and phone numbers of alleged perpetrators, residents, and witnesses;

(b) The nature and extent of the abuse or suspected abuse, including any evidence of previous abuse;

(c) Any explanation given for the abuse or suspected abuse; and

(d) Any other information the person making the report believes might be helpful in establishing the circumstances surrounding the abuse and the identity of the perpetrator.

(5) PRIVILEGE. In the case of abuse of a resident, the physician-patient privilege, the husband-wife privilege, and the privileges extended under ORS 40.225 to 40.295 shall not be a ground for excluding evidence regarding the abuse, or the cause thereof, in any judicial proceeding resulting from an abuse complaint made pursuant to this section.

(6) IMMUNITY AND PROHIBITION OF RETALIATION.

(a) The facility licensee, employees, and agents must not retaliate in any way against anyone who participates in the making of an abuse complaint, including, but not limited to, restricting otherwise lawful access to the facility or to any resident or, if an employee, to dismissal or harassment.

(b) The facility licensee, employees, and agents must not retaliate against any resident who is alleged to be a victim of abuse.

(c) Anyone who, in good faith, reports abuse or suspected abuse shall have immunity from any liability that might otherwise be incurred or imposed with respect to the making or content of an abuse complaint. Any such person shall have the same immunity with respect to participating in judicial or administrative proceedings relating to the complaint.

(7) INVESTIGATION BY FACILITY. In addition to immediately reporting abuse or suspected abuse to the Department or law enforcement agency, the facility must promptly investigate all reports of abuse and suspected abuse and must take measures necessary to protect residents from abuse and prevent recurrence of abuse.

Stat. Auth.: ORS 410.070 & 441.055
Stats. Implemented: ORS 441.055, 441.615, 441.630, 441.637, 441.640, 441.645 & 441.655
Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 1-1995, f. 1-30-95, cert. ef. 2-1-95; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04; APD 51-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 13-2015, f. 6-24-15, cert. ef. 6-28-15

**411-085-0370**
**Confidentiality**

This rule applies to facility licensees, employees, and agents, to Department staff, and the staff of all Area Agencies on Aging.

(1) RESIDENTS. The names of residents and all documentation that may allow the identification of a resident must be kept confidential and are not accessible for public inspection.

(2) COMPLAINANTS, WITNESSES. The names and identity of complainants and witnesses referred to in Department complaint investigations must be kept confidential and are not accessible for public inspection.

Stat. Auth.: ORS 410.070 & 441.055
Stats. Implemented: ORS 441.637 & 441.671
Hist.: SSD 1-1995, f. 1-30-95, cert. ef. 2-1-95; SPD 26-2004, f. 7-30-04, cert. ef. 8-1-04; APD 51-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 13-2015, f. 6-24-15, cert. ef. 6-28-15

**411-089-0010**
**Inspections and Surveys**

(1) Frequency. The Department shall, in addition to any investigations conducted pursuant to complaints, conduct a general inspection of each facility to determine compliance with nursing facility laws on a schedule consistent with the survey schedule defined by the Centers for Medicare and Medicaid Services (CMS), and at such other times as the Department deems necessary.

(2) Content. The general inspection includes a review of resident care practices. Results of the review shall be summarized on the survey form.

(3) Documentation: A nursing facility shall maintain all written documentation required by Oregon law. Such written documentation shall be kept on the facility premises. When documents and records are requested by the Department, the facility shall make the requested materials available to the investigator or inspector for review and copying.

Stat. Auth.: ORS 410.070, 441.055 & 441.615
Stats. Implemented: ORS 441.087, 441.050, 441.615, 441.630, 441.690, 441.695 & 441.710
Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 1-1995, f. 1-30-95, cert. ef. 2-1-95; APD 51-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 13-2015, f. 6-24-15, cert. ef. 6-28-15

**411-089-0020**
**Sanctions, Generally**

(1) Information collected during a visit by any Department, local APD, or Area Agency on Aging representative, regardless of the reason for the visit, may be used as a basis for any sanction imposed by the Department.

(2) The use of any one sanction by the Department does not preclude the implementation of any other sanctions for the same deficiencies.

(3) The Department may seek appropriate administrative or injunctive relief before the completion of an investigation or inspection if it appears a resident might otherwise be deprived of rights secured by federal or state law.

(4) If after an investigation or inspection the Department believes there is substantial evidence a violation has occurred or is occurring, the Department may seek, by administrative or judicial means, to obtain such remedial relief as may be appropriate, including voluntary compliance, contested case, and injunction proceedings.

Stat. Auth.: ORS 441.055, 441.615 & 441.070
Stats. Implemented: ORS 411.050, 441.615 & 441.710
Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; APD 51-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 13-2015, f. 6-24-15, cert. ef. 6-28-15

**411-089-0030**
**Civil Penalties**

(1) CONSIDERATIONS. In determining the amount of a civil penalty the Department shall consider:

(a) Any prior violations of statute or rule by the facility or licensee that relates to operation of a nursing facility;

(b) The financial benefits, if any, realized by the facility as a result of the violation, such as costs avoided as a result of not having obtained sufficient staffing, equipment, or supplies;

(c) The gravity of the violation, including the actual and potential threat to health, safety, and well-being of residents, the duration of the threat or number or times the threat occurred, and the number of residents threatened;

(d) The severity of the actual or potential harm caused by the violation, including whether the actual or potential harm included loss of life or serious physical or emotional injury;

(e) The facility's history of correcting violations and preventing recurrence of violations; and

(f) Exhibit 89-1, Civil Penalty Chart, which is incorporated by reference and is a part of this rule.

(2) SINGLE VIOLATION CIVIL PENALTIES. Violations of any requirement within any part of the following statutes, rules, or sections of the following rules are a violation that may result in a civil penalty after a single occurrence.

(a) Violations involving direct resident care, feeding, or sanitation involving direct resident care, including any violation of:

(A) OAR 411-085-0060 (Specialty Nursing Facilities);

(B) OAR 411-085-0200(2) (Facility Employees);

(C) OAR 411-085-0210 to 411-085-0220 (Facility Policies, Quality Assurance);

(D) OAR 411-085-0360 (Abuse);

(E) OAR 411-086-0010 to 411-086-0020 (Administrator, Director of Nursing Services);

(F) OAR 411-086-0040 (except section (3)) (Admission of Residents);

(G) OAR 411-086-0050 to 411-086-0060 (Day Care, Assessment, and Care Plan);

(H) OAR 411-086-0110 to 411-086-0150 (Nursing Services);

(I) OAR 411-086-0200 to 411-086-0260 (Physician, Dental, Rehabilitative, Activity, Social, Dietary, and Pharmaceutical Services);

(J) OAR 411-086-0300 (except section (6)) (Clinical Records);

(K) OAR 411-086-0310 to 411-086-0360 (Employee Orientation and Training, Disaster Preparation, Infection Control, Smoking, Furnishings, and Equipment);

(L) OAR 411-087-0100(1)(a) and (c) (Repair and Cleanliness); or

(M) OAR 411-087-0440 (Alarm and Nurse Call Systems).

(b) Violation involving failure to provide staff-to-resident ratio, including any violation of:

(A) OAR 411-086-0030 (except section (1)) (RN Care Manager); or

(B) OAR 411-086-0100 (Nursing Staffing).

(c) Violation of any rule adopted pursuant to ORS 441.610, including:

(A) OAR 411-085-0300 to 411-085-0350 (Resident Rights);

(B) OAR 411-086-0040(3) (Advance Directives);

(C) OAR 411-086-0300(6) (Record Retention); or

(D) OAR chapter 411, division 088 (Rights Regarding Transfers).

(d) Violation of ORS 441.605 (Resident Rights) or any general or final order of the Department.

(3) CIVIL PENALTIES REQUIRING REPEAT VIOLATIONS. Violation of any Department rule not listed in section (2) of this rule is subject to a civil penalty under the following circumstances:

(a) Such violation is determined to exist on two consecutive surveys, inspections, or visits; and

(b) The Department prescribed a reasonable time for elimination of the violation at the time of, or subsequent to, the first citation.

(4) AMOUNT OF CIVIL PENALTY.

(a) Violation of any requirement or order listed in section (2) of this rule is subject to a civil penalty of not more than $500 for each day the violation occurs, unless otherwise provided by this section.

(b) Violation of any requirement listed in section (3) of this rule is subject to a civil penalty of not more than $500 per violation, unless otherwise provided by this section.

(c) Violation involving resident abuse that resulted in serious injury or death is subject to a civil penalty of not less than $500 nor more than $1,000, or as otherwise required by federal law (ORS 441.995(3) and ORS 441.715(1)(c)).

(d) The Department shall impose a civil penalty of not less than $2,500 for each occurrence of substantiated abuse that resulted in the death, serious injury, rape, or sexual abuse of a resident. The civil penalty may not exceed $15,000 in any 90-day period.

(A) To impose this civil penalty, the Department shall establish:

(i) The abuse arose from deliberate or other than accidental action or inaction;

(ii) The conduct resulting in the abuse was likely to cause death, serious injury, rape, or sexual abuse of a resident; and

(iii) The person substantiated for the abuse had a duty of care toward the resident.

(B) For the purposes of this civil penalty, the following definitions apply:

(i) "Serious injury" means a physical injury that creates a substantial risk of death or that causes serious disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

(ii) "Rape" means rape in the first, second, or third degree as described in ORS 163.355, 163.365, and 163.375.

(iii) "Sexual abuse" means any form of sexual contact between an employee of a nursing facility or a person providing services in the nursing facility and a resident of that facility, including, but not limited to, sodomy, sexual coercion, sexually explicit photographing, or sexual harassment. The sexual contact must be in the form of any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the actor for the purpose of arousing or gratifying the sexual desire of either party.

(iv) "Other than accidental" means failure on the part of the licensee, or licensee's employees, agents, or volunteers for whose conduct the licensee is responsible, to comply with applicable Oregon Administrative Rules.

(5) ADMINISTRATOR SANCTIONS - NURSING FACILITY CLOSURES. Any individual who is or was the administrator of a facility and fails or failed to comply with the requirements at OAR 411-085-0025(2)(d)(e)(f)(h), OAR 411-085-0025(3)(a), or OAR 411-088-0070(1)(g), (3)(d), or (4):

(a) Are subject to a civil monetary penalty as follows:

(A) A minimum of $500 for the first offense;

(B) A minimum of $1,500 for the second offense; and

(C) A minimum of $3,000 for the third and subsequent offenses.

(b) May be subject to exclusion from participation in any Federal health care program as defined in section 1128B(f) of the Patient Protection and Affordable Care Act; and

(c) Are subject to any other penalties that may be prescribed by law.

(6) PAYMENT TO BE CONSIDERED ADMISSION OF VIOLATION. Unless the Department agrees otherwise, for purposes of history of the facility, any payment of a civil penalty is treated by the Department as a violation of the statutes or rules alleged in the civil penalty notice for which the civil penalty was paid.

(7) All penalties recovered are deposited in the Quality Care Fund.

(8) NOTICE. The Department's notice of its intent to impose a civil penalty shall include the statements set out in OAR 411-089-0040(3)(a)-(f) and shall also include a statement that if the licensee fails to request a hearing within 10 days of the date the notice was mailed, the licensee shall have waived the right to a hearing.

(9) HEARING REQUEST.

(a) If the Department issues a notice of intent to impose a civil penalty, the licensee is entitled to a hearing in accordance with ORS chapter 183.

(b) A request for a hearing must be in writing and must be received by the Department within 10 days of the date the notice of intent to impose a civil penalty was mailed to the licensee. The hearing request must include an admission or denial of each factual matter alleged in the notice and must affirmatively allege a short plain statement of each relevant affirmative defense the licensee may have. The Department may extend the time allowed for submission of the admission or denial and affirmative defenses for up to 30 calendar days.

(10) DEFAULT ORDER. If a hearing is not timely requested, if the licensee withdraws a hearing request, or fails to appear at a scheduled hearing, the Department may enter a final order by default imposing the civil penalty. In the event of a default, the Department's file on the subject of the civil penalty automatically becomes a part of the record for purposes of proving the Department's prima facie case.

Stat. Auth.: ORS 441.615, 441.637, 441.710, 441.715 & 441.990

Stats. Implemented: ORS 410.070, 441.055, 441.615, 441.637, 441.715 & 441.990

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; SSD 1-1995, f. 1-30-95, cert. ef. 2-1-95; SPD 24-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 11-2010, f. 6-30-10, cert. ef. 7-1-10; APD 5-2014, f. 3-31-14, cert. ef. 4-1-14; APD 51-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 13-2015, f. 6-24-15, cert. ef. 6-28-15

**411-089-0040**

**Nursing Facility License Denial, Suspension, Revocation**

(1) Basis for Denial, Revocation -- Mandatory. A license shall be suspended or revoked, or both, or denied if a certificate of noncompliance is issued by the State Fire Marshal, Deputy, or other approved representative pursuant to ORS Chapter 479.

(2) Basis for Denial or Revocation -- Discretionary. A license may be denied or revoked by the Department when it finds the licensee or applicant:

(a) Failed to comply with nursing facility law such that the health, safety, or welfare of residents is or was jeopardized;

(b) Failed to substantially comply with nursing facility law during any three inspections within a five year period. For the purpose of this rule, "inspection" means an on-site visit to the facility by the Department for licensing or certification;

(c) Has been convicted, under any state or federal law, of a felony or of a misdemeanor associated with the operation of a health care facility or agency within the preceding ten years;

(d) Had an incident of ownership of ten percent or greater in or had a management or control interest in any facility in any state when the facility was terminated from participation in the Medicaid or Medicare program, or at a time when the facility voluntarily terminated participation in the Medicaid or Medicare program during any state or federal termination process;

(e) Had an incident of ownership of ten percent or greater in any facility in any state that failed to reimburse any state or the federal government for Medicaid or Medicare overpayments on a timely basis within the preceding five year period;

(f) Had an incident of ownership of ten percent or greater or a management or control interest in a health care facility or agency whose license was involuntarily suspended, revoked, or not renewed within the preceding five years;

(g) Had a nursing home administrator's license revoked, suspended, or not renewed in any state, excluding revocation based on failure to pay license fee or failure to maintain required continuing education requirements when not serving as an administrator, within the preceding five year period;

(h) Provided false, incorrect, or misleading information to the Department on the license application form;

(i) Provided false, incorrect, or misleading information to the Department regarding care of residents, facility finances, or resident funds;

(j) Failed to provide workers' compensation coverage for health care facility employees when required by state law in any state;

(k) Permitted, aided, or abetted any illegal act that had a significant adverse impact on resident health, safety, or welfare within the preceding five year period;

(l) Had an incident of ownership of ten percent or greater in any health care facility in any state at a time when the facility was denied an operating license, excluding denial based upon absence of bed need;

(m) Demonstrated fiscal instability within the preceding five years and such instability relates to the licensee or applicant's ability to provide care or operate a facility, or both provide care and operate a facility. Examples of fiscal instability include, but are not limited to, experiencing

more than one instance of any of the following events or experiencing more than one of the following events:

(A) Failure to compensate employees in a timely manner;

(B) Failure to maintain, in any facility, an adequate inventory of medical supplies, personal supplies, or food;

(C) Failure to promptly pay any judgments, taxes, warrants, or other liens;

(D) Failure to pay utility bills or other bills related to the operation or maintenance of any facility, excluding failure to pay when the facility has a clear basis to dispute the billing; or

(E) A poor credit rating.

(n) Has demonstrated fiscal instability within the past five years by having experienced a history of poor credit or poor financial management; or

(o) Has failed to pay a civil penalty imposed by the Department.

(3) Notice of Intent to Revoke or Deny. The Department's notice of its intent to deny or revoke a nursing facility license shall include:

(a) A statement that the licensee or applicant has a right to a contested case hearing or a statement of the time and place of the hearing;

(b) A statement of the authority and jurisdiction under which the hearing is to be held;

(c) A reference to the particular sections of the statute and rules involved;

(d) A short and plain statement of the matters asserted or charged;

(e) A statement that the licensee or applicant is entitled to be represented by counsel and to respond and present evidence and argument on all issues involved;

(f) A statement that the record of the proceeding to date, including information in the Department's file or files on the subject of the revocation or denial of the license, automatically becomes part of the contested case record upon default for purposes of proving the Department's prima facie case; and

(g) A statement that if the licensee or applicant fails to request a hearing within 21 days of the date the notice of revocation was received, or within 60 days of the date the notice of denial was received, whichever is applicable, the licensee or applicant shall have waived the right to a hearing.

(4) Informal Conference. When the Department issues a notice of intent to revoke or deny a license, the licensee or applicant shall be entitled to an informal conference to respond to the notice. The conference shall be held before a person authorized to issue the order or to make recommendations regarding issuance of the order. A request for an informal conference must be received in writing by the Department within 10 days of the date the notice of the intent to revoke or deny the license was received by the licensee or applicant. If the licensee or applicant fails to submit a timely request for a conference, the licensee or applicant shall have waived the right to the conference.

(5) Hearing:

(a) Right to Hearing. When the Department issues a notice of intent to revoke or deny a license, the licensee or applicant shall be entitled to a contested case hearing in accordance with the provisions of ORS Chapter 183.

(b) Request for Hearing. A request for hearing must be in writing and must be received by the Department within:

(A) 21 days of the date the licensee received the notice of revocation; or

(B) 60 of the date the applicant received the notice of denial of licensure.

(c) Date of Hearing. The hearing shall be held within 60 days of the request for hearing unless the Department and the licensee or applicant agree to a later date.

(d) Continued Operation Prohibited. A facility may not continue operation if the facility license is immediately suspended because of serious and immediate danger to resident health or safety pursuant to OAR 411-089-0040(2).

(6) Default Order. If the licensee or applicant fails to request a contested case hearing within the prescribed time period, withdraws a previous hearing request, or fails to appear at a scheduled hearing, the Department may enter an order denying or revoking the license by default. In the event of a default, the Department's files on the subject of revocation or denial automatically become part of a contested case record for the purposes of proving the Department's prima facie case.

(7) Emergency Suspension Order.

(a) When the Department finds a serious and immediate threat to resident health and safety exists, the Department may immediately suspend a nursing facility license. An emergency suspension order must be in writing. The order may be issued without prior notice to the licensee and without prior opportunity for a contested case hearing.

(b) Except where the threat to residents is so imminent that the Department determines that pre-suspension notice is not practical, the Department must provide the licensee with a pre-suspension notice and an opportunity to object before issuing an emergency suspension order. The pre-suspension order shall:

(A) Describe generally the acts of the licensee or circumstances that are grounds for an emergency suspension order under this rule, or both;

(B) Describe generally the reasons why the acts of the licensee or the circumstances seriously and immediately endanger resident health and safety, or both; and

(C) Identify a person whom the licensee may contact at the Department who is authorized to make recommendations regarding issuance of the order.

(c) If a pre-suspension notice is issued, the licensee shall be entitled to an immediate opportunity to respond to the notice before an authorized person issues the order or makes recommendations regarding issuance of the order. The emergency suspension order may be issued at any time thereafter.

(d) When an emergency suspension order is issued, the Department must serve the order on the licensee either personally or by registered or certified mail. The order shall include the following statements:

(A) The licensee's right to a hearing, or a statement of the time and place of the hearing;

(B) The authority and jurisdiction under which the hearing is to be held;

(C) A short plain statement of the matters asserted or charged;

(D) A reference to the particular sections of the statutes and rules involved;

(E) That the licensee may elect to be represented by counsel and may respond and present evidence and argument on all issues involved;

(F) That the licensee has a right to demand a hearing, if requested, be held as soon as practical;

(G) That if the demand for a hearing is not received by the Department within 90 days of the date of the emergency suspension order, the licensee shall have waived its right to a hearing under ORS Chapter 183;

(H) The effective date of the emergency suspension order;

(I) Findings of the specific acts or omissions of the licensee that are the grounds for the suspension, and the reasons the acts or omissions seriously and immediately threaten the health and safety of the residents; and

(J) That the Department may combine the hearing on the emergency suspension order with any other Department proceeding affecting the license. The procedures for the combined proceeding shall be those applicable to the other proceeding affecting the license.

(e) If a timely request for a hearing is received, the Department must hold the hearing as soon as practical. At the hearing the Department shall consider the facts and circumstances, including, but not limited to:

(A) Whether the acts or omissions of the licensee pose a serious danger to resident health and safety; and

(B) Whether the circumstances at the time of the hearing justify confirmation, alteration, or revocation of the order.

(8) License Expiration. If the Department determines a license has expired due to the facility's discontinued operation, the licensee has a right to an informal conference under section (4) of this rule and a hearing under section (5) of this rule. The Department may issue a default order pursuant to section (6) of this rule.

Stat. Auth.: ORS 410.070, 441.030, 441.055 & 441.615
Stats. Implemented: ORS 441.030 & 441.615
Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; APD 51-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 13-2015, f. 6-24-15, cert. ef. 6-28-15

**411-089-0050**
**Restriction of Admissions**

(1) Purpose. The purpose of this rule is to protect nursing facility residents and prospective residents from threats to their health, safety, and welfare, and to help ensure the attention of facilities with serious deficiencies is directed toward correcting those deficiencies.

(2) Basis for Admission Restriction. When the Department finds an immediate threat to resident health and safety, the Department may order an immediate restriction of admissions, or may immediately restrict the number or type of admissions at the facility. An Admission Restriction Order shall be in writing and may be issued without prior notice to the licensee and without an opportunity for a contested case hearing.

(a) In determining whether to order a restriction of admission under this rule, the Department shall consider:

(A) The needs of the residents and prospective residents;

(B) The severity of the threat to current and prospective residents; and

(C) The history of the care provided by the licensee.

(b) For the purposes of this rule, an immediate threat to resident health and safety may exist when a facility lacks adequate alarm systems including, but not limited to, call bells, fire or door alarms, or any other means to protect against a threat to resident health and safety.

(c) For the purposes of this rule, an immediate threat to resident health and safety exists when:

(A) The Department finds a pattern of:

(i) Failure to assess or take action to prevent or treat decubitus ulcers, weight loss, infection, dehydration or other changes in the physical condition of residents;

(ii) Failure to follow physician's orders, including failure to correctly administer medications; or

(iii) Abuse as defined by ORS 441.630, or preventable injuries.

(B) The Department finds any other condition or combination of conditions exist that in the opinion of the Department, constitute an immediate threat to resident health and safety, or a potential threat to new residents.

(3) Impending Admission Restriction Notice. Except where the threat to residents is so imminent that the Department determines pre-restriction notice is not practical, the Department must provide the licensee with a pre-restriction notice and an opportunity for an informal conference at least 48 hours before issuing an Admission Restriction Order. The Notice of Impending Restriction of Admission may be provided in writing, sent by certified or registered mail to the licensee, or provided orally in person or by telephone to the licensee or to the person in charge at the facility. When the notice is delivered orally, the Department shall subsequently provide written notice to the licensee by registered or certified mail. The pre-restriction notice shall:

(a) Describe generally, the acts or omissions of the licensee and the circumstances which led to the finding that an immediate threat to resident health and safety exists at the facility;

(b) Describe generally, why the acts or omissions and the circumstances create an immediate threat to resident or prospective resident health and safety;

(c) Identify a person at the Department whom the licensee may contact who is authorized to enter the Admission Restriction Order or to make recommendations regarding issuance of an order; and

(d) Specify the date and time the Admission Restriction Order takes effect.

(4) Informal Conference. If an informal conference is requested, the conference shall be held at a location designated by the Department. If determined to be appropriate by the Department, the conference may be held by telephone.

(a) With Pre-Admission Restriction Notice. If a pre-admission restriction notice is issued, the licensee shall be provided with an opportunity for an informal conference to object to the Department's proposed action. The Admission Restriction Order may be issued at any time after the informal conference.

(b) Without Pre-Admission Restriction Notice. If an Admission Restriction Order is issued without prior notice, the licensee may request an immediate informal conference to object to the Department's action.

(5) Admission Restriction Order. When an Admission Restriction Order is issued, the Department shall serve the order on the licensee either personally or by registered or certified mail. The order shall include the following statements:

(a) The licensee's right to a hearing or a statement of the time and place of the hearing;

(b) The authority and jurisdiction under which the hearing is being held;

(c) A reference to the particular sections of the statute and rules involved;

(d) The effective date of the restriction;

(e) A short and plain statement of the nature of the matter asserted or charged;

(f) That the licensee may elect to be represented by counsel and to respond and present evidence and argument on all issues involved. If the licensee is to be represented by counsel, the licensee shall notify the Department;

(g) That the licensee has the right to demand a hearing, if requested, be held as soon as practical;

(h) That if a demand for hearing is not received by the Department within 90 days of the date of the notice of the Admission Restriction Order, the licensee shall have waived the right to a hearing under ORS Chapter 183;

(i) Findings of specific acts or omissions of the licensee are grounds for the admission restriction, and the reasons these acts or omissions constitute an immediate and serious threat to the health and safety of the residents; and

(j) That the Department may combine the hearing on the Admission Restriction Order with any other Department proceeding affecting the licensee. The procedures for the combined proceeding shall be those applicable to the other proceedings affecting the license.

(6) Posting of Admission Restriction Order. A licensee who has been ordered to restrict admissions to a facility shall immediately post a "Restriction of Admissions Notice" on both the inside and outside faces of each door of the facility through which any person may enter or exit the facility. Such public notices shall be provided by the Department. The notices shall not be removed, altered, or obscured until the restriction has been lifted by the Department. Removal of the notice without the Department's authorization is a Class C misdemeanor.

(7) Hearing:

(a) Right to Hearing. If the Department issues an Admission Restriction Order, the licensee is entitled to a contested case hearing pursuant to ORS Chapter 183.

(b) Hearing Request. The request for a hearing must be received within 90 days of the Admission Restriction Order.

(c) Date of Hearing. When a timely request for hearing is received, the hearing must be held as soon as practical, but not later than 30 days after the request for hearing, unless the Department and the licensee agree to a later date.

(d) At the hearing, the Department shall consider the facts and the circumstances including, but not limited to:

(A) Whether at the time of the issuance of the restriction there was probable cause from evidence available to the Department to believe there were grounds for the Admission Restriction Order;

(B) Whether the acts or omissions of the licensee posed an immediate threat to resident health and safety;

(C) Whether changed circumstances, including implementation of effective systems to help ensure deficiencies causing the restriction do not recur, eliminate the need for continuing the restriction; and

(D) Whether the agency followed the appropriate procedures in issuing the restriction.

(8) Re-inspection.

(a) Request for Re-inspection. When the licensee determines the circumstances causing the restriction no longer exist, and that effective systems are in place to help ensure similar deficiencies do not recur, the licensee may make written request to the Department for a re-inspection. The Department must conduct the re-inspection within 15 working days following receipt of the written request.

(b) If the Department finds there is no longer an immediate threat to resident health and safety, and finds effective systems are in place to ensure similar deficiencies do not recur, the restriction must be lifted. The Department must notify the facility by telephone of the decision to lift or not lift the restriction within five working days from the completion of the re-inspection. Telephone notification must be followed by written notification.

(c) If the Department determines an immediate threat to resident health and safety continues to exist after a re-inspection, the admission restriction is not lifted and the Department is not obligated to re-inspect again for at least 45 days. A decision not to rescind the Admission Restriction Order shall be given to the licensee in writing and the licensee shall be informed of the right to a contested case hearing pursuant to ORS Chapter 183. Nothing in this rule is intended to limit the Department's authority to visit or inspect the facility at any time.

(9) Exceptions to Admission Restriction Order. While an Admission Restriction Order is in place, the Department, in its sole discretion, may authorize the facility to admit former residents with a right of return or right of readmission. The Department, in its sole discretion, may also authorize the facility to admit new residents for whom the Department determines that alternate placement is not feasible.

Stat. Auth.: ORS 410.070, 441.030, 441.055 & 441.615

Stats. Implemented: ORS 441.030 & 441.615

Hist.: SSD 19-1990, f. 8-29-90, cert. ef. 10-1-90; SSD 8-1993, f. & cert. ef. 10-1-93; APD 51-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 13-2015, f. 6-24-15, cert. ef. 6-28-15

**411-089-0070**
**Facility Fund**

(1) Moneys in the Facility Fund are appropriated to the Department to pay for the reasonable expenses of a trustee or temporary manager.

(2) BASIS FOR APPOINTMENT.

(a) A trustee may be appointed when a court finds the health and welfare of facility residents are in jeopardy pursuant to ORS 441.281.

(b) A temporary manager may be appointed by the Department, with consent of the licensee, if the Department determines the health or safety of facility residents is in jeopardy pursuant to OAR 411-089-0075.

(3) LICENSEE REPAYMENT TO FACILITY FUND. When the Department is required to utilize the Facility Fund to meet expenses of a trustee or temporary manager, the amount used shall constitute a loan to the facility and shall be repayable to the Facility Fund.

(4) FACILITY FUND FEE ASSESSMENT.

(a) Licensees shall pay an annual fee that does not exceed the annual license fee until the Facility Fund balance reaches $750,000.

(b) When the Facility Fund balance reaches $750,000, annual fee collection shall be discontinued.

(c) When the Facility Fund balance falls below $600,000, annual fee collection shall be reinstituted.

(5) ALLOWABLE COST. The facility payment described in section (4)(a) of this rule shall be considered an allowable cost.

Stat Auth: ORS 441.341, 441.615, 441.637, 441.710, 441.715, & 441.990
Stats Implemented: ORS 441.301, 441.303, and 441.336
Hist.: SPD 11-2010, f. 6-30-10, cert. ef. 7-1-10; APD 51-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 13-2015, f. 6-24-15, cert. ef. 6-28-15

**411-089-0075**
**Temporary Manager**

(1) APPOINTMENT. The Department, with the consent of the licensee, may appoint a temporary manager to assume control of the day-to-day operation of the facility in accordance with Oregon Laws 2009, chapter 539, sections 14 through 18. The appointment may be for a period not to exceed six months.

(2) CRITERIA. A temporary manager may be appointed if the Department determines the health or safety of residents in the facility are, or in the immediate future shall be, in jeopardy based upon:

(a) The licensee's unwillingness or inability to comply with Department rules in the operation of the facility;

(b) The imminent insolvency of the facility;

(c) The Department's revocation or suspension of the license of the facility; or

(d) The Department's determination the licensee intends to cease operations and to close the facility without adequate arrangements for the relocation of the residents.

(3) DUTIES AND POWERS. The temporary manager has all of the duties and powers, as agreed upon between the Department and the licensee, that are necessary to ensure the safety and well-being of the residents and the continued operation of the facility.

(4) QUALIFICATIONS. In order to qualify for appointment as temporary manager, the prospective appointee must:

(a) Be familiar with the Department's rules for the operation of the facility to be served;

(b) Be familiar with the needs of the resident population in the facility to be served; and

(c) Have a demonstrated history (five year minimum) of operating and managing a similar facility in substantial compliance with Department rules.

Stat. Auth.: ORS 441.615, 441.637, 441.710, 441.715 & 441.990
Stats. Implemented: ORS 410.070, 441.055, 441.615, 441.637, 441.715, 441.990
Hist.: SPD 24-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 11-2010, f. 6-30-10, cert. ef. 7-1-10; APD 51-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 13-2015, f. 6-24-15, cert. ef. 6-28-15

**411-089-0100**
**Complaint Intake, Investigation**

(1) Complaint Intake. The local APD or Type B AAA office receiving a complaint shall ask questions to obtain as much of the information requested on the APD Complaint Intake Form as possible. The local APD or Type B AAA office shall have at least one person designated and available to receive complaint calls throughout the work day.

(2) Complaint Investigation.

(a) All Complaints Investigated. The Department shall ensure all complaints, including anonymous complaints, received regarding violation of nursing facility laws are investigated.

(b) Multiple Problems. If the complaint alleges more than one problem, each allegation of abuse or another rule violation shall be treated as a separate complaint, and shall be given a separate finding. This is not intended to require a separate status report or complaint investigation report for each allegation.

(c) Complainant Interview. The APD or Type B AAA office representative shall interview the complainant immediately and, as necessary, during the investigation.

(d) Accompany Investigator. The investigator shall ask if the complainant, a designee, or both wish to accompany the investigator to the site. The purpose of allowing the complainant or a designee to accompany the investigator is to identify individuals and circumstances relevant to the complaint. If someone is to accompany the investigator, the investigator shall notify such party of the time and allow the party to accompany the investigator during the site visit.

(e) Timeframe to Begin Investigation. The investigations shall be initiated as follows:

(A) If the complaint alleges a resident's health or safety is in imminent danger or the resident has recently died, been hospitalized, or been treated in an emergency department, the on-site investigation shall begin within two hours of the complaint.

(B) If the complainant alleges circumstances that may result in abuse and the circumstances may place a resident's health or safety in imminent danger, the on-site investigation shall begin before the end of the first working day following receipt of the complaint.

(C) All other complaint investigations shall begin and be completed within 90 days following receipt of the complaint.

(f) Prior Notification Prohibited. Neither the Department nor the local APD or Type B AAA office shall contact the facility before the on-site investigation.

(g) Facility Visit. The investigation shall include at least one unannounced visit to the facility. Upon arrival at the facility, the investigator shall announce his or her presence to the administrator or other person designated to be in charge. The investigator shall explain the purpose of the visit, unless the investigator has reason to believe that disclosing the purpose of the visit would impede the investigation.

(h) Witness Interview. Reasonable effort shall be made to interview all possible witnesses, including alleged perpetrators (if any), the involved residents and any other persons, including other residents, identified by any source as having personal knowledge about any allegations.

(A) Investigators have the authority to conduct the interview in private unless the witness expressly makes an unsolicited request that a third party be present.

(B) The investigator shall obtain the mailing address of the alleged perpetrator.

(C) If the investigator is unable to interview a witness identified by the complainant, the complainant shall be notified before the investigation is concluded.

(i) Investigation Format. In addition to interviews, the investigator shall make personal observations of physical circumstances and review any documentation, including clinical records. The facility shall promptly provide all requested documentation that is available, for review and copying.

Stat. Auth.: ORS 410.070, 441.055 & 441.637
Stats. Implemented: ORS 441.637 & 441.650
Hist.: SSD 1-1995, f. 1-30-95, cert. ef. 2-1-95; APD 51-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 13-2015, f. 6-24-15, cert. ef. 6-28-15

**411-089-0110**
**Initial Status Report (Abuse Complaints Only)**

(1) Initial Status Report for Abuse Investigations (Local APD or Type B AAA Office). Except in cases where the investigation is part of a general inspection pursuant to federal law, the local APD or Type B AAA office shall complete an Initial Status Report for all abuse investigations within two working days of the start of the investigation.

(2) Content. The Initial Status Report shall include:

(a) A summary of the complaint identifying each alleged incident or problem. The Initial Status Report shall not include names of residents, complainants, or other people interviewed during the investigation;

(b) The status of the investigation;

(c) Whether the complaint was filed at the direction of facility administration;

(d) A determination of whether action to protect the residents is needed and whether the facility must take action;

(e) The name and telephone number of the investigator;

(f) The projected date the Complaint Investigation Report must be completed; and

(g) A statement that the Complaint Investigation Report is available upon request after the Department issues a Letter of Determination.

(3) Distribution. The Initial Status Report shall be provided either in person or by mail to the following individuals as soon as practical, but no later than two working days after its completion:

(a) The complainant, unless the complainant waives the requirement;

(b) If the complaint involves a specific resident or residents, to the residents or persons designated to receive information concerning the residents;

(c) A representative of the Long Term Care Ombudsman, upon request;

(d) The facility; and

(e) OLRO.

(4) Availability of Initial Status Report. Upon completion, the Initial Status Report shall be placed in the local APD or Type B AAA facility files and available for public inspection.

Stat. Auth.: ORS 410.070, 441.055 & 441.637
Stats. Implemented: ORS 441.637 & 441.650
Hist.: SSD 1-1995, f. 1-30-95, cert. ef. 2-1-95; APD 51-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 13-2015, f. 6-24-15, cert. ef. 6-28-15

**411-089-0120**
**Complaint Investigation Report (Local SPD/AAA Office)**

(1) Report Required. The investigator shall write a complaint investigation report after each investigation is completed.

(2) Content. The complaint investigation and the findings of the investigation shall be summarized on the complaint investigation report form. The form shall not include the names of any resident, complainant, or persons interviewed. The investigation report shall include:

(a) The nature of the allegations;

(b) The investigator's personal observations relating to relevant evidence, including the dates and times of each incident (as appropriate);

(c) A summary of the documents reviewed;

(d) A summary of each interview;

(e) The investigator's findings regarding the incident or problem alleged in each allegation; and

(f) The factual basis for the finding.

(3) Investigator's Conclusions. For each alleged wrongdoing, the investigator shall prepare a separate evaluation and written conclusion. The conclusion shall be:

(a) The alleged wrongdoing is substantiated;

(b) The alleged wrongdoing is not substantiated; or

(c) The investigator is unable to determine whether the alleged wrongdoing is substantiated or not substantiated because necessary, relevant information is unable to be obtained; or following a complete investigation, a reasonable person is unable objectively to conclude whether it was likely the wrongdoing occurred.

(4) Timeframe for Completion Processing (Local APD or Type B AAA Office).

(a) If a complaint alleges abuse, the complaint report shall be completed within five working days after the investigation is completed, but not later than 60 days after receipt of the complaint.

(b) All other complaint investigation reports shall be completed within 90 days of the receipt of the complaint.

(c) Investigation reports shall be sent to OLRO promptly upon completion.

Stat. Auth.: ORS 410.070, 441.055 & 441.637
Stats. Implemented: ORS 441.637, 441.650 & 441.676
Hist.: SSD 1-1995, f. 1-30-95, cert. ef. 2-1-95; APD 51-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 13-2015, f. 6-24-15, cert. ef. 6-28-15

**411-089-0130**
**Division Findings for Complaint Investigations (OLRO)**

OLRO Review. OLRO shall review the Complaint Investigation Report and any evidence submitted with the report.

(1) OLRO Determination. OLRO shall review the Complaint Investigation Report and shall determine for each alleged violation:

(a) There is "Substantiated abuse," which means a reasonable person is able objectively to conclude it is more likely than not abuse occurred, including identification of rule violated;

(b) There is "Substantiated, non-abuse," which means a reasonable person is able objectively to conclude it is more likely than not a rule violation, other than abuse, occurred, including identification of rule violated;

(c) Is "Unsubstantiated," which means a reasonable person is able objectively to conclude it is unlikely any rule violation occurred; or

(d) Is "Unable to Substantiate," which means an investigation is not completed because necessary, relevant information is unable to be obtained; or that following a complete investigation, a reasonable person is unable objectively to conclude whether it was more or less likely a rule violation occurred.

(2) If OLRO determines there is substantiated abuse, OLRO shall determine whether the facility, or an individual, or both, were responsible. In determining responsibility, OLRO shall consider intent, knowledge, ability to control, and adherence to professional standards, as applicable.

(a) Facility Responsible. Examples of when OLRO shall determine the facility is responsible for the abuse include, but are not limited to the following:

(A) Failure to provide minimum staffing in accordance with OAR 411-086-0100(2), without reasonable effort to correct;

(B) Failure to check for, or act upon, relevant information available from a licensing board;

(C) Failure to act upon information from any source regarding a possible history of abuse by any staff or prospective staff;

(D) Failure to adequately train or orient staff;

(E) Failure to provide adequate supervision of staff or residents, or both;

(F) Failure to allow sufficient time to accomplish assigned tasks;

(G) Failure to provide adequate services;

(H) Failure to provide adequate equipment or supplies; or

(I) Failure to follow orders for treatment or medication.

(b) Individual Responsible. Examples of when OLRO shall determine an individual is responsible shall include, but are not limited to:

(A) Intentional acts against a resident including assault, rape, kidnapping, murder, sexual abuse, or verbal or mental abuse;

(B) Acts contradictory to clear instructions from the facility, unless the act is determined by OLRO to be caused by a "facility problem" such as those identified in paragraph (2)(b)(A) of this rule;

(C) Callous disregard for resident rights or safety; or

(D) Intentional acts against a resident's property (e.g., theft, misuse of funds).

(c) An individual shall not be considered responsible for the abuse if the individual demonstrates the abuse was caused by factors beyond the individual's control. "Factors beyond the individual's control" are not intended to include such factors as misuse of alcohol or drugs or lapses in sanity.

Stat. Auth.: ORS 410.070, 441.055 & 441.637
Stats. Implemented: ORS 441.637, 441.650, 441.665 & 441.677
Hist.: SSD 1-1995, f. 1-30-95, cert. ef. 2-1-95; APD 51-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 13-2015, f. 6-24-15, cert. ef. 6-28-15

**411-089-0140**
**Letters of Determination**

Within 60 days of receipt by the Department of the investigation report, the Department shall issue a letter of determination.

(1) CONTENT. The letter of determination shall:

(a) Explain the nature of each allegation;

(b) Include the date and time of each occurrence;

(c) For each allegation, include a determination of whether the allegation is substantiated, unsubstantiated, or unable to substantiate;

(d) For each substantiated allegation, state whether the violation was abuse or another rule violation;

(e) For each substantiated allegation of abuse, explain the Department's determination of responsibility;

(f) Include a copy of the complaint investigation report;

(g) State that the complainant, any individual found responsible for abuse, and the facility have 10 days to provide additional or different information; and

(h) Explain, when applicable, if sanctions (e.g., civil penalty, license revocation) are pursued, a formal appeal process shall be available.

(2) APPEAL RIGHTS, NURSING ASSISTANT. The letter of determination, in cases of substantiated abuse by a nursing assistant, shall explain the following:

(a) The Department's intent to enter the finding of abuse into the Nursing Assistant Registry;

(b) The nursing assistant may provide additional information for inclusion in the Nursing Assistant Registry if provided within 10 days;

(c) The Nursing Assistant Registry;

(d) The nursing assistant has 10 days to respond in writing with different or additional information, 30 days to request in writing a contested case hearing as provided in ORS 183.411 to 183.470, and the consequences of failure to respond; and

(e) If the opportunity to request a contested case hearing expires without a request for hearing by the nursing assistant, the nursing assistant shall

be found responsible for the abuse and the finding shall be entered in the Nursing Assistant Registry.

(3) DISTRIBUTION.

(a) The letter of determination shall be distributed to the facility, the complainant (if known), and the local APD or Type B AAA office;

(b) The letter of determination shall be sent by certified mail or delivered in person to any nursing assistant found responsible for abuse. In the case of a nursing assistant, notice sent to the nursing assistant's last known address is sufficient to meet the requirements of this rule;

(c) The letter of determination shall also be mailed to any health-related board or agency that certified or licensed an individual determined to be responsible for abuse. However, if the party determined to be responsible is a nursing assistant, the letter may not be mailed to the State Board of Nursing until the nursing assistant has exhausted all his or her appeal rights; and

(d) A copy of the letter of determination shall be placed in the Department's facility complaint file.

(4) REVISION.

(a) The Department may reinvestigate a complaint, issue a revised letter of determination, or both if the Department determines further information provided by the complainant, accused individual, or facility merits such action.

(b) If the Department issues a revised letter of determination, the letter shall be distributed to all individuals identified in section (3) of this rule.

(5) FAILURE TO REQUEST HEARING OR TO APPEAR.

(a) If the nursing assistant fails to request a contested case hearing in writing within 30 days of the letter of determination, or if the nursing assistant scheduled to attend the hearing fails to attend, the Department shall affirm the letter of determination and notify the State Board of Nursing of the Department's finding. The abuse finding shall be entered into the Nursing Assistant Registry.

(b) If the nursing assistant is scheduled to appear at a contested case hearing, but fails to attend at the scheduled time, or within 15 minutes thereafter, the nursing assistant shall be considered to have waived the right to a hearing. The hearing may be rescheduled if:

(A) A written request to reschedule the hearing is received by the Department within 10 days after the scheduled hearing; and

(B) The causes for not attending at the scheduled time for the hearing and for not requesting a postponement of the hearing before the hearing were beyond the control of the nursing assistant.

(6) JUDICIAL REVIEW. The nursing assistant found to be responsible for abuse shall be provided notice of the opportunity for judicial review pursuant to ORS 183.482. This notice shall accompany or be incorporated within the Department's final order regarding the nursing assistant's responsibility for abuse.

Stat. Auth.: ORS 410.070, 441.055 & 441.637
Stats. Implemented: ORS 441.637 & 441.677
Hist.: SSD 1-1995, f. 1-30-95, cert. ef. 2-1-95; Administrative correction, 6-24-99; SPD 24-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 11-2010, f. 6-30-10, cert. ef. 7-1-10; APD 51-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 13-2015, f. 6-24-15, cert. ef. 6-28-15

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**Rule Caption:** Residential Care and Assisted Living Facility Abuse Investigations
**Adm. Order No.:** APD 14-2015
**Filed with Sec. of State:** 6-24-2015
**Certified to be Effective:** 6-28-15
**Notice Publication Date:** 4-1-2015
**Rules Amended:** 411-054-0120
**Rules Repealed:** 411-054-0120(T)
**Subject:** The Department of Human Services (Department) is permanently updating the rules for residential care and assisted living facilities in OAR chapter 411, division 054 to change the definition of sexual abuse to comply with H.B. 4151.

Minor wording, formatting, punctuation, and grammar adjustments were made to the rules as well.
**Rules Coordinator:** Kimberly Colkitt-Hallman—(503) 945-6398

**411-054-0120**
**Civil Penalties**

(1) For purposes of imposing civil penalties, facilities licensed under ORS 443.400 to 443.455 and subsection (2) of ORS 443.991 are considered to be long-term care facilities subject to ORS 441.705 to 441.745.

(2) For purposes of this rule, "person" means a licensee under ORS 443.420 or a person who the Assistant Director of the Department finds shall be so licensed but is not, but does not include any employee of such licensee or person.

(3) For purposes of this rule, "resident rights" means that each resident must be assured the same civil and human rights accorded to other citizens as described in OAR 411-054-0027.

(4) The Department shall exercise the powers under ORS 441.705 to 441.745 and thereby issues the following schedule of penalties applicable to residential care and assisted living facilities:

(a) A Class I violation exists when there is non-compliance involving direct resident care or feeding, adequate staff, or sanitation involving direct resident care or resident rights.

(b) The Department shall impose a civil penalty of not less than $2,500 for each occurrence of substantiated abuse that resulted in the death, serious injury, rape, or sexual abuse of a resident. The civil penalty may not exceed $15,000 in any 90-day period.

(A) To impose this civil penalty, the Department shall establish that:

(i) The abuse arose from deliberate or other than accidental action or inaction;

(ii) The conduct resulting in the abuse was likely to cause death, serious injury, rape, or sexual abuse of a resident; and

(iii) The person substantiated for the abuse had a duty of care toward the resident.

(B) For the purposes of this civil penalty, the following definitions apply:

(i) "Serious injury" means a physical injury that creates a substantial risk of death or that causes serious disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

(ii) "Rape" means rape in the first, second, or third degree as described in ORS 163.355, 163.365, and 163.375.

(iii) "Sexual Abuse" means abuse as defined under ORS 443.455.

(iv) "Other than accidental" means failure on the part of the licensee, or licensee's employees, agents, or volunteers for whose conduct the licensee is responsible, to comply with applicable Oregon Administrative Rules.

(c) A Class II violation exists when there is non-compliance with the license requirements relating to a license required, the license requirements relating to administrative management, or personal care services and activities. Class II violations may result in imposition of a fine for violations found on two consecutive monitorings of the facility.

(d) A Class III violation exists when there is non-compliance with the license requirements relating to building requirements and resident furnishings. Class III violations may result in imposition of a fine for violations found on two consecutive monitorings of the facility.

(5) For purposes of this rule, a monitoring occurs when a residential care or assisted living facility is surveyed, inspected, or investigated by an employee or designee of the Department or an employee or designee of the State Fire Marshal.

(6) In imposing a penalty pursuant to section (4) of this rule, the Assistant Director of the Department shall consider the following factors:

(a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation;

(b) Any prior violations of statutes or rules pertaining to residential care or assisted living facilities;

(c) The economic and financial conditions of the person incurring the penalty; and

(d) The immediacy and extent the violation threatens the health, safety, and well being of residents.

(7) Any civil penalty imposed under ORS 443.455 and 441.710 shall become due and payable when the person incurring the penalty receives a notice in writing from the Assistant Director of the Department. The notice shall be sent by registered or certified mail and shall include:

(a) A reference to the particular sections of the statute, rule, standard, or order involved;

(b) A short and plain statement of the matters asserted or charged;

(c) A statement of the amount of the penalty or penalties imposed; and

(d) A statement of the party's right to request a hearing.

(8) The person to whom the notice is addressed shall have 10 days from the date of postmark to make written application for a hearing before the Department.

(9) All hearings shall be conducted pursuant to the applicable provisions of ORS chapter 183.

(10) If the person notified fails to request a hearing within 10 days, an order may be entered by the Department assessing a civil penalty.

(11) If, after a hearing, the person is found to be in violation of a license, rule, or order listed in ORS 441.710(1), an order may be entered by the Department assessing a civil penalty.

(12) A civil penalty imposed under ORS 443.455 or 441.710 may be remitted or reduced upon such terms and conditions as the Assistant Director of the Department considers proper and consistent with the public health and safety.

(13) If the order is not appealed, the amount of the penalty is payable within 10 days after the order is entered. If the order is appealed and is sustained, the amount of the penalty is payable within 10 days after the court decision. The order, if not appealed or sustained on appeal, shall constitute a judgment and may be filed in accordance with the provisions of ORS 18.005 to 18.428. Execution may be issued upon the order in the same manner as execution upon a judgment of a court of record.

(14) A violation of any general order or final order pertaining to a residential care or assisted living facility issued by the Assistant Director of the Department is subject to a civil penalty in the amount of not less than $5 and not more than $500 for each and every violation.

(15) Judicial review of civil penalties imposed under ORS 441.710 shall be as provided under ORS 183.480, except that the court may, in its discretion, reduce the amount of the penalty.

(16) All penalties recovered under ORS 443.455 and 441.710 to 441.740 shall be paid to the Quality Care Fund.

Stat. Auth.: ORS 410.070 & 443.450

Stats. Implemented: ORS 441.705 - 441.745, 443.400 - 443.455 & 443.991

Hist.: SPD 14-2007, f. 8-31-07, cert. ef. 11-1-07; SPD 23-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 10-2010, f. 6-30-10, cert. ef. 7-1-10; APD 3-2015(Temp), f. & cert. ef. 1-29-15 thru 7-27-15; APD 14-2015, f. 6-24-15, cert. ef. 6-28-15

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**Rule Caption:** Licensure of Adult Foster Homes for Adults who are Older or Adults with Physical Disabilities

**Adm. Order No.:** APD 15-2015

**Filed with Sec. of State:** 6-24-2015

**Certified to be Effective:** 6-28-15

**Notice Publication Date:** 5-1-2015

**Rules Amended:** 411-050-0602, 411-050-0610, 411-050-0615, 411-050-0620, 411-050-0625, 411-050-0632, 411-050-0635, 411-050-0640, 411-050-0645, 411-050-0650, 411-050-0655, 411-050-0660, 411-050-0662, 411-050-0665

**Rules Repealed:** 411-050-0602(T), 411-050-0625(T), 411-050-0640(T), 411-050-0645(T), 411-050-0655(T), 411-050-0665(T)

**Subject:** The Department of Human Services (Department) is permanently updating the rules for adult foster homes in OAR chapter 411, division 050, to make permanent temporary rule changes that became effective January 1, 2015, that were implemented to comply with the 2014 legislative changes from HB 4151.

The Department is updating:

-411-050-0655 to require the Department or AAA to notify the adult foster home, if known, that a person who is applying for admission to the home is on probation, parole, or post-prison supervision after being convicted of a sex crime as defined in ORS 181.805;

-411-050-0655 to allow a licensed provider to refuse to admit a person who is on probation, parole, or post-prison supervision after being convicted of a sex crime as defined in ORS 181.805; and

-411-050-0645 to allow an involuntary move-out notice to be issued without reasonable advance notice when the licensed provider learns, after the resident's admission, the resident is on probation, parole, or post-prison supervision after being convicted of a sex crime defined in ORS 181.805.

The Department is also amending OAR 411-050-0620 to be consistent with 2014 Oregon Laws, chapter 104, section 6, and OAR chapter 407, division 7 by adding:

-411-050-0620 that background checks must be completed at least every two years.

The Department is also amending OAR 411-050-0602; 411-050-0610; 411-050-0615; 411-050-0620; 411-050-0625; 411-050-0635; 411-050-0640; 411-050-0645; 411-050-0650; 411-050-0655; 411-050-0660; and 411-050-0665 to clarify existing rules and to make housekeeping changes by fixing wording, formatting, grammar, punctuation, and updating or fixing incorrect rule references. The Department will do this by amending:

-411-050-0602(31) to add a definition for Exclusion Lists to include the U.S. Office of Inspector General's Exclusion List and the U.S. General Services Administration's System for Award Management Exclusion List;

-411-050-0602(34) to replace 'husband or wife' with 'spouses in a legally recognized marriage or domestic partnership' in the definition of 'family member';

-411-050-0602(76) to clarify the definition of 'subject individual' by:

o Referencing OAR 407-007-0210 in the Criminal Records Checks and Abuse Checks rules;

o Specifying that volunteers 'on the premises' who provide services for, or who have unsupervised access to, any resident or any resident's funds, belongings, or confidential information are subject individuals; and

o Specifying that persons under 16 years of age and persons who live or work in the home are not subject individuals.

- 411-050-0610(1) to state the Department 'may' deny an incomplete application, instead of 'shall' deny an incomplete application;

- 411-050-0615(1) to provide clarity that:

o The local licensing authority must verify that applicants, licensees, and any owner or officer of the corporation, as applicable, are not listed on either of the Exclusion Lists; and

o The Department shall not make payment for the date a resident moves from the home or any time period after that.

- 411-050-0620(1) to clarify that:

o The background check process may not be used as a screening tool for hiring;

o Licensees may obtain a portable background check;

o Written verification of the background check may be sent electronically and must be readily available upon request; and

o The licensee must self-report within 24 hours if any subject individual has a disqualifying or potentially disqualifying condition.

- 411-050-0625(1) to provide clarity that licensees must not be listed on either of the Exclusion Lists;

- 411-050-0625(2) to increase the period of time a licensee, resident manager, or shift caregiver may discontinue working in that capacity without having to take the current Ensuring Quality Care (EQC) basic training course;

- 411-050-0625(5) to correct an error in a rule reference;

- 411-050-0625(6) to correct an error in a rule reference;

- 411-050-0625(9) to provide clarity that licensees must confirm their floating resident manager, if applicable, is not listed on either of the Exclusion Lists;

- 411-050-0625(11) to provide clarity that:

o Licensee, resident manager, floating resident manager, and shift caregivers must maintain 'approved' CPR certification; and

o Training credits may be granted for 'approved' Ensuring Quality Care (EQC) refresher courses.

- 411-050-0635(1) to delete duplicate text in OAR 411-050-0645;

- 411-050-0635(6) to provide clarity that the local licensing authority must verify the applicant is not listed on either of the Exclusion Lists;

- 411-050-0640(4) to remove a duplicate rule contained within 411-050-0650(5) and eliminate confusion about when notice of structural changes to the home must be submitted to the local licensing authority;

- 411-050-0640(6) to clarify the local licensing authority shall investigate the renewal application information submitted, review the licensing records for the applicant, conduct an inspection of the home, and specify a time frame for correction of any violations not to exceed 30 days;

- 411-050-0640(7) to clarify the Department may attach conditions to the license that limit, restrict, or specify other criteria for operation of the home, and that the licensee must visibly post any conditions;

- 411-050-0640(8) to state the Department 'may' deny a renewal application if cited violations are not corrected within the specified time frame, instead of 'shall' deny;

- 411-050-0640(9) to provide clarity that the local licensing authority must verify the licensee is not listed on either of the Exclusion Lists;

- 411-050-0645(1) to:

o Reference the Oregon Fire Code, Appendix L;

o Clarify the licensee may not employ or allow any caregiver to train or work in the home who is on either of the Exclusion Lists;

o Clarify that the licensee must notify the local licensing authority if a shift caregiver is absent from the home for 10 days or more;

o Clarify that if there is a change in primary caregiver or a shift caregiver, the licensee must notify the local licensing authority within 24 hours and identify who is providing care; and

o Changed 'sexual relations' to 'sexual contact.'

- 411-050-0645(4) to clarify that special consideration must be given to a resident with chewing difficulties 'or' other eating limitations;

- 411-050-0645(6) to provide clarity that facility records include verification that all caregivers are not listed on either of the Exclusion Lists;

- 411-050-0645(8) to correct an error in a rule reference;

- 411-050-0650(2) to incorporate a reference to section (5) of this rule;

- 411-050-0650(5) to:

o Allow hazardous materials to be stored in their original container, or in a container manufactured for the type of product;

o Identify the standards for medical sharps containers including type of container, storage, and disposal;

o Clarify the final point of safety must be at least 50 feet away from the structure, and must:

-- Have direct access to a public sidewalk or street; or

-- Not be in the backyard of a home unless the backyard has direct access to a public street or sidewalk.

o Clarify that ramps must comply with the U.S. Department of Justice's 2010 Americans with Disabilities Act.

- 411-050-0655(1) to add clarification to the title of this section: 'Pre-admission' Screening and Assessment;

- 411-050-0655(3) to provide clarity that the licensee must conduct the necessary elements of the pre-admission screening and assessment, and document those findings to:

o Determine whether readmission to the home is appropriate for the classification;

o Determine whether the licensee can continue to meet the resident's care and safety needs in addition to those of the other residents;

o Demonstrate compliance with the rules; and

o Demonstrate the basis for refusing the resident's re-admission to the home, if applicable.

- 411-050-0655(4) to clarify the licensee must review and update each resident's care plan every six months 'and' when a resident's condition changes;

- 411-050-0655(5) to update three rule references;

- 411-050-0655(6) to:

o Update two rule references;

o Clarify the medication administration record must identify the dosage, route, and the date and the time each medication 'and' supplement is to be given;

o Clarify over-the-counter products may include medication, vitamins, and supplements;

o Clarify that residents shall not have access to medications belonging to: licensee, caregivers, other household members, residents, or pets;

o Reformat Documentation of Disposal section for clarity; and

o Add reference to OAR 411-050-0650(5) for storage and disposal requirements of sharps, including, but not limited to, used needles and lancets.

- 411-050-0655(7) to update three rule references;

- 411-050-0662(10) to incorporate a reference to OAR 411-050-0650(5)(k);

- 411-050-0665(10) to clarify:

o A Notification of Findings is issued upon a determination of substantiated abuse or a rule violation; and

o That for nursing assistants, the notice shall state Department's intent to enter the finding of abuse into the Nursing Assistant Registry and the nursing assistant's rights according to OAR 411-089-0140.

**Rules Coordinator:** Kimberly Colkitt-Hallman—(503) 945-6398

**411-050-0602**
**Definitions**

Unless the context indicates otherwise, the following definitions apply to the rules in OAR chapter 411, division 050:

(1) "AAA" means an Area Agency on Aging, which is an established public agency within a planning and service area designated under Section 305 of the Older Americans Act that has responsibility for local administration of programs within the Department of Human Services. For the purpose of these rules, Type B AAAs contract with the Department to perform specific activities in relation to licensing adult foster homes, including processing applications, conducting inspections and investigations, issuing licenses, and making recommendations to the Department regarding adult foster home license denial, revocation, suspension, non-renewal, and civil penalties.

(2) "Abuse" means "abuse" as defined in OAR 411-020-0002 (Adult Protective Services).

(3) "Activities of Daily Living (ADL)" mean the personal, functional activities defined in OAR 411-015-0006 (Long-term Care Service Priorities for Individuals Served) required by an individual for continued well-being, which are essential for health and safety.

(4) "Adult Foster Home (AFH)" means any family home or other facility in which residential care is provided in a home-like environment for compensation to five or fewer adults who are not related to the licensee, resident manager, or floating resident manager, by blood, marriage, or adoption and who are 65 years of age or older or an adult with a physical disability. For the purpose of these rules, "adult foster home" does not include any house, institution, hotel, or other similar living situation that supplies room or board only, if no resident thereof requires any element of care. "Facility" and "Home" are synonymous with "Adult Foster Home".

(5) "Advance Directive" or "Advance Directive for Health Care" means the legal document signed by a resident that provides health care instructions in the event the resident is no longer able to give directions regarding his or her wishes. The directive gives the resident the means to control his or her own health care in any circumstance. "Advance Directive for Health Care" does not include Physician Orders for Life-Sustaining Treatment (POLST).

(6) "Applicant" means a person who completes an application for an adult foster home license or who completes an application to become a resident manager, floating resident manager, or shift caregiver. "Applicant" is synonymous with "Co-applicant".

(7) "Background Check" means a criminal records check and abuse check as defined in OAR 407-007-0210 (Criminal Records and Abuse Check for Providers).

(8) "Back-Up Provider" means a licensee, approved resident manager, or approved floating resident manager who does not live in the home, who has agreed to oversee the operation of an adult foster home, of the same license classification or level, in the event of an emergency.

(9) "Behavioral Interventions" mean those interventions that modify a resident's behavior or a resident's environment.

(10) "Board of Nursing Rules" means the standards for Registered Nurse Teaching and Delegation to Unlicensed Persons according to the statutes and rules of the Oregon State Board of Nursing, ORS 678.010 to 678.445 and OAR chapter 851, division 047.

(11) "Care" means the provision of assistance with activities of daily living to promote a resident's maximum independence and enhance the resident's quality of life. "Care" includes, but is not limited to, assistance with bathing, dressing, grooming, eating, money management, recreation, and medication management excluding assistance with self-medication.

(12) "Caregiver" means any person responsible for providing care and services to residents, including the licensee, resident manager, floating resident manager, shift caregivers, and any temporary, substitute, or supplemental staff, or other person designated to provide care and services to residents.

(13) "Care Plan" means a licensee's written description of a resident's needs, preferences, and capabilities, including by whom, when, and how often care and services are to be provided.

(14) "Centers for Medicare and Medicaid Services (CMS)" means the federal agency within the United States Department of Health and Human Services responsible for the administration of Medicaid and the Health Insurance Portability and Accountability Act (HIPAA).

(15) "Classification" means a designation of license assigned to a licensee based on the qualifications of the licensee, resident manager, floating resident manager, and shift caregivers, as applicable.

(16) "Co-Applicant" is synonymous with "Applicant" as defined in this rule.

(17) "Co-Licensee" is synonymous with "Licensee" as defined in this rule.

(18) "Compensation" means monetary or in-kind payments by or on behalf of a resident to a licensee in exchange for room, board, care, and services. "Compensation" does not include the voluntary sharing of expenses between or among roommates.

(19) "Complaint" means an allegation of abuse, a violation of these rules, or an expression of dissatisfaction relating to a resident or the condition of an adult foster home.

(20) "Condition" means a provision attached to a new or existing license that limits or restricts the scope of the license or imposes additional requirements on the licensee.

(21) "Consumer" means an individual eligible for Medicaid services for whom case management services are provided by the Department.

(22) "Criminal Records and Abuse Check Rules" refers to OAR 407-007-0200 to 407-007-0370.

(23) "Day Care" means care, assistance, and supervision of an individual who does not stay overnight.

(24) "Delegation" means the process by which a registered nurse teaches and supervises a skilled nursing task.

(25) "Department" means the Department of Human Services.

(26) "Director" means the Director of the Department of Human Services or that person's designee.

(27) "Disability" means a physical, cognitive, or emotional impairment, which for an individual, constitutes or results in a functional limitation in one or more activities of daily living.

(28) "Disaster" means a sudden emergency occurrence beyond the control of the licensee, whether natural, technological, or man-made that renders the licensee unable to operate the facility or renders the facility uninhabitable on a temporary, extended, or permanent basis.

(29) "Emergency Preparedness Plan" means a written procedure that identifies a facility's response to an emergency or disaster for the purpose of minimizing loss of life, mitigating trauma, and to the extent possible, maintaining services for residents, and preventing or reducing property loss.

(30) "Entity" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), a state, or a political subdivision or instrumentality, including a municipal corporation.

(31) "Exclusion Lists" mean the following federal lists that exclude listed individuals from receiving federal awards, not limited to Medicaid and Medicare programs:

(a) The U.S. Office of Inspector General's Exclusion List at www.exclusions.oig.hhs.gov/; and

(b) The U.S. General Services Administration's System for Award Management Exclusion List at www.sam.gov.

(32) "Exempt Area" means a county where there is a county agency that provides similar programs for licensing and inspection of adult foster homes that the Director finds are equal or superior to the requirements of ORS 443.705 to 443.825 and that the Director has exempted from the license, inspection, and fee provisions of ORS 443.705 to 443.825. "Exempt area" county licensing rules require review and approval by the Director prior to implementation.

(33) "Facility" is synonymous with "Adult Foster Home" as defined in this rule.

(34) "Family Member" means spouses in a legally recognized marriage or domestic partnership, natural parent, child, sibling, adopted child, adoptive parent, adoptive sibling, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, aunt, uncle, niece, nephew, or first cousin.

(35) "Final Point of Safety" means a designated assembly area located on a public sidewalk or street not less than 50 feet away from an adult foster home where occupants of the home evacuate to in the event of an emergency.

(36) "Floating Resident Manager" means an employee of the licensee, approved by the local licensing authority, who under the direction of the licensee, is directly responsible for the care of residents in one or more adult foster homes owned by that licensee. A "floating resident manager" is not required to live in any one adult foster home owned by his or her employer, except on a temporary basis, as directed by the licensee, when the regularly scheduled caregiver is unavailable.

(37) "Home" means the physical structure in which residents live. "Home" is synonymous with "Adult Foster Home" as defined in this rule.

(38) "Home-like" means an environment that promotes the dignity, security, and comfort of residents through the provision of personalized care and services, and encourages independence, choice, and decision-making by the residents.

(39) "House Policies" means the written and posted statements addressing house activities in an adult foster home.

(40) "Indirect Ownership Interest" means an ownership interest in an entity that has an ownership interest in the disclosing entity. "Indirect ownership interest" includes an ownership interest in any entity that has an "indirect ownership interest" in the disclosing entity.

(41) "Initial Point of Safety" means a designated area that has unobstructed direct access to a public sidewalk or street located not less than 25 feet away from an adult foster home where occupants of the home evacuate to in the event of an emergency and for the purpose of conducting evacuation drills.

(42) "Investigative Authority" means the Office of Adult Abuse Prevention and Investigation, local Department offices, and Area Agencies on Aging that contract with the Department to provide adult protective services to adults who are older or adults with physical, mental, or developmental disabilities.

(43) "Legal Representative" means a person who has the legal authority to act for a resident.

(a) For health care decisions, the "legal representative" is a court-appointed guardian, a health care representative under an Advance Directive for Health Care, or a power of attorney for health care.

(b) For financial decisions, the "legal representative" is a legal conservator, an agent under a power of attorney, or a representative payee.

(44) "Level" means the designation of ventilator-assisted care assigned to an adult foster home license based on the qualifications of the licensee, resident manager, floating resident manager, and shift caregivers, as applicable.

(45) "Licensed Health Care Professional" means a person who possesses a professional medical license that is valid in Oregon. Examples include, but are not limited to, a registered nurse (RN), nurse practitioner (NP), licensed practical nurse (LPN), medical doctor (MD), osteopathic physician (DO), respiratory therapist (RT), physical therapist (PT), physician assistant (PA), or occupational therapist (OT).

(46) "Licensee" means the person who was issued a license, whose name is on the license, and who is responsible for the operation of an adult foster home. The "licensee" of the adult foster home does not include the owner or lessor of the building in which the adult foster home is situated unless the owner or lessor of the building is also the operator.

(47) "Limited Adult Foster Home" means a home that provides care and services for compensation to a specific individual who is unrelated to the licensee but with whom the licensee has an established relationship of no less than one year.

(48) "Liquid Resource" means cash or those assets that may readily be converted to cash, such as a life insurance policy that has a cash value, stock certificates, or a guaranteed line of credit from a financial institution.

(49) "Local Licensing Authority" means the local Department offices and Area Agencies on Aging that contract with the Department to perform specific functions of the adult foster home licensing process.

(50) "Nursing Care" means the practice of nursing by a licensed nurse, including tasks and functions relating to the provision of "nursing care" that are taught or delegated under specified conditions by a registered nurse to a person other than licensed nursing personnel, as governed by ORS chapter 678 and rules adopted by the Oregon State Board of Nursing in OAR chapter 851.

(51) "Occupant" means any person residing in or using the facilities of an adult foster home, including residents, licensees, resident manager, friends or family members, day care individuals, and room and board tenants. A floating resident manager who resides in an adult foster home on a temporary basis is considered an "occupant".

(52) "Older" means any person at least 65 years of age.

(53) "Ombudsman" means the Oregon Long-Term Care Ombudsman or a designee appointed by the Long-Term Care Ombudsman to serve as a

representative of the Ombudsman Program in order to investigate and resolve complaints on behalf of adult foster home residents.

(54) "Operator" is synonymous with "Licensee" as defined in this rule.

(55) "Ownership Interest" means the possession of equity in the capital, stock, or profits of an adult foster home. Persons with an ownership or control interest mean a person or corporation that:

(a) Has an "ownership interest" totaling five percent or more in a disclosing entity;

(b) Has an indirect ownership interest equal to five percent or more in a disclosing entity;

(c) Has a combination of direct and indirect ownership interests equal to five percent or more in a disclosing entity;

(d) Owns an interest of five percent or more in any mortgage, deed of trust, note, or other obligation secured by the disclosing entity if that interest equals at least five percent of the value of the property or assets of the disclosing entity;

(e) Is an officer or director of a disclosing entity that is organized as a corporation; or

(f) Is a partner in a disclosing entity that is organized as a partnership.

(56) "Physical Restraint" means any manual method or physical or mechanical device, material, or equipment attached to, or adjacent to, a resident's body that the resident may not easily remove and that restricts freedom of movement or normal access to his or her body. Physical restraints include, but are not limited to, wrist or leg restraints, soft ties or vests, hand mitts, wheelchair safety bars, lap trays, and any chair that prevents rising (such as a Geri-chair). Side rails (bed rails) are considered restraints when they are used to prevent a resident from getting out of a bed. The side rail is not considered a restraint when a resident requests a side rail for the purpose of assistance with turning.

(57) "Prescribing Practitioner" means a physician, nurse practitioner, physician assistant, chiropractor, dentist, ophthalmologist, or other healthcare practitioner with prescribing authority.

(58) "Primary Caregiver" means a qualified licensee or resident manager, who lives in the home, personally provides care and services, and ensures the health and safety of residents a minimum of five consecutive days per week. More than one person who meets this criterion may be considered a "primary caregiver" as specified below:

(a) Co-licensees working three and four consecutive days and nights per week;

(b) Two approved resident managers working three and four consecutive days and nights per week; or

(c) A licensee and an approved resident manager working three and four consecutive days and nights per week.

(59) "P.R.N. (pro re nata)" means those medications and treatments that have been ordered by a qualified practitioner to be administered as needed.

(60) "Provider" means any person operating an adult foster home (i.e., licensee, resident manager, floating resident manager, or shift caregiver). "Provider" does not include substitute caregivers or the owner or lessor of the building in which the adult foster home is situated unless the owner or lessor is also the operator of the adult foster home.

(61) "Provisional License" means a 60-day license issued in an emergency situation when a licensed provider is no longer overseeing the operation of an adult foster home. A provisional license is issued to a qualified person who meets the standards of OAR 411-050-0625 and OAR 411-050-0630, except for completing the training and testing requirements. (See OAR 411-050-0635)

(62) "Psychoactive Medications" mean various medications used to alter mood, anxiety, behavior, or cognitive processes. For the purpose of these rules, "psychoactive medications" include, but are not limited to, antipsychotics, sedatives, hypnotics, and antianxiety medications.

(63) "Qualified Entity Initiator (QEI)" has the meaning set forth in OAR 407-007-0210 (Criminal Records and Abuse Checks for Providers).

(64) "Relative" means those persons identified as family members as defined in this rule.

(65) "Reside" means for a person to live in an adult foster home for a permanent or extended period of time. For the purpose of a background check, a person is considered to "reside" in a home if the person's visit is four weeks or greater.

(66) "Resident" means an adult who is older or an adult with a physical disability who is receiving room and board and care and services for compensation in an adult foster home on a 24-hour day basis.

(67) "Resident Manager" means an employee of the licensee, approved by the local licensing authority, who lives in the adult foster home, and is directly responsible for the care of the residents.

(68) "Resident Rights" or "Rights" means civil, legal, or human rights, including, but not limited to, those rights listed in the Adult Foster Home Residents' Bill of Rights. (See ORS 443.739 and OAR 411-050-0655)

(69) "Residential Care" means the provision of care on a 24-hour day basis.

(70) "Room and Board" means receiving compensation for the provision of meals, a place to sleep, laundry, and housekeeping to adults who are older or adults with physical disabilities and who do not need assistance with activities of daily living. Room and board facilities for two or more persons are required to register with the Department under the rules in OAR chapter 411, division 068, unless registered with the local authority having jurisdiction. Adult foster homes with room and board tenants are not subject to OAR chapter 411, division 068.

(71) "Screening" means the evaluation process used to identify an individual's ability to perform activities of daily living and address health and safety concerns.

(72) "Self-Administration of Medication" means the act of a resident placing a medication in or on his or her own body. The resident identifies the medication, the time and manner of administration, and places the medication internally or externally on his or her own body without assistance.

(73) "Self-Preservation" in relation to fire and life safety means the ability of a resident to respond to an alarm without additional cues and reach a point of safety without assistance.

(74) "Services" mean activities that help the residents develop skills to increase or maintain their level of functioning or assist the residents to perform personal care, activities of daily living, or individual social activities.

(75) "Shift Caregivers" mean caregivers who, by written variance of the local licensing authority, are responsible for providing care for regularly scheduled periods of time, such as 8 or 12 hours per day, in homes where there is no licensee or resident manager living in the home.

(76) "Subject Individual" means "subject individual" as defined in OAR 407-007-0210, including:

(a) Any person 16 years of age or older and:

(A) All licensed adult foster home providers and provider applicants;

(B) All persons intending to work in, or currently working in an adult foster home, including, but not limited to, caregivers and individuals in training;

(C) Volunteers on the home's premises who provide services for, or who have unsupervised access to any resident, or any resident's funds, belongings, or confidential information; and

(D) Occupants, excluding residents, residing in or on the premises of a proposed or currently licensed adult foster home, including:

(i) Household members;

(ii) Room and board tenants; and

(iii) Persons staying in the home for a period of four weeks or more.

(b) "Subject Individual" does not apply to:

(A) Persons under 16 years of age;

(B) Residents of the adult foster home or their visitors;

(C) Persons who live or work in or on the adult foster home premises who do not:

(i) Have regular access to the home for meals; or

(ii) Have regular use of the adult foster home's appliances or facilities; or

(iii) Have unsupervised access to the residents or the residents' personal property.

(D) A person providing services to the residents who is employed by a private business not regulated by the Department.

(77) "Substantial Compliance" means a level of compliance with these rules where any deficiencies pose no greater risk to resident health or safety than the potential for causing minor harm.

(78) "Substitute Caregiver" means any person other than the licensee, resident manager, floating resident manager, or shift caregiver who provides care and services in an adult foster home under the jurisdiction of the Department.

(79) "Tenant" means any individual who is residing in an adult foster home who receives services, such as meal preparation, laundry, and housekeeping.

(80) "These Rules" mean the rules in OAR chapter 411, division 050.

(81) "Variance" means an exception from a regulation or provision of these rules in accordance with OAR 411-050-0642.

(82) "Ventilator-Assisted Care" means the provision of mechanical assistance to replace spontaneous breathing. Devices used include, but are not limited to, mechanical ventilators, manual ventilators, and positive airway pressure ventilators.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, 443.790
Stats. Implemented: ORS 106.010, 443.001-004, 443.705-825, 443.875, 443.991
Hist.: SSD 14-1985, f. 12-31-85, ef. 1-1-86; SSD 11-1988, f. 10-18-88, cert. ef. 11-1-88; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1996, f. 3-29-96, cert. ef. 4-1-96; SDSD 4-2001, f. & cert. ef. 3-1-01; SPD 31-2006, f. 12-27-06, cert. ef. 1-1-07; SPD 22-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 9-2010, f. 6-30-10, cert. ef. 7-1-10; Renumbered from 411-050-0400, SPD 33-2013, f. 8-30-13, cert. ef. 9-1-13; APD 6-2014, f. 3-31-14, cert. ef. 4-1-14; APD 50-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 15-2015, f. 6-24-15, cert. ef. 6-28-15

**411-050-0610**
**Initial License Application and Fees**

(1) The applicant must complete the Department's application form for the specific type of license requested and submit the application form to the local licensing authority with the non-refundable fee.

(a) The application is not complete until all of the required information is submitted to the local licensing authority. Incomplete applications are void after 60 calendar days from the date the local licensing authority receives the application form and non-refundable fee, and the Department may deny the application if not withdrawn.

(b) Failure to provide accurate information may result in the denial of the application.

(2) A separate application is required for each location where an adult foster home is to be operated.

(3) The license application must include:

(a) Complete contact information for the applicant including:

(A) A mailing address if different from the proposed adult foster home; and

(B) A business address for electronic mail.

(b) Verification of attendance at a Department-approved orientation program conducted by the local licensing authority responsible for the licensing of the proposed adult foster home and successful completion of the Department's Ensuring Quality Care Course and examination. (See OAR 411-050-0625);

(c) The maximum resident capacity requested;

(d) Identification of:

(A) Any relatives needing care;

(B) The maximum number of any room and board tenants;

(C) The maximum number of day care individuals; and

(D) The names of any other occupants in the home.

(e) The classification being requested with information and supporting documentation regarding qualifications, relevant work experience, and training of staff as required by the Department. To request a Class 3 license, the license application must include:

(A) Proof of at least three years of full-time experience providing direct care to adults who are older or adults with physical disabilities and who required full assistance in four or more of activities of daily living; and

(B) Current contact information from at least two licensed health care professionals who have direct knowledge of the applicant's abilities and past experience as a caregiver; or

(C) A copy of the applicant's current license as a health care professional in Oregon, if applicable.

(f) A Health History and Physician or Nurse Practitioner's Statement (form SDS 903) regarding the applicant's ability to provide care;

(g) FINANCIAL INFORMATION. A completed Financial Information Sheet (form SDS 448A).

(A) An applicant must have the financial ability and maintain sufficient liquid resources to pay the operating costs of an adult foster home for at least two months without solely relying on potential resident income.

(B) Documentation of two months of liquid resources must include:

(i) The Department's current Verification of Financial Resources form (SDS 0448F) completed and stamped or notarized by the applicant's financial institution; or

(ii) Documentation on letterhead of the applicant's financial institution, which includes:

(I) The last four digits of the applicant's account number;

(II) The name of the account holder and, if the account is not in the applicant's name, verification the applicant has access to the account's funds;

(III) The highest and lowest balances for each of the most recent three full months; and

(IV) The number of any non-sufficient fund (NSF) payments in each of the last three full months, if any; or

(iii) Demonstration of cash on hand equal to a minimum of two months of operating expenses.

(C) If an applicant uses income from another adult foster home to document possession of at least two months of operating expenses, the applicant must demonstrate the financial ability and maintain sufficient liquid resources to pay the operating costs of each home for at least two months without solely relying on potential resident income.

(h) If the home is leased or rented, a copy of the completed lease or rental agreement. The agreement must be a standard lease or rental agreement for residential use and include the following:

(A) The owner and landlord's name;

(B) Verification that the rent is a flat rate; and

(C) The signatures of the landlord and applicant and the date signed;

(i) If the applicant is purchasing or owns the home, verification of purchase or ownership;

(j) Documentation of the initiation of a background check or a copy of an approved background check for each subject individual as defined in OAR 411-050-0602;

(k) A current and accurate floor plan that indicates:

(A) The size of rooms;

(B) Which bedrooms are to be used by residents, the licensee, caregivers, for day care, and room and board tenants, as applicable;

(C) The location of all the exits on each level of the home, including emergency exits such as windows;

(D) The location of any wheelchair ramps;

(E) The location of all fire extinguishers, smoke alarms, and carbon monoxide alarms;

(F) The planned evacuation routes, initial point of safety, and final point of safety; and

(G) Any designated smoking areas in or on the adult foster home premises.

(l) If requesting a license to operate more than one home, a plan covering administrative responsibilities and staffing qualifications for each home;

(m) A $20 per bed non-refundable fee for each non-relative resident;

(n) Three personal references for the applicant who are not family members as defined in OAR 411-050-0602. Current or potential licensees and co-workers of current or potential licensees are not eligible as personal references;

(o) If the applicant intends to use a resident manager, floating resident manager, or shift caregivers, the Department's supplemental application (form SDS 448B) completed by the applicant, as appropriate; and

(p) Written information describing the operational plan for the adult foster home including:

(A) The use of substitute caregivers and other staff;

(B) A plan of coverage for the absence of the primary caregiver; and

(C) The name of a qualified back-up provider, approved resident manager, or approved floating resident manager who does not live in the home but has been oriented to the home. The applicant must also submit a signed agreement with the listed back-up provider and maintain a copy in the facility records.

(4) After receipt of the completed application materials including the non-refundable fee, the local licensing authority must investigate the information submitted including pertinent information received from outside sources, inspect the home, and conduct a personal interview with the applicant.

(5) The Department shall deny the issuance of a license if cited violations from the home inspection are not corrected within the time frames specified by the local licensing authority.

(6) The applicant may withdraw his or her application at any time during the application process by written notification to the local licensing authority.

(7) An applicant whose license has been revoked, non-renewed, voluntarily surrendered during a revocation or non-renewal process, or whose application for licensure has been denied, shall not be granted a new license by the local licensing authority for a period of not less than one year from the date the action was final, or for a longer period if specified in the final order.

(8) All moneys collected under ORS 443.725 to 443.825 are paid to the Quality Care Fund.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, 443.790
Stats. Implemented: ORS 443.001-004, 443.705-825, 443.875, 443.991
Hist.: SSD 14-1985, f. 12-31-85, ef. 1-1-86; SSD 11-1988, f. 10-18-88, cert. ef. 11-1-88; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1996, f. 3-29-96, cert. ef. 4-1-96; SDSD 4-2001, f. & cert. ef. 3-1-01; SPD 31-2006, f. 12-27-06, cert. ef. 1-1-07; SPD 22-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 9-2010, f. 6-

30-10, cert. ef. 7-1-10; Renumbered from 411-050-0410, SPD 33-2013, f. 8-30-13, cert. ef. 9-1-13; APD 6-2014, f. 3-31-14, cert. ef. 4-1-14; APD 15-2015, f. 6-24-15, cert. ef. 6-28-15

**411-050-0615**
**Provider Enrollment Agreements, Contracts, and Refunds**

(1) MEDICAID PROVIDER ENROLLMENT AGREEMENT.

(a) An applicant or licensee who intends to care for residents who are or become eligible for Medicaid services must enter into a Medicaid Provider Enrollment Agreement with the Department, follow Department rules, and abide by the terms of the Agreement. The local licensing authority shall determine that the applicant, licensee, and any owner or officer of the corporation, as applicable, is not listed on either of the Exclusion Lists prior to approval of a Medicaid Provider Enrollment Agreement.

(b) An approved Medicaid Provider Enrollment Agreement does not guarantee the placement of individuals eligible for Medicaid services in the adult foster home.

(c) An approved Medicaid Provider Enrollment Agreement is valid for the length of the license unless earlier terminated by the licensee or the Department. A Medicaid Provider Enrollment Agreement must be completed, submitted, approved, and renewed with each licensing cycle.

(d) The rate of compensation established by the Department is considered payment in full. The licensee may not request or accept additional funds or in-kind payment from any source.

(e) An individual eligible for Medicaid services may not be admitted into an adult foster home unless and until:

(A) The Department has approved a Medicaid Provider Enrollment Agreement. The Department shall not issue a Medicaid payment to a licensee without a current license and an approved Medicaid Provider Enrollment Agreement in place;

(B) The individual eligible for Medicaid services has been screened according to OAR 411-050-0655; and

(C) The Department has authorized the placement. The authorization must be clearly documented in the resident's record with other required admission materials. (See OAR 411-050-0655)

(f) The Department shall not make payment for the date a resident moves from the home, or for any time period thereafter.

(g) The licensee must enter into a written agreement with a resident who receives Medicaid services if the licensee charges for storage of belongings that remain in the adult foster home for more than 15 calendar days after the resident has left the home.

(A) The written agreement must be consistent with the licensee's policy with private-pay residents and entered into at the time of the resident's admission or at the time the resident becomes eligible for Medicaid services.

(B) The licensee must give written notice to the resident and the resident's family or other representatives 30 calendar days prior to any increases, additions, or other modifications to the charges for storage.

(h) A licensee who elects to provide care for individuals eligible for Medicaid services is not required to admit more than one resident eligible for Medicaid services. However, if the licensee has an approved Medicaid Provider Enrollment Agreement, private-pay residents who become eligible for Medicaid services may not be asked to leave solely on the basis of Medicaid eligibility.

(i) The licensee or the Department may terminate a Medicaid Provider Enrollment Agreement according to the terms of the Agreement.

(j) The Department may terminate a Medicaid Provider Enrollment Agreement under the following circumstances:

(A) The licensee fails to maintain substantial compliance with all related federal, state, and local laws, ordinances, and regulations; or

(B) The license to operate the adult foster home has been voluntarily surrendered, revoked, or non-renewed.

(k) The Department must terminate a Medicaid Provider Enrollment Agreement under the following circumstances:

(A) The licensee fails to permit access by the Department, the local licensing authority, or the Centers for Medicare and Medicaid Services to any adult foster home licensed to and operated by the licensee;

(B) The licensee submits false or inaccurate information;

(C) Any person with five percent or greater direct or indirect ownership interest in the adult foster home did not submit timely and accurate information on the Medicaid Provider Enrollment Agreement form or fails to submit fingerprints if required under the criminal records and abuse check rules in OAR 407-007-0200 to 407-007-0370;

(D) Any person with five percent or greater direct or indirect ownership interest in the adult foster home has been convicted of a criminal offense related to the person's involvement with Medicare, Medicaid, or Title XXI programs in the last 10 years; or

(E) Any person with an ownership or control interest, or who is an agent or managing employee of the adult foster home, fails to submit timely and accurate information on the Medicaid Provider Enrollment Agreement form.

(l) If the licensee submits notice of termination of the Medicaid Provider Enrollment Agreement, the licensee must:

(A) Simultaneously issue the Department's Notice of Involuntary Move or Transfer of Resident form (SDS 901) to each resident eligible for Medicaid services in the licensee's adult foster home;

(B) Simultaneously issue written notification to all residents who pay with private funds; and

(C) Immediately update the house policies.

(m) If either the licensee or the Department terminates a Medicaid Provider Enrollment Agreement, a new Medicaid Provider Enrollment Agreement shall not be approved by the local licensing authority for a period of not less than 180 days from the date the licensee or the Department terminated the Agreement.

(n) DEATH OF RESIDENT ELIGIBLE FOR MEDICAID SERVICES WITH NO SURVIVING SPOUSE. The licensee must forward all personal incidental funds (PIF) to the Estate Administration Unit, P.O. Box 14021, Salem, Oregon 97309-5024, within 10 business days of the death of a resident eligible for Medicaid services with no surviving spouse. (See Limits on Estate Claims, OAR 461-135-0835)

(2) PRIVATE CONTRACT. A licensee who cares for residents who pay with private funds or individuals receiving only day care services must enter into a written contract with the resident or person paying for the resident's care. The written contract is the admission agreement. The written contract must be signed by all parties prior to the admission of the resident. A copy of the contract is subject to review by the local licensing authority prior to licensure and prior to the implementation of any changes to the contract.

(a) The contract must include but not be limited to:

(A) Services to be provided and the rate to be charged. A payment range may not be used unless the contract plainly states when an increase in rate may be expected based on a resident's increased care or service needs;

(B) Conditions under which the rates may be changed;

(C) The home's refund policy in instances of a resident's hospitalization, death, transfer to a nursing facility or other care facility, and voluntary or involuntary move. The refund policy must be in compliance with section (3) of this rule;

(D) A statement indicating that the resident is not liable for damages considered normal wear and tear on the adult foster home and the adult foster home's contents;

(E) The home's policies on voluntary moves and whether or not the licensee requires written notification of a resident's intent to not return; and

(F) Any charges for storage of belongings that remain in the adult foster home for more than 15 calendar days after the resident has left the home.

(b) The licensee may not charge or ask for application fees or nonrefundable deposits. Fees to hold a bed are permissible.

(c) The licensee must give a copy of the signed contract to the resident or the resident's representative and must retain the original signed contract and any amendments on the premises available for review.

(d) The licensee may not include any illegal or unenforceable provision in a contract with a resident and may not ask or require a resident to waive any of the resident's rights or licensee's liability for negligence.

(e) The licensee must give written notice to a private-pay resident and the resident's family or other representatives 30 calendar days prior to any general rate increases, additions, or other modifications of the rates. The licensee is not required to give 30 day written notice if the rate change is due to the resident's increased care or service needs and the agreed upon rate schedule in the resident's contract has specified charges for those changes.

(3) REFUNDS.

(a) If a resident dies, the licensee may not retain or require payment for more than 15 calendar days after the date of the resident's death, or the time specified in the licensee's contract, whichever is less.

(b) If a resident leaves an adult foster home for medical reasons and the resident or the resident's representative indicates the resident's intent to not return, the licensee may not retain or require payment for more than 15 calendar days after the date the licensee receives notification from the resident or the resident's representative or the time specified in the licensee's contract, whichever is less.

(c) If a resident who has paid with private funds becomes eligible for Medicaid services, the licensee must accept payment from the Department

from the date of eligibility forward as payment in full. The licensee must reimburse the resident or the resident's representative within 30 calendar days after the licensee receives payment from the Department for any private payment received after the resident became eligible for Medicaid services.

(d) The licensee must act in good faith to reduce the charge to a resident who has left the home, by seeking a new resident to fill the vacancy.

(e) The licensee must refund any unused advance payment to the resident, or the resident's representative as appropriate, within 30 calendar days after the resident dies or leaves the home.

(f) If the adult foster home closes or the licensee gives written notice for the resident to leave, the licensee waives the right to collect any fees beyond the date of closure or the resident's departure, whichever is sooner.

(g) If a resident dies or leaves an adult foster home due to neglect or abuse at the adult foster home that is substantiated by a Department investigator, or due to conditions of imminent danger of life, health, or safety, the licensee may not charge the resident beyond the resident's last day in the home.

(h) The refund policies in these rules also apply to refunds for resident moves and transfers as described in OAR 411-050-0645.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, 443.880, 443.790

Stats. Implemented: ORS 443.001-004, 443.705-825, 443.875, 443.991

Hist.: SSD 14-1985, f. 12-31-85, ef. 1-1-86; SSD 11-1988, f. 10-18-88, cert. ef. 11-1-88; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1996, f. 3-29-96, cert. ef. 4-1-96; SDSD 4-2001, f. & cert. ef. 3-1-01; SPD 31-2006, f. 12-27-06, cert. ef. 1-1-07; SPD 9-2010, f. 6-30-10, cert. ef. 7-1-10; Renumbered from 411-050-0435, SPD 33-2013, f. 8-30-13, cert. ef. 9-1-13; APD 15-2015, f. 6-24-15, cert. ef. 6-28-15

**411-050-0620**
**Background Check**

(1) All subject individuals must have an approved background check prior to operating, working, training in, or living in a home. Licensees must maintain approval in accordance with these rules and the criminal records and abuse check rules, OAR 407-007-0200 to 407-007-0370.

(2) The background check may not to be used as a screening tool for hiring. New employees may be offered a position contingent upon passing the background check.

(3) A new background check must be completed:

(a) Every two years.

(b) Prior to any subject individual's change in employment position.

(c) If the Department has reason to believe a new background check is needed.

(4) PORTABILITY OF BACKGROUND CHECK APPROVAL. A subject individual may be approved to work in multiple homes in Oregon only when the subject individual is working in the same employment position.

(5) On or after July 28, 2009, no licensee, licensee applicant, or employee of the licensee who has been convicted of any of the disqualifying crimes listed in OAR 407-007-0275 shall be approved by the Department to provide care and services in an adult foster home. This rule does not apply to:

(a) An employee of the licensee who was hired prior to July 28, 2009, who continues employment in the same position with the same licensee; or

(b) Any subject individual who is an occupant of the home but is neither a licensee nor a caregiver.

(6) The licensee must have written verification from the local licensing authority that the required background checks have been completed and approved for all subject individuals. The written verification may include electronic correspondence, and shall be readily available upon request.

(7) All subject individuals must self-report to the licensee any disqualifying condition as described in OAR 407-007-0275 and any potentially disqualifying condition as described in OAR 407-007-0280 and 407-007-0290. The licensee must notify the Department or local licensing authority within 24 hours if any subject individual has a disqualifying or potentially disqualifying condition.

(8) The Department must provide for the expedited completion of a background check for the state of Oregon when requested by a licensed provider because of a demonstrated immediate staffing need.

Stat. Auth.: ORS 181.537, 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, 443.790

Stats. Implemented: ORS 181.537, 443.001 to 443.004, 443.705-825, 443.875, 443.991

Hist.: SDSD 4-2001, f. & cert. ef. 3-1-01; SPD 31-2006, f. 12-27-06, cert. e b6f. 1-1-07; SPD 22-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 1-2010(Temp), f. & cert. ef. 3-11-10 thru 6-30-10; SPD 9-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 30-2010, f. 12-29-10, cert. ef. 1-1-11; Renumbered from 411-050-0412, SPD 33-2013, f. 8-30-13, cert. ef. 9-1-13; APD 15-2015, f. 6-24-15, cert. ef. 6-28-15

**411-050-0625**
**Qualification and Training Requirements**

(1) APPLICANT AND LICENSEE QUALIFICATIONS. An adult foster home applicant and licensee must meet and maintain the requirements specified in this section. An adult foster home applicant and licensee must:

(a) Live in the home that is to be licensed at least five days and nights per week and function as the primary caregiver as defined in OAR 411-050-0602 unless:

(A) There is, or shall be upon licensure, an approved resident manager who lives in the home and works five consecutive days and nights per week as the primary caregiver; or

(B) There is, or shall be upon licensure, two approved primary caregivers who live in the home and work three and four consecutive days and nights per week respectively; or

(C) A variance for shift caregivers has been granted according to section (6) of this rule.

(b) Subsections (a)(A), (B), and (C) of this section are not intended to prohibit the occasional and temporary absence of the primary caregiver from the adult foster home;

(c) Be at least 21 years of age;

(d) Possess physical health, mental health, good judgment, and good personal character, including truthfulness, determined necessary by the Department to provide 24-hour care for adults who are older or adults with physical disabilities. An applicant and licensee must have a statement from a physician, nurse practitioner, or physician assistant indicating that the applicant or licensee is physically, cognitively, and emotionally capable of providing care to residents. An applicant or licensee with documented history or substantiated complaints of substance abuse or mental illness must provide evidence satisfactory to the Department of successful treatment, rehabilitation, or references regarding current condition;

(e) Have an approved background check in accordance with OAR 411-050-0620 and maintain that approval as required;

(f) Be literate in the English language and demonstrate the ability to comprehend and communicate in English orally and in writing with the residents and the residents' family members or representatives, emergency personnel (e.g., emergency operator, law enforcement, paramedics, and fire fighters), licensed health care professionals, case managers, Department and local licensing authority staff, and others involved in the care of the residents;

(g) Be able to respond appropriately to emergency situations at all times; and

(h) Have a clear understanding of his or her responsibilities, knowledge of the residents' care plans, and the ability to provide the care specified for each resident; and not be listed on either of the Exclusion Lists.

(2) APPLICANT AND LICENSEE TRAINING REQUIREMENTS.

(a) Applicants and licensees must have the education, experience, and training to meet the requirements of the requested classification of the home. (See OAR 411-050-0630)

(b) A potential applicant or applicant must complete the following training requirements prior to obtaining a license:

(A) Attend a Department-approved orientation program conducted by the local licensing authority responsible for the licensing of the proposed adult foster home;

(B) Attend the Department's Ensuring Quality Care Course and pass the examination to meet application requirements for licensure;

(i) Potential applicants and applicants who fail the first examination may take the examination a second time; however, successful completion of the examination must take place within 90 calendar days of the end of the Department's Ensuring Quality Care Course.

(ii) Potential applicants and applicants who fail a second examination must retake the Department's Ensuring Quality Care Course prior to repeating the examination.

(C) Comply with the Department's January 1, 2015, student policies for the Department's Ensuring Quality Care Course; and

(D) Have current CPR and First Aid certification.

(i) Accepted CPR and First Aid courses must be provided or endorsed by the American Heart Association, the American Red Cross, the American Safety and Health Institute, or MEDIC First Aid.

(ii) CPR or First Aid courses conducted online are only accepted by the Department when an in-person skills competency check is conducted by a qualified instructor endorsed by the American Heart Association, the American Red Cross, the American Safety and Health Institute, or MEDIC First Aid.

(3) FINANCIAL REQUIREMENTS. A licensee applicant and licensee must have the financial ability and maintain sufficient liquid resources to pay the operating costs of the adult foster home for at least two months without solely relying on potential resident income.

(a) If an initial license applicant is unable to demonstrate the financial ability and resources required by this section, the Department may require the applicant to furnish a financial guarantee, such as a line of credit or guaranteed loan, to fulfill the requirements of this rule.

(b) If at any time there is reason to believe an applicant or licensee may not have sufficient financial resources to operate the home in compliance with these rules, the local licensing authority may request additional documentation, which may include verification of the applicant's or licensee's ability to readily access the requested funds. Circumstances that may prompt the request of additional financial information include, but are not limited to, reports of insufficient food, inadequate heat, or failure to pay employees, utilities, rent, or mortgage. Additional documentation of financial resources may include, but are not limited to:

(A) The Department's Verification of Financial Resources form (SDS 0448F) completed and stamped or notarized by the applicant's or licensee's financial institution;

(B) Documentation on letterhead of the applicant's or licensee's financial institution that includes:

(i) The last four digits of the applicant's or licensee's account number;

(ii) The name of the account holder, and if the account is not in the applicant's or licensee's name, verification the applicant or licensee has access to the account's funds;

(iii) The highest and lowest balances for each of the most recent three full months;

(iv) The number of any non-sufficient fund (NSF) payments in each of the last three full months, if any; and

(v) Signature of the banking institution's representative completing the form and date.

(C) Demonstration of cash on hand equal to a minimum of two months of operating expenses.

(c) The local licensing authority must request the least information necessary to verify compliance with this section.

(4) RESIDENT MANAGER REQUIREMENTS. A resident manager must live in the home as specified in section (1)(a) of this rule and function as the primary caregiver under the licensee's supervision. A resident manager must meet and maintain the qualification and training requirements specified in sections (1)(a) through (2)(b)(D) of this rule. The local licensing authority shall verify all the requirements of these rules have been satisfied prior to approval of a resident manager.

(5) FLOATING RESIDENT MANAGER REQUIREMENTS.

(a) A floating resident manager must meet and maintain the qualification and training requirements specified in sections (1)(c) through (2)(b)(D) of this rule, except as indicated in (5)(b) of this rule.

(b) If the licensee has one or more homes within the jurisdiction of more than one local licensing authority, a currently approved floating resident manager is not required to complete the Department-approved orientation in more than one licensing authority's jurisdiction. This exception does not prohibit the local licensing authority within an exempt area from requiring the floating resident manager applicant to attend the local licensing authority's orientation.

(c) The floating resident manager must be oriented to each home prior to providing resident care in each home. Documentation of orientation to every home the floating resident manager works in must be available within each home as stated in section (7) of this rule.

(d) Facility records in each of the homes a floating resident manager is assigned to work must maintain proof the floating resident manager has a current and approved background check.

(e) A floating resident manager may not be used in lieu of a shift caregiver, except on temporary basis, when the regular shift caregiver is unavailable due to circumstances, such as illness, vacation, or termination of employment.

(6) SHIFT CAREGIVER REQUIREMENTS.

(a) Shift caregivers may be used in lieu of a resident manager if granted a written variance by the local licensing authority. Use of shift caregivers detracts from the intent of a home-like environment, but may be allowed for specific resident populations. The type of residents served must be a specialized population with intense care needs, such as those with Alzheimer's disease, AIDS, or head injuries. If shift caregivers are used, each shift caregiver must meet or exceed the experience and training qualifications for the license classification requested.

(b) Shift caregivers must meet and maintain the qualification and training requirements specified in sections (1)(c) through (2)(b)(D) of this rule. The local licensing authority shall verify all the requirements of these rules have been satisfied prior to approval of a shift caregiver.

(7) CAREGIVER ORIENTATION. Prior to providing care to any resident, a resident manager, floating resident manager, and shift caregiver must be oriented to the home and to the residents by the licensee. Orientation must be clearly documented in the facility records. Orientation includes, but is not limited to:

(a) Location of any fire extinguishers;

(b) Demonstration of evacuation procedures;

(c) Instruction of the emergency preparedness plan;

(d) Location of resident records;

(e) Location of telephone numbers for the residents' physicians, the licensee, and other emergency contacts;

(f) Location of medications and the key for the medication cabinet;

(g) Introduction to residents;

(h) Instructions for caring for each resident;

(i) Delegation by a registered nurse for nursing tasks, if applicable; and

(j) Policies and procedures related to Advance Directives. (See OAR 411-050-0645)

(8) EMPLOYMENT APPLICATION. An application for employment in any capacity in an adult foster home must include a question asking whether the person applying for employment has been found to have committed abuse. Employment applications must be retained for at least three years.

(9) EXCLUSION VERIFICATION.

(a) A licensee must verify the resident manager, floating resident manager, and shift caregivers, as applicable, are not listed on either of the Exclusion Lists prior to employment.

(b) Verification of checking the Exclusion Lists must be clearly documented in the facility records.

(10) TRAINING WITHIN FIRST YEAR OF INITIAL LICENSING OR APPROVAL. Within the first year of obtaining an initial license or approval, the licensee, resident manager, floating resident manager, and shift caregivers must complete the Six Rights of Safe Medication Administration and a Fire and Life Safety training as available. The Department or local licensing authority and the Office of the State Fire Marshal or the local fire prevention authority may coordinate the Fire and Life Safety training program.

(11) ANNUAL TRAINING REQUIREMENTS.

(a) Each year after initial licensure, the licensee, resident manager, floating resident manager, and shift caregivers must complete at least 12 hours of Department-approved training related to the care of adults who are older or adults with physical disabilities in an adult foster home setting. Up to four of those hours may be related to the business operation of the adult foster home.

(b) A licensee, resident manager, floating resident manager, and shift caregivers, as applicable, must maintain approved CPR certification.

(c) Registered nurse delegation or consultation, CPR certification and First Aid training, Ensuring Quality Care Course (not including approved EQC refresher courses), adult foster home orientation, Ventilator Assisted Care Course and skills competency checks, or consultation with an accountant do not count toward the required 12 hours of annual training.

(12) SUBSTITUTE CAREGIVER REQUIREMENTS. A substitute caregiver left in charge of the residents for any period of time, may not be a resident, and must at a minimum, meet all of the following qualifications prior to working or training in the home:

(a) Be at least 18 years of age.

(b) Have an approved background check in accordance with OAR 411-050-0620 and maintain that approval as required.

(c) Be literate in the English language and demonstrate the ability to comprehend and communicate in English orally and in writing with the residents and the residents' family members and representatives, emergency personnel (e.g., emergency operator, law enforcement, paramedics, and fire fighters), licensed health care professionals, case managers, Department and local licensing authority staff, and others involved in the care of the residents.

(d) Be able to respond appropriately to emergency situations at all times.

(e) Have a clear understanding of his or her responsibilities, have knowledge of the residents' care plans, and be able to provide the care specified for each resident, including appropriate delegation or consultation by a registered nurse.

(f) Possess physical health, mental health, good judgment, and good personal character, including truthfulness, determined necessary by the Department to provide care for adults who are older or adults with physical disabilities, as determined by reference checks and other sources of information.

(g) Have current CPR and First Aid certification within 30 calendar days of the start of employment.

(A) Accepted CPR and First Aid courses must be provided by or endorsed by the American Heart Association, the American Red Cross, the American Safety and Health Institute, or MEDIC First Aid.

(B) CPR or First Aid courses conducted online are only accepted by the Department when an in-person skills competency check is conducted by a qualified instructor endorsed by the American Heart Association, the American Red Cross, the American Safety and Health Institute, or MEDIC First Aid.

(h) Not be listed on either of the Exclusion Lists.

(A) Licensees must verify the substitute caregiver is not listed on either of these Exclusion Lists; and

(B) Clearly document that verification in the facility's records.

(13) TRAINING REQUIREMENTS FOR SUBSTITUTE CAREGIVERS.

(a) A substitute caregiver must be oriented to the home and to the residents by the licensee or resident manager prior to the provision of care to any residents. Orientation includes, but is not limited to:

(A) Location of any fire extinguishers;

(B) Demonstration of evacuation procedures;

(C) Instruction of the emergency preparedness plan;

(D) Location of resident records;

(E) Location of telephone numbers for the residents' physicians, the licensee, and other emergency contacts;

(F) Location of medications and the key for the medication cabinet;

(G) Introduction to residents;

(H) Instructions for caring for each resident;

(I) Delegation by a registered nurse for nursing tasks if applicable; and

(J) Education on the policies and procedures related to Advance Directives. (See OAR 411-050-0645)

(b) A substitute caregiver must complete the Department's Caregiver Preparatory Training Study Guide (DHS 9030) and Workbook (DHS 9030-W) and receive instruction in specific care responsibilities from the licensee, resident manager, or floating resident manager prior to working or training in the home. The Workbook must be completed by the substitute caregiver without the help of any others. The Workbook is considered part of the required orientation to the home and residents.

(A) The local licensing authority may grant a variance to the Caregiver Preparatory Training Study Guide and Workbook requirement for a substitute caregiver who:

(i) Holds a current Oregon license as a health care professional, such as a physician, nurse practitioner, physician assistant, registered nurse, or licensed practical nurse; and

(ii) Who demonstrates the ability to provide adequate care to residents based on similar training or at least one year of experience providing direct care to adults who are older or adults with physical disabilities.

(B) A certified nursing assistant (CNA) or certified medical assistant (CMA) must complete the Caregiver Preparatory Training Study Guide and Workbook and have a certificate of completion signed by the licensee.

(c) A substitute caregiver routinely left in charge of an adult foster home for any period that exceeds 48 continuous hours is required to meet the education, experience, and training requirements of a resident manager as specified in this rule. A licensee may not leave a substitute caregiver or concurrent substitute caregivers routinely in charge of the home for any period that exceeds 48 continuous hours within one calendar week. This requirement is not intended to prevent a qualified substitute caregiver from providing relief care in the absence of the primary caregiver, such as for a one or two week vacation. In such an event, the licensee must arrange for the qualified back-up provider to be available as needed.

(14) If a licensee has demonstrated non-compliance with one or more of these rules, the Department may require, by condition, additional training in the deficient area.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, & 443.790

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

Hist.: SSD 14-1985, f. 12-31-85, ef. 1-1-86; SSD 11-1988, f. 10-18-88, cert. ef. 11-1-88; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1995, f. & cert. ef. 3-15-95; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1996, f. 3-29-96, cert. ef. 4-1-96; SDSD 4-2001, f. & cert. ef. 3-1-01; SPD 31-2006, f. 12-27-06, cert. ef. 1-1-07; SPD 22-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 9-2010, f. 6-30-10, cert. ef. 7-1-10; Renumbered from 411-050-0440, SPD 33-2013, f. 8-30-13, cert. ef. 9-1-13; APD 6-2014, f. 3-31-14, cert. ef. 4-1-14; APD 50-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 15-2015, f. 6-24-15, cert. ef. 6-28-15

**411-050-0632**
**Capacity**

(1) Residents must be limited to five adults who require care and are unrelated to the licensee and resident manager by blood, marriage, or adoption.

(2) The number of residents permitted to reside in an adult foster home is determined by the ability of the staff to meet the care needs of the residents, the fire and life safety standards for evacuation, and compliance with the facility standards of these rules.

(3) The licensee must demonstrate, to the local licensing authority's satisfaction, the ability to meet the needs of the residents in addition to caring for any children or relatives beyond the license capacity of the adult foster home.

(4) The local licensing authority's determination of maximum capacity must ensure:

(a) The ratio of at least one caregiver per five residents, including any day care individuals and others requiring care or supervision except as allowed under section (5) of this rule;

(b) Children over the age of five have a bedroom available that is separate from their parents;

(c) The well-being of the household, including any children or other family members, shall not be jeopardized; and

(d) The care needs of day care individuals shall be met.

(5) When a family member requires care in a home in which the licensee is the primary, live-in caregiver, a maximum capacity of five unrelated residents are allowed if the following criteria are met:

(a) The licensee must be able to demonstrate the ability to evacuate all occupants from the adult foster home within three minutes or less (See OAR 411-050-0650);

(b) The licensee must have sufficient, qualified staff and demonstrate the ability to provide appropriate care for all residents (See OAR 411-050-0645);

(c) There must be an additional 40 square feet of common living space for each person above the five residents (See OAR 411-050-0650);

(d) Bathrooms and bedrooms must meet the requirements of OAR 411-050-0650;

(e) The care needs of day care individuals must be within the classification of the license and any conditions imposed on the license; and

(f) The well-being of the household, including any children or other family members, shall not be jeopardized.

(6) If day care individuals are in the home, the licensee must have arrangements for the day care individuals to sleep in areas other than a resident's bed, a resident's private room, or space designated as common use, in accordance with OAR 411-050-0650.

(7) If room and board tenants are in the home, each tenant must have:

(a) An approved background check in accordance with OAR 407-070-0200 to 407-007-0370 (Criminal Records and Abuse Check Rules);

(b) A tenancy agreement as defined in OAR 411-068-0040 (Room and Board Facilities); and

(c) A copy of the current house policies signed and dated by the tenant.

(8) To change the capacity of a licensed home, the licensee must complete a new initial application and submit the application to the local licensing authority according to OAR 411-050-0610.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, 443.790

Stats. Implemented: ORS 443.001-004, 443.705-825, 443.875, & 443.991

Hist. SSD 11-1988, f. 10-18-88, cert. ef. 11-1-88; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1996, f. 3-29-96, cert. ef. 4-1-96; SDSD 4-2001, f. & cert. ef. 3-1-01; SPD 31-2006, f. 12-27-06, cert. ef. 1-1-07; SPD 9-2010, f. 6-30-10, cert. ef. 7-1-10; Renumbered from 411-050-0408, SPD 33-2013, f. 8-30-13, cert. ef. 9-1-13; APD 15-2015, f. 6-24-15, cert. ef. 6-28-15

**411-050-0635**
**Issuance**

(1) The local licensing authority must issue a license within 60 calendar days after the completed application materials have been received if the home and applicant are in compliance with these rules.

(2) The license specifies the type of license and includes:

(a) The name of the licensee and the name of the resident manager or shift caregivers as applicable, who have met the requirements to operate the adult foster home;

(b) The address of the premises to which the license applies;

(c) The license classification and level if applicable;

(d) The maximum number of residents; and

(e) The expiration date.

(3) The licensee must be given a copy of the Department's inspection report form as follows:

(a) INITIAL LICENSE. Form SDS 516 identifying any areas of non-compliance and a time frame for correction.

(b) RENEWAL LICENSE. Form SDS 517A and, if applicable, form SDS 517B citing any violations. The SDS 517B must specify a time frame for correction of each violation. The time frame for correction may not exceed 30 calendar days from the date of inspection.

(4) The licensee must post the most recent inspection reports in the entry of the home or an equally prominent place and must, upon request, provide a copy of the reports to each resident, person applying for admission to the home, or the legal representative, guardian, or conservator of a resident.

(5) The Department may attach conditions to the license that limit, restrict, or specify other criteria for operation of the home. The conditions must be visibly posted with the license.

(6) The local licensing authority shall not issue an initial license unless:

(a) The applicant and adult foster home are in compliance with ORS 443.705 to 443.825 and these rules;

(b) The applicant currently operates, or has operated, any other facility licensed by the applicant in substantial compliance with ORS 443.705 to 443.825;

(c) The local licensing authority has completed an inspection of the adult foster home that demonstrates the home is in compliance with these rules;

(d) The Department has completed a background check in accordance with OAR 411-050-0620;

(e) The local licensing authority has reviewed the record of sanctions available from the local licensing authority's files;

(f) The local licensing authority has determined that the nursing assistant registry maintained under 42 CFR 483.156 contains no finding that the applicant or any nursing assistant employed by the applicant has been responsible for abuse;

(g) The local licensing authority has verified the applicant is not listed on either of the Exclusion Lists; and

(h) The applicant has demonstrated to the local licensing authority the financial ability and resources necessary to operate an adult foster home.

(7) A license is valid for one year unless revoked or suspended by the Department.

(8) In seeking an initial license, the burden of proof to establish compliance with ORS 443.705 to 443.825 and these rules is upon the applicant of the adult foster home.

(9) The local licensing authority shall not issue a license to operate an additional adult foster home to a licensee who has failed to achieve and maintain substantial compliance with the rules and regulations while operating his or her existing home or homes.

(10) PROVISIONAL LICENSE. Notwithstanding any other provision of this rule or ORS 443.725 or 443.738, the local licensing authority may issue a 60-day provisional license to a qualified person.

(a) A provisional license may be issued if the local licensing authority determines:

(A) An emergency situation exists after receiving notification that a licensed provider is no longer overseeing the operation of an adult foster home; or

(B) A new applicant has submitted an application and bed fee for a license to operate a currently licensed home and the applicant has demonstrated a good faith effort to submit a timely and complete application;

(C) The application process cannot be completed prior to the expiration date of the current license; and

(D) It is in the best interests of the residents currently residing in the home.

(b) A person is considered qualified for a provisional license if he or she:

(A) Is at least 21 years of age;

(B) Has the necessary experience working with adults who are older or adults with physical disabilities to potentially qualify for the license classification of the home;

(C) Fully understands and has the ability to meet the residents' care needs; and

(D) Meets the requirements of a substitute caregiver as described in OAR 411-050-0625.

(c) A provisional license may be extended one time for a period of 30 calendar days if an applicant has demonstrated a good faith effort to complete the application process and obtain the required qualifications and trainings.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, & 443.790

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

Hist.: SSD 14-1985, f. 12-31-85, ef. 1-1-86; SSD 11-1988, f. 10-18-88, cert. ef. 11-1-88; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1996, f. 3-29-96, cert. ef. 4-1-96; SDSD 4-2001, f. & cert. ef. 3-1-01; SPD 31-2006, f. 12-27-06, cert. ef. 1-1-07; SPD 22-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 9-2010, f. 6-30-10, cert. ef. 7-1-10; Renumbered from 411-050-0415, SPD 33-2013, f. 8-30-13, cert. ef. 9-1-13; APD 15-2015, f. 6-24-15, cert. ef. 6-28-15

**411-050-0640**

**Renewal Application and Fees**

(1) At least 60 calendar days prior to the expiration of a license, the local licensing authority must send a reminder notice and renewal application to the licensed provider. The local licensing authority must investigate any information in the renewal application and conduct an unannounced inspection of the adult foster home prior to the license renewal.

(2) A separate application is required for each location where an adult foster home is to be operated.

(3) RENEWAL APPLICATION REQUIREMENTS. To renew an adult foster home license, the licensee must complete the Department's Renewal Application form (SDS 448C) and submit the form to the local licensing authority with the non-refundable fee prior to the expiration date of the current license. Timely submission of the renewal application and non-refundable fee shall keep the license in effect until the local licensing authority or the Department takes action.

(a) The renewal application is not complete until all of the required application information is submitted to the local licensing authority.

(b) A renewal application remaining incomplete at the time of license expiration or failure to provide accurate information on the renewal application shall result in the denial of the application.

(4) The license renewal application must include:

(a) Complete contact information for the licensee, including:

(A) A mailing address if different from the adult foster home; and

(B) A business address for electronic mail, if applicable.

(b) The maximum resident capacity;

(c) Identification of:

(A) Any relatives needing care;

(B) The maximum number of any room and board tenants;

(C) The maximum number of day care individuals; and

(D) The names of any other occupants in the home.

(d) A Health History and Physician or Nurse Practitioners' Statement (form SDS 0903). The Health History and Physician or Nurse Practitioners' Statement must be updated every third year or sooner if there is reasonable cause for health concerns;

(e) FINANCIAL INFORMATION FOR THE HOME'S FIRST LICENSE RENEWAL. A completed Financial Information Worksheet (form SDS 0448A) demonstrating the financial ability to maintain sufficient liquid resources to pay the home's operating costs for at least two months;

(f) If the home is leased or rented, a copy of the current signed and dated lease or rental agreement. The agreement must be a standard lease or rental agreement for residential use and include the following:

(A) The owner and landlord's name;

(B) Verification that the rent is a flat rate; and

(C) Signatures and date signed by the landlord and applicant, as applicable;

(g) Documentation of a current approved background check for each subject individual as described in OAR 411-050-0620;

(h) A $20 per bed non-refundable fee for each non-relative resident;

(i) If the licensee intends to use a resident manager, floating resident manager, or shift caregivers, the Department's supplemental application (form SDS 448B) completed by the applicant or applicants, as appropriate;

(j) Written information describing the operational plan for the adult foster home, including:

(A) The use of substitute caregivers and other staff;

(B) A plan of coverage for the absence of the resident manager or the shift caregivers, if applicable; and

(C) The name of a qualified back-up licensee, approved resident manager, or floating resident manager who does not live in the home but has been oriented to the home. The licensee must submit a signed agreement with the listed back-up provider annually and maintain a copy in the facility records.

(k) Proof of required continuing education credits as specified in OAR 411-050-0625.

(5) LATE RENEWAL REQUIREMENTS (UNLICENSED ADULT FOSTER HOME). The home shall be treated as an unlicensed facility, subject to civil penalties, if the required renewal information and fee are not submitted to the local licensing authority prior to the license expiration date and residents remain in the home. (See OAR 411-050-0685)

(6) The local licensing authority shall investigate the information submitted, review the licensing records for the applicant, conduct an inspection of the home, and provide the licensee a copy of the Department's inspection report (form SDS 517A and, if applicable, form SDS 517B) citing any violations and specifying a time frame for correction not to exceed 30 days.

(7) The Department may attach conditions to the license that limit, restrict, or specify other criteria for operation of the home. The licensee must visibly post the conditions, if applicable, with the license according to OAR 411-050-0645.

(8) The Department may deny a renewal application if cited violations are not corrected within the time frame specified by the local licensing authority.

(9) The local licensing authority shall not renew a license unless the following requirements are met:

(a) The applicant and the adult foster home are in compliance with ORS 443.705 to 443.825 and these rules, including any applicable conditions and other final orders of the Department;

(b) The local licensing authority has completed an inspection of the adult foster home;

(c) The Department has completed a background check in accordance with OAR 411-050-0620;

(d) The local licensing authority has reviewed the record of sanctions available from the local licensing authority's files;

(e) The local licensing authority has determined the nursing assistant registry maintained under 42 CFR 483.156 contains no finding that the licensee or any nursing assistant employed by the licensee has been responsible for abuse; and

(f) The local licensing authority has determined the licensee is not listed on either of the Exclusion Lists.

(10) In seeking the renewal of a license when an adult foster home has been licensed for less than 24 months, the burden of proof to establish compliance with ORS 443.705 to 443.825 and these rules is upon the licensee.

(11) In seeking the renewal of a license when an adult foster home has been licensed for 24 or more continuous months, the burden of proof to establish noncompliance with ORS 443.705 to 443.825 and these rules is upon the Department.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, 443.790

Stats. Implemented: ORS 443.001-004, 443.705-825, 443.875, 443.991

Hist.: SSD 14-1985, f. 12-31-85, ef. 1-1-86; SSD 11-1988, f. 10-18-88, cert. ef. 11-1-88; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1996, f. 3-29-96, cert. ef. 4-1-96; SDSD 4-2001, f. & cert. ef. 3-1-01; SPD 31-2006, f. 12-27-06, cert. ef. 1-1-07; SPD 9-2007, f. 6-27-07, cert. ef. 7-1-07; SPD 22-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 9-2010, f. 6-30-10, cert. ef. 7-1-10; Renumbered from 411-050-0420, SPD 33-2013, f. 8-30-13, cert. ef. 9-1-13; SPD 42-2013(Temp), f. & cert. ef. 10-16-13 thru 4-13-14; APD 6-2014, f. 3-31-14, cert. ef. 4-1-14; APD 50-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 15-2015, f. 6-24-15, cert. ef. 6-28-15

**411-050-0645**
**Operational Standards**

(1) GENERAL PRACTICES.

(a) A licensee must own, rent, or lease the home to be licensed, however, the local licensing authority may grant a variance to churches, hospitals, non-profit associations, or similar organizations. If a licensee rents or leases the premises where the adult foster home is located, the licensee may not enter into a contract that requires anything other than a flat rate for the lease or rental. A licensed provider of a building in which an adult foster home is located may not allow the owner, landlord, or lessor to interfere with the admission, transfer, or voluntary or involuntary move of any resident in the adult foster home unless the owner, landlord, or lessor is named on the license.

(b) Each adult foster home must meet:

(A) All applicable local business license, zoning, building, and housing codes;

(B) The Fair Housing Act; and

(C) State and local fire and safety regulations for a single-family residence, and Oregon Fire Code, Appendix L.

(c) ZONING. Adult foster homes are subject to applicable sections of ORS 197.660 to 197.670.

(d) COOPERATION AND ACCESS. The licensee must cooperate with the Department, Centers for Medicare and Medicaid Services (CMS), and local licensing and investigative personnel in inspections, complaint investigations, planning for resident care, application procedures, and other necessary activities.

(A) Department, CMS, local licensing, and investigative personnel must be provided access to all resident and facility records and may conduct private interviews with residents.

(B) The State Long-Term Care Ombudsman must be provided access to all resident and facility records. Deputy Ombudsman and Certified Ombudsman Volunteers must be provided access to facility records and, with written permission from the resident or the resident's legal representative, may have access to resident records. (See OAR 114-005-0030)

(e) CONFIDENTIALITY. Information related to residents must be kept confidential, except as may be necessary in the planning or provision of care or medical treatment, or related to an inspection, investigation, or sanction action under these rules.

(f) TRANSPORTATION. A licensee must arrange for or provide appropriate transportation for residents when needed.

(g) STAFFING STANDARDS. The licensee must have qualified caregivers, including awake caregivers as necessary, sufficient in number to meet the 24-hour needs of each resident in addition to caring for any children or relatives beyond the license capacity of the adult foster home. In addition, the licensee must comply with the following standards:

(A) A licensee may not employ a resident manager, floating resident manager, or shift caregiver who does not meet or exceed the qualifications, training, and classification standards for the adult foster home as described in OAR 411-050-0625 and 411-050-0630.

(B) A licensee may not employ or allow any caregiver to train or work in the home who is on either of the Exclusion Lists.

(h) ABSENCE OF A PRIMARY CAREGIVER. If a primary caregiver or a shift caregiver is absent from the home for 10 days or more, the licensee must notify the local licensing authority in writing at least seven days prior to the primary caregiver's absence or immediately upon knowing of the absence. Notification must state the reason for and anticipated length of the absence. The licensee must also submit a staffing plan to the local licensing authority, signed by the back-up provider, demonstrating coverage that meets the needs of the residents during the primary caregiver's absence.

(i) CHANGE OF PRIMARY CAREGIVER. If a primary caregiver or a shift caregiver changes during the period the license covers, the licensee must notify the local licensing authority within 24 hours and identify who is providing care.

(A) If a licensee assumes the role as the primary caregiver or shift caregiver when there has been a change in primary caregiver, the licensee must submit an updated plan of 24-hour coverage to the local licensing authority within seven days.

(B) If a resident manager, floating resident manager, or shift caregiver changes, the licensee must submit a request for a change of resident manager, floating resident manager, or shift caregiver, as applicable, to the local licensing authority along with:

(i) The Department's supplemental application form (SDS 448B) completed by the resident manager applicant, floating resident manager applicant, or shift caregiver applicant;

(ii) A completed Health History and Physician or Nurse Practitioner's Statement (form SDS 903) for the new applicant;

(iii) Documentation of the initiation of or a copy of an approved background check; and

(iv) A $10 non-refundable fee.

(C) When there is a change in primary caregiver, an approved floating resident manager may assume the responsibilities of the live-in, primary caregiver until a new primary caregiver is employed. If a new primary caregiver is not employed within 60 calendar days, the floating resident manager must be designated as the home's resident manager and the licensee must notify the local licensing authority of the change in status.

(D) The local licensing authority shall issue a revised license when there is a change in a primary caregiver who is identified on the license.

(j) UNEXPECTED AND URGENT STAFFING NEED. If the local licensing authority determines an unexpected and urgent staffing need exists, the local licensing authority may authorize a person who has not completed the Department's current Ensuring Quality Care Course and passed the current examination to act as a resident manager or shift caregiver until training and testing are completed, or for 60 calendar days, whichever period is shorter. The licensee must notify the local licensing authority of the unexpected and urgent staffing need in writing and satisfactorily demonstrate:

(A) The licensee's inability to live in the home and act as the primary caregiver;

(B) The licensee's inability to find a qualified resident manager or shift caregiver, as applicable; and

(C) The proposed staff person is 21 years of age and meets the requirements of a substitute caregiver for the adult foster home as described in OAR 411-050-0625 and 411-050-0630.

(k) RESPONSIBILITY. A licensee is responsible for the supervision, training, and overall conduct of all caregivers, family members, and friends when acting within the scope of their employment, duties, or when present in the home.

(l) SEXUAL ABUSE. Sexual abuse, as defined in OAR 411-020-0002 (Adult Protective Services), is prohibited.

(m) COMMUNICATION.

(A) Applicants for an initial license must obtain and provide to the local licensing authority a current, active business address for electronic mail prior to obtaining a license.

(B) A licensee must notify the local licensing authority within 24 hours upon a change in the home's business address for electronic mail.

(C) A licensee must notify the local licensing authority, the residents and the resident's family members, legal representatives, and case managers, as applicable, of any change in the telephone number for the licensee or the adult foster home within 24 hours of the change.

(D) A licensee must notify the local licensing authority in writing prior to any change of the licensee's residence or mailing address.

(2) SALE OR LEASE OF EXISTING ADULT FOSTER HOMES AND TRANSFER OF LICENSES.

(a) A license is not transferable and does not apply to any location or person other than the location and person indicated on the license obtained from the local licensing authority.

(b) The licensee must inform real estate agents, prospective buyers, lessees, and transferees in all written communication, including advertising and disclosure statements, that the license to operate the adult foster home is not transferable and the licensee must refer them to the local licensing authority for information about licensing.

(c) When a home is to be sold or otherwise transferred or conveyed to another person who intends to operate the home as an adult foster home, that person must apply for and obtain a license from the local licensing authority prior to the transfer of operation of the home.

(d) The licensee must promptly notify the local licensing authority in writing about the licensee's intent to close or convey the adult foster home to another person. The licensee must provide written notice to the residents and the residents' representatives and case managers, as applicable, according to section (13) of this rule.

(e) The licensee must inform a person intending to assume operation of an existing adult foster home that the residents currently residing in the home must be given at least 30 calendar days' written notice of the licensee's intent to close the adult foster home for the purpose of conveying the home to another person.

(f) The licensee must remain licensed and responsible for the operation of the home and care of the residents in accordance with these rules until the home is closed and the residents have been relocated, or the home is conveyed to a new licensee who is licensed by the local licensing authority at a level appropriate to the care needs of the residents in the home.

(3) FORECLOSURE.

(a) A licensee must provide written notification to the local licensing authority within 10 calendar days after receipt of any notice of default, or any notice of potential default, with respect to a real estate contract, trust deed, mortgage, or other security interest affecting any property occupied or used by the licensee.

(b) The licensee must provide a copy of the notice of default or warning of potential default to the local licensing authority.

(c) The licensee must provide written updates to the local licensing authority at least every 30 days until the default or warning of potential default has been resolved and no additional defaults or potential defaults have been declared and no additional warnings have been issued. Written updates must include:

(A) The current status on what action has been or is about to be taken by the licensee with respect to the notice received;

(B) The action demanded or threatened by the holder of the security interest; and

(C) Any other information reasonably requested by the local licensing authority.

(d) The licensee must provide written notification within 24 hours to the local licensing authority upon final resolution of the matters leading up to or encompassed by the notice of default or the notice warning of potential default.

(e) If the subject default property is licensed as an adult foster home, the licensee must provide written notification of the following within 24 hours to the local licensing authority, and all the residents and the residents' representatives, if applicable, regarding:

(A) The filing of any litigation regarding such security interest, including the filing of a bankruptcy petition by or against the licensee or an entity owning any property occupied or used by the licensee;

(B) The entry of any judgment with respect to such litigation;

(C) The passing of the date 40 days prior to any sale scheduled pursuant to the exercise of legal rights under a security interest, or a settlement or compromise related thereto, of the licensee's property or property occupied or used by the licensee; and

(D) The sale, pursuant to the exercise of legal rights under a security interest, or a settlement or compromise related thereto, of the licensee's property or property occupied or used by the licensee.

(4) MEALS.

(a) Three nutritious meals must be served daily at times consistent with those in the community. Each meal must include food from the basic food groups according to the United States Department of Agriculture (USDA's) My Plate and include fresh fruit and vegetables when in season.

(b) Meals must reflect consideration of a resident's preferences and cultural and ethnic background. This does not mean the licensee must prepare multiple, unique meals for the residents at the same time.

(c) A schedule of meal times and menus for the coming week must be prepared and posted weekly in a location accessible to residents and families.

(A) Meal substitutions for scheduled menu items in compliance with section (4)(a) of this rule are acceptable and must be documented on, or attached to, the weekly menu.

(B) The licensee must maintain the weekly menus for a minimum of the 12 most recent months during which the home has conducted business.

(d) There must be no more than a 14-hour span between the evening and morning meals. Snacks do not substitute for a meal in determining the 14-hour span. Nutritious snacks and liquids must be offered to fulfill each resident's nutritional requirements.

(e) Food may not be used as an inducement to control the behavior of a resident.

(f) Home-canned foods must be processed according to the guidelines of the Oregon State University Extension Service. Freezing is the most acceptable method of food preservation. Milk must be pasteurized.

(g) Special consideration must be given to a resident with chewing difficulties or other eating limitations. Special diets must be followed, as prescribed in writing, by the resident's physician, nurse practitioner, or physician assistant.

(h) Adequate storage must be available to maintain food at a proper temperature, including a properly working refrigerator. Storage and food preparation areas must be free from food that is spoiled or expired.

(i) The household utensils, dishes, glassware, and household food may not be stored in bedrooms, bathrooms, or living areas.

(j) Meals must be prepared and served in the home where the residents live. Payment for meals eaten away from the home for the convenience of the licensee (e.g., restaurants, senior meal sites) is the responsibility of the licensee. Meals and snacks, as part of an individual recreational outing by choice, are the responsibility of the resident.

(k) Utensils, dishes, and glassware must be washed in hot soapy water, rinsed, and stored to prevent contamination. A dishwasher with a sani-cycle is recommended.

(l) Food preparation areas and equipment, including utensils and appliances, must be clean, free of offensive odors, and in good repair.

(5) TELEPHONE.

(a) The home must have a working landline and corded telephone with a listed number that is separate from any other number the home has, such as, but not limited to, internet or fax lines, unless the system includes features that notify the caregiver of an incoming call, or automatically switches to the appropriate mode. If a licensee has a caller identification service on the home number, the blocking feature must be disabled to allow incoming calls to be received unhindered. A licensee may have only one phone line as long as the phone line complies with the requirements of these rules. Voice over internet protocol (VoIP), voice over broadband (VoBB), or cellular telephone service may not be used in place of a landline.

(b) The licensee must make a telephone that is in good working order available and accessible for the residents use with reasonable accommodation for privacy during telephone conversations. A resident with a hearing impairment, to the extent the resident may not hear a normal telephone con-

versation, must be provided with a telephone that is amplified with a volume control or a telephone that is hearing aid compatible.

(c) Restrictions on the use of the telephone by the residents must be specified in the written house policies and may not violate the residents' rights. Individual restrictions must be well documented in the resident's care plan.

(6) FACILITY RECORDS.

(a) Facility records must be kept current, maintained in the adult foster home, and made available for review upon request. Facility records include, but are not limited to:

(A) Proof the licensee and all subject individuals have a background check approved by the Department as required by OAR 411-050-0620;

(B) Proof the licensee and all other caregivers have met and maintained the minimum qualifications as required by OAR 411-050-0625, including:

(i) Proof of required continuing education. Documentation must include the date of each training, subject matter, name of agency or organization providing the training, and number of Department-approved classroom hours;

(ii) Completed certificates to document the substitute caregivers' completion of the Department's Caregiver Preparatory Training Study Guide and Workbook and to document the resident manager, floating resident manager, and shift caregivers, as applicable, completion and passing of the Department's Ensuring Quality Care Course and examination;

(iii) Documentation of orientation to the adult foster home for the resident manager, floating resident manager, shift caregivers, and substitute caregivers, as applicable;

(iv) Employment applications and the names, addresses, and telephone numbers of all caregivers employed or used by the licensee; and

(v) Verification that all caregivers are not listed on either of the Exclusion Lists.

(C) Copies of notices sent to the local licensing authority pertaining to changes in the resident manager, floating resident manager, shift caregiver, or other primary caregiver;

(D) Proof of required vaccinations for animals on the premises;

(E) Well water tests, if required, according to OAR 411-050-0650. Test records must be retained for a minimum of three years;

(F) Agreements and specialized contracts with the Department, copies of the adult foster home's private-pay contracts, any contracts with residents eligible for Medicaid services, such as an agreement pertaining to storage fees after leaving the home, and any other contracts, such as contracts with room and board tenants or individuals receiving day care services; and

(G) Records of evacuation drills according to OAR 411-050-0650, including the date, time of day, evacuation route, length of time for evacuation of all occupants, names of all residents and occupants, and which residents and occupants required assistance. The records must be kept at least three years.

(b) REQUIRED POSTED ITEMS. The following items must be posted in one location in the entryway or other equally prominent place in the home where residents, visitors, and others may easily read them:

(A) The adult foster home license;

(B) Conditions attached to the license, if any;

(C) A copy of a current floor plan meeting the requirements of OAR 411-050-0650;

(D) The Residents' Bill of Rights;

(E) The home's current house policies that have been reviewed and approved by the local licensing authority;

(F) The Department's procedure for making complaints;

(G) The Long-Term Care Ombudsman poster;

(H) The Department's inspection forms (form SDS 517A and, if applicable, form SDS 517B), including how corrections were made since the last annual inspection;

(I) The Department's notice pertaining to the use of any intercoms, monitoring devices, and video cameras that may be used in the adult foster home; and

(J) A weekly menu according to section (4) of this rule.

(c) POST BY PHONE. Emergency telephone numbers, including the contact number for at least one back-up provider who has agreed to respond in person in the event of an emergency and an emergency contact number for the licensee must be readily visible and posted by a central telephone in the adult foster home.

(7) RESIDENT RECORDS.

(a) An individual resident record must be developed, kept current, and readily accessible on the premises of the home for each individual admitted to the adult foster home. The record must be legible and kept in an organized manner so as to be utilized by staff. The record must contain the following information:

(A) A complete initial screening assessment and general information form (SDS 902) as described in OAR 411-050-0655;

(B) Documentation on form SDS 913 that the licensee has informed private-pay residents of the availability of a long-term care assessment;

(C) Documentation that the licensee has informed all residents of the right to formulate an Advance Directive;

(D) FINANCIAL INFORMATION:

(i) Detailed records and receipts if the licensee manages or handles a resident's money. The Resident Account Record (form SDS 713) or other expenditure forms may be used if the licensee manages or handles a resident's money. The record must show amounts and sources of funds received and issued to, or on behalf of, the resident and be initialed by the person making the entry. Receipts must document all deposits and purchases of $5 or more made on behalf of a resident.

(ii) Contracts signed by residents or the residents' representatives may be kept in a separate file but must be made available for inspection by the local licensing authority.

(E) Medical and legal information, including, but not limited to:

(i) Medical history, if available;

(ii) Current prescribing practitioner orders;

(iii) Nursing instructions, delegations, and assessments, as applicable;

(iv) Completed medication administration records retained for at least the last six months or from the date of admission, whichever is less. (Older records may be stored separately); and

(v) Copies of Guardianship, Conservatorship, Advance Directive for Health Care, Power of Attorney, and Physician's Order for Life Sustaining Treatment (POLST) documents, as applicable.

(F) A complete, accurate, and current care plan;

(G) A copy of the current house policies and the current Residents' Bill of Rights, signed and dated by the resident or the resident's representative;

(H) SIGNIFICANT EVENTS. A written report (using form SDS 344 or its equivalent) of all significant incidents relating to the health or safety of the resident, including how and when the incident occurred, who was involved, what action was taken by the licensee and staff, as applicable, and the outcome to the resident;

(I) NARRATIVE OF RESIDENT'S PROGRESS. Narrative entries describing each resident's progress must be documented at least weekly and maintained in each resident's individual record. All entries must be signed and dated by the person writing them; and

(J) Non-confidential information or correspondence pertaining to the care needs of the resident.

(b) ACCESS TO RESIDENT RECORDS.

(A) Resident records must be readily available at the adult foster home to residents, the residents' authorized representatives or other legally authorized persons, all caregivers working in the home, and the Department, the local licensing authority, the investigative authority, case managers, and the Centers for Medicare and Medicaid Services (CMS) for the purpose of conducting inspections or investigations.

(B) The State Long-Term Care Ombudsman must be provided access to all resident and facility records. A Deputy Ombudsman and Certified Ombudsman Volunteers must be provided access to facility records relevant to caregiving and resident records with written permission from the resident or the resident's legal representative. (See OAR 114-005-0030)

(c) RECORD RETENTION. Records, including any financial records for residents, must be kept for a period of three years from the date the resident left the home.

(d) CONFIDENTIALITY. In all other matters pertaining to confidential records and release of information, licensees must be guided by the principles and definitions described in OAR chapter 411, division 005 (Privacy of Protected Information).

(8) HOUSE POLICIES. House policies must be in writing and a copy given to the resident and the resident's family or representative at the time of admission and at the time the screening and assessment is conducted. A signed copy of the house policies must be obtained at the time of admission and placed in the resident's record. House policies must be consistent with the practices of the licensee, staff, occupants, and visitors of the home. House policies established by the licensee must:

(a) Include any restrictions the adult foster home may have on the use of alcohol, tobacco, pets, visiting hours, dietary restrictions, or religious preferences;

(b) Indicate the home's policy regarding the presence and use of legal marijuana on the premises;

(c) Include a schedule of meal times;

(d) Include the home's policy regarding refunds for residents eligible for Medicaid services, including pro-rating partial months and if the room and board is refundable;

(e) Include a clear and precise statement of any limitation to the implementation of Advance Directives on the basis of conscience. This rule does not apply to medical professional or hospice orders for administration of medications. The statement must include:

(A) A description of conscientious objections as they apply to all occupants of the adult foster home;

(B) The legal authority permitting such objections under ORS 127.505 to 127.660; and

(C) Description of the range of medical conditions or procedures affected by the conscientious objection. (See OAR 411-050-0655)

(f) Not be in conflict with the Residents' Bill of Rights, the family atmosphere of the home, or any of these rules;

(g) Be reviewed and approved by the local licensing authority prior to the issuance of a license and prior to implementing any changes; and

(h) Be posted with the required posted items, in a location where they are easily seen and read by residents and visitors as described in section (6) of this rule.

(9) RESIDENT MOVES AND TRANSFERS. The Department encourages licensees to support a resident's choice to remain in his or her living environment while recognizing that some residents may no longer be appropriate for the adult foster care setting due to safety and medical limitations.

(a) If a resident moves out of an adult foster home for any reason, the licensee must submit copies of pertinent information from the resident's record to the resident's new place of residence at the time of move. Pertinent information must include at a minimum:

(A) Copies of current prescribing medical practitioner's orders for medications, current medication sheets, and an updated care plan; and

(B) Documentation of actions taken by the adult foster home staff, resident, or the resident's representative pertaining to the move or transfer.

(b) A licensee must immediately document voluntary and involuntary moves or transfers from the adult foster home in the resident's record as events take place. (See sections (11) and (12) of this rule)

(10) VOLUNTARY MOVES AND TRANSFERS.

(a) If a resident eligible for Medicaid services or the resident's representative gives notice of the resident's intent to leave the adult foster home, or the resident leaves the home abruptly, the licensee must promptly notify the resident's case manager.

(b) A licensee must obtain prior authorization from the resident, the resident's legal representative, and case manager, as applicable, prior to the resident's:

(A) Voluntary move from one bedroom to another in the adult foster home;

(B) Voluntary transfer from one adult foster home to another home that has a license issued to the same person; or

(C) Voluntary move to any other location.

(c) Notifications and authorizations of voluntary moves and transfers must be documented and available in the resident's record.

(d) The licensee remains responsible for the provision of care and services until the resident has moved from the home.

(11) INVOLUNTARY MOVES AND TRANSFERS.

(a) A resident may only be moved involuntarily to another room within the adult foster home, transferred to another adult foster home operated by the same licensee for a temporary or permanent stay, or moved from the adult foster home for the following reasons:

(A) Medical reasons. The resident has a medical or nursing condition that is complex, unstable, or unpredictable that exceeds the level of care and services the facility provides;

(B) The adult foster home is unable to accomplish evacuation of the adult foster home in accordance with OAR 411-050-0650;

(C) Welfare of the resident or other residents;

(i) The resident exhibits behavior that poses an imminent danger to self or others, including acts that result in the resident's arrest or detention;

(ii) The resident engages in behavior or action that repeatedly and substantially interfere with the rights, health, or safety of the residents or others; or

(iii) The resident engages in illegal drug use or commits a criminal act that causes potential harm to the resident or others.

(D) Failure to make payment for care or failure to make payment for room and board;

(E) The adult foster home has had its license revoked, not renewed, or the license was voluntarily surrendered by the licensee;

(F) The home was not notified prior to the resident's admission, or learns following the resident's admission, that the resident is on probation, parole, or post-prison supervision after being convicted of a sex crime defined in ORS 181.805;

(G) The licensee's Medicaid Provider Enrollment Agreement or specialized contract is terminated (pertains only to residents eligible for Medicaid); or

(H) The resident engages in the use of medical marijuana in violation of the home's written policies or contrary to Oregon Law under the Oregon Medical Marijuana Act, ORS 475.300 to 475.346.

(b) MANDATORY WRITTEN NOTICE. A resident may not be moved involuntarily from the adult foster home, or to another room within the adult foster home, or transferred to another adult foster home for a temporary or permanent stay without a minimum of 30 calendar days' written notice. The notice must be delivered in person to the resident and must be delivered in person or sent by registered or certified mail to the resident's legal representative, guardian, or conservator, and a copy must be immediately submitted to the resident's case manager, as applicable. Where a resident lacks capacity and there is no legal representative, a copy of the notice must be immediately submitted to the State Long Term Care Ombudsman. The written notice must:

(A) Be on the Department's Notice of Involuntary Move or Transfer of Resident form (SDS 901);

(B) Be completed by the licensee; and

(C) Include the following information:

(i) The resident's name;

(ii) The reason for the proposed move or transfer, including the specific reasons the facility is unable to meet the resident's needs;

(iii) The date of the proposed change;

(iv) The location to which the resident is going, if known;

(v) A notice of the right to hold an informal conference and hearing;

(vi) The name, address, and telephone number of the person giving the notice; and

(vii) The date the notice is issued.

(c) LESS THAN 30 DAYS' WRITTEN NOTICE. A licensee may give less than 30 calendar days' written notice in specific circumstances as identified in paragraphs (A) to (C) below, but must do so as soon as possible using the Department's Notice of Involuntary Move or Transfer of Resident form (SDS 901). The notice must be given in person to the resident, the resident's representative, guardian, conservator, and a copy must be immediately submitted to the resident's case manager, as applicable. The reasons for the notice must be fully documented in the resident's record. The licensee remains responsible for the provision of care and services until the resident has moved from the home. A licensee may give less than 30 calendar days' notice only if:

(A) Undue delay in moving the resident would jeopardize the health, safety, or well-being of the resident, including:

(i) The resident has a medical emergency that requires the immediate care of a level or type the adult foster home is unable to provide.

(ii) The resident exhibits behavior that poses an immediate danger to self or others.

(B) The resident is hospitalized or is temporarily out of the home and the licensee determines he or she is no longer able to meet the needs of the resident; or

(C) The home was not notified prior to the resident's admission, or learns following the resident's admission, the resident is on probation, parole, or post-prison supervision after being convicted of a sex crime defined in ORS 181.805.

(i) In the event a resident is given notice of an involuntary move due to (11)(c)(C) of this rule, the notice may be given without reasonable advance notice.

(ii) The resident shall be given the Department's Notice of Involuntary Move or Transfer of Resident form (SDS 901) as stated in (11) of this rule.

(12) RESIDENT HEARING RIGHTS. A resident, who has been given formal notice of an involuntary move or refused the right of return or re-admission, is entitled to an informal conference and hearing prior to the involuntary move or transfer as follows:

(a) INFORMAL CONFERENCE. The local licensing authority must hold an informal conference as promptly as possible after the request is received. The local licensing authority must send written notice of the time

and place of the conference to the licensee and all persons entitled to the notice. Participants may include the resident and at the resident's request a family member, case manager, Ombudsman, legal representative of the resident, the licensee, and a representative from an adult foster home association or SEIU if requested by the licensee. The purpose of the informal conference is to resolve the matter without an administrative hearing. If a resolution is reached at the informal conference, the local licensing authority must document the outcome in writing and no administrative hearing is needed.

(b) ADMINISTRATIVE HEARING. If a resolution is not reached as a result of the informal conference, the resident or the resident's representative may request an administrative hearing. If the resident is being moved or transferred with less than 30 calendar days' notice according to section (11)(c) of this rule, the hearing must be held within seven business days of the move or transfer. The licensee must hold a space available for the resident pending receipt of an administrative order. These administrative rules and ORS 441.605(4) governing transfer notices and hearings for residents of long-term care facilities apply to adult foster homes.

(13) CLOSURE OF ADULT FOSTER HOMES.

(a) A licensee must notify the local licensing authority prior to the voluntary closure, proposed sale, or transfer of ownership of the home, and give the residents and the residents' families, representatives, and case managers, as appropriate, a minimum of 30 calendar days' written notice on the Department's form (SDS 901) according to section (11) of this rule.

(b) In circumstances where undue delay might jeopardize the health, safety, or well-being of residents, licensees, or staff, written notice must be given as soon as possible, according to section (11)(c).

(c) A licensee must surrender the physical license to operate an adult foster home to the local licensing authority at the time of the adult foster home's closure.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.705-795, 443.880

Stats. Implemented: ORS 197.660-670, 441.373, 443.001-004, 443.705-825, 443.875, 443.991

Hist.: SPD 31-2006, f. 12-27-06, cert. ef. 1-1-07; SPD 22-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 9-2010, f. 6-30-10, cert. ef. 7-1-10; Renumbered from 411-050-0644, SPD 33-2013, f. 8-30-13, cert. ef. 9-1-13; APD 6-2014, f. 3-31-14, cert. ef. 4-1-14; APD 50-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 15-2015, f. 6-24-15, cert. ef. 6-28-15

**411-050-0650**

**Facility and Safety Standards**

In order to qualify for or maintain a license, an adult foster home must comply with the following provisions:

(1) GENERAL CONDITIONS.

(a) INTERIOR AND EXTERIOR PREMISES. The building and furnishings, patios, decks, and walkways, as applicable, must be clean and in good repair. The interior and exterior premises must be well maintained and accessible according to the individual needs of the residents. There must be no accumulation of garbage, debris, rubbish, or offensive odors. Walls, ceilings, and floors must be of such character to permit washing, cleaning, or painting, as appropriate.

(b) ADDRESS. The address numbers of the adult foster home must be placed on the home in a position that is legible and clearly visible from the street or road fronting the property. Address numbers must be a minimum of 4 inches in height, made of reflective material, and contrast with their background.

(c) LIGHTING. Adequate lighting, based on the needs of the occupants, must be provided in each room, stairway, and exit way. Incandescent light bulbs and florescent tubes must be protected with appropriate covers.

(d) TEMPERATURE. The heating system must be in working order. Areas of the home used by the residents must be maintained at a comfortable temperature. Minimum temperatures during the day must be not less than 68 degrees, no greater than 85 degrees, and not less than 60 degrees during sleeping hours. Variations from the requirements of this rule must be based on resident care needs or preferences and must be addressed in each resident's care plan.

(A) During times of extreme summer heat, the licensee must make reasonable effort to keep the residents comfortable using ventilation, fans, or air conditioning. Precautions must be taken to prevent resident exposure to stale, non-circulating air.

(B) If the facility is air-conditioned, the system must be functional and the filters must be cleaned or changed as needed to ensure proper maintenance.

(C) If the licensee is unable to maintain a comfortable temperature for the residents during times of extreme summer heat, air conditioning or another cooling system may be required.

(e) COMMON USE AREAS. Common use areas for the residents must be accessible to all residents. There must be at least 150 square feet of common living space and sufficient furniture in the home to accommodate the recreational and socialization needs of all the occupants at one time. Common space may not be located in an unfinished basement or garage unless such space was constructed for that purpose or has otherwise been legalized under permit. There may be additional space required if wheelchairs are to be accommodated. An additional 40 square feet of common living space is required for each day care individual, room and board tenant, or relative receiving care for remuneration that exceeds the limit of five.

(f) VIDEO MONITORS. Use of video monitors detracts from a home-like environment and the licensee may not use video monitors in any area of the home that would violate a resident's privacy unless requested by the resident or the resident's legal representative. The licensee may not ask the resident or the resident's legal representative to waive the resident's right to privacy as a condition of admission to the home.

(2) SANITATION AND PRECAUTIONS.

(a) NON-MUNICIPAL WATER SOURCE. A public water supply must be utilized if available. If a non-municipal water source is used, the licensor, a sanitarian, or a technician from a certified water-testing laboratory must collect a sample annually or as required by the Department. The water sample must be tested for coliform bacteria. Water testing and any necessary corrective action to ensure water is suitable for drinking must be completed at the licensee's expense. Water testing records must be retained for three years.

(b) Septic tanks or other non-municipal sewage disposal systems must be in good working order.

(c) COMMODES AND INCONTINENCE GARMENTS. Commodes used by residents must be emptied frequently and cleaned daily, or more frequently if necessary. Incontinence garments must be disposed of in closed containers.

(d) WATER TEMPERATURE. A resident who is unable to safely regulate the water temperature must be supervised.

(e) LAUNDRY. Prior to laundering, soiled linens and clothing must be stored in closed containers in an area that is separate from food storage, kitchen, and dining areas. Pre-wash attention must be given to soiled and wet bed linens. Sheets and pillowcases must be laundered at least weekly and more often if soiled.

(f) Garbage and refuse must be suitably stored in readily cleanable, rodent-proof, covered containers, pending weekly removal.

(g) VENTILATION. All doors and windows that are used for ventilation must have screens in good condition.

(h) INFECTION CONTROL. Standard precautions for infection control must be followed in resident care. Hands and other skin surfaces must be washed immediately and thoroughly if contaminated with blood or other body fluids.

(i) DISPOSAL OF SHARPS. Precautions must be taken to prevent injuries caused by needles, scalpels, and other sharp instruments or devices during procedures. The puncture-resistant container must be located as close as practical to the use area. Disposal must be made according to local regulations as stated in section (5) of this rule. (See 459.386 to 459.405)

(j) FIRST AID. Current, basic first-aid supplies and a first-aid manual must be readily available in the home.

(k) PESTS. Reasonable precautions must be taken to prevent pests (e.g., ants, cockroaches, other insects, and rodents).

(l) PETS OR OTHER ANIMALS. Sanitation for household pets and other domestic animals on the premises must be adequate to prevent health hazards. Proof of rabies vaccinations and any other vaccinations that are required for the pet by a licensed veterinarian must be maintained on the premises. Pets not confined in enclosures must be under control and not present a danger to the residents or guests.

(m) SAFETY BARRIERS. Patios, decks, walkways, swimming pools, hot tubs, spas, saunas, water features, and stairways, as appropriate, must be equipped with safety barriers designed to prevent injury. Resident access to or use of swimming or other pools, hot tubs, spas, or saunas on the premises must be supervised.

(3) BATHROOMS. Bathrooms must:

(a) Provide individual privacy and have a finished interior with a door that opens to a hall or common-use room. If a bedroom includes a private bathroom, the door for the private bathroom must open to the bedroom. No person must have to walk through another person's bedroom to access a bathroom;

(b) Be large enough to accommodate the individual needs of the residents and any equipment that may be necessary;

(c) Have a mirror, a window that opens or other means of ventilation, and a window covering for privacy;

(d) Be clean and free of objectionable odors;

(e) Have bathtubs, showers, toilets, and sinks in good repair. A sink must be located near each toilet and a toilet and sink must be available for the resident's use on each floor with resident rooms. There must be at least one toilet, one sink, and one bathtub or shower for each six household occupants (including residents, day care individuals, room and board tenants, the licensee, and the licensee's family);

(f) Have hot and cold water at each bathtub, shower, and sink in sufficient supply to meet the needs of the residents;

(g) Have nonporous surfaces for shower enclosures. Glass shower doors, if applicable, must be tempered safety glass, otherwise, shower curtains must be clean and in good condition;

(h) Have non-slip floor surfaces in bathtubs and showers;

(i) Have grab bars for each toilet, bathtub, and shower to be used by the residents for safety;

(j) Have barrier-free access to toilet and bathing facilities; and

(k) Have adequate supplies of toilet paper and soap supplied by the licensee. Residents must be provided with individual towels and washcloths that are laundered in hot water at least weekly or more often if necessary. Residents must have appropriate racks or hooks for drying bath linens. If individual hand towels are not provided, roller-dispensed hand towels or paper towels in a dispenser must be provided for the residents' use.

(4) BEDROOMS.

(a) Bedrooms for all household occupants must:

(A) Have been constructed as a bedroom when the home was built, or remodeled under permit;

(B) Be finished with walls or partitions of standard construction that go from floor to ceiling;

(C) Have a door that opens directly to a hallway or common use room without passage through another bedroom or common bathroom. The bedroom door must be large enough to accommodate the occupant of the room and any mobility equipment that may be needed by the resident;

(D) Be adequately ventilated, heated, and lighted with at least one window that opens and meets the requirements in section (5)(e) of this rule;

(E) Be at least 70 square feet of usable floor space for one resident or 120 square feet for two residents excluding any area where a sloped ceiling does not allow a person to stand upright; and

(F) Have no more than two occupants per room. (See also OAR 411-050-0632 pertaining to a child's bedroom.) This rule is not intended to prohibit a child five years of age or younger from occupying their parent's bedroom.

(b) The licensee, any other caregivers, and family members may not sleep in areas designated as living areas or share a bedroom with a resident. This rule is not intended to prohibit a caregiver or other person of the resident's choosing from temporarily staying in the resident's room when required by the resident's condition.

(c) There must be a bed at least 36 inches wide for each resident consisting of a mattress and springs, or equivalent, in good condition. Cots, rollaways, bunks, trundles, daybeds with restricted access, couches, and folding beds may not be used for residents. Each bed must have clean bedding in good condition consisting of a bedspread, mattress pad, two sheets, a pillow, a pillowcase, and blankets adequate for the weather. Waterproof mattress covers must be used for incontinent residents. Day care individuals may use a cot or rollaway bed if bedroom space is available that meets the requirements of section (4)(a) of this rule. A resident's bed may not be used by a day care individual.

(d) Each resident's bedroom must have separate, private dresser and closet space sufficient for the resident's clothing and personal effects including hygiene and grooming supplies. A resident must be provided private, secure storage space to keep and use reasonable amounts of personal belongings. A licensee may not use a resident's bedroom for storage of items, supplies, devices, or appliances that do not belong to the resident.

(e) Drapes or shades for bedroom windows must be in good condition and allow privacy for the residents.

(f) A resident who is non-ambulatory, has impaired mobility, or is cognitively impaired must have a bedroom with a safe, second exit at ground level. A resident with a bedroom above or below the ground floor must demonstrate their capability for self-preservation.

(g) Resident bedrooms must be in close enough proximity to the licensee or caregiver in charge to alert the licensee or caregiver in charge to resident nighttime needs or emergencies, or the bedrooms must be equipped with a functional call bell or intercom within the residents' abilities to operate. Intercoms may not violate the resident's right to privacy and must have the capability of being turned off by the resident or at the resident's request.

(h) Bedrooms used by the licensee, resident manager, shift caregiver, and substitute caregiver, as applicable, must be located in the adult foster home and must have direct access to the residents through an interior hallway or common use room.

(5) SAFETY.

(a) FIRE AND LIFE SAFETY. Buildings must meet all applicable state and local building, mechanical, and housing codes for fire and life safety. The home may be inspected for fire safety by the State Fire Marshal's Office, or the State Fire Marshal's designee, at the request of the local licensing authority or the Department using the standards in these rules, as appropriate.

(b) HEAT SOURCES. All heating equipment including, but not limited to, wood stoves, pellet stoves, and fireplaces must be installed in accordance with all applicable state and local building and mechanical codes. Heating equipment must be in good repair, used properly, and maintained according to the manufacturer's or a qualified inspector's recommendations.

(A) A licensee who does not have a permit verifying proper installation of an existing woodstove, pellet stove, or gas fireplace must have it inspected by a qualified inspector, Certified Oregon Chimney Sweep Association member, or Oregon Hearth, Patio, and Barbeque Association member and follow their recommended maintenance schedule.

(B) Fireplaces must have approved and listed protective glass screens or metal mesh screens anchored to the top and bottom of the fireplace opening.

(C) The local licensing authority may require the installation of a noncombustible, heat-resistant, safety barrier 36 inches around a woodstove to prevent residents with ambulation or confusion problems from coming in contact with the stove.

(D) Unvented, portable oil, gas, or kerosene heaters are prohibited. Sealed electric transfer heaters or electric space heaters with tip-over, shut-off capability may be used when approved by the State Fire Marshal or the State Fire Marshal's designee. A heater must be directly connected to an electrical outlet and may not be connected to an extension cord.

(c) EXTENSION CORDS AND ADAPTORS. Extension cord wiring and multi-plug adaptors may not be used in place of permanent wiring. UL-approved, re-locatable power taps (RPTs) with circuit breaker protection and no more than six electrical sockets are permitted for indoor use only and must be installed and used in accordance with the manufacturer's instructions. If RPTs are used, the RPT must be directly connected to an electrical outlet, never connected to another RPT (known as daisy-chaining or piggy-backing), and never connected to an extension cord.

(d) LOCKS AND ALARMS. Hardware for all exit doors and interior doors must be readily visible, have simple hardware that may not be locked against exit, and have an obvious method of operation. Hasps, sliding bolts, hooks and eyes, slide chain locks, and double key deadbolts are not permitted. If a home has a resident with impaired judgment who is known to wander away, the home must have an activated alarm system to alert a caregiver of the resident's unsupervised exit.

(e) WINDOWS. Bedrooms must have at least one window or exterior door that leads directly outside, readily opens from the inside without special tools, and provides a clear opening of not less than 821 square inches (5.7 sq. ft.), with the least dimensions not less than 24 inches in height or 20 inches in width. If the interior sill height of the window is more than 44 inches from the floor level, approved steps or other aids to the window exit that the occupants are capable of using must be provided. Windows with a clear opening of not less than 5.0 square feet or 720 square inches with interior sill heights of no more than 48 inches above the floor may be accepted when approved by the State Fire Marshal or the State Fire Marshal's designee.

(f) CONSTRUCTION. Interior and exterior doorways must be wide enough to accommodate the mobility equipment used by the residents such as wheelchairs and walkers. All interior and exterior stairways must be unobstructed, equipped with handrails on both sides, and appropriate to the condition of the residents. (See also section (5)(q) of this rule)

(A) Buildings must be of sound construction with wall and ceiling flame spread rates at least substantially comparable to wood lath and plaster or better. The maximum flame spread index of finished materials may not exceed 200 and the smoke developed index may not be greater than 450. If more than 10 percent of combined wall and ceiling areas in a sleeping room or exit way is composed of readily combustible material such as acoustical tile or wood paneling, such material must be treated with an

approved flame retardant coating. Exception: Buildings supplied with an approved automatic sprinkler system.

(i) MANUFACTURED HOMES. A manufactured home (formerly mobile homes) must have been built since 1976 and designed for use as a home rather than a travel trailer. The manufactured home must have a manufacturer's label permanently affixed on the unit itself that states the manufactured home meets the requirements of the Department of Housing and Urban Development (HUD). The required label must read as follows:

"As evidenced by this label No. ABC000001, the manufacturer certifies to the best of the manufacturer's knowledge and belief that this mobile home has been inspected in accordance with the requirements of the Department of Housing and Urban Development and is constructed in conformance with the Federal Mobile Home Construction and Safety Standards in effect on the date of manufacture. See date plate."

(ii) If such a label is not evident and the licensee believes the manufactured home meets the required specifications, the licensee must take the necessary steps to secure and provide verification of compliance from the home's manufacturer.

(iii) Manufactured homes built since 1976 meet the flame spread rate requirements and do not have to have paneling treated with a flame retardant coating.

(B) STRUCTURAL CHANGES. The licensee must notify the local licensing authority in writing at least 15 calendar days prior to any remodeling, renovations, or structural changes in the home that require a building permit. Such activity must comply with local building, sanitation, utility, and fire code requirements applicable to a single-family dwelling (see ORS 443.760(1)). The licensee must forward all required permits and inspections, an evacuation plan as described in section (5)(l) of this rule, and a revised floor plan as described in section (5)(o) of this rule to the local licensing authority within 30 calendar days of completion.

(g) FIRE EXTINGUISHERS. At least one fire extinguisher with a minimum classification of 2-A:10-B:C must be mounted in a location visible and readily accessible to any occupant of the home on each floor, including basements. Fire extinguishers must be checked at least once a year by a qualified person who is well versed in fire extinguisher maintenance. All recharging and hydrostatic testing must be completed by a qualified agency properly trained and equipped for this purpose.

(h) CARBON MONOXIDE AND SMOKE ALARMS.

(A) CARBON MONOXIDE ALARMS. Carbon monoxide alarms must be listed as complying with ANSI/UL 2034 and must be installed and maintained in accordance with the manufacturer's instructions. Carbon monoxide alarms must be installed within 15 feet of each bedroom at the height recommended by the manufacturer.

(i) If bedrooms are located in multi-level homes, carbon monoxide alarms must be installed on each level including the basement.

(ii) Carbon monoxide alarms may be hard-wired, plug-in, or battery operated. Hard wired and plug-in alarms must be equipped with a battery back-up. Battery operated carbon monoxide alarms must be equipped with a device that warns of a low battery.

(iii) A bedroom used by a hearing-impaired occupant who may not hear the sound of a regular carbon monoxide alarm must be equipped with an additional carbon monoxide alarm that has visual or vibrating capacity.

(B) SMOKE ALARMS. Smoke alarms must be installed in accordance with the manufacturer's instructions in each bedroom, in hallways or access areas that adjoin bedrooms, the family room or main living area where occupants congregate, any interior designated smoking area, and in basements. In addition, smoke alarms must be installed at the top of all stairways in multi-level homes.

(i) Ceiling placement of smoke alarms is recommended.

(ii) Battery operated smoke alarms or hard-wired smoke alarms with a battery backup must be equipped with a device that warns of a low battery.

(iii) A bedroom used by a hearing-impaired occupant who may not hear the sound of a regular smoke alarm must be equipped with an additional smoke alarm that has visual or vibrating capacity.

(C) All carbon monoxide alarms and smoke alarms must contain a sounding device or be interconnected to other alarms to provide, when actuated, an alarm that is audible in all sleeping rooms. The alarms must be loud enough to wake occupants when all bedroom doors are closed. Intercoms and room monitors may not be used to amplify alarms.

(D) The licensee must test all carbon monoxide alarms and smoke alarms in accordance with the manufacturer's instructions at least monthly (per NFPA 72). Testing must be documented in the facility records. The licensee must maintain carbon monoxide alarms, smoke alarms, and fire extinguishers in functional condition. If there are more than two violations in maintaining battery operated alarms in working condition, the Department may require the licensee to hard wire the alarms into the electrical system.

(i) COMBUSTIBLES AND FIREARMS. Flammables, combustible liquids, and other combustible materials must be safely and properly stored in their original, properly labeled containers or safety containers and secured in areas to prevent tampering by residents or vandals.

(A) Oxygen and other gas cylinders in service or in storage must be adequately secured to prevent the cylinders from falling or being knocked over;

(B) No smoking signs must be visibly posted where oxygen cylinders are present;

(C) Firearms must be stored, unloaded, in a locked cabinet. The firearms cabinet must be located in an area of the home that is not accessible to the residents; and

(D) Ammunition must be secured in a locked area separate from the firearms.

(j) HAZARDOUS MATERIALS. Cleaning supplies, poisons, insecticides, and other hazardous materials must be properly stored in their original container, or in a container manufactured for the type of product. The containers must be properly labeled and kept in a safe area that is not accessible to residents, or near food preparation areas, food storage areas, dining areas, or medications.

(k) MEDICAL SHARPS. All sharps, including but not limited to needles and lancets, must be disposed of in approved sharps containers. Sharps containers must:

(A) Be puncture-resistant;

(B) Be leak-proof;

(C) Be labeled or color-coded red to warn that the contents are hazardous;

(D) Have a lid, flap, door, or other means of closing the container and inhibits the ability to remove sharps from the container;

(E) Not be overfilled;

(F) Be stored in an upright position in a secure location that is not accessible to residents and not close to any food preparation or food storage area; and

(G) Must be closed immediately once full and properly disposed of within ten days, according to the home's waste management company's or pharmacy's instructions.

(l) EVACUATION PLAN. An emergency evacuation plan must be developed and revised as necessary to reflect the current condition of the residents in the home. The evacuation plan must be rehearsed with all occupants.

(m) ORIENTATION TO EMERGENCY PROCEDURES. Within 24 hours of arrival, any new resident or caregiver must be shown how to respond to a smoke alarm, shown how to participate in an emergency evacuation drill, and receive an orientation to basic fire safety. New caregivers must also be oriented in how to conduct an evacuation.

(n) EVACUATION DRILL. An evacuation drill must be held at least once every 90 calendar days, with at least one evacuation drill per year conducted during sleeping hours. The evacuation drill must be clearly documented, signed by the caregiver conducting the drill, and maintained according to OAR 411-050-0645.

(A) The licensee and all other caregivers must:

(i) Be able to demonstrate the ability to evacuate all occupants from the facility to the initial point of safety within three minutes or less. The initial point of safety must:

(I) Be exterior to and a minimum of 25 feet away from the structure;

(II) Have direct access to a public sidewalk or street; and

(III) Not be in the backyard of a home unless the backyard has direct access to a public street or sidewalk.

(ii) Be able to demonstrate the ability to further evacuate all occupants from the initial point of safety to the final point of safety within two minutes or less. The final point of safety must be a minimum of 50 feet away from the structure, and:

(I) Have direct access to a public sidewalk or street; or

(II) Not be in the backyard of a home unless the backyard has direct access to a public street or sidewalk.

(B) Conditions may be applied to a license if the licensee or caregivers demonstrate the inability to meet the evacuation times described in this section. Conditions may include, but are not limited to, reduced capacity of residents, additional staffing, or increased fire protection. Continued problems are grounds for revocation or non-renewal of the license.

(o) FLOOR PLAN. The licensee must develop a current and accurate floor plan that indicates:

(A) The size of rooms;

(B) Which bedrooms are to be used by residents, the licensee, caregivers, for day care, and room and board tenants, as applicable;

(C) The location of all the exits on each level of the home, including emergency exits such as windows;

(D) The location of wheelchair ramps;

(E) The location of all fire extinguishers, smoke alarms, and carbon monoxide alarms;

(F) The planned evacuation routes, initial point of safety, and final point of safety; and

(G) Any designated smoking areas in or on the adult foster home's premises.

(p) RESIDENT PLACEMENT. A resident, who is unable to walk without assistance or not capable of self-preservation, may not be placed in a bedroom on a floor without a second ground level exit. (See also section (4)(f) of this rule)

(q) STAIRS. Stairs must have a riser height of between 6 to 8 inches and tread width of between 8 to 10.5 inches. Lifts or elevators are not an acceptable substitute for a resident's capability to ambulate stairs. (See also section (5)(f) of this rule)

(r) EXIT WAYS. All exit ways must be barrier free and the corridors and hallways must be a minimum of 36 inches wide or as approved by the State Fire Marshal or the State Fire Marshal's designee. Interior doorways used by the residents must be wide enough to accommodate wheelchairs and walkers if used by residents and beds if used for evacuation purposes. Any bedroom window or door identified as an exit must remain free of obstacles that would interfere with evacuation.

(s) RAMPS. There must be at least one wheelchair ramp from a minimum of one exterior door if an occupant of the home is non-ambulatory. Wheelchair ramps must comply with the U.S. Department of Justice's 2010 Americans with Disabilities Act (ADA) Standards for Accessible Design (http://www.ada.gov/2010ADAstandards_index.htm, Chapter 4, Accessible Routes, Section 405, Ramps).

(t) EMERGENCY EXITS. There must be a second safe means of exit from all sleeping rooms. A provider whose sleeping room is above the first floor may be required to demonstrate at the time of licensure, renewal, or inspection, an evacuation drill from the provider's sleeping room using the secondary exit.

(u) FLASHLIGHT. There must be at least one plug-in, rechargeable flashlight in good functional condition available on each floor of the home for emergency lighting.

(v) SMOKING. If smoking is allowed in a home, the licensee must adopt house policies that restrict smoking to designated areas.

(A) Smoking is prohibited in:

(i) Any bedroom including that of the residents, licensee, resident manager, any other caregiver, occupant, or visitor;

(ii) Any room where oxygen is used; and

(iii) Anywhere flammable materials are stored.

(B) Ashtrays of noncombustible material and safe design must be provided in areas where smoking is permitted.

(w) EMERGENCY PREPAREDNESS PLAN. A licensee must develop and maintain a written emergency preparedness plan for the protection of all occupants in the home in the event of an emergency or disaster.

(A) The written emergency plan must:

(i) Include an evaluation of potential emergency hazards including, but not limited to:

(I) Prolonged power failure or water or sewer loss;

(II) Fire, smoke, or explosion;

(III) Structural damage;

(IV) Hurricane, tornado, tsunami, volcanic eruption, flood, or earthquake;

(V) Chemical spill or leak; and

(VI) Pandemic.

(ii) Include an outline of the caregiver's duties during an evacuation;

(iii) Consider the needs of all occupants of the home including, but not limited to:

(I) Access to medical records necessary to provide services and treatment;

(II) Access to pharmaceuticals, medical supplies, and equipment during and after an evacuation; and

(III) Behavioral support needs.

(iv) Include provisions and supplies sufficient to shelter in place for a minimum of three days without electricity, running water, or replacement staff; and

(v) Planned relocation sites.

(B) The licensee must notify the Department or the local licensing authority of the home's status in the event of an emergency that requires evacuation and during any emergent situation when requested.

(C) The licensee must re-evaluate the emergency preparedness plan at least annually and whenever there is a significant change in the home.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, 443.790

Stats. Implemented: ORS 443.001-004, 443.705-825, 443.875, 443.991

Hist.: SSD 14-1985, f. 12-31-85 ef. 1-1-86; SSD 11-1988, f. 10-18-88, cert. ef. 11-1-88, Sections (8) thru (10) renumbered to 411-050-0447; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1996, f. 3-29-96, cert. ef. 4-1-96; SDSD 2-1998(Temp), f. & cert. ef. 2-6-98 thru 8-1-98; SDSD 6-1998, f. 7-31-98, cert. ef. 8-1-98; SDSD 4-2001, f. & cert. ef. 3-1-01; SPD 31-2006, f. 12-27-06, cert. ef. 1-1-07; SPD 9-2007, f. 6-27-07, cert. ef. 7-1-07; SPD 9-2010, f. 6-30-10, cert. ef. 7-1-10; Renumbered from 411-050-0445, SPD 33-2013, f. 8-30-13, cert. ef. 9-1-13; APD 6-2014, f. 3-31-14, cert. ef. 4-1-14; APD 15-2015, f. 6-24-15, cert. ef. 6-28-15

**411-050-0655**

**Standards and Practices for Care and Services**

(1) PRE-ADMISSION SCREENING AND ASSESSMENT.

(a) Prior to admission, the licensee must conduct and document a screening to determine if a prospective resident's care needs exceed the license classification of the home. The screening must:

(A) Evaluate the ability of the prospective resident to evacuate the home within three minutes along with all the occupants of the home;

(B) Determine if the licensee and caregivers are able to meet the prospective resident's needs in addition to meeting the needs of the other residents of the home; and

(C) Include medical diagnoses, medications, personal care needs, nursing care needs, cognitive needs, communication needs, night care needs, nutritional needs, activities, lifestyle preferences, and other information, as needed, to assure the prospective resident's care needs shall be met.

(b) The screening process must include interviews with the prospective resident and the prospective resident's family, prior care providers, and case manager, as appropriate. The licensee must also interview, as necessary, any physician, nurse practitioner, physician assistant, registered nurse, pharmacist, therapist, or mental health or other licensed health care professional involved in the care of the prospective resident. A copy of the screening document must be:

(A) Given to the prospective resident or the prospective resident's legal representative; and

(B) Placed in the resident's record if admitted to the home; or

(C) Maintained for a minimum of three years if the prospective resident is not admitted to the home.

(c) If the Department or AAA knows that a person who is on probation, parole, or post-prison supervision after being convicted of a sex crime defined in ORS 181.805 is applying for admission to an adult foster home, the Department or AAA shall notify the home of the person's status as a sex offender.

(d) The licensee may refuse to admit a person who is on probation, parole, or post-prison supervision after being convicted of a sex crime as defined in ORS 181.805.

(e) REQUIRED DISCLOSURES. The licensee must disclose the home's policies and practices to a prospective resident or the prospective resident's legal representative, as applicable, including:

(A) HOUSE POLICIES. The licensee must provide a copy of the house policies and disclose any policies that may limit the prospective resident's activities or preferences while living in the adult foster home. Examples include, but are not limited to, the use of tobacco or alcohol, pets, religious practices, dietary restrictions, and the use of intercoms and monitors. The licensee must disclose the home's policy regarding the legal presence and use of medical marijuana. (See OAR 411-050-0645);

(B) CONTRACT. The licensee must provide a copy of any contract a prospective resident or the prospective resident's legal representative may be asked to sign;

(C) MEDICAID ENROLLMENT STATUS. The licensee must inform a prospective resident or the prospective resident's representative if the home serves individuals eligible for Medicaid services; and

(D) LONG-TERM CARE ASSESSMENT. The licensee must inform a prospective private-pay resident or the prospective resident's representative, if appropriate, of the availability of long-term care assessment services provided through the Department or a certified assessment program. The licensee must document on the Department's form (SDS 913) that the prospective private-pay resident has been advised of the right to receive a long-term care assessment. The licensee must maintain a copy of the form in the resident's record upon admission and make a copy available to the Department upon request.

(2) PRIOR TO ADMISSION.

(a) The licensee must obtain and document general information regarding a resident prior to the resident's admission. The information must include the names, addresses, and telephone numbers of the resident's relatives, significant persons, case managers, and medical or mental health providers. The information must also include the date of admission and, if available, the resident's medical insurance information, birth date, prior living facility, and mortuary;

(b) Prior to admission, the licensee must obtain and place in the resident's record:

(A) Prescribing practitioner's written or verbal orders for medications, treatments, therapies, and special diets, as applicable. Any verbal orders must be followed with written orders within seven calendar days of the resident's admission. Attempts to obtain written orders must be documented in the resident's record;

(B) Prescribing practitioner or pharmacist review of the resident's preferences for over-the-counter medications and home remedies; and

(C) Any medical information available, including the resident's history of accidents, illnesses, impairments, or mental status that may be pertinent to the resident's care.

(c) The licensee must ask for copies of the resident's Advance Directive, Physician's Order for Life Sustaining Treatment (POLST), and proof of court-appointed guardianship or conservatorship, if applicable. Copies of these documents must be placed in a prominent place in the resident's record and sent with the resident if the resident is transferred for medical care;

(d) The licensee must provide written information to the resident or the resident's representative about the resident's right to make decisions concerning Advance Directives and the resident's right to accept or refuse medical care. The licensee must provide:

(A) A written copy of the adult foster home's policies regarding implementation of Advance Directives; and

(B) A clear and precise statement of limitation if the licensee is not able to implement an Advance Directive on the basis of conscience that includes:

(i) Identification of the state legal authority under ORS 127.625 permitting a conscientious objection; and

(ii) Descriptions of medical conditions or procedures affected by the licensee's conscientious objection.

(e) The licensee must review the Residents' Bill of Rights and the home's current house policies with the resident and the resident's legal representative, as appropriate. The discussion must be documented by having the resident sign and date a copy of the house policies that have been approved by the local licensing authority and the current Residents' Bill of Rights (form SDS 305A). A copy of the signed house policies and Residents' Bill of Rights must be maintained in the resident's record.

(3) SCREENING PRIOR TO RE-ADMISSION. When a resident temporarily leaves the home including, but not limited to, a resident's hospitalization, the licensee shall conduct the necessary elements of the pre-admission and screening assessment requirements, and document those findings to:

(a) Determine whether readmission to the home is appropriate for the classification of the home;

(b) Determine whether the licensee can continue to meet the resident's care and safety needs in addition to those of the other residents;

(c) Demonstrate compliance with these rules; and

(d) If applicable, demonstrate the basis for refusing the resident's readmission to the home according to OAR 411-050-0645 (11).

(4) CARE PLAN.

(a) During the initial 14 calendar days following the resident's admission to the home, the licensee must continue to assess and document the resident's preferences and care needs. The assessment and care plan must be completed by the licensee and documented within the initial 14-day period. The care plan must describe the resident's needs, preferences, and capabilities, and what assistance the resident requires for various tasks. The resident's care plan must also include:

(A) By whom, when, and how often care and services shall be provided;

(B) The resident's ability to perform activities of daily living (ADLs);

(C) Special equipment needs;

(D) Communication needs (examples may include, but are not limited to, hearing or vision needs, such as eraser boards or flash cards, or language barriers, such as sign language or non-English speaking);

(E) Night needs;

(F) Medical or physical health problems, including physical disabilities, relevant to care and services;

(G) Cognitive, emotional, or other impairments relevant to care and services;

(H) Treatments, procedures, or therapies;

(I) Registered nurse consultation, teaching, delegation, or assessment;

(J) Behavioral interventions;

(K) Social, spiritual, and emotional needs, including lifestyle preferences, activities, and significant others involved;

(L) The ability to exit in an emergency, including assistance and equipment needed;

(M) Any use of physical restraints or psychoactive medications; and

(N) Dietary needs and preferences.

(b) The licensee must review and update each resident's care plan every six months and when a resident's condition changes. The review must be documented in the resident's record at the time of the review and include the date of the review and the licensee's signature. If a care plan contains many changes and becomes less legible, a new care plan must be written.

(5) REGISTERED NURSE CONSULTATION.

(a) RN CONSULTATION AND ASSESSMENT. A licensee must obtain a medical professional consultation and assessment to meet the care needs of a resident as required in these rules. A registered nurse consultation must be obtained when a skilled nursing care task, as defined by the Oregon State Board of Nursing, has been ordered by a physician or other licensed health care professional.

(b) A licensee must also request a registered nurse consultation under the following conditions:

(A) When a resident has a health concern or behavioral symptoms that may benefit from a nursing assessment and provider education;

(B) When written parameters are needed to clarify a prescribing practitioner p.r.n. order for medication and treatment (See section (6)(g) of this rule);

(C) Prior to the use of physical restraints when not assessed, taught, and reassessed, according to section (6)(o) of this rule, by a physician, nurse practitioner, physician assistant, Christian Science practitioner, mental health clinician, physical therapist, or occupational therapist;

(D) Prior to requesting psychoactive medications to treat behavioral symptoms or the use of new psychoactive medications when not assessed, taught, and reassessed according to section (6)(h) of this rule, by a physician, nurse practitioner, physician assistant, or mental health practitioner; and

(E) When care procedures are ordered that are new for a resident, the licensee, or other caregivers.

(c) RN DELEGATIONS. A registered nurse may determine a nursing care task be taught utilizing the delegation process. RN delegations are not transferable to other residents or caregivers. (Refer to OAR chapter 851, division 047)

(d) Documentation of nurse consultations, delegations, assessments, and reassessments must be maintained in the resident's record and made available to the Department upon request.

(6) STANDARDS FOR MEDICATIONS, TREATMENTS, AND THERAPIES.

(a) MEDICATIONS. The licensee and caregivers must demonstrate an understanding of each resident's medication administration regimen. Medication resource material must be readily available at the home and include the reason a medication is used, any specific instructions, the medication's actions, and common side effects.

(b) WRITTEN ORDERS. The licensee must obtain and place a signed order in the resident's record for any medications, dietary supplements, treatments, or therapies that have been ordered by a prescribing practitioner. The written orders must be carried out as prescribed unless the resident or the resident's legal representative refuses to consent. The prescribing practitioner must be notified if the resident refuses to consent to an order.

(A) CHANGED ORDERS. Changes to a written order may not be made without a prescribing practitioner order. The prescribing practitioner must be notified if the resident refuses to consent to the change order. Changes to medical orders obtained by telephone must be followed-up with signed orders within seven calendar days. Changes in the dosage or frequency of an existing medication require a new properly labeled and dispensed medication container. If a new properly labeled and dispensed medication container is not obtained, the change must be written on an auxiliary label attached to the medication container, not to deface the existing original pharmacy label, and must match the new medication order. Attachment of the auxiliary label must be documented in the residents' record. (See section (6)(f)(D) of this rule)

(B) DOCUMENTATION OF CHANGED ORDERS. Attempts to obtain the signed written changes must be documented and readily avail-

able for review in the resident's record. The resident's medications, including medications that are prescribed, over-the-counter medications, and home remedies, must be reviewed by the resident's prescribing practitioner or pharmacist at least annually. The review must be in writing, include the date of the review, and contain the signature of the prescribing practitioner or a pharmacist.

(c) MEDICATION SUPPLIES. The licensee must have all currently prescribed medications, including p.r.n. medications, and all prescribed over-the-counter medications available in the home for administration. Refills must be obtained prior to depletion of current medication supplies. Attempts to order refills must be documented in the resident's record.

(d) HEALTH CARE PROFESSIONAL ORDERS (IMPLEMENTED BY AFH STAFF). The licensee who implements a hospice, home health, or other licensed medical professional-generated order must:

(A) Have a copy of the hospice, home health, or licensed medical professional document that communicates the written order;

(B) Transcribe the order onto the medication administration record (MAR);

(C) Implement the order as written; and

(D) Include the order on subsequent medical visit reports for the prescribing practitioner to review.

(e) HOSPICE AND HOME HEALTH ORDERS (IMPLEMENTED BY NON-AFH STAFF). A licensee must allow a resident to receive hospice services. The licensee who provides adult foster home services to a recipient of hospice or home health services, but who does not implement a hospice or home health-generated order must:

(A) Have a copy of the hospice or home health document that communicates the written order; and

(B) Include the order on subsequent medical visit reports for the prescribing practitioner to review.

(f) MEDICATION ADMINISTRATION RECORD (MAR). A current, written medication administration record (MAR) must be kept for each resident and must:

(A) List the name of all medications administered by a caregiver, including over-the-counter medications and prescribed dietary supplements. The MAR must identify the dosage, route, and the date and time each medication and supplement is to be given;

(B) Identify any treatments and therapies administered by a caregiver. The MAR must indicate the type of treatment or therapy and the time the procedure must be performed;

(C) Be immediately initialed by the caregiver administering the medication, treatment, or therapy as it is completed. A resident's MAR must contain a legible signature that identifies each set of initials;

(D) Document changed and discontinued orders immediately showing the date of the change or discontinued order. A changed order must be written on a new line with a line drawn to the start date and time; and

(E) Document missed or refused medications, treatments, or therapies. If a medication, treatment, or therapy is missed or refused by the resident, the initials of the caregiver administering the medication, treatment, or therapy must be circled, and a brief, but complete, explanation must be recorded on the back of the MAR.

(g) P.R.N. MEDICATIONS. Prescription medications ordered to be given "as needed" or "p.r.n." must have specific parameters indicating what the medication is for and specifically when, how much, and how often the medication may be administered. Any additional instructions must be available for the caregiver to review before the medication is administered to the resident.

(A) P.R.N. DOCUMENTATION. As needed (p.r.n) medications must be documented on the resident's MAR with the time, dose, the reason the medication was given, and the outcome.

(B) P.R.N. ADVANCE SET-UP. As needed (p.r.n.) medications may not be included in any advance set-up of medication.

(h) PSYCHOACTIVE MEDICATIONS.

(A) A licensee is not required to request an evaluation of a resident's use of a psychoactive medication if the resident is admitted to the home and the resident has been prescribed the psychoactive medication for a condition that is currently monitored by a physician, nurse practitioner, physician assistant, or mental health professional and the written order for the psychoactive medication is in the resident's record.

(B) If a resident is admitted to a home with no documented history as to the reason for taking a psychoactive medication, or if the licensee requests medical professional intervention to address behavioral symptoms, the licensee must request a physician, nurse practitioner, physician assistant, or mental health professional evaluate the resident's need for the psychoactive medication and the intended effect of the medication, common side effects, and circumstances for reporting. The evaluation request must be documented in the resident's record and include:

(i) A probable cause of the resident's behavior;

(ii) Behavioral and environmental interventions to be used instead of or in addition to psychoactive medication, if applicable. Alternative interventions must be tried as instructed by a licensed medical professional and the resident's response to the alternative interventions must be documented in the resident's record prior to administering a psychoactive medication; and

(iii) A plan for reassessment by the resident's prescribing physician, nurse practitioner, physician assistant, or mental health professional.

(C) The prescription and order for a psychoactive medication must specify the dose, frequency of administration, and the circumstance for use (i.e., specific symptoms). The licensee and all caregivers must be aware of and comply with these parameters.

(D) The licensee and all caregivers must know the intended effect of a psychoactive medication for a particular resident and the common side effects, as well as the circumstances for reporting to the resident's physician, nurse practitioner, physician assistant, or mental health professional.

(E) The resident's care plan must identify and describe the behavioral symptoms for which psychoactive medications are prescribed and a list of all interventions, including behavioral, environmental, and medication.

(F) Psychoactive medications must never be given to discipline a resident or for the convenience of the caregivers.

(i) MEDICATION CONTAINERS AND STORAGE.

(A) MEDICATION CONTAINERS. Each of the resident's prescribed medication containers, including bubble packs, must be clearly labeled by the pharmacy. All medications, including over-the-counter medications, must be in the original container. Medications stored in advanced set up containers are required to be labeled as described in these rules.

(B) OVER-THE-COUNTER PRODUCTS. Over-the-counter products such as medications, vitamins, and supplements purchased for a specific resident's use must be marked with the resident's name. Over-the-counter items in stock bottles (with original labels) may be used for multiple residents in the home and must be clearly marked as the house supply.

(C) STORAGE OF RESIDENT MEDICATION. All resident medications, including over-the-counter medications, must be kept in a locked, central location that is cool, clean, dry, not subject to direct sunlight, and separate from medications belonging to the licensee, caregivers, and all other non-residents. Medications requiring refrigeration must also be locked and stored separately from non-resident medications.

(D) STORAGE OF NON-RESIDENT MEDICATION. All non-resident medications must be kept locked and separate from resident medications. Residents shall not have access to medications belonging to the licensee, caregivers, other household members, or pets.

(j) DISPOSAL OF MEDICATION. Outdated, discontinued, recalled, or contaminated medications, including over-the-counter medications, may not be kept in the home and must be disposed of within 10 calendar days of expiration, discontinuation, or the licensee's knowledge of a recall or contamination. A licensee must contact the local DEQ waste management company in their area for instructions on proper disposal of unused or expired medications.

(k) DOCUMENTATION OF DISPOSAL. The disposal of a resident's medication must be documented in the resident's record and the documentation must be readily available in the resident's record.

(A) The disposal of a controlled substance must be documented in the resident's record and the disposal must be witnessed by a caregiver who is 18 years of age or older.

(B) Documentation regarding the disposal of medications and controlled substances must include:

(i) The date of disposal;

(ii) Description of the medication, (i.e., name, dosage, and amount being disposed);

(iii) Name of the resident for whom the medication was prescribed;

(iv) Reason for disposal;

(v) Method of disposal;

(vi) Signature of the person disposing of the medication; and

(vii) For controlled substances, the signature of the caregiver who witnessed the disposal according to this rule.

(l) ADVANCED SET-UP. The licensee may set-up each resident's medications for up to seven calendar days in advance (excluding p.r.n. medications) by using a closed container manufactured for the advanced set-up of medications. If used, each resident must have his or her own container with divisions for the days of the week and times of the day the medications are to be given. The container must be clearly labeled with the resident's

name, name of each medication, time to be given, dosage, amount, route, and description of each medication. The container must be stored in the locked area with the residents' medications.

(m) SELF-ADMINISTRATION OF MEDICATION. A licensee must have a prescribing practitioner written order of approval for a resident to self-medicate. A resident able to handle his or her own medical regimen may keep their medications in their own room in a lockable storage area or device. Medications must be kept locked except those medications on the residents' own person. The licensee must notify the prescriber of the medication if the resident shows signs of no longer being able to self-medicate safely.

(n) INJECTIONS. Subcutaneous, intramuscular, and intravenous injections may be self-administered by a resident if the resident is fully independent in the task or may be administered by a relative of the resident or an Oregon licensed registered nurse (RN). An Oregon licensed practical nurse (LPN) may give subcutaneous and intramuscular injections. A caregiver who has been delegated and trained by a registered nurse under provision of the Oregon State Board of Nursing (OAR 851-047-0000 to 851-047-0040) may give subcutaneous injections. Intramuscular and intravenous injections may not be delegated. See OAR 411-050-0650 (5) for storage and disposal requirements of sharps, including but not limited to used needles and lancets.

(o) PHYSICAL RESTRAINTS. Physical restraints may only be used when required to treat a resident's medical symptoms or to maximize a resident's physical functioning. Physical restraints may only be used after a written assessment is completed as described below and all alternatives have been exhausted. Licensees and caregivers may use physical restraints in adult foster homes only in compliance with these rules, including the Residents' Bill of Rights listed in section (8) of this rule. Prior to the use of any type of physical restraint, the following must be completed:

(A) ASSESSMENT. A written assessment must be obtained from the resident's physician, nurse practitioner, physician assistant, registered nurse, Christian Science practitioner, mental health clinician, physical therapist, or occupational therapist that includes consideration of all other alternatives.

(B) ORDERS. If it is determined that a physical restraint is necessary following the assessment and trial of other measures, the least restrictive restraint must be used and as infrequently as possible. The licensee must obtain a written order from the resident's physician, nurse practitioner, physician assistant, or Christian Science practitioner prior to the use of a physical restraint. The written order must include specific parameters, including the type of physical restraint, circumstances for use, and duration of use, including:

(i) Procedural guidance for the use of the physical restraint;

(ii) The frequency for reassessment;

(iii) The frequency and procedures for nighttime use; and

(iv) Dangers and precautions for using the physical restraint.

(C) Physical restraints may not be used on an as needed (p.r.n.) basis in an adult foster home.

(D) CONSENT. Physical restraints must not be used without first obtaining the written consent of the resident or the resident's legal representative.

(E) DOCUMENTATION. If it is determined a physical restraint is necessary following the assessment and trial of other measures, the written order for the use of a physical restraint must be documented in the resident's care plan explaining why and when the restraint is to be used, along with instructions for periodic release. Any less restrictive, alternative measures planned during the assessment, and cautions for maintaining the resident's safety while restrained must also be recorded in the resident's care plan. The resident's record must include:

(i) The completed assessment as described in this rule;

(ii) The written order authorizing the use of the physical restraint from the resident's physician, nurse practitioner, physician assistant, or Christian Science practitioner;

(iii) Written consent of the resident or the resident's legal representative to use the specific type of physical restraint; and

(iv) The reassessments completed by a medical professional as described above in subsection (B) of this rule.

(F) DAYTIME USE. A resident physically restrained during waking hours must have the restraints released at least every two hours for a minimum of 10 minutes and be repositioned, offered toileting, and provided exercise or range-of-motion exercises during this period. The use of restraints, restraint release, and activities that occurred during the release period must be documented in the resident's record.

(G) NIGHTTIME USE. The use of physical restraints at night is discouraged and must be limited to unusual circumstances. If used, the restraint must be of a design to allow freedom of movement with safety. The frequency of night monitoring to address resident safety and care needs must be determined in the assessment. Tie restraints of any kind must not be used to keep a resident in bed.

(H) If any physical restraints are used in an adult foster home, the restraints must allow for quick release at all times. Use of restraints may not impede the three-minute evacuation of all occupants of the home.

(I) Physical restraints may not be used for the discipline of a resident or for the convenience of the adult foster home.

(7) RESIDENT CARE.

(a) Care and supervision of residents must be in a home-like atmosphere. The training of the licensee and caregivers and care and supervision of residents must be appropriate to the age, care needs, and conditions of the residents in the home. Additional staff may be required if, for example, day care individuals are in the home or if necessary to safely evacuate the residents and all occupants from the home as required by OAR 411-050-0650.

(b) If a resident has a medical regimen or personal care plan prescribed by a licensed health care professional, the provider must cooperate with the plan and ensure the plan is implemented as instructed.

(c) NOTIFICATION. The licensee must notify emergency personnel, the resident's physician, nurse practitioner, physician assistant, registered nurse, family representative, and case manager, as applicable, under the following circumstances:

(A) EMERGENCIES (MEDICAL, FIRE, POLICE). In the event of an emergency, the licensee or caregiver with the resident at the time of the emergency must first call 911 or the appropriate emergency number for their community. This does not apply to a resident with a medical emergency who practices Christian Science;

(i) If a resident is receiving hospice services, the caregivers must follow the written instructions for medical emergencies from the hospice nurse.

(ii) If a resident has a completed Physician's Orders for Life-Sustaining Treatment (POLST) or other legal documents, such as an Advance Directive or Do Not Resuscitate (DNR) order, copies of the documents must be made available to the emergency personnel when they arrive.

(B) HOSPITALIZATION. In the event the resident is hospitalized;

(C) HEALTH STATUS CHANGE. When the resident's health status or physical condition changes; and

(D) DEATH. Upon the death of the resident.

(d) The licensee shall not inflict, or tolerate to be inflicted, abuse or punishment, financial exploitation, or neglect of the residents.

(e) The licensee must exercise reasonable precautions against any conditions that may threaten the health, safety, or welfare of the residents.

(f) A qualified caregiver must always be present and available at the home when a resident is in the home. A resident may not be left in charge in lieu of a caregiver.

(g) ACTIVITIES. The licensee must make available at least six hours of activities per week that are of interest to the residents, not including television and movies. Information regarding activity resources is available from the local licensing authority. Activities must be oriented to individual preferences as indicated in the resident's care plan (See section (4) of this rule). Documentation of the activities offered to each resident and the resident's participation in those activities must be recorded in the resident's records.

(h) DAY CARE. Prior to the admission of each day care individual, the licensee must:

(A) Conduct and document a screening as described in section (1)(a) of this rule;

(B) Obtain current medical professional orders as described in section (6) of this rule if medications are to be administered and the necessary delegations, as applicable; and

(C) Develop and maintain a current, written medication administration record (MAR) as described in section (6) of this rule if medications are to be administered.

(i) DIRECT INVOLVEMENT OF CAREGIVERS. The licensee or caregivers must be directly involved with the residents on a daily basis. If the physical characteristics of the adult foster home do not encourage contact between the caregivers and residents and among residents, the licensee must demonstrate how regular positive contact occurs.

(j) RESIDENT MONEY. If the licensee manages or handles a resident's money, a separate account record must be maintained in the resi-

dent's name. The licensee may not under any circumstances commingle, borrow from, or pledge any of a resident's funds. The licensee may not act as a resident's guardian, conservator, trustee, or attorney-in-fact unless related by birth, marriage, or adoption to the resident as follows: parent, child, brother, sister, grandparent, grandchild, aunt, uncle, niece, or nephew. Nothing in this rule may be construed to prevent the licensee or the licensee's employee from acting as a representative payee for the resident. (See also OAR 411-020-0002 and ORS 127.520)

(A) Personal incidental funds (PIF) for individuals eligible for Medicaid services must be used at the discretion of the individual for such things as clothing, tobacco, and snacks (not part of daily diet).

(B) The licensee and other caregivers may not accept gifts from the residents through undue influence or accept gifts of substantial value. Caregivers and family members of the caregivers may not accept gifts of substantial value or loans from the resident or the resident's family. The licensee or other caregivers may not influence, solicit from, or suggest to any of the residents or the residents' legal representatives that the residents or the residents' legal representatives give the caregiver or the caregiver's family money or property for any purpose.

(C) The licensee may not subject the resident or the resident's representative to unreasonable rate increases.

(k) The licensee and other caregivers may not loan money to the residents.

(8) RESIDENTS' BILL OF RIGHTS. The licensee, the licensee's family, and employees of the home must guarantee not to violate these rights and to help the residents exercise them. The Residents' Bill of Rights provided by the Department must be explained and a copy given to each resident at the time of admission. The Residents' Bill of Rights states each resident has the right to:

(a) Be treated as an adult with respect and dignity;

(b) Be informed of all resident rights and all house policies;

(c) Be encouraged and assisted to exercise constitutional and legal rights, including the right to vote;

(d) Be informed of their medical condition and the right to consent to or refuse treatment;

(e) Receive appropriate care, services, and prompt medical care as needed;

(f) Be free from abuse;

(g) Complete privacy when receiving treatment or personal care;

(h) Associate and communicate privately with any person of choice and send and receive personal mail unopened;

(i) Have access to and participate in activities of social, religious, and community groups;

(j) Have medical and personal information kept confidential;

(k) Keep and use a reasonable amount of personal clothing and belongings, and to have a reasonable amount of private, secure storage space;

(l) Be free from chemical and physical restraints except as ordered by a physician or other qualified practitioner. Restraints are used only for medical reasons, to maximize a resident's physical functioning, and after other alternatives have been tried. Restraints are not to be used for discipline or convenience;

(m) Manage their own financial affairs unless legally restricted;

(n) Be free from financial exploitation. The licensee may not charge or ask for application fees or non-refundable deposits or solicit, accept, or receive money or property from a resident other than the amount agreed to for services;

(o) A written agreement regarding services to be provided and the rates to be charged. The licensee must give 30 days' written notice before any change in the rates or the ownership of the home;

(p) Not be transferred or moved out of the adult foster home without 30 calendar days' written notice and an opportunity for a hearing. A licensee may transfer a resident only for medical reasons, for the welfare of the resident or other residents, or for nonpayment;

(q) A safe and secure environment;

(r) Be free of discrimination in regard to race, color, national origin, gender, sexual orientation, or religion;

(s) Make suggestions or complaints without fear of retaliation; and

(t) Be free of discrimination in regard to the execution of an Advance Directive, Physician's Order for Life-Sustaining Treatment (POLST), or Do Not Resuscitate (DNR) orders.

Stat. Auth.: ORS 127.520, 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, & 443.790

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

Hist.: SSD 14-1985, f. 12-31-85, ef. 1-1-86; SSD 11-1988, f. 10-18-88, cert. ef. 11-1-88, Renumbered from 411-050-0445(8) thru (10); SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1996, f. 3-29-96, cert. ef. 4-1-96; SDSD 4-2001, f. & cert. ef. 3-1-01; SPD 31-2006, f. 12-27-06, cert. ef. 1-1-07; SPD 9-2010, f. 6-30-10, cert. ef. 7-1-10; Renumbered from 411-050-0447, SPD 33-2013, f. 8-30-13, cert. ef. 9-1-13; APD 50-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 15-2015, f. 6-24-15, cert. ef. 6-28-15

**411-050-0660**

**Qualifications and Requirements for Ventilator-Assisted Care**

Adult foster homes that provide ventilator-assisted care for residents must meet the following requirements in addition to the other requirements set forth in these rules:

(1) LICENSE REQUIRED. A person or entity may not represent themselves as operating an adult foster home that provides ventilator-assisted care or accept placement of an individual requiring ventilator-assisted care without being licensed as a ventilator-assisted care adult foster home.

(2) APPLICATION. An applicant or licensee must meet and maintain compliance with OAR 411-050-0610.

(a) To apply for a license to provide ventilator-assisted care, an applicant or licensee must complete the Department's ventilator-assisted care application form (SDS 448V) and submit the application with the required information and nonrefundable fee as outlined in OAR 411-050-0610 to the local licensing authority.

(b) To renew a license to provide ventilator-assisted care, a licensee must complete the Department's ventilator-assisted care application form (SDS 448V) and submit the application with the required information and nonrefundable fee as outlined in OAR 411-050-0640 to the local licensing authority.

(c) Applications are processed according to OAR 411-050-0610 and 411-050-0640.

(d) Applications must be approved by the Department prior to the issuance of a ventilator-assisted care license.

(3) QUALIFICATIONS AND TRAINING. An applicant, licensee, and all other caregivers must meet and maintain compliance with OAR 411-050-0625. In addition:

(a) The applicant, licensee, resident manager, floating resident manager, or shift caregivers, as applicable, must demonstrate one year of full-time experience in providing ventilator-assisted care.

(b) The applicant or licensee, as applicable, must have experience operating a Class 3 adult foster home in substantial compliance with these rules for at least one year.

(c) An applicant for an adult foster home providing ventilator-assisted care must be the primary caregiver and live in the home where ventilator-assisted care is to be provided for a minimum of one year from the date the initial ventilator-assisted care license is issued. The licensee may employ a resident manager to be the primary live-in caregiver after providing ventilator-assisted care for the one year period. The resident manager must be approved by the local licensing authority and the Department.

(d) The applicant, licensee, and all other caregivers must successfully complete the Department's approved training pertaining to ventilator-assisted care and other training as required. Training is required on an annual basis and must be completed by the licensee, resident manager, floating resident manager, shift caregivers, and substitute caregivers, as applicable, prior to approval of a renewed ventilator-assisted care license.

(4) CLASSIFICATION. An applicant for a ventilator-assisted care license must possess the minimum qualifications outlined in section (3) of this rule. The applicant and licensee must meet and maintain compliance with OAR 411-050-0630. The local licensing authority shall issue a Level A, Level B, or Level C ventilator-assisted care adult foster home license to qualified applicants.

(a) A licensee with a Level C ventilator-assisted care license may admit a maximum of one resident who requires ventilator-assisted care. The local licensing authority may issue a Level C license if the applicant has:

(A) Satisfied the requirements described in section (3) above; and

(B) Successfully operated a Class 3 home in substantial compliance with these rules for a period of not less than one year.

(b) A licensee with a Level B ventilator-assisted care license may admit a maximum of three residents who require ventilator-assisted care. The local licensing authority may issue a Level B license if the licensee has:

(A) Satisfied the requirements described in section (3) above; and

(B) Successfully operated and provided ventilator-assisted care in their Level C home in substantial compliance with these rules for a period of not less than one year; or

(C) The applicant or licensee, as applicable, has a current license as a health care professional in Oregon.

(c) A licensee with a Level A ventilator-assisted care license may admit a maximum of five residents who require ventilator-assisted care. The local licensing authority may issue a Level A license if the licensee has:

(A) Satisfied the requirements described in section (3) above; and

(B) Successfully operated and provided ventilator-assisted care in their Level B home in substantial compliance with these rules for a period of not less than one year.

(5) CAPACITY. An applicant and licensee must meet and maintain compliance with OAR 411-050-0632. The number of residents permitted to reside in a ventilator-assisted care adult foster home is determined by the level of the home, the ability of the staff to meet the care needs of the residents, the fire and life safety standards, and compliance with these rules. A licensee may only admit or continue to provide ventilator-assisted care for residents according to the level of the home's license. A licensee may admit other residents who do not require ventilator-assisted care within the approved license capacity listed on the home's license.

(6) OPERATIONAL STANDARDS. A licensee must meet and maintain compliance with OAR 411-050-0645. In addition:

(a) A minimum of two qualified and approved caregivers must be on site and available to meet the routine and emergency care and service needs of the residents 24 hours a day. A minimum of one of the two qualified and approved caregivers must be awake during nighttime hours.

(b) All caregivers must demonstrate competency in providing ventilator-assisted care.

(c) All caregivers must be able to evacuate the residents and any other occupants of the home within three minutes or less.

(d) The applicant and licensee must have a satisfactory system in place to ensure the caregivers are alert to the 24-hour needs of residents who may be unable to independently call for assistance.

(e) All caregivers must know how to operate the back-up generator without assistance and be able to demonstrate how to operate the back-up generator upon request by the Department or local licensing authority.

(7) FACILITY STANDARDS. An applicant and licensee must meet and maintain compliance with OAR 411-050-0650. In addition:

(a) The residents' bedrooms must be a minimum of 100 square feet, or larger if necessary, to accommodate the standard requirements of OAR 411-050-0650, the needs of the resident, and the equipment and supplies necessary for the care and services needed by individuals requiring ventilator-assisted care.

(b) Homes that provide ventilator-assisted care for residents must have a functional, emergency back-up generator. The generator must be adequate to maintain electrical service for resident needs until regular service is restored. Hard wired, back-up generators must be installed by a licensed electrician. Back-up generators must be tested monthly and the test must be documented in the facility records.

(c) The home must have a functional, interconnected carbon monoxide and smoke alarm system with back-up batteries.

(d) The home must have a functional sprinkler system and maintenance of the sprinkler system must be completed as recommended by the manufacturer. A home that does not have a functional sprinkler system but was approved to provide ventilator-assisted care prior to September 1, 2013, must install a functional whole-home sprinkler system no later than July 31, 2015.

(e) Each resident's bedroom must have a mechanism in place that enables the resident to summon a caregiver's assistance when needed. The mechanism must be within the abilities of the resident to use. The summons must be audible in all areas of the adult foster home.

(8) STANDARDS AND PRACTICES FOR CARE AND SERVICES. Licensees must meet and maintain compliance with OAR 411-050-0655. In addition:

(a) The licensee must conduct and document a thorough screening of a prospective resident on the Department's form (SDS 902).

(b) Prior to admitting a resident requiring ventilator care to the adult foster home, the licensee must obtain preauthorization from the Department.

(c) The licensee must have a primary care physician identified for each resident being considered for admission.

(d) The licensee must retain the services of a registered nurse (RN) consultant to work in the home who is licensed by the State of Oregon and trained in the care of individuals requiring ventilator-assisted care. RN services include, but are not limited to, the provision of medical consultation and supervision of resident care, skilled nursing care as needed, and delegation of nursing care to caregivers. When the licensee is an RN, a back-up RN licensed by the State of Oregon and trained in the care of individuals requiring ventilator-assisted care must be identified and available to provide nursing services in the absence of the licensee.

(e) The licensee must develop individual care plans for each resident with the RN consultant addressing the expected frequency of nursing supervision, consultation, and direct service intervention. The RN consultation must be documented on the resident's completed care plan with the RN's signature and date signed.

(f) The licensee must have physician, RN, and respiratory therapist consultation services, all licensed by the State of Oregon and trained in the care of individuals requiring ventilator-assisted care available on a 24-hour basis and for in-home visits as appropriate. The licensee must call the appropriate medical professional to attend to the emergent care needs of the residents.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, 443.790

Stats. Implemented: ORS 410.070, 443.001-004, 443.705-825, 443.875, 443.991

Hist.: SSD 14-1985, f. 12-31-85, ef. 1-1-86; SSD 11-1988, f. 10-18-88, cert. ef. 11-1-88, Renumbered from 411-050-0445(8) thru (10); SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1996, f. 3-29-96, cert. ef. 4-1-96; SDSD 4-2001, f. & cert. ef. 3-1-01; SPD 31-2006, f. 12-27-06, cert. ef. 1-1-07; SPD 9-2010, f. 6-30-10, cert. ef. 7-1-10; Renumbered from 411-050-0491, SPD 33-2013, f. 8-30-13, cert. ef. 9-1-13; APD 6-2014, f. 3-31-14, cert. ef. 4-1-14; APD 15-2015, f. 6-24-15, cert. ef. 6-28-15

**411-050-0662**
**Qualifications and Requirements for Limited Adult Foster Homes**

(1) To qualify for a limited adult foster home license the applicant or licensee must submit:

(a) A completed application for initial or renewal limited licenses;

(b) The Department's Health History and Physician's or Nurse Practitioner's Statement that indicates the applicant or licensee is physically, cognitively, and emotionally capable of providing care to a specific adult who is older or who has a physical disability and with whom the applicant has an established relationship of not less than one year. The Health History and Statement must be submitted initially and every third year or sooner if there is reasonable cause for health concerns;

(c) Documentation of the initiation of a background check or copy of an approved background check for each subject individual;

(d) Completion of the Department's Caregiver Preparatory Training Study Guide (DHS 9030) and Workbook (DHS 9030-W); and

(e) A $20 non-refundable fee. If the licensee requests and is granted a variance from the capacity limitation of one resident, a $20 per bed non-refundable fee for each non-relative resident is required.

(2) The applicant or licensee must demonstrate a clear understanding of the resident's care needs.

(3) The applicant or licensee must live in the home that is to be licensed.

(4) The applicant or licensee must own, rent, or lease the home in which care is being provided. The applicant or licensee must provide verification of proof of ownership or a copy of the signed and dated rental or lease agreement as applicable.

(5) A caregiver must be available at all times, 24 hours a day, 7 days a week, when the resident is in the home. The caregiver must have the knowledge and ability to meet the resident's care needs. All caregivers must:

(a) Have an approved background check according to the Criminal Records and Abuse Check rules (OAR 407-007-0200 through 407-007-0370) prior to working in the home;

(b) Complete the Department's Caregiver Preparatory Training Study Guide (DHS 9030) and Workbook (DHS 9030-W); and

(c) Be at least 18 years of age.

(6) The licensee must notify the local licensing authority if the licensee shall be absent from the home 10 days or more and the resident shall be remaining in the home during the absence. The licensee must also submit a staffing plan to the local licensing authority demonstrating coverage during the absence that meets the needs of the resident.

(7) The resident's bedroom must be in close enough proximity to the licensee or caregiver in charge to alert him or her to nighttime needs or emergencies, or the bedroom must be equipped with a functional call bell or intercom within the resident's abilities to operate.

(8) The licensee and caregiver must have a complete understanding of the resident's medications. The licensee must have a copy of current prescribing practitioner orders including, if applicable, written authorization for self-administration of medications.

(9) Medications must be stored in their original labeled container except when stored in a 7-day closed container manufactured for advanced set-up of medications.

(10) The licensee and caregiver must place used, disposable syringes and needles, and other sharp items in a puncture-resistant, red container

designed for disposal of sharp items. Disposal must be according to local regulations as stated in section 411-050-0655(6). (See ORS 459.386 through 459.405)

(11) The licensee, the licensee's family, and employees of the home must guarantee not to violate the Residents' Bill of Rights as outlined in OAR 411-050-0655.

(12) The licensee must have a copy of any Advance Directive, Physician Order for Life-Sustaining Treatment (POLST), and Do Not Resuscitate (DNR) orders.

(13) The home must have a working landline and corded telephone. If the licensee has a caller identification service on the home number, the blocking feature must be disabled to allow incoming calls to be received unhindered. Voice over internet protocol (VoIP), voice over broadband (VoBB), or cellular telephone service may not be used in place of a landline.

(14) CONSTRUCTION. Interior and exterior doorways used by a resident must be wide enough to accommodate wheelchairs and walkers if used by the resident. Interior and exterior stairways must be unobstructed, equipped with handrails, and appropriate to the condition of the resident.

(15) Hardware for all exit doors and interior doors must be readily visible and have simple hardware that may not be locked against exit and must have an obvious method of operation. Hasps, sliding bolts, hooks and eyes, slide chain locks, and double key deadbolts are not permitted. If a home has a resident with impaired judgment who is known to wander away, the home must have an activated alarm system to alert a caregiver of the resident's unsupervised exit.

(16) Buildings must be of sound construction with wall and ceiling flame spread rates at least substantially comparable to wood lath and plaster or better. The maximum flame spread of finished materials may not exceed 200 and the smoke developed index may not be greater than 450. If more than 10 percent of combined wall and ceiling areas in a sleeping room or exit way is composed of readily combustible material such as acoustical tile or wood paneling, such material must be treated with an approved flame retardant coating. Exception: Buildings supplied with an approved automatic sprinkler system.

(a) MANUFACTURED HOMES. Manufactured home (formerly mobile homes) units must have been built since 1976 and designed for use as a home rather than a travel trailer. The unit must have a manufacturer's label permanently affixed on the unit itself that states the unit meets the requirements of the Department of Housing and Urban Development (HUD). The required label must read as follows:

> "As evidenced by this label No. ABC000001, the manufacturer certifies to the best of the manufacturer's knowledge and belief that this mobile home has been inspected in accordance with the requirements of the Department of Housing and Urban Development and is constructed in conformance with the Federal Mobile Home Construction and Safety Standards in effect on the date of manufacture. See date plate."

(b) If such a label is not evident and the licensee believes the unit meets the required specifications, the licensee must take the necessary steps to secure and provide verification of compliance from the manufacturer.

(c) Mobile homes built since 1976 meet the flame spread rate requirements and do not have to have paneling treated with a flame retardant coating.

(17) The applicant or licensee must meet minimal fire safety standards including:

(a) A functional smoke alarm with back-up battery must be installed in all sleeping areas and hallways or access ways that adjoin sleeping areas;

(b) A functional carbon monoxide alarm with back-up battery must be installed within 15 feet of each bedroom and at a height as recommended by the manufacturer;

(c) At least one fire extinguisher with a minimum classification of 2-A:10-B:C must be mounted in a visible and readily accessible location on each floor, including basements, and be checked at least once a year by a qualified person who is well versed in fire extinguisher maintenance. All recharging and hydrostatic testing must be completed by a qualified agency properly trained and equipped for this purpose;

(d) The licensee must have a safe evacuation plan and may be required to demonstrate their evacuation plan. The licensee may be required to install an Americans with Disabilities Act (ADA) compliant ramp for the safety of all occupants;

(e) The licensee and all occupants must be able to evacuate within 3 minutes to an initial point of safety exterior to and away from the structure, with access to a public sidewalk or street. The licensee and all occupants must be able to demonstrate the ability to further evacuate all occupants from the initial point of safety to the final point of safety within two minutes or less;

(f) Smoking is prohibited in any bedroom including that of the resident, the licensee, occupants, or caregivers and in any room where oxygen is used or stored;

(g) The home must be built of standard construction and must meet all applicable state and local building, mechanical, and housing codes for fire and life safety;

(h) A resident must have a bedroom that:

(A) Was constructed as a bedroom when the home was built or remodeled under permit;

(B) Is finished with walls or partitions of standard construction that go from floor to ceiling;

(C) Has a door large enough to accommodate the occupant of the room and any equipment that may be necessary such as a hospital bed or wheelchair;

(D) Be adequately ventilated, heated, and lighted with at least one operable window or exterior door that leads directly outside as a secondary egress for resident use; and

(E) Has at least 70 square feet of usable floor space.

(i) All exit ways, including windows, must remain unobstructed at all times;

(j) Flammable materials cannot be stored within 36 inches of open flame or heat sources;

(k) Only sealed electric transfer heaters or electric space heaters with tip-over shut-off capability may be used when approved by the State Fire Marshal or State Fire Marshal's designee. Heaters must be plugged directly into an outlet and may not be used with extension cords; and

(l) The licensee must install or make available any supportive device necessary to meet the resident's needs and ensure resident safety including, but not limited to grab bars, ramps, and door alarms.

(18) A license is not transferable and does not apply to any location or person other than the location and the person indicated on the license obtained from the local licensing authority.

(19) The licensee must notify the local licensing authority at least 30 days prior to any change in residential or mailing address.

(20) The Department, the local licensing authority, and the Centers for Medicare and Medicaid Services (CMS) have authority to conduct inspections with or without advance notice to the licensee or the resident of a home. The licensee must allow and authorize other caregivers and occupants to permit entrance and access to the home and the resident for the purpose of assessing, monitoring, inspection, investigation, and other duties within the scope of the Department, the local licensing authority, or CMS.

(21) The applicant or licensee must obtain any training and maintain resident record documentation deemed necessary by the Department to provide adequate care for the resident.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, 443.790
Stats. Implemented: ORS 443.001-004, 443.705-825, 443.875, 443.991
Hist.: SPD 33-2013, f. 8-30-13, cert. ef. 9-1-13; APD 15-2015, f. 6-24-15, cert. ef. 6-28-15

**411-050-0665**
**Abuse Reporting, Complaints, and Notification of Findings**

(1) ABUSE REPORTING. Abuse is prohibited. The facility employees and licensee may not permit, aid, or engage in abuse of residents who are under their care. Abuse and suspected abuse must be reported in accordance with OAR 411-020-0020.

(a) STAFF REPORTING. All facility employees must immediately report abuse and suspected abuse to the investigative authority.

(b) LICENSEE REPORTING. The licensee must immediately notify the investigative authority of any incident of abuse or suspected abuse, including events overheard or witnessed by observation.

(c) LAW ENFORCEMENT AGENCY. The local law enforcement agency must be called first when the suspected abuse is believed to be a crime (e.g., rape, murder, assault, burglary, kidnapping, theft of controlled substances).

(2) IMMUNITY AND PROHIBITION OF RETALIATION.

(a) The licensee may not retaliate against any resident after the resident or someone acting on the resident's behalf has filed a complaint in any manner, including, but not limited to:

(A) Increasing or threatening to increase charges;

(B) Decreasing or threatening to decrease services;

(C) Withholding rights or privileges;

(D) Taking or threatening to take any action to coerce or compel the resident to leave the facility; or

(E) Threatening to harass or abuse a resident in any manner.

(b) The licensee must ensure any complainant, witness, or employee of a facility is not subjected to retaliation by any caregiver, (including the

caregiver's family and friends who may live in or frequent the adult foster home) for making a report, being interviewed about a complaint, or being a witness, including, but not limited to, restriction of access to the home or a resident or, if an employee, dismissal or harassment.

(c) Anyone who, in good faith, reports abuse or suspected abuse has immunity, as approved by law, from any civil liability that might otherwise be incurred or imposed with respect to the making or content of an abuse complaint.

(3) Immunity under this rule does not protect self-reporting licensees from liability for the underlying conduct that is alleged in the complaint.

(4) The local licensing authority must furnish each adult foster home with a Complaint Notice that states the telephone number of the Department, the investigative authority, and the Long-Term Care Ombudsman, and the procedure for making complaints.

(5) Any person who believes these rules have been violated may file a complaint with the Department, the local licensing authority, or the investigative authority.

(6) The Department or the investigative authority shall investigate complaints in accordance with the adult protective services rules in OAR chapter 411, division 20, OAR chapter 407, division 45, or OAR chapter 943, division 45, as applicable.

(7) Immediate protection shall be provided for the residents by the Department, the local licensing authority, or the investigative authority, as necessary, regardless of whether the investigative report is completed. The licensee must immediately cease any practice that places a resident at risk of serious harm.

(8) PRELIMINARY FINDINGS. The Department, through the investigative authority, shall provide, by written communication or electronic mail, a copy of the preliminary abuse investigation report to the licensee and complainant within seven business days of the completion of the investigation:

(a) The report shall be accompanied by a notice informing the licensee and complainant of their right to give additional information about the content of the report to the investigative authority within 10 calendar days of receipt of the report.

(b) The investigative authority must review the responses and reopen the investigation or amend the report if the additional evidence warrants a change.

(9) A copy of the entire report shall be sent to the Department upon completion of the investigation report.

(10) NOTIFICATION OF FINDINGS. Upon a determination of substantiated abuse or a rule violation, the Department must provide written notification of its findings to the licensee.

(a) CONTENT. The written notice shall:

(A) Explain the nature of each allegation;

(B) Include the date and time of each occurrence;

(C) For each allegation, include a determination of whether the allegation is substantiated, unsubstantiated, or inconclusive;

(D) For each substantiated allegation, state whether the violation was abuse or another rule violation;

(E) Include a copy of the complaint investigation report;

(F) State that the complainant, any person reported to have committed wrongdoing, and the facility have 15 calendar days to provide additional or different information; and

(G) For each allegation, explain the applicable appeal rights available.

(b) APPORTIONMENT. If the Department determines there is substantiated abuse, the Department may determine the licensee, an individual, or both the licensee and an individual were responsible for abuse. In determining responsibility, the Department shall consider intent, knowledge, and ability to control, and adherence to professional standards, as applicable.

(A) LICENSEE RESPONSIBLE. Examples of when the Department shall determine the licensee is responsible for the abuse include, but are not limited to, the following:

(i) Failure to provide sufficient, qualified staffing in accordance with these rules without reasonable effort to correct;

(ii) Failure to check for or act upon relevant information available from a licensing board;

(iii) Failure to act upon information from any source regarding a possible history of abuse by any staff or prospective staff;

(iv) Failure to adequately train, orient, or provide sufficient oversight to staff;

(v) Failure to provide adequate oversight to residents;

(vi) Failure to allow sufficient time to accomplish assigned tasks;

(vii) Failure to provide adequate services;

(viii) Failure to provide adequate equipment or supplies; or

(ix) Failure to follow orders for treatment or medication.

(B) INDIVIDUAL RESPONSIBLE. Examples of when the Department determines an individual is responsible include, but is not limited to:

(i) Intentional acts against a resident, including assault, rape, kidnapping, murder, or sexual, verbal, or mental abuse;

(ii) Acts contradictory to clear instructions from the facility, such as those identified in section (10)(b)(A) of this rule, unless the act is determined by the Department to be the responsibility of the facility;

(iii) Callous disregard for resident rights or safety; or

(iv) Intentional acts against a resident's property (e.g., theft or misuse of funds).

(C) An individual shall not be considered responsible for the abuse if the individual demonstrates the abuse was caused by factors beyond the individual's control. "Factors beyond the individual's control" are not intended to include such factors as misuse of alcohol or drugs or lapses in sanity.

(D) NURSING ASSISTANTS. In cases of substantiated abuse by a nursing assistant, the written notice shall explain:

(i) The Department's intent to enter the finding of abuse into the Nursing Assistant Registry following the procedure set out in OAR 411-089-0140; and

(ii) The nursing assistant's right to provide additional information and request a contested case hearing as provided in OAR 411-089-0140.

(c) DISTRIBUTION.

(A) The written notice shall be mailed to:

(i) The licensee;

(ii) Any person reported to have committed wrongdoing;

(iii) The complainant, if known;

(iv) The Long-term Care Ombudsman; and

(v) The local licensing authority.

(B) A copy of the written notice must be placed in the Department's facility complaint file.

(11) Upon receipt of a notice that substantiates abuse for victims covered by ORS 430.735, the facility must provide written notice of the findings to the individual found to have committed abuse, residents of the facility, and the residents' case manager and legal representatives.

(12) Licensees who acquire substantiated complaints pertaining to the health, safety, or welfare of residents may be assessed civil penalties, have conditions placed on their licenses, or have their licenses suspended, revoked, or not renewed.

(13) COMPLAINT REPORTS. Copies of all completed complaint reports must be maintained and available to the public at the local licensing authority. Individuals may purchase a photocopy upon requesting an appointment to do so.

(14) The Department and the local licensing authority shall not disclose information that may be used to identify a resident in accordance with OAR 411-020-0030, Confidentiality, and federal HIPAA Privacy Rules. Completed reports placed in the public file must be in compliance with OAR 411-050-0670 and:

(a) Protect the privacy of the complainant and the resident. The identity of the person reporting suspected abuse must be confidential and may be disclosed only with the consent of that person, by judicial process (including administrative hearing), or as required to perform the investigation by the Department or a law enforcement agency;

(b) Treat the names of the witnesses as confidential information; and

(c) Clearly designate the final disposition of the complaint.

(A) PENDING COMPLAINT REPORTS. Any information regarding the investigation of the complaint may not be filed in the public file until the investigation has been completed.

(B) COMPLAINT REPORTS AND RESPONSES. The investigation reports, including copies of the responses with confidential information deleted, must be available to the public at the local licensing authority office along with other public information regarding the adult foster home.

Stat. Auth.: ORS 410.070, 443.001, 443.004, 443.725, 443.730, 443.735, 443.738, 443.742, 443.760, 443.767, 443.775, 443.790

Stats. Implemented: ORS 124.050, 124.060, 124.075, 443.001-004, 443.705-825, 443.875, 443.991

, 443.705 to 443.825, 443.875, & 443.991

Hist.: SSD 14-1985, f. 12-31-85, ef. 1-1-86; SSD 11-1988, f. 10-18-88, cert. ef. 11-1-88; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1992, f. 5-26-92, cert. ef. 6-1-92; SSD 3-1996, f. 3-29-96, cert. ef. 4-1-96; SDSD 4-2001, f. & cert. ef. 3-1-01; SDSD 11-2001, f. 12-21-01, cert. ef. 1-1-02; SPD 31-2006, f. 12-27-06, cert. ef. 1-1-07; SPD 22-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 9-2010, f. 6-30-10, cert. ef. 7-1-10; Renumbered from 411-050-0455, SPD 33-2013, f. 8-30-13, cert. ef. 9-1-13; APD 50-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; APD 15-2015, f. 6-24-15, cert. ef. 6-28-15

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

**Rule Caption:** Amending rules relating to public assistance programs, including ERDC, REF, SNAP, and TANF
**Adm. Order No.:** SSP 17-2015
**Filed with Sec. of State:** 6-30-2015
**Certified to be Effective:** 6-30-15
**Notice Publication Date:** 5-1-2015
**Rules Amended:** 461-110-0210, 461-115-0030, 461-115-0040, 461-120-0010, 461-145-0200, 461-155-0150, 461-160-0055, 461-165-0180, 461-170-0101, 461-180-0070, 461-190-0211
**Rules Repealed:** 461-155-0150(T), 461-160-0055(T)
**Subject:** OAR 461-110-0210 about household groups and 461-120-0010 about residency requirements are being amended to clarify the circumstances under which an individual may continue to receive TANF (Temporary Assistance for Needy Families) benefits while absent from Oregon for more than 30 days. Specifically, OAR 461-110-0210 is being amended to state that in the TANF program, the Department may approve one or more 30-day extensions of an out-of-state absence if the Department receives sufficient information to assure the Department that the absent individual will return within the extension period and OAR 461-120-0010 is being amended to state that in the TANF program, an individual continues to be a resident of Oregon if the individual intends to return to Oregon and remains in the household group under OAR 461-110-0210.

OAR 461-145-0200 about foster care payments and Guardianship Assistance program benefits is being amended to make permanent a temporary rule adopted on January 1, 2015, to state that the Employment Related Day Care (ERDC) program will no longer count foster care payments or guardianship assistance program benefits as income when a child is receiving such payments.

OAR 461-155-0150 about eligibility standards, payment rates, and copayments for child care assistance is being amended to make permanent a temporary rule adopted on March 23, 2015, which corrected an inadvertent error. The rule incorrectly stated the standard used to calculate the Employment Related Day Care (ERDC) copayment for families with more than 8 individuals. The amendment corrects the error. Additionally, OAR 461-155-0150 is being amended to clarify the steps involved in calculating a client's child care copayment based on the client's income. This is not a change in the current calculation method; it is intended to make it easier for anyone to accurately calculate their copayment.

OAR 461-160-0055 about medical deductions allowed in the GA, GAM, OSIP, OSIPM, and SNAP programs is being amended to add a provision that in the SNAP program, items relating to special diets that may be purchased with SNAP benefits including, but not limited to, nutritional drinks and organic foods, are not allowable medical deductions, even if prescribed by a medical professional. This makes permanent a temporary rule adopted on March 10, 2015.

OAR 461-165-0180 about eligibility of child care providers is being amended to state that a parent of any child in the Employment Related Day Care (ERDC) or Temporary Assistance for Needy Families (TANF) filing group cannot be an eligible child care provider for the case.

OAR 461-170-0101 about the Simplified Reporting System (SRS) is being amended to make permanent a temporary rule adopted on January 1, 2015, to add a provision that an individual participating in a JOBS (Jobs Opportunity Basic Skills) Plus activity for the JOBS Program will remain in the Change Reporting System (CRS).

OAR 461-180-0070 about effective dates and initial month benefits is being amended to change policy in the Refugee (REF) and Temporary Assistance for Needy Families (TANF) programs regarding effective date for starting benefits. The current rule states that benefits start the day the client meets and verifies all eligibility requirements. The amendment will allow the effective start date to be the filing date if all eligibility requirements, including a TANF interview, are completed by 45 days from the filing date. This amendment required two corresponding amendments: OAR 461-115-0030 about the date of request is being amended to clarify that this rule no longer applies to the REF and TANF programs and directs readers to OAR 461-115-0040, which is also amended to define the filing date in the REF and TANF programs as when a signed and dated application for benefits is received by the Department.

OAR 461-190-0211 about case plan activities and standards for support service payments for the Department's Temporary Assistance for Needy Families (TANF) Job Opportunity and Basic Skills (JOBS) program is being amended to make permanent a temporary amendment adopted on January 1, 2015, to allow TANF individuals who are not required to participate in JOBS requirements due to having a child under the age of six months to voluntarily participate in the JOBS program.

In addition, non-substantive edits were made to the rules above to: ensure consistent terminology throughout self-sufficiency program rules and policies; make general updates consistent with current Department practices; update statutory and rule references; correct formatting and punctuation; remove unnecessary language; improve ease of reading; and clarify Department rules and processes.
**Rules Coordinator:** Kris Skaro—(503) 945-6067

**461-110-0210**
**Household Group**

(1) This rule describes who is included in the household group. The household group generally consists of the individuals who live together with or without the benefit of a dwelling. For homeless individuals, the household group consists of the individuals who consider themselves living together.

(2) A separate dwelling is not recognized for the purpose of determining the members of a household group unless the living space has, separate from any other dwelling, an access to the outside that does not pass through another dwelling, a functional sleeping area, bathroom, and kitchen facility.

(3) Each individual in the household group who applies for benefits is an applicant. The household group and applicants form the basis for determining who is in the remaining eligibility groups.

(4) For all programs except the SNAP program, a separate household group is established for individuals who live in the same dwelling as another household group, if all the following subsections are true:

(a) There is a landlord-tenant relationship between the two household groups in which the tenant is billed by the landlord at fair market value (see OAR 461-001-0000) for housing.

(b) The tenant lives independently from the landlord.

(c) The tenant:

(A) Has and uses sleeping, bathroom, and kitchen facilities separate from the landlord; or

(B) Shares bathroom or kitchen facilities with the landlord, but the facilities are in a commercial establishment that provides room or board or both for compensation at fair market value.

(5) Individuals who live with more than one household group during a calendar month are members of the household group in which they spend more than half of their time, except as follows:

(a) In the ERDC program, if a child (see OAR 461-001-0000) lives with different caretakers during the month, the child is considered a member of both household groups.

(b) In the TANF program:

(A) If a parent (see OAR 461-001-0000) sleeps at least 30 percent of the time during the calendar month in the home of the dependent child (see OAR 461-001-0000), the parent is in the same household group as the dependent child.

(B) A dependent child is included in the household group with the caretaker relative (see OAR 461-001-0000), who usually has the major responsibility for care and control of the dependent child, if the dependent child lives with two household groups in the same calendar month for at least one of the following reasons:

(i) Education.

(ii) The usual caretaker relative is gone from the household for part of the month because of illness.

(iii) A family emergency.

(c) In the SNAP program:

(A) The individual is a member of the household group that provides the individual more than half of his or her 21 weekly meals. If the individual is a child, the child is a member of the household group credited with providing the child more than half of his or her 21 weekly meals. A household group is credited with providing breakfast and lunch for each day the child departs that group's home for school, even if the child eats no breakfast or lunch at that home.

(B) During the month in which a resident of a domestic violence shelter (see OAR 461-001-0000) enters the domestic violence shelter, the resident may be included both in the household group he or she left and in a household group in the domestic violence shelter.

(6) In the OSIPM program, individuals receiving or applying for home and community-based care (see OAR 461-001-0030) or nursing facility care are each an individual household group regardless of others living in the individual's dwelling or facility.

(7) Individuals absent from the household for 30 days or more are no longer part of the household group, except for the following:

(a) In all programs except the SNAP program, an individual in an acute care medical facility remains in the household group unless the individual enters long-term care (see OAR 461-001-0000).

(b) In the ERDC and TANF programs:

(A) A caretaker relative who is absent for up to 90 days while in a residential alcohol or drug treatment facility is in the household group.

(B) A child who is absent for 30 days or more is in the household group if the child is:

(i) Absent for illness (unless the child is in a long-term care Title XIX facility), social service, or educational reasons;

(ii) In foster care, but expected to return to the household within the next 30 days.

(c) In the ERDC, REF, and REFM programs, an individual in the household group who is:

(A) Absent because of education, training, or employment, including long-haul truck driving, fishing, or active duty in the U.S. armed forces;

(B) Absent to care for an emergent need of an individual related to illness, injury, or death; or

(C) Absent but reasonably anticipated to return within 90 days.

(d) In the TANF program, when a filing group (see OAR 461-110-0330) includes more than one caretaker relative, a caretaker relative in the household group who is absent because of education, training, or employment, including absence while working or looking for work outside the area of his or her residence, such as long-haul truck driving, fishing, or active duty in the U.S. armed forces.

(e) In the TANF program, the Department may approve one or more 30-day extensions of this time period if the Department receives sufficient information to assure the Department that the absent individual will return within the extension period.

(8) In the OSIP-EPD and OSIPM-EPD programs, the household group consists only of the individual applying for or receiving benefits.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.001, 412.006, 412.049, 413.085, 414.025, 414.685, 414.826, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 5-1999(Temp), f. & cert. ef. 4-1-99 thru 6-30-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 11-2015, f. 3-13-15, cert. ef. 4-1-15; SSP 17-2015, f. & cert. ef. 6-30-15

**461-115-0030**
**Date of Request**

(1) For all programs covered by Chapter 461 of the Oregon Administrative Rules, the client or someone authorized to act on behalf of the client must contact the Department or use another appropriate method to request benefits (see OAR 461-115-0150). The request may be oral or in writing. The request starts the application process.

(2) The date of request is one of the following:

(a) In the EA, ERDC, GA, and OSIP programs and for support service payments in the JOBS program authorized by OAR 461-190-0211, the date of request is the day the request for benefits is received by the Department.

(b) In the REF, SNAP, and TANF programs, this section does not apply. See OAR 461-115-0040.

(c) In the GAM, OSIPM, QMB, and REFM programs, for a new applicant, the date of request is determined as follows:

(A) The day the request for medical benefits is received by a Department representative, except as described in paragraph (B) of this subsection.

(B) If the request for medical benefits is received by a Department representative no later than the next business day after medical services are received, the date of request is the day these medical services were received.

(d) In the OSIPM, QMB, and REFM programs, for a current recipient, the date of request is one of the following:

(A) The date the client reports a change requiring a redetermination of eligibility.

(B) The date the Department initiates a review.

(C) The date the client establishes a date of request by contacting the Department orally or in writing or by submitting an application.

(e) In the SFPSS program:

(A) Except as provided in paragraph (B) of this subsection, the date of request is the day the client signs the program's Interim Assistance Agreement.

(B) The date of request for support service payments is the day the request for benefits is received by the Department.

Stat. Auth: ORS 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685, 414.826, 414.839

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.033, 414.041, 414.685, 414.826, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 12-2008(Temp), f. & cert. ef. 4-17-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 22-2009(Temp), f. & cert. ef. 8-28-09 thru 2-21-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 23-2011(Temp), f. & cert. ef. 8-1-11 thru 1-27-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 16-2014, f. & cert. ef. 7-1-14; SSP 17-2015, f. & cert. ef. 6-30-15

**461-115-0040**
**Filing Date; REF, SNAP, TANF**

(1) A filing group (see OAR 461-110-0310) is entitled to establish a filing date on the date a member of the group requests benefits. The filing date establishes:

(a) The date for starting the application processing time frames.

(b) The date from which some effective dates are determined.

(2) In the REF and TANF programs, the filing date is established when a signed and dated application for benefits is received by the Department.

(3) In the SNAP program, the filing date is the date a signed written request for benefits is received by the Department or by the Social Security Administration for filing groups applying in accordance with OAR 461-115-0150(3). The written request may be a Department-approved form or other written material that includes the client's name, address, and signature.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.006, 412.049

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.081, 411.087, 411.816, 411.825, 412.006, 412.049, 412.054, 412.064

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 17-2015, f. & cert. ef. 6-30-15

**461-120-0010**
**Residency Requirements**

(1) To be eligible for benefits, an individual must be a resident of Oregon.

(2) Except as provided otherwise in OAR 461-120-0030 and this rule, an individual is a resident of Oregon if the individual lives in Oregon.

(3) There is no minimum amount of time an individual must live in Oregon to be a resident. However, the individual must intend to remain in Oregon except in the following situations:

(a) EA may be issued to help an individual return to a former state of residence.

(b) In the OSIPM, QMB, and REFM programs, when an individual is presumed incapable of forming an intent to reside under OAR 461-120-0050.

(c) In the TANF program, an individual is considered a resident if the individual entered Oregon with a job commitment or looking for work, and is not receiving benefits from another state.

(d) The SNAP program does not require intent to remain to establish residency.

(e) In the TA-DVS program, to the extent permitted under OAR 461-135-1200.

(4) An individual is not a resident if the individual is in Oregon solely for a vacation.

(5) An individual continues to be a resident of Oregon during a temporary period of absence if the individual intends to return when the purpose of the absence is completed; and, in the TANF program, the individual remains in the household group under OAR 461-110-0210.

Stat. Auth: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 413.085, 414.231, 414.685

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.117, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 413.085, 414.025, 414.033, 414.231, 414.685, 414.826, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 17-2015, f. & cert. ef. 6-30-15

**461-145-0200**

**Foster Care Payments and Guardianship Assistance Benefits**

Payments for foster care and benefits from the Guardianship Assistance program are treated as follows:

(1) In all programs except the ERDC and SNAP programs:

(a) If the provider of foster care or the guardian is in the financial group (see OAR 461-110-0530), the payments or benefits are treated as earned income except that it is excluded in the following situations:

(A) The amount the placement agency identifies as being for room and board, clothing, or personal incidental needs (including recreational expenses) of the foster care client is excluded.

(B) The amount designated for special need items of the foster care client is excluded.

(b) If the provider of foster care or the guardian is not in the financial group, the payments or benefits are excluded.

(2) In the ERDC program, the payments or benefits are excluded.

(3) In the SNAP program:

(a) The payments or benefits are counted as unearned income only if the person in foster care or under guardianship is in the filing group (see OAR 461-110-0370). The payments or benefits are excluded if the person in foster care or under guardianship is in the household group (see OAR 461-110-0210) but not in the filing group.

(b) The payments or benefits are counted as self-employment income if the provider of foster care and the person receiving the care or the guardian and the person under guardianship are not in the same household group.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816

Stats. Implemented: ORS 409.050, 409.610, 411.060, 411.070, 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 1-1993, f. & cert. ef. 2-1-93; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 2-2015(Temp), f. & cert. ef. 1-1-15 thru 6-29-15; SSP 17-2015, f. & cert. ef. 6-30-15

**461-155-0150**

**Child Care Eligibility Standard, Payment Rates, and Copayments**

The following provisions apply to child care in the ERDC, JOBS, JOBS Plus, and TANF programs:

(1) The following definitions apply to the rules governing child care rates:

(a) Infant: For all providers other than licensed (registered or certified) care, a child aged newborn to 1 year. For licensed care, an infant is a child aged newborn to 2 years.

(b) Toddler: For all providers other than licensed (registered or certified) care, a child aged 1 year to 3 years. For licensed care, a toddler is a child aged 2 years to 3 years.

(c) Preschool: A child aged 3 years to 6 years.

(d) School: A child aged 6 years or older.

(e) Special Needs: A child who meets the age requirement of the program (ERDC or TANF) and who requires a level of care over and above the norm for his or her age due to a physical, behavioral, or mental disability. The need for a higher level of care must be determined by the provider and the disability must be verified by one of the following:

(A) A physician, nurse practitioner, clinical social worker, or any additional sources in OAR 461-125-0830.

(B) Eligibility for Early Intervention and Early Childhood Special Education Programs, or school-age Special Education Programs.

(C) Eligibility for SSI.

(2) The following definitions apply to the types of care specified in the child care rate charts in subsections (4)(a) through (4)(c) of this rule:

(a) The Standard Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider does not qualify for the enhanced rate allowed by subsection (b) of this section.

(b) The Enhanced Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider meets the training requirements of the Oregon Registry, established by the Oregon Center for Career Development in Childhood Care and Education.

(c) The Registered Family Rate applies to child care provided in the provider's own home when the provider meets criteria established by the Office of Child Care.

(d) The Certified Family Rate applies to child care provided in a residential dwelling that is certified by the Office of Child Care as a Certified Family Home. To earn this designation, the facility must be inspected, and both provider and facility are required to meet certain standards not required of a registered family provider.

(e) The Standard Center Rate applies to child care provided in a facility that is not located in a residential dwelling and is exempt from Office of Child Care Certification rules (see OAR 414-300-0000).

(f) The Enhanced Center Rate applies to child care provided in an exempt center whose staff meet the training requirements of the Oregon Registry established by the Oregon Center for Career Development in Childhood Care and Education. Eligibility to receive the enhanced center rate for care provided in an exempt center is subject to the following requirements:

(A) A minimum of one staff member for every 20 children in care must meet the Oregon Registry training requirements noted in subsection (b) of this section.

(B) New staff must meet the Oregon Registry training requirements within 90 days of hire, if necessary to maintain the trained staff-to-children ratio described in paragraph (A) of this subsection.

(C) There must be at least one person present where care is provided who has a current certificate in infant and child CPR and a current American Red Cross First Aid card or an equivalent.

(g) An enhanced rate will become effective not later than the second month following the month in which the Department receives verification that the provider has met the requirements of subsection (b) or (f) of this section.

(h) The Certified Center Rate applies to child care provided in a center that is certified by the Office of Child Care.

(3) The following provisions apply to child care payments:

(a) Providers not eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 158 hours per month subject to the maximum full-time monthly rate.

(b) Providers eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 136 hours a month, unless the provider customarily bills all families at a part-time monthly rate subject to the maximum full-time monthly rate and is designated as the primary provider for the case.

(c) At their request, providers eligible for the enhanced or licensed rate may be paid at the part-time monthly rate if they provide 63 or more hours of care in the month, customarily bill all families at a part-time monthly rate, and are designated as the primary provider for the case.

(d) Unless required by the circumstances of the client or child, the Department will not pay for care at a part-time monthly or a monthly rate to more than one provider for the same child for the same month.

(e) The Department will pay at the hourly rate for less than 63 hours of care in the month subject to the maximum full-time monthly rate.

(f) The Department will pay for up to five days each month the child is absent if:

(A) The child was scheduled to be in care and the provider bills for the amount of time the child was scheduled to be in care; and

(B) It is the provider's policy to bill all families for absent days.

(g) The Department will not pay for more than five consecutive days of scheduled care for which the child is absent.

(4) The following are the child care rates based on the type of provider, the location of the provider (shown by zip code), the age of the child, and the type of billing used (hourly or monthly):

(a) [Table not included. See ED. NOTE.]

(b) [Table not included. See ED. NOTE.]

(c) [Table not included. See ED. NOTE.]

(5) Except to the extent provided otherwise in section (12) of this rule, this section establishes the ERDC eligibility standard and the client's copayment (copay).

(a) The ERDC eligibility standard is met for a need group (see OAR 461-110-0630) of eight or less if monthly countable income (see OAR 461-001-0000) for the need group is less than 185 percent of the federal poverty level (FPL), as described in OAR 461-155-0180(6). The eligibility standard for a need group of eight applies to any need group larger than eight.

(b) The minimum monthly ERDC copay is $25.

(c) For a filing group (see OAR 461-110-0310) whose countable income is at or below 50 percent of the 2007 FPL, the copay is $25 or 1.5 percent of the filing group's monthly countable income, whichever is greater.

(d) For a filing group whose countable income is over 50 percent of the 2007 FPL, the copay amount is determined with the following percentage of monthly income:

(A) Divide the filing group's countable income by the 2007 FPL, drop all digits beyond two decimal points, subtract 0.5, and multiply this difference by 0.12.

(B) Add .015 to the amount in paragraph (A) of this subsection. This sum is the percentage of monthly income used to determine the copay amount. Multiply this sum by the filing group's countable income and round to the nearest whole dollar.

(e) The 2007 federal poverty level used to determine copay amounts under subsections (c) and (d) of this section is set at the following amounts: [Table not included. See ED. NOTE.]

(6) Subject to the provisions in section (9) of this rule, the monthly limit for each child's child care payments is the lesser of the amount charged by the provider or providers and the following amounts:

(a) The monthly rate provided in section (4) of this rule.

(b) The product of the hours of care, limited by section (8) of this rule, multiplied by the hourly rate provided in section (4) of this rule.

(7) The limit in any month for child care payments on behalf of a child whose caretaker is away from the child's home for more than 30 days because the caretaker is a member of a reserve or National Guard unit that is called up for active duty is the lesser of the following:

(a) The amount billed by the provider or providers.

(b) The monthly rate established in this rule for 215 hours of care.

(8) The number of payable billed hours of care for a child is limited as follows:

(a) In the ERDC and TANF programs, the total payable hours of care in a month may not exceed:

(A) 125 percent of the number of hours necessary for the client to perform the duties of his or her job, or to participate in activities included in a case plan (see OAR 461-001-0025) including, for clients in the JOBS Plus program, the time the client searches for unsubsidized employment and for which the employer pays the client; or

(B) The monthly rate established in section (4) of this rule multiplied by a factor of not more than 1.5, determined by dividing the number of hours billed by 215, when the client meets the criteria for extra hours under section (10) of this rule.

(b) In the ERDC program, for a client who earns less than the Oregon minimum wage, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time). The limitation of this subsection is waived for the first three months of the client's employment.

(c) In the TANF program, for a client who earns less than the Oregon minimum wage or is self-employed, the total may not exceed 125 percent of the anticipated earnings divided by the state minimum wage not to exceed 172 hours (which is full time). The limitation of this subsection is waived for the first three months of the client's employment.

(9) The limit in any month for child care payments on behalf of a child whose caretaker has special circumstances, defined in section (10) of this rule, is the lesser of one of the following:

(a) The amount billed by the provider or providers; or

(b) The monthly rate established in section (4) of this rule multiplied by a factor, of not more than 1.5, determined by dividing the number of hours billed by 215.

(10) The limit allowed by section (9) of this rule is authorized once the Department has determined the client has special circumstances. For the purposes of this section, a client has special circumstances when it is necessary for the client to obtain child care in excess of 215 hours in a month to perform the requirements of his or her employment or training. This is limited to the following situations:

(a) The commute time to and from work exceeds two hours per day.

(b) The caretaker works an overnight shift and care is necessary for both work hours and sleep hours.

(c) The caretaker works a split shift and it is not feasible to care for the child between shifts.

(d) The caretaker consistently works more than 40 hours per week.

(e) Weekend work or other nonstandard work hours require care by more than one provider, and the total allowable hours billed by both providers exceeds the maximum limit.

(f) The caretaker needs child care for both full-time work and participation in Department assigned activities.

(11) The payment available for care of a child who meets the special needs criteria described in subsection (e) of section (1) of this rule is increased in accordance with OAR 461-155-0151 if the requirements of both of the following subsections are met:

(a) The child requires significantly more direct supervision by the child care provider than normal for a child of the same age.

(b) The child is enrolled in a local school district Early Intervention or Early Childhood Special Education program or school-age Special Education Program. The enrollment required by this subsection is waived if determined inappropriate by a physician, nurse practitioner, licensed or certified psychologist, clinical social worker, or school district official.

(12) Starting May 1, 2012:

(a) The minimum monthly ERDC copay is $27.

(b) Except as stated in subsection (a) of this section, the Department adds 10 percent to the monthly client copay amount set under section (5) of this rule by multiplying the copay amount by 1.1 and rounding down to the nearest whole dollar.

(13) A provider caring for a child in a contracted child care slot with the Department will be paid the lesser of the monthly rate provided in section (4) of this rule or the amount charged by the provider.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.049

Stats. Implemented: ORS 409.010, 409.050, 409.610, 411.060, 411.070, 412.006, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 4-1992, f. 2-28-92, cert. ef. 3-1-92; AFS 14-1992, f. & cert. ef. 6-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 10-1993, f. & cert. ef. 6-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 9-1994, f. 4-29-94, cert. ef. 5-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 23-1995, f. 4-20-95, cert. ef. 10-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 4-2000(Temp), f. 2-29-00, cert. ef. 3-1-00 thru 8-25-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 2-2003(Temp); f. & cert. ef. 2-7-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 24-2003(Temp), f. & cert. ef. 10-1-03 thru 12-31-03; SSP 35-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 35-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 7-2006(Temp), f. 3-31-06, cert. ef. 4-1-06 thru 9-28-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 4-2009(Temp), f. 3-11-09, cert. ef. 4-1-09 thru 9-28-09; SSP 27-2009, f. & cert. ef. 9-29-09; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 13-2012(Temp), f. & cert. ef. 4-10-12 thru 10-7-10; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 31-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 35-2013, f. & cert. ef. 11-1-13 thru 3-30-14; SSP 8-2014, f. & cert. ef. 3-31-14; SSP 14-2015(Temp), f. & cert. ef. 3-23-15 thru 9-18-15; SSP 17-2015, f. & cert. ef. 6-30-15

**461-160-0055**

**Medical Costs That are Deductible; GA, GAM, OSIP, OSIPM, SNAP**

(1) This rule applies to SNAP filing group (see OAR 461-110-0370) members who are elderly (see OAR 461-001-0015) or who have a disability (see OAR 461-001-0015), and to clients in the GA, GAM, OSIP, and OSIPM programs.

(2) Medical costs are deductible to the extent a deduction is authorized in OAR 461-160-0415 and 461-160-0430 and in this rule.

(3) Health and hospitalization insurance premiums and coinsurance are deductible. In the OSIPM and SNAP programs, health insurance premiums paid less frequently than monthly may be prorated over the period covered by the premium.

(4) In the OSIPM and SNAP programs:

(a) Long-term care insurance premiums are deductible if the insurance pays for services while an individual is:

(A) Receiving home and community-based care (see OAR 461-001-0030);

(B) Receiving nursing facility services; or

(C) In an intermediate care facility for the mentally retarded (ICF/MR).

(b) A policy that is set up to pay a lump sum, similar to life insurance, is not deductible.

(5) The cost of a medical service is deductible if it is:

(a) Provided by, prescribed by, or used under the direction of a licensed medical practitioner; or

(b) Except in the SNAP program, a medical necessity approved by the Department.

(6) Medical deductions are also allowed for, among other things, the cost of:

(a) Medical and dental care, including psychotherapy, rehabilitation services, hospitalization, and outpatient treatment.

(b) Prescription drugs and over-the-counter medications prescribed by a licensed practitioner, the annual fee for a drug prescription card, medical supplies and equipment, dentures, hearing aids, prostheses, and prescribed eyeglasses.

(c) In the SNAP program, such items as the following:

(A) Nursing care, nursing home care, and hospitalization, including payments for an individual who was a member of the filing group immediately prior to entering a hospital or a nursing home certified by the state. Deduction of these payments is also allowed for an individual who was a member of the filing group immediately prior to death if the remaining filing group members are legally responsible for payment of the expenses.

(B) Services of an attendant, home health aid, housekeeper, or provider of dependent care necessary due to the client's age or illness, including an amount equal to a one-person SNAP benefit group (see OAR 461-110-0750) if the client furnishes the majority of an attendant's meals.

(C) Prescribed assistance animals (such as a Seeing Eye Dog, Hearing Dog, or Housekeeper Monkey) that have received special training to provide a service to the client. This deduction includes the cost of acquiring these animals, their training, food, and veterinarian bills.

(D) Reasonable costs for transportation and lodging needed to obtain medical treatment or services.

(E) Installment plan arrangements made before a bill becomes past due. The expense is not deducted if the client defaults and makes a second agreement.

(7) In the SNAP program, the following costs, even if prescribed by a medical practitioner, are not allowable medical deductions:

(a) Costs for and related to medical use of marijuana, including registry identification cards.

(b) Costs for items related to special diets which can be purchased with SNAP benefits including, but not limited to, nutritional drinks and organic foods.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 413.085

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 411.837, 414.685, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 20-2004(Temp), f. & cert. ef. 9-7-04 thru 12-31-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 23-2004(Temp), f. & cert. ef. 10-1-04 thru 12-31-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 27-2012(Temp), f. & cert. ef. 7-12-12 thru 1-8-13; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 9-2015(Temp), f. & cert. ef. 3-10-15 thru 9-5-15; SSP 17-2015, f. & cert. ef. 6-30-15

**461-165-0180**
**Eligibility of Child Care Providers**

(1) The Department must approve a child care provider to receive payment for child care if information available to the Department provides no basis for denying eligibility unless the Department determines, following a preliminary or final fitness determination (see OAR 407-007-0320) or Child Protective Service (CPS) records checks, that the provider or other subject individual (see 407-007-0210(30)(a)(A), (B), (F), (I), and (P)) is not eligible for payment.

(2) Ineligibility for payment may result from any of the following:

(a) A finding of "denied". A provider may be denied under OAR 461-165-0410 and 461-165-0420. If, after conducting a weighing test as described in 407-007-0210, the Department finds substantial risk to the health or safety of a child (see 461-001-0000) in the care of the provider, the provider must be denied and is ineligible for payment. A provider who has been denied has the right to a hearing under 407-007-0330.

(b) A finding of "failed". A provider may be failed if the Department determines, based on a specific eligibility requirement and evidence, that a provider does not meet the eligibility requirements of this rule. A provider with a status of "failed" may reapply at any time by providing the required documents and information to the Department for review.

(c) The Department has referred an overpayment against the provider for collection and the claim is unsatisfied.

(3) The provider must submit a completed Child Care Provider Listing Form (DHS 7494) to the Department within 30 calendar days from the date the Department issues the listing form to the client. The provider and each individual identified under section (4) of this rule must complete and sign the authorization for a records check through the Criminal History (CH) record system maintained by the Oregon State Police (OSP), Federal Bureau of Investigation (FBI), and the Child Protective Service (CPS) record system maintained by the Department and, if necessary, an authorization to release information and fingerprint cards. The provider, each individual described in section (4) of this rule, and each subject individual described in OAR 407-007-0210(30)(a)(A), (B), (F), (I) or (P) must fully disclose all requested information as part of the records check.

(4) This rule also establishes additional requirements for the following individuals:

(a) The site director of an exempt child care facility and each employee of the facility who may have unsupervised access to a child in care.

(b) The child care provider and each individual the provider uses to supervise a child in his or her absence.

(c) In the case of a provider who provides care for a child in the provider's home:

(A) Each individual 16 years of age or older who lives in the provider's home; and

(B) Each individual who visits the home of the provider during the hours care is provided and may have unsupervised access to a child in care.

(5) To receive payment or authorization for payment, the provider must meet the requirements of either subsection (a) or (b) of this section:

(a) Currently be certified or registered with the Office of Child Care (OCC) of the Oregon Department of Education (ODE) under OAR 414-205-0000 to 414-205-0170, 414-300-0000 to 414-300-0440, or 414-350-0000 to 414-350-0250 unless legally exempt, and be in compliance with the applicable rules. The provider must also complete the Department's listing process and be approved by the Department.

(b) If legally exempt from being certified or registered with the OCC, complete the Department's background check process and be approved by the Department.

(6) Each individual described in section (4) of this rule must:

(a) Allow the Department to conduct a national criminal history records check through the Oregon State Police and the Federal Bureau of Investigation as specified in OAR 407-007-0250.

(b) Provide, in a manner specified by the Department, information required to conduct CH, FBI, OSP, and CPS records checks and determine whether the provider meets health and safety requirements.

(c) Have a history of behavior that indicates no substantial risk to the health or safety of a child in the care of the provider.

(7) Each provider must:

(a) Obtain written approval from their certifier or certifier's supervisor if the provider is also certified as a foster parent.

(b) Be 18 years of age or older and in such physical and mental health as will not affect adversely the ability to meet the needs of safety, health, and well-being of a child in care.

(c) Not be in the same filing group (see OAR 461-110-0350) as the child cared for and cannot be the parent (see OAR 461-001-0000) of a child in the filing group.

(d) Allow the Department to inspect the site of care while child care is provided.

(e) Keep daily attendance records showing the arrival and departure times for each child in care and billing records for each child receiving child care benefits from the Department. The provider must keep written records of any attendance that is not able to be recorded in the Child Care Billing and Attendance Tracking (CCBAT) system. These written records must be retained for a minimum of 12 months and provided to the Department upon request.

(f) Be the individual or facility listed as providing the child care. The provider may only use someone else to supervise a child on a temporary basis if the person was included on the most current listing form and the provider notifies the Department's Direct Pay Unit.

(g) Not bill a Department client for an amount collected by the Department to recover an overpayment or an amount paid by the Department to a creditor of the provider because of a lien, garnishment, or other legal process.

(h) Report to the Department's Direct Pay Unit within five days of occurrence:

(A) Any arrest or conviction of any subject individual or individual described in section (4) of this rule.

(B) Any involvement of any subject individual or individual described in section (4) of this rule with CPS or any other agencies providing child or adult protective services.

(C) Any change to the provider's name or address including any location where care is provided.

(D) The addition of any subject individual or individual described in section (4) of this rule.

(E) Any reason the provider no longer meets the requirements under this rule.

(i) Report suspected child abuse of any child in his or her care to CPS or a law enforcement agency.

(j) Supervise each child in care at all times.

(k) Prevent any individual who behaves in a manner that may harm children from having access to a child in the care of the provider. This includes anyone under the influence (see section (11) of this rule).

(L) Allow the custodial parent of a child in his or her care to have immediate access to the child at all times.

(m) Inform a parent of the need to obtain immunizations for a child.

(n) Take reasonable steps to protect a child in his or her care from the spread of infectious diseases.

(o) Ensure that the home or facility where care is provided meets all of the following standards:

(A) Each floor level used by a child has two usable exits to the outdoors (a sliding door or window that can be used to evacuate a child is considered a usable exit). If a second floor is used for child care, the provider must have a written plan for evacuating occupants in the event of an emergency.

(B) The home or facility has safe drinking water.

(C) The home or facility has a working smoke detector on each floor level and in any area where a child naps.

(D) Each fireplace, space heater, electrical outlet, wood stove, stairway, pool, pond, and any other hazard has a barrier to protect a child. Gates and enclosures have the Juvenile Products Manufacturers Association (JPMA) certification seal to ensure safety.

(E) Any firearm, ammunition, and other items that may be dangerous to children, including but not limited to alcohol, inhalants, tobacco and e-cigarette products, matches and lighters, any legally prescribed or over-the-counter medicine, cleaning supplies, paint, plastic bags, and poisonous and toxic materials are kept in a secure place out of a child's reach.

(F) The building, grounds, any toy, equipment, and furniture are maintained in a clean, sanitary, and hazard free condition.

(G) The home or facility has a telephone in operating condition.

(H) No one may smoke or carry any lighted smoking instrument, including e-cigarettes or vaporizers, in the home or facility or within ten feet of any entrance, exit, window that opens, or any ventilation intake that serves an enclosed area, during child care operational hours or anytime child care children are present. No one may use smokeless tobacco in the home or facility during child care operational hours or anytime child care children are present. No one may smoke or carry any lighted smoking instrument, including e-cigarettes and vaporizers, or use smokeless tobacco in motor vehicles while child care children are passengers.

(I) No one may consume alcohol or use controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) on the premises (see section (11) of this rule) during child care operational hours or anytime child care children are present. No one under the influence of alcohol, controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) may be on the premises during child care operational hours or anytime child care children are present. No one may consume alcohol or use controlled substances (except legally prescribed and over-the-counter medications) or marijuana (including medical marijuana) in motor vehicles while child care children are passengers.

(J) Is not a half-way house, hotel, motel, shelter, or other temporary housing such as a tent, trailer, or motor home. The restriction in this paragraph does not apply to licensed (registered or certified) care approved in a hotel, motel, or shelter.

(K) Is not a structure:

(i) Designed to be transportable; and

(ii) Not attached to the ground, another structure, or to any utilities system on the same premises.

(L) Controlled substances (except lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana, marijuana edibles, and other products containing marijuana), marijuana plants, derivatives, and associated paraphernalia may not be on the premises during child care operational hours or anytime child care children are present.

(p) Complete and submit a new listing form every two years, or sooner at the request of the Department, so that the Department may review the provider's eligibility.

(q) Provide evidence of compliance with the Department's administrative rules, upon request of Department staff.

(r) Complete registration for the CCBAT system within 45 days of the date of the registration notice.

(s) Comply with state and federal laws related to child safety systems and seat belts in vehicles, bicycle safety, and crib standards under 16 CFR 1219 and 1220.

(t) Place infants to sleep on their backs.

(u) Not hold a medical marijuana card; or distribute, grow, or use marijuana (including medical marijuana) or any controlled substance (except lawfully prescribed and over-the-counter medications).

(8) Child Care providers who are License Exempt or Registered Family Child Care Providers with the Office of Child Care (OCC) of the Oregon Department of Education (ODE) under OAR 414-205-0000 to 414-205-0170 must complete the "Basic Child Care Health and Safety" two-hour, web-based training or the three-hour Oregon Kids Healthy and Safe (OKHS) classroom training prior to being approved by the Department.

(a) Prior to June 16, 2014, a provider who sends the Department a Child Care Provider Listing and Provider Information Sheet (DHS 7494) with a revision date of March 2013, or those who attempt to take the web-based training but are unable due to technical difficulties at the training site, will not be failed for not meeting this training requirement.

(b) License Exempt or Registered Family Child Care Providers who are exempt from this training are those who state at least one of the following:

(A) English is a second language.

(B) No internet access is available.

(9) A child care provider not subject to certification or registration with the Office of Child Care (OCC) of the Oregon Department of Education (ODE) under OAR 414-205-0000 to 414-205-0170, 414-300-0000 to 414-300-0440, or 414-350-0000 to 414-350-0250, must complete an orientation provided by the Department or a Child Care Resource and Referral agency within 90 days of being approved by the Department if he or she:

(a) Receives funds from the Department; and

(b) Begins providing child care services after June 30, 2010, or resumes providing child care services, after a break of more than one year that began after June 30, 2010.

(10) Child care providers and any individual supervising, transporting, preparing meals, or otherwise working in the proximity of child care children and those completing daily attendance and billing records shall not be under the influence.

(11) For purposes of these rules:

(a) "Premises" means the home or facility structure and grounds, including indoors and outdoors and space not directly used for child care.

(b) "Under the influence" means observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the individual has used alcohol, any controlled substances (including lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana), or inhalants that impairs their performance of essential job function or creates a direct threat to child care children or others. Examples of abnormal behaviors include, but are not limited to hallucinations, paranoia, or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to slurred speech as well as difficulty walking or performing job activities.

Stat. Auth.: ORS 181.537, 409.050, 411.060, 411.070

Stats. Implemented: ORS 181.537, 329A.340, 409.010, 409.050, 409.610, 411.060, 411.070, 411.122

Hist.: AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 17-1994(Temp), f. & cert. ef. 8-15-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 2-1997, f. 2-27-97, cert. ef. 3-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 12-1997, f. & cert. ef. 8-25-97; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 13-2004, f. 4-29-04, cert. ef. 5-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 6-2005(Temp), f. & cert. ef. 4-25-05 thru 9-30-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 5-2014(Temp), f. 2-4-14, cert. ef. 3-1-14 thru 8-28-14; SSP 10-2014(Temp), f. & cert. ef. 4-1-14 thru 8-28-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 21-2014(Temp), f. & cert. ef. 8-13-14 thru 2-9-15; SSP 6-2015, f. 1-30-15, cert. ef. 2-1-15; SSP 17-2015, f. & cert. ef. 6-30-15

**461-170-0101**
**Simplified Reporting System (SRS); ERDC, SNAP**

In the ERDC and SNAP programs:

(1) OAR 461-170-0101 to 461-170-0104 establish and explain the Simplified Reporting System (SRS).

(2) A filing group (see OAR 461-110-0370) certified to receive SNAP program benefits for less than six months may not participate in SRS.

(3) A filing group (see OAR 461-110-0350 and 461-110-0370) with a member working under a JOBS Plus agreement may not participate in SRS.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.816, 412.049
Hist.: SSP 20-2003, f. & cert. ef. 8-15-03; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 1-2015(Temp), f. & cert. ef. 1-1-15 thru 6-29-15; SSP 17-2015, f. & cert. ef. 6-30-15

**461-180-0070**
**Effective Dates; Initial Month Benefits**

(1) In the EA program, the effective date for opening the case is the day benefits are issued to the benefit group (see OAR 461-110-0750). For a benefit group whose only eligible child is an unborn, the effective date cannot be earlier than the first day of the calendar month preceding the month in which the due date falls.

(2) In the ERDC program, the effective date for starting benefits is one of the following:

(a) The first day of the month in which the request for benefits is made if:

(A) All eligibility requirements are met in that month; and

(B) Verification is provided within the application processing timeframes.

(b) If all eligibility requirements are not met in the month of request, the effective date is the first day of the month in which they are met, if verification is provided within the application processing timeframes.

(c) For a benefit group that received TANF program benefits within the 30 days before applying for ERDC program benefits, the effective date is the first of the month following closure of their TANF program benefits.

(3) In the GA program, the effective date for the initial month (see OAR 461-001-0000) of benefits is whichever of the following occurs first:

(a) The day all eligibility requirements are met and verified.

(b) The 45th day from the date the client requests benefits, if all eligibility requirements were met, but the Department did not receive documentation until after the 45th day.

(4) In the OSIP program, the effective date for the initial month of benefits is whichever of the following occurs first:

(a) The date an individual requests benefits, if the individual was eligible as of that date.

(b) The date all eligibility requirements are met.

(5) In the Pre-TANF program, the effective date for the initial month of benefits is the 30th day following the date the individual requests benefits, if the Department does not receive required verification until after the 30th day.

(6) In the REF program, when a filing group (see OAR 461-110-0430) makes an initial application, the effective date for starting benefits is one of the following:

(a) If all eligibility requirements, including an interview, are completed by the 45th day from the filing date (see OAR 461-115-0040), the effective date for starting benefits is the filing date.

(b) If all eligibility requirements are not met by the 45th day from the filing date, a new filing date must be established.

(7) In the TANF program, when a filing group (see OAR 461-110-0330) makes an initial application or applies after the end of the certification period (see OAR 461-001-0000), the effective date for starting benefits is one of the following:

(a) If all eligibility requirements, including a TANF interview, are completed by the 45th day from the filing date (see OAR 461-115-0040), the effective date for starting benefits is the filing date.

(b) If all eligibility requirements are not met by the 45th day from the filing date, a new filing date must be established.

(8) In the TANF program, if the only eligible child is an unborn, the effective date may not be earlier than the first day of the calendar month preceding the month in which the due date falls.

(9) For a JOBS support service payment, the effective date is the date the client meets all eligibility requirements in OAR 461-190-0211.

(10) For TANF program recipients moving to the SFPSS program, the effective date for the initial month of SFPSS program benefits is:

(a) Except as provided in subsection (b) of this section, the first of the month following the day all eligibility requirements are met and verified.

(b) If the day all eligibility requirements are met and verified falls after the compute deadline, the initial month of SFPSS program benefits will be the first of the month following the month after compute deadline. For purposes of this rule, the "compute deadline" means the Department computer system monthly deadline after which changes will not take effect until the month following the first of the next month.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.878, 412.006, 412.014, 412.049, 413.085, 414.685
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.081, 411.087, 411.404, 411.706, 411.878, 412.006, 412.014, 412.049, 412.064, 413.085, 414.685
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 7-2003, f. & cert. ef. 4-1-03; CWP 37-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 4-28-04; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 17-2015, f. & cert. ef. 6-30-15

**461-190-0211**
**Case Plan Activities and Standards for Support Service Payments; JOBS, Post-TANF, Pre-TANF, REF, SFPSS, TA-DVS, TANF**

In the JOBS, Post-TANF, Pre-TANF, REF, SFPSS, TA-DVS, and TANF programs, notwithstanding any other administrative rule in chapter 461 and subject to the limitations of state funding, the following special provisions apply:

(1) Participation in an activity (see OAR 461-001-0025) is limited as provided in each of the following subsections:

(a) An individual who is determined to be a work-eligible individual according to federal definition (45 CFR 261.2(n)(1)). Unless section (10), (11) or (12) of this rule applies, no other individual may participate in and access JOBS contract activities and support services (see OAR 461-001-0025).

(b) An individual who is an applicant in the Pre-TANF program, a recipient of TANF or Post-TANF program benefits, or has become over-income due to earnings in an on-the-job training (see OAR 461-001-0025) activity pursuant to section (12) of this rule.

(2) For eligible individuals, subject to the requirements and limitations in sections (1), (5), (6) and (7) of this rule, the following activities will be available, and include support services payments if needed:

(a) Job search (see OAR 461-001-0025).

(b) JOBS Plus (see OAR 461-001-0025 and 461-101-0010) is limited to six months per individual, unless circumstances unique to the employment situation are identified and warrant the Department to approve a limited number of additional months.

(c) Work experience (see OAR 461-001-0025).

(d) Sheltered or supported work (see OAR 461-001-0025).

(e) High School or GED Completion Attendance (see OAR 461-001-0025).

(f) Parents as Scholars (see OAR 461-001-0025).

(g) Limited family stability (see OAR 461-001-0000).

(A) Drug and alcohol services (see OAR 461-001-0025).

(B) Mental health services (see OAR 461-001-0025).

(C) Attending medical appointments or services.

(D) Rehabilitative activities (see OAR 461-001-0025).

(E) Crisis Intervention (see OAR 461-001-0025).

(F) SSI application process.

(h) Vocational training (see OAR 461-001-0025).

(i) Life Skills (see OAR 461-001-0025).

(j) On-the-job training (see OAR 461-001-0025).

(k) Unsubsidized employment (work).

(L) Adult Basic Education (see OAR 461-001-0025).

(3) The following activities will not include support services payments:

(a) Domestic Violence Intervention.

(b) Family Support & Connections.

(c) Microenterprise (see OAR 461-001-0025).

(d) Post-TANF.

(e) Program entry (see OAR 461-001-0025).

(f) Self Initiated Training (see OAR 461-001-0025).

(4) Participation in an activity is based on whether an individual is Job Ready, Near Job Ready, Not Job Ready, or a teen parent (see OAR 461-001-0000 and 461-001-0025).

(a) Job Ready means the individual has no barrier (see OAR 461-001-0025) or current barriers do not impact participation or employment. In addition, the individual has all of the following:

(A) Prior stable work history, either paid or unpaid.

(B) Had not voluntarily quit or been dismissed from their most recent employment (see OAR 461-135-0070), without good cause (see OAR 461-135-0070).

(C) Reliable or available transportation.

(D) No outstanding legal issues that would impact or prevent employment.

(E) Access to reliable child care within support services limits, or does not need help to pay for child care, or does not need child care.

(b) Near Job Ready means the individual has minimal barriers to participation or employment and the individual is addressing the barriers. In addition, the individual has all of the following:

(A) Limited or no work history, either paid or unpaid.

(B) Reliable or available transportation.

(C) No outstanding legal issues that would impact or prevent employment, or such legal issues are identified and are being addressed.

(D) Access to reliable child care within support services limits, or does not need help to pay for child care, or does not need child care.

(c) Not Job Ready means the individual has one or more barriers to participation or employment or is in crisis, and the individual is not addressing the barriers. For example, the individual has one or more of the following:

(A) Lack of stable housing that is preventing participation in an activity or employment.

(B) Domestic violence, mental health or alcohol and drug issues, and the individual is not addressing the issue.

(C) Medical issues that prevent participation in an activity or employment.

(D) Outstanding legal issues that would impact or prevent employment.

(E) Literacy issues that impact the ability for the individual to participate in an activity or obtain employment.

(5) In approving JOBS program support services payments, the Department must consider lower cost alternatives. It is not the intent of the Department or of this rule to supplant Department funding with other funding that is available in the community. It is the Department's expectation that case managers and clients will work collaboratively to seek resources that are reasonably available to the client in order to participate in activities.

(6) Payments for support services are only provided when:

(a) Necessary to participate in activities in a signed case plan;

(b) Authorized in advance; and

(c) All other provisions of this rule are met.

(7) Payments for support services are subject to the following limitations:

(a) Child Care. Payments for child care may be authorized, as limited by OAR 461-160-0040, if necessary to enable Job Ready or Near Job Ready individuals or teen parents to participate in an approved JOBS program activity specified in the individual's case plan, or a Not Job Ready individual approved by the district to complete a family stability activity. If authorized, payment for child care will be:

(A) The lesser of the actual rate charged by the care provider and the rate established in OAR 461-155-0150. The Department rate for children in care less than 158 hours in a month is limited by OAR 461-155-0150.

(B) The minimum hours necessary, including meal and commute time, for the individual to participate in an approved JOBS program activity.

(b) Transportation. The Department may provide payments for a Job Ready or Near Job Ready individual or teen parent for transportation costs incurred in travel to and from an approved JOBS program activity or a Not Job Ready individual approved by the district to complete a family stability activity. Payment is made only for the cost of public transportation or the cost of fuel. Payments are subject to the following considerations:

(A) Payment for public transportation is a priority over payment for a privately owned vehicle.

(B) Payment for fuel costs for a privately-owned vehicle is only provided if the client or individual providing the transportation has a valid driver's license and vehicle insurance and either of the following is true:

(i) No public transportation is available or the client is unable to use public transportation because of a verifiable medical condition or disability for which no accommodation is available.

(ii) Public transportation is available but is more costly than the cost of fuel.

(c) Housing and Utilities. Payments for housing and utilities are not allowed.

(d) Other Payments. When the need is identified by the district and no other sources are available, the Department may provide other payments needed:

(A) To look for work.

(B) To accept a job offer.

(C) To attain a high school diploma or GED.

(D) For books and supplies for a participant to complete a district-approved vocational training.

(E) Other payments with manager approval that are not otherwise restricted by rule.

(e) None of the following payments are allowed:

(A) Non-essential items.

(B) Television, cable, and internet.

(C) Fines, reinstatement fees, restitution, legal fees, civil fees, court costs, or other costs associated with a penalty.

(D) Purchase of a car, recreational vehicle, or motor home.

(E) Support services for exempt individuals.

(F) Pet-related costs.

(G) ERDC co-payments.

(8) The Department may require an individual to provide verification of a need for, or costs associated with, support services prior to approval and issuance of payment if verification is reasonably available.

(9) The Department may reduce, close, or deny in whole or in part an individual's request for a support services payment in the following circumstances:

(a) The individual is disqualified for failing to comply with a case plan, unless the payment in question is necessary for the individual to demonstrate cooperation with his or her case plan.

(b) The purpose for the payment is not related to the individual's case plan.

(c) The individual disagrees with a support services payment offered or made by the Department as outlined in the individual's case plan.

(d) The individual is not determined to be a Job Ready or Near Job Ready individual, a Not Job Ready individual in a family stability activity, or a teen parent.

(10) Subject to the availability of services and local budget, an individual who is not a teen parent and who is exempt from JOBS requirements as a one-parent household with a dependent child (see OAR 461-001-0000) under six months of age may be a volunteer (see OAR 461-130-0305) and participate, and may be eligible for support services payments.

(11) An individual who has gone over-income for the TANF program due to earnings and needs to increase activity hours to meet Post-TANF federally required participation rates (see OAR 461-001-0025) may be a volunteer and participate.

(12) An individual who has become over-income for the TANF program due to earnings in an on-the-job training activity is eligible to receive support services for no more than three months, unless circumstances unique to the situation are identified and warrant the Department to approve a limited number of additional months. Eligibility for support services under this section is only permitted while the individual continues to participate in the on-the-job training activity.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.121, 412.006, 412.009, 412.014, 412.049, 412.124, 2013 Or. Laws 722

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.121, 412.001, 412.006, 412.009, 412.014, 412.049, 412.124, 2013 Or. Laws 722

Hist.: AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 18-1998, f. & cert. ef. 10-2-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 11-2005(Temp), f. & cert. ef. 9-1-05 thru 12-31-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 42-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 6-30-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 19-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 30-2011(Temp), f. & cert. ef. 11-1-11 thru 4-29-12; SSP 11-2012, f. & cert. ef. 4-6-12; SSP 12-2012(Temp), f. & cert. ef. 4-6-12 thru 9-30-12; SSP 18-2012(Temp), f. & cert. ef. 5-23-12 thru 9-30-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 34-2012(Temp), f. & cert. ef. 11-6-12 thru 5-5-13; SSP 38-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 5-5-13; SSP 2-2013(Temp), f. & cert. ef. 1-23-13 thru 5-5-13; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 15-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 6-2014(Temp), f.& cert. ef. 3-5-14 thru 9-1-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 3-2015(Temp), f. & cert. ef. 1-1-15 thru 6-29-15; SSP 17-2015, f. & cert. ef. 6-30-15

**Rule Caption:** Amending rules relating to the JOBS program
**Adm. Order No.:** SSP 18-2015(Temp)
**Filed with Sec. of State:** 6-30-2015
**Certified to be Effective:** 7-1-15 thru 12-27-15
**Notice Publication Date:**
**Rules Amended:** 461-001-0025, 461-190-0211
**Subject:** OAR 461-190-0211 about case plan activities and standards for support service payments for the Temporary Assistance for Needy Families (TANF) Job Opportunity and Basic Skills (JOBS) program is being amended to include job skills training and short-term self-initiated training as available JOBS activities to eligible TANF clients and to correct the title of "supported work". To align with OAR 461-190-0211, OAR 461-001-0025 about definitions of terms, components, and activities in the JOBS, Pre-TANF, Post-TANF, and TANF programs is being amended to define "crisis intervention" as short-term services to address an immediate crisis need; correct the title of "supported work"; and update the definition of "self-initiated training" to align with changes to OAR 461-190-0211.
**Rules Coordinator:** Kris Skaro—(503) 945-6067

**461-001-0025**
**Definitions of Terms, Components, and Activities; JOBS, Pre-TANF, Post-TANF, TANF**

In the JOBS, Pre-TANF, Post-TANF, and TANF programs, the following definitions apply to rules in Chapter 461 unless the context indicates otherwise.

(1) Activity: An action or set of actions to be taken by the client, as specified in the case plan. An activity is intended to reduce barriers and:

(a) Increase the likelihood of self sufficiency, employment, job retention, wage enhancement, and financial independence; or

(b) Promote family stability (see OAR 461-001-0000).

(2) Adult Basic Education (ABE): An activity in the basic education component that involves remedial education coursework intended to ensure functional literacy.

(3) Assessment: An activity of the program entry component that involves gathering information to identify the strengths, interests, family circumstances, status in the JOBS program, and vocational aptitudes and preferences of the client and to mutually determine an employment goal, the level of participation of the client in the JOBS program, and which support services are needed. This activity includes providing screenings and evaluations (if appropriate) to determine the level of participation, accommodation, and modification for the client in the JOBS program. The screenings include, but are not limited to, physical and mental health needs, substance abuse, domestic violence, and learning needs.

(4) Barrier: A personal condition or circumstance that reduces the likelihood the client will become employed or the client's ability to participate in an activity listed in the case plan.

(5) Basic education: A component of non-core activities intended to ensure functional literacy for all JOBS clients. Basic education activities are high school attendance, English as a second language (ESL) instruction, job skills training, adult basic education (ABE) instruction, and services that result in obtaining a general equivalency diploma (GED). The component is discussed in OAR 461-190-0171 and 461-190-0181.

(6) Case plan (formerly also known as an employment development plan (EDP), a personal plan, or personal development plan): A written outline, developed in partnership by the client and case manager, with input from partners as appropriate, listing activities and goals for the client. The case plan also identifies the support service payments, accommodations, and modifications to help the client complete the plan. The DHS 1543 — Domestic Violence Assistance Agreement — is the case plan for clients with safety concerns about domestic violence.

(7) Community Service Program: An activity in the unpaid employment component in which the client works without pay at a job site to enhance the likelihood the client will become employed and perform work for the direct benefit of the community. This activity is available through nonprofit organizations or public agencies.

(8) Component: A set of one or more activities of the JOBS program. Components of the JOBS program are paid unsubsidized employment, paid subsidized employment, unpaid employment, vocational training, job search and readiness, and basic education activities.

(9) Core activities: Federally-defined countable work activities that include: paid unsubsidized employment; paid subsidized employment; work experience; on-the-job training; job search and readiness; community service programs; vocational training; and providing child care assistance to a community service program participant.

(10) Crisis intervention: Short-term services to address an immediate crisis need.

(11) Degree Completion Initiative (DCI): An activity in which a limited number of TANF recipients may participate for up to 12 months to complete an educational degree at a two- or four-year educational institution.

(12) Drug and alcohol services: An activity in the job search and readiness component that provides substance abuse screenings and evaluations, outpatient or resident treatment, and support groups such as AA or NA.

(13) Employer contact: A client communication with an employer or employer's representative through a visit, phone call, or mail to request consideration for employment.

(14) English as a second language (ESL): An activity in the basic education component. ESL classes are designed to give clients with limited English proficiency better working skills in the language.

(15) Fair Labor Standards Act (FLSA): Applies to subject employers with clients working in the unpaid employment component. FLSA requires that clients engaged in unpaid employment, in effect, may not "work off" their SNAP and TANF benefits at an hourly rate less than the state minimum wage.

(16) Federally required participation rates: The participation rates required by section 407 of the Social Security Act (42 USC 607).

(17) High School or GED Completion Attendance: An activity in the basic education component that involves attendance at a secondary school or in a course of study that leads to the completion of the GED.

(18) Job search: An activity in the job search and readiness component that focuses on clients looking for and obtaining employment. It is designed to improve skills in locating and competing for employment in the local labor market and may include writing resumes, receiving instruction in interviewing skills, and participating in group and individual job search. There are two categories of job search: initial job search and regular job search. Initial job search may occur during the Pre-TANF program. Regular job search begins not later than the day after the Department finds the client eligible for TANF benefits.

(19) Job search and readiness: A component designed to prepare clients to compete in the local labor market. Job search, life skills, drug and alcohol services, mental health services, and rehabilitation activities are the activities of the job search and readiness component.

(20) Job skills training: An activity in the basic education component designed to provide classroom training in vocational and technical skills or equivalent knowledge and abilities in a specific job area.

(21) JOBS Plus program (JOBS Plus): An activity in the paid subsidized employment component that provides TANF clients with on-the-job training and pays their benefits as wages (see OAR 461-190-0401 to 461-190-0426).

(22) Life skills: An activity of the job search and readiness component. The activity develops employment-preparation skills and skills and attitudes that are commonly found in the workplace.

(23) Mental health services: An activity in the job search and readiness component that provides mental health screenings and assessments, counseling, medication management, and support groups.

(24) Microenterprise: An activity in the paid unsubsidized employment component in which the client is self-employed in a sole proprietorship, partnership, or family business that has fewer than five employees and has capital needs no greater than $35,000.

(25) Non-core activities: Federally-defined countable work activities that include: job skills training directly related to employment; education directly related to employment; and satisfactory school attendance at a secondary level or leading to a GED.

(26) On-the-job training (OJT): An activity in the paid subsidized employment component in which a client works for an employer for a contracted period. The employer trains the client and is reimbursed by the Department, usually at 50 percent of the wages of the participant, for those training costs.

(27) Paid subsidized employment: A component in which clients are employed in a subsidized public or private sector job. JOBS Plus, work supplementation, and on-the-job training are the activities in the paid subsidized employment component.

(28) Paid unsubsidized employment: A component in which clients are employed full- or part-time in an unsubsidized job and receiving TANF benefits. Unsubsidized employment is a job that is not subsidized by TANF

or any other public program. The UN work program and microenterprise are the activities in the paid unsubsidized employment component.

(29) Parents as Scholars (PAS): A JOBS program component that assists TANF parents who are or will be undergraduates to begin or continue their education at a two- or four-year educational institution (see OAR 461-190-0199).

(30) Program entry: An activity that includes all the activities that prepare a client to actively participate in the JOBS program. Program entry activities include assessment and writing the initial case plan.

(31) Progress (good or satisfactory): For federal reporting purposes, a client participating in an education or training activity makes good progress or satisfactory progress by receiving a passing grade or progressing toward completion of high school or GED completion at no less than the normal rate of a half-time student.

(32) Providing child care services to a Community Service Program participant: An activity in the unpaid employment component.

(33) Rehabilitation activities: An activity in the job search and readiness component that provides medical or therapeutic screenings, assessments, and treatment. This activity also includes medical management and support groups.

(34) Self-Initiated Training (SI): A JOBS program component that is short-term training needed to be competitive in the job market. This also allows a participant to continue an approved Vocational Training for up to 6 months.

(35) Supported work: An activity in the unpaid employment component that gives clients intensive staff support, skill training, intervention, and counseling that will enable them to function independently at work.

(36) Stabilization, intervention, and other activities: A group of activities that are non-countable for federal participation purposes. These activities include child health and development, crisis intervention (see section (10) of this rule), domestic violence services, family stability activities (see OAR 461-001-0000), medical services, retention services, services to child welfare families, social security application, and stabilized living services.

(37) Support services: Services that case-managed clients need to participate successfully in activities outlined in their case plan, seek and maintain employment, or remove barriers.

(38) Teen parent: A parent (see OAR 461-001-0000) under 20 years of age who has not completed a high school diploma or GED.

(39) Transition services: Services included in a client's case plan when the client becomes employed or becomes ineligible for cash benefits because of an increase in income or resources.

(40) Unpaid employment: A component in which a client is placed in an unpaid job to develop good work habits, training, and knowledge to obtain employment. Employment may be in the private or public sector or through a work simulation program. Work experience, Community Service Program, providing child care services to a Community Service Program participant, and supported work are the activities of the unpaid employment component.

(41) UN work program: An activity in the paid unsubsidized employment component in which TANF clients work in unsubsidized employment and may also participate in another JOBS work site training activity.

(42) Vocational Training: An activity and component of the JOBS program that provides JOBS participants with access to specific vocational training that will lead to a career with an appropriate wage level and opportunity for employment.

(43) Work experience: An activity in the unpaid employment component in which the client works without pay at a job site to develop good work habits and basic vocational skills that enhance the likelihood the client will become employed. Work experience is available through private for-profit businesses, nonprofit organizations, or public agencies.

(44) Work supplementation: An activity in the unpaid employment component. Up to six months of work-site training provided by an employer. The component and activity are both called work supplementation. In work supplementation, the Department subsidizes the wages of the participant by providing up to $200 per month to the employer.

Stat. Auth.: ORS 411.060, 412.006, 412.009, 412.016, 412.049, 2011 Or. Laws 604

Stats. Implemented: ORS 411.060, 412.001, 412.006, 412.016, 412.009, 412.049, 2011 Or. Laws 604

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 10-1991, f. & cert. ef. 4-19-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 40-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 18-1998, f. & cert. ef. 10-2-98; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; Renumbered from 461-190-0110, SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 34-2011, f. 12-27-11, cert. ef. 12-29-11; SSP 18-2015(Temp), f. 6-30-15, cert. ef. 7-1-15 thru 12-27-15

**461-190-0211**

**Case Plan Activities and Standards for Support Service Payments; JOBS, Post-TANF, Pre-TANF, REF, SFPSS, TA-DVS, TANF**

In the JOBS, Post-TANF, Pre-TANF, REF, SFPSS, TA-DVS, and TANF programs, notwithstanding any other administrative rule in chapter 461 and subject to the limitations of state funding, the following special provisions apply:

(1) Participation in an activity (see OAR 461-001-0025) is available to the following individuals:

(a) An individual who is an adult parent, needy caretaker relative, or teen parent (see OAR 461-001-0000 and 461-001-0025) receiving TANF who is not otherwise exempt (see OAR 461-130-0305) and in accordance with participation requirements in OAR 461-130-0310.

(b) An individual who is an applicant or recipient in the Pre-TANF, Post-TANF, or SFPSS program.

(c) Subject to local services and budget, an individual who is exempt from JOBS requirements as a one-parent household with a dependent child (see OAR 461-001-0000) under six months of age and has approved activities as specified in the individual case plan (see OAR 461-001-0025).

(d) An individual who has gone over-income for the TANF program due to earnings and needs to increase activity hours to meet Post-TANF federally required participation rates (see OAR 461-001-0025).

(e) An individual who has become over-income for the TANF program due to earnings in an on-the-job training (see OAR 461-001-0000) activity is eligible to receive support services (see OAR 461-001-0025) for no more than three months, unless circumstances unique to the situation are identified and warrant the Department to approve a limited number of additional months. Eligibility for support services under this subsection is only permitted while the individual continues to participate in the on-the-job training activity.

(2) For eligible individuals, subject to the requirements and limitations in sections (1), (5), (6) and (7) of this rule, the following activities are available, and include support services payments if needed:

(a) Job search (see OAR 461-001-0025).

(b) JOBS Plus (see OAR 461-001-0025 and 461-101-0010) is limited to six months per individual, unless circumstances unique to the employment situation are identified and warrant the Department to approve a limited number of additional months.

(c) Work experience (see OAR 461-001-0025).

(d) Supported work (see OAR 461-001-0025).

(e) High School or GED Completion Attendance (see OAR 461-001-0025).

(f) Parents as Scholars (see OAR 461-001-0025).

(g) Limited family stability activity (see OAR 461-001-0000).

(A) Drug and alcohol services (see OAR 461-001-0025).

(B) Mental health services (see OAR 461-001-0025).

(C) Attending medical appointments or services.

(D) Rehabilitative activities (see OAR 461-001-0025).

(E) Crisis Intervention (see OAR 461-001-0025).

(F) SSI application process.

(h) Vocational training (see OAR 461-001-0025).

(i) Life Skills (see OAR 461-001-0025).

(j) On-the-job training.

(k) Unsubsidized employment (work).

(L) Adult Basic Education (see OAR 461-001-0025).

(m) Job skills training (see OAR 461-001-0025).

(n) Self-initiated training (see OAR 461-001-0025).

(3) The following activities do not include support services payments:

(a) Domestic Violence Intervention.

(b) Family Support & Connections.

(c) Microenterprise (see OAR 461-001-0025).

(d) Post-TANF.

(e) Program entry (see OAR 461-001-0025).

(4) Participation in an activity is based on whether an individual is Job Ready, Near Job Ready, Not Job Ready, or a teen parent.

(a) Job Ready means the individual has no barrier (see OAR 461-001-0025) or current barriers do not impact participation or employment. In addition, the individual has all of the following:

(A) Prior stable work history, either paid or unpaid.

(B) Had not voluntarily quit or been dismissed from their most recent employment (see OAR 461-135-0070), without good cause (see OAR 461-135-0070).

(C) Reliable or available transportation.

(D) No outstanding legal issues that would impact or prevent employment.

(E) Access to reliable child care within support services limits, or does not need help to pay for child care, or does not need child care.

(b) Near Job Ready means the individual has minimal barriers to participation or employment and the individual is addressing the barriers. In addition, the individual has all of the following:

(A) Limited or no work history, either paid or unpaid.

(B) Reliable or available transportation.

(C) No outstanding legal issues that would impact or prevent employment, or such legal issues are identified and are being addressed.

(D) Access to reliable child care within support services limits, or does not need help to pay for child care, or does not need child care.

(c) Not Job Ready means the individual has one or more barriers to participation or employment or is in crisis, and the individual is not addressing the barriers. For example, the individual has one or more of the following:

(A) Lack of stable housing that is preventing participation in an activity or employment.

(B) Domestic violence, mental health or alcohol and drug issues, and the individual is not addressing the issue.

(C) Medical issues that prevent participation in an activity or employment.

(D) Outstanding legal issues that would impact or prevent employment.

(E) Literacy issues that impact the ability for the individual to participate in an activity or obtain employment.

(F) Family stability issues that need to be addressed.

(5) In approving JOBS program support services payments, the Department must consider lower cost alternatives. It is not the intent of the Department or of this rule to supplant Department funding with other funding that is available in the community. It is the Department's expectation that case managers and clients will work collaboratively to seek resources that are reasonably available to the client in order to participate in activities.

(6) Payments for support services are only provided when:

(a) Necessary to participate in activities in a signed case plan;

(b) Authorized in advance; and

(c) All other provisions of this rule are met.

(7) Payments for support services are subject to the following limitations:

(a) Child Care. Payments for child care may be authorized, as limited by OAR 461-160-0040, if necessary to enable Job Ready or Near Job Ready individuals or teen parents to participate in an approved JOBS program activity specified in the individual's case plan, including a Not Job Ready individual approved by the district to complete a family stability activity. If authorized, payment for child care is:

(A) The lesser of the actual rate charged by the care provider and the rate established in OAR 461-155-0150. The Department rate for children in care less than 158 hours in a month is limited by OAR 461-155-0150.

(B) The minimum hours necessary, including meal and commute time, for the individual to participate in an approved JOBS program activity.

(b) Transportation. The Department may provide payments for a Job Ready or Near Job Ready individual or teen parent for transportation costs incurred in travel to and from an approved JOBS program activity or a Not Job Ready individual approved by the district to complete a family stability activity. Payment is made only for the cost of public transportation or the cost of fuel. Payments are subject to the following considerations:

(A) Payment for public transportation is a priority over payment for a privately owned vehicle.

(B) Payment for fuel costs for a privately-owned vehicle is only provided if the client or individual providing the transportation has a valid driver's license and vehicle insurance and either of the following is true:

(i) No public transportation is available or the client is unable to use public transportation because of a verifiable medical condition or disability for which no accommodation is available.

(ii) Public transportation is available but is more costly than the cost of fuel.

(c) Housing and Utilities. Payments for housing and utilities are not allowed.

(d) Other Payments. When the need is identified by the district and no other sources are available, the Department may provide other payments needed:

(A) To look for work.

(B) To accept a job offer.

(C) To attain a high school diploma or GED.

(D) For books and supplies for a participant to complete a district-approved vocational training.

(E) Other payments with manager approval that are not otherwise restricted by rule.

(e) None of the following payments are allowed:

(A) Non-essential items.

(B) Television, cable, and internet.

(C) Fines, reinstatement fees, restitution, legal fees, civil fees, court costs, or other costs associated with a penalty.

(D) Purchase of a car, recreational vehicle, or motor home.

(E) Support services for exempt individuals.

(F) Pet-related costs.

(G) ERDC co-payments.

(8) The Department may require an individual to provide verification of a need for, or costs associated with, support services prior to approval and issuance of payment if verification is reasonably available.

(9) The Department may reduce, close, or deny in whole or in part a request for a support services payment in the following circumstances:

(a) The individual is disqualified for failing to comply with a case plan, unless the payment in question is necessary for the individual to demonstrate cooperation with his or her case plan.

(b) The purpose for the payment is not related to the individual's case plan.

(c) The individual disagrees with a support services payment offered or made by the Department as outlined in the individual's case plan.

(d) The individual is not determined to be a Job Ready or Near Job Ready individual under section (1) of this rule, a Not Job Ready individual in a family stability activity, or a teen parent.

Stat. Auth.:ORS 409.050, 411.060, 411.070, 411.121, 412.006, 412.009, 412.014, 412.049, 412.124, 2013 Or. Laws 722

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.121, 412.001, 412.006, 412.009, 412.014, 412.049, 412.124, 2013 Or. Laws 722

Hist.: AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 18-1998, f. & cert. ef. 10-2-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 11-2005(Temp), f. & cert. ef. 9-1-05 thru 12-31-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 42-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 6-30-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 19-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 30-2011(Temp), f. & cert. ef. 11-1-11 thru 4-29-12; SSP 11-2012, f. & cert. ef. 4-6-12; SSP 12-2012(Temp), f. & cert. ef. 4-6-12 thru 9-30-12; SSP 18-2012(Temp), f. & cert. ef. 5-23-12 thru 9-30-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 34-2012(Temp), f. & cert. ef. 11-6-12 thru 5-5-13; SSP 38-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 5-5-13; SSP 2-2013(Temp), f. & cert. ef. 1-23-13 thru 5-5-13; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 15-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 6-2014(Temp), f.& cert. ef. 3-5-14 thru 9-1-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 3-2015(Temp), f. & cert. ef. 1-1-15 thru 6-29-15; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 18-2015(Temp), f. 6-30-15, cert. ef. 7-1-15 thru 12-27-15

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**Rule Caption:** Amending rules relating to overpayments in the SNAP, TANF, and TA-DVS programs

**Adm. Order No.:** SSP 19-2015

**Filed with Sec. of State:** 7-1-2015

**Certified to be Effective:** 7-1-15

**Notice Publication Date:** 6-1-2015

**Rules Amended:** 461-165-0010, 461-195-0501, 461-195-0521, 461-195-0601, 461-195-0621

**Subject:** Federal law requires every state to implement policies and practices to prevent access to Temporary Assistance for Needy Families (TANF) cash assistance through any Electronic Benefit Transfer (EBT) transaction in an Automated Teller Machine (ATM) or Point-of-Sale (POS) device located in any liquor store; any casino, gambling casino, or gaming establishment; and in any retail establishment that provides adult oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment. (See Middle Class Tax Relief and Job Creation Act of 2012.) As part of implementing policies and practices required by federal law, a workgroup of Department staff and stakeholders recommended that administrative rules be updated to treat use and access of TANF cash benefits in an EBT transaction at a prohibited location as a client

error overpayment. To support the workgroup's recommendation, administrative rules are being changed as follows:

- OAR 461-165-0010 about the legal status of benefit payments is being changed to add the purpose of REF (Refugee), SFPSS and TANF program benefits.

- OAR 461-195-0501 about definitions and categories of overpayments is being changed to add that use or access of REF, SFPSS, or TANF benefits in an EBT transaction in a prohibited location is a client error overpayment and there is no overpayment threshold for these overpayments. In addition, language is being added to this rule to state there is a rebuttable presumption that the full amount of REF, SFPSS, or TANF benefits accessed in a prohibited location was spent in violation of OAR 461-165-0010.

- OAR 461-195-0521 about calculation of overpayments is being changed to add that in the REF, SFPSS, and TANF programs, the amount of the overpayment is the amount of TANF cash benefits used or accessed in a prohibited location.

OAR 461-195-0501 about definitions and categories of overpayments, OAR 461-195-0601 about Intentional Program Violation (IPV) definitions, and OAR 461-195-0621 about penalties and liability for overpayments are being amended to remove the IPV requirement to establish an overpayment in the Temporary Assistance for Domestic Violence Survivors (TA-DVS) program. Specifically, OAR 461-195-0501 is being amended to allow an overpayment in the TA-DVS program when an individual intentionally and knowingly, without intimidation or coercion by an abuser, makes false or misleading statements or withholds information for the purpose of establishing eligibility, unless the overpayment would put the client at a greater risk of domestic violence, in which case the overpayment is waived. OAR 461-195-0601 and 461-195-0621 are being amended to remove reference to the TA-DVS program.

OAR 461-195-0521 is being amended to clarify that when calculating the overpayment in the SNAP program, the earned income deduction is allowed only to the extent sources of income were timely reported.

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

**Rules Coordinator:** Kris Skaro—(503) 945-6067

**461-165-0010**
**Legal Status of Benefit Payments**

(1) Under Oregon law, cash benefits are not subject to assignment, transfer, garnishment, levy, or execution, as long as they can be identified as program payments and are separate from other money in the client's possession.

(2) A cash payment, once issued to or on behalf of the client, becomes vested in the client.

(3) Except for electronic benefit transfer (EBT), the Department considers a benefit issued if the check has been handed to the client in the branch office, or mailed to the client. The Department considers a benefit issued, and received by the client, when a direct check deposit is made to the client's bank account.

(4) For EBT, the Department considers benefits issued and received when an EBT card and personal identification number (PIN) have been issued in person to the client, or the EBT card and PIN have been received by the client in the mail during conversion, and the benefits have been deposited to the client's EBT account.

(5) SNAP program benefits issued by EBT remain available for client access for 12 calendar months from the date of issuance. The EBT system expunges unused benefits after 12 calendar months.

(6) Benefits, once issued, are unrestricted and do not require accountability for individual expenditures or amounts, unless limited elsewhere in rule.

(7) In the TA-DVS program, a payment issued on behalf of a client as a vendor or dual payee payment or directly to the client becomes vested in the client when issued. The Department considers the benefit to be issued if the Department has mailed the payment to the vendor or has hand delivered or mailed a dual payee check to the client. Benefits in the TA-DVS program are restricted to uses outlined in OAR 461-135-1230.

(8) In the REF program:

(a) Cash benefits are provided to help meet the basic needs of low-income refugees and may not be used in any electronic benefit transfer transaction (see section (10) of this rule) in:

(A) Any liquor store (see section (10) of this rule);

(B) Any casino, gambling casino, or gaming establishment; or

(C) Any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

(b) The Department will take steps to ensure clients have adequate access to their cash benefits.

(9) In the SFPSS and TANF programs:

(a) Cash benefits are provided to help meet the basic needs of low-income families with dependent children (see OAR 461-001-0000) and may not be used in any electronic benefit transfer transaction in:

(A) Any liquor store;

(B) Any casino, gambling casino, or gaming establishment; or

(C) Any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

(b) The Department will take steps to ensure clients have adequate access to their cash benefits.

(10) For purposes of sections (8) and (9) of this rule:

(a) The term "liquor store" means any retail establishment which sells exclusively or primarily intoxicating liquor. Such term does not include a grocery store which sells both intoxicating liquor and groceries including staple foods (as defined in the Food and Nutrition Act of 2008 (7 U.S.C. 2012)).

(b) The terms "casino", "gambling casino", and "gaming establishment" do not include:

(A) A grocery store which sells groceries including such staple foods and which also offers, or is located within the same building or complex as, casino, gambling, or gaming activities; or

(B) Any other establishment that offers casino, gambling, or gaming activities incidental to the principal purpose of the business.

(c) The term "electronic benefit transfer transaction" means the use of a credit or debit card service, automated teller machine, point-of-sale terminal, or access to an online system for the withdrawal of funds or the processing of a payment for merchandise or a service.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.006, 412.014, 412.049
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.117, 411.816, 411.837, 412.006, 412.014, 412.049, 412.151
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 11-1991, f. 4-30-91, cert. ef. 5-1-91; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 5-2013, f. & cert. ef. 2-6-13; SSP 19-2015, f. & cert. ef. 7-1-15

**461-195-0501**
**Definitions and Categories of Overpayments**

This rule applies to benefits and services delivered under chapters 410, 411, and 461 of the Oregon Administrative Rules.

(1) "Overpayment" means:

(a) A benefit or service received by or on behalf of a client, or a payment made by the Department on behalf of a client, that exceeds the amount for which the client is eligible.

(b) A payment made by the Department and designated for a specific purpose which is spent by a person on an expense not approved by the Department.

(A) In the REF program, there is a rebuttable presumption that the full amount of cash benefits was improperly spent in violation of OAR 461-165-0010(8)(a) when cash benefits are used or accessed in:

(i) Any liquor store;

(ii) Any casino, gambling casino, or gaming establishment; or

(iii) Any retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

(B) In the SFPSS and TANF programs, there is a rebuttable presumption that the full amount of cash benefits was improperly spent in violation of OAR 461-165-0010(9)(a) when cash benefits are used or accessed in:

(i) Any liquor store;

(ii) Any casino, gambling casino, or gaming establishment; or

(iii) Any retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

(c) A payment for child care made by the Department to, or on behalf of, a client that:

(A) Is paid to an ineligible provider;

(B) Exceeds the amount for which a provider is eligible;

(C) Is paid when the client was not engaged in an activity that made the client eligible for child care, such as an activity of the JOBS program (see OAR 461-001-0025 and 461-190-0151 to 461-190-0401);

(D) Is paid when the client was not eligible for child care benefits; or

(E) Has given an electronic benefit transfer (EBT) card, card number, or personal identification number (PIN) to a provider for the purpose of checking a child (see OAR 461-001-0000) in or out from the provider's child care.

(d) A misappropriated payment when a person cashes and retains the proceeds of a check from the Department on which that person is not the payee and the check has not been lawfully endorsed or assigned to the person.

(e) A benefit or service provided for a need when that person is compensated by another source for the same need and the person fails to reimburse the Department when required to do so by law.

(f) A cash benefit received by an individual in the GA or SFPSS programs for each month for which the client receives a retroactive SSI lump sum payment.

(g) In the TA-DVS program, a payment made by the Department to an individual or on behalf of an individual when the individual intentionally and without intimidation or coercion by an abuser:

(A) Makes a false or misleading statement or misrepresents, conceals, or withholds information for the purpose of establishing eligibility (see OAR 461-001-0000) for or receiving a benefit from the TA-DVS program; or

(B) Commits any act intended to mislead or misrepresent, conceal, or withhold information for the purpose of establishing eligibility for or receiving a benefit from the TA-DVS program.

(2) The Department may establish an overpayment for the initial month (see OAR 461-001-0000) of eligibility under circumstances including, but not limited to:

(a) The filing group (see OAR 461-110-0310), ineligible student, or authorized representative (see OAR 461-115-0090) withheld information;

(b) The filing group, ineligible student, or authorized representative provided inaccurate information;

(c) The Department failed to use income reported as received or anticipated in determining the benefits of the filing group; or

(d) The error was due to an error in computation or processing by the Department.

(3) In the OCCS Medical programs, the Department may establish an overpayment for the budget month (see OAR 410-200-0015) when the OCCS medical program household group (see OAR 410-200-0015) or authorized representative (see OAR 410-200-0015) withheld or provided inaccurate information.

(4) Overpayments are categorized as follows:

(a) An administrative error overpayment is an overpayment caused by any of the following circumstances:

(A) The Department fails to reduce, suspend, or end benefits after timely reporting by the filing group, OCCS medical program household group, ineligible student, or authorized representative (see OAR 461-115-0090 and 410-200-0015) of a change covered under OAR 461-170-0011 or 410-200-0235 and that reported change requires the Department to reduce, suspend, or end benefits;

(B) The Department fails to use the correct benefit standard;

(C) The Department fails to compute or process a payment correctly based on accurate information timely provided by the filing group, OCCS medical program household group, ineligible student, or authorized representative;

(D) In the GA and SFPSS programs, the Department fails to require a client to complete an interim assistance agreement; or

(E) The Department commits a procedural error that was no fault of the filing group, OCCS medical program household group, ineligible student, or authorized representative.

(b) A client error overpayment is any of the following:

(A) An overpayment caused by the failure of a filing group, OCCS medical program household group, ineligible student, or authorized representative to declare or report information or a change in circumstances as required under OAR 461-170-0011 or 410-200-0235, including information available to the Department, that affects the client's eligibility to receive benefits or the amount of benefits.

(B) A client's unreduced liability or receipt of unreduced benefits pending a contested case hearing decision or other final order favorable to the Department.

(C) A client's failure to return a benefit known by the client to exceed the correct amount.

(D) A client's use of a JOBS or SFPSS program support payment (see OAR 461-190-0211) for other than the intended purpose.

(E) A payment for child care when the client was not engaged in an activity that made the client eligible for child care, such as an activity of the JOBS program (see OAR 461-001-0025 and 461-190-0151 to 461-190-0401).

(F) A payment for child care when the client was not eligible for child care benefits.

(G) The failure of a client to pay his or her entire share of the cost of services or the participant fee (see OAR 461-160-0610 and 461-160-0800) in the month in which it is due.

(H) An overpayment caused by a client giving an electronic benefit transfer (EBT) card, card number, or personal identification number (PIN) to a provider for the purpose of checking a child in or out from the provider's child care.

(I) In the REF, SFPSS, and TANF programs, an overpayment caused by the client using or accessing cash benefits in any electronic benefit transaction in any liquor store; casino, gambling, or gaming establishment; or retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment (see OAR 461-165-0010).

(c) A fraud overpayment is an overpayment determined to be an intentional program violation (see OAR 461-195-0601 and 461-195-0611) or substantiated through a criminal prosecution.

(d) In the SNAP program, a provider error overpayment is an overpayment made to a drug or alcohol treatment center or residential care facility that acted as a client's authorized representative.

(e) In the child care program, a provider error overpayment is a payment made by the Department on behalf of a client to a child care provider when:

(A) Paid to an ineligible provider; or

(B) The payment exceeds the amount for which a provider is eligible.

(5) When an overpayment is caused by both an administrative and client error in the same month, the Department determines the primary cause of the overpayment and assigns as either an administrative or client error overpayment.

(6) In the TANF and TA-DVS programs, when an overpayment puts the client at greater risk of domestic violence (see OAR 461-001-0000), the overpayment is waived (see OAR 461-135-1200).

(7) Except as provided in section (8) of this rule, the Department establishes an overpayment when the following thresholds are exceeded:

(a) Administrative error overpayments concerning:

(A) Cash and child care programs, when the amount is greater than $200;

(B) SNAP open case, when the amount is greater than $100; and

(C) SNAP closed case, when the amount is greater than $200.

(b) Client error overpayments in:

(A) Cash and child care programs, when the amount is greater than $200;

(B) SNAP open case, when the amount is greater than $100;

(C) SNAP closed case, when the amount is greater than $200;

(D) Medical programs, when the amount is greater than $750.

(c) Provider error overpayments in:

(A) Cash and child care programs, when the amount is greater than $200;

(B) SNAP open case, when the amount is greater than $100;

(C) SNAP closed case, when the amount is greater than $200.

(8) There are no overpayment thresholds in all of the following situations:

(a) In SNAP program, if the overpayment was identified in a quality control review.

(b) In all programs, if the overpayment was caused by a client's receipt of continuing benefits in a contested case.

(c) In all programs, if the overpayment was caused by possible fraud by a client or provider.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.081, 411.404, 411.816, 412.001, 412.014, 412.049, HB 2089 (2013, Section 10)

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.081, 411.117, 411.404, 411.620, 411.640, 411.690, 411.816, 411.892, 412.001, 412.014, 412.049, 414.025, 416.350

Hist.: AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 7-2001(Temp), f. & cert. ef. 4-4-01 thru 6-30-01; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru

3-29-08; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 15-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 7-2013(Temp), f. & cert. ef. 3-25-13 thru 9-21-13; SSP 23-2013, f. & cert. ef. 9-20-13; SSP 36-2013(Temp), f. & cert. ef. 11-1-13 thru 4-30-14; SSP 9-2014, f. & cert. ef. 4-1-14; SSP 19-2015, f. & cert. ef. 7-1-15

**461-195-0521**
**Calculation of Overpayments**

This rule specifies how the Department calculates an overpayment (see OAR 461-195-0501).

(1) The Department calculates an overpayment by determining the amount the client received or the payment made by the Department on behalf of the client that exceeds the amount for which the client was eligible.

(2) When a filing group, OCCS Medical programs household group (see OAR 410-200-0015), ineligible student, or authorized representative (see OAR 461-115-0090 and 410-200-0015) fails to report income, the Department calculates and determines the overpayment by assigning unreported income to the applicable budget month without averaging the unreported income, except:

(a) A client's earned income reported quarterly from the Employment Department is considered received by the client in equal amounts during the months identified in the report.

(b) In the ERDC, MAA, MAF, REF, SNAP, and TANF programs, a client's actual self-employment income is annualized retrospectively to calculate the overpayment.

(c) In the OCCS Medical programs, if actual income is not available for the months in which an overpayment occurred, a client's actual self-employment income (see OAR 410-200-0015) received during the year when an overpayment occurred is annualized to calculate an overpayment.

(3) When using prospective budgeting (see OAR division 461-150) and the actual income differs from the amount determined under OAR 461-150-0020(2), there may be a client error overpayment (see OAR 461-195-0501) only when the filing group, ineligible student, or authorized representative withheld information, failed to report a change, or provided inaccurate information. In such a case, the Department uses the actual income to determine the amount of an overpayment.

(4) When using anticipated income for the OCCS Medical programs and the actual income differs from the amount determined under OAR 410-200-0310, there may be a client error overpayment only when the OCCS Medical programs household group (see OAR 410-200-0015) or authorized representative (see OAR 410-200-0015) withheld information, failed to report a change, or provided inaccurate information. In such a case, the Department uses the actual income to determine the amount of an overpayment.

(5) When a filing group, ineligible student, or authorized representative fails to report all earned income within the reporting time frame, the earned income deduction (see OAR 461-160-0160, 461-160-0190, 461-160-0430, 461-160-0550, and 461-160-0552) is applied as follows:

(a) In the OSIP, OSIPM, QMB, and REFM programs, the Department allows the earned income deduction.

(b) In the MAA, MAF, REF, and TANF programs, the Department allows the earned income deduction when good cause (see section (6) of this rule) exists.

(c) In the SNAP program, no deduction is applied to earned income if the amount or source of income was not timely reported.

(6) For the purposes of OAR 461-195-0501 to 461-195-0561, "good cause" means circumstances beyond the client's reasonable control that caused the client to be unable to report income timely and accurately.

(7) When support is retained:

(a) In the TANF program, the amount of support (other than cash medical support) the Department of Justice retains as a current reimbursement each month is added to other income to determine eligibility (see OAR 461-001-0000). When a client is not eligible for TANF program benefits, the overpayment is offset by the support the Department of Justice retains as a current reimbursement.

(b) In the medical programs, the amount of the cash medical support the Department retains each month is excluded income and not used to determine eligibility for medical program benefits. When a client has incurred a medical program overpayment, the overpayment is offset by the amount of the cash medical support the Department retains during each month of the overpayment.

(8) In the REF and TANF programs, when a client directly receives support used to determine eligibility or calculate benefits, the overpayment is:

(a) If still eligible for REF or TANF program benefits, the amount of support the client received directly; or

(b) If no longer eligible for REF or TANF program benefits, the amount of program benefits the client received.

(9) When an overpayment occurs due to the failure of an individual to reimburse the Department, when required by law to do so, for benefits or services (including cash medical support) provided for a need for which that individual is compensated by another source, the overpayment is limited to the lesser of the following:

(a) The amount of the payment from the Department;

(b) Cash medical support; or

(c) The amount by which the total of all payments exceeds the amount payable for such a need under the Department's rules.

(10) Benefits paid during a required notice period (see OAR 461-175-0050, 410-200-0120) are included in the calculation of the overpayment when:

(a) The filing group, OCCS Medical programs household group (see OAR 410-200-0015), ineligible student, or authorized representative (see OAR 461-115-0090 and 410-200-0015) failed to report a change within the reporting time frame under OAR 461-170-0011 or 410-200-0235; and

(b) Sufficient time existed for the Department to adjust the benefits to prevent the overpayment if the filing group, OCCS Medical program household group (see OAR 410-200-0015), ineligible student, or authorized representative (see OAR 461-115-0090 and OAR 410-200-0015) had reported the change at any time within the reporting time frame.

(11) In the SNAP program:

(a) If the benefit group (see OAR 461-110-0750) was categorically eligible, there is no overpayment based on resources.

(b) For a filing group (see OAR 461-110-0370) found eligible for SNAP program benefits under OAR 461-135-0505(1)(a) to (c), and the actual income made the group ineligible for the related program, the group remains categorically eligible for SNAP program benefits as long as the eligibility requirement under OAR 461-135-0505(1)(d) is met. A benefit group of one or two individuals would be entitled to at least the minimum SNAP program benefit allotment under OAR 461-165-0060.

(c) For a filing group found eligible for SNAP program benefits only under OAR 461-135-0505(1)(d), and the actual income equals or exceeds 185 percent of the Federal Poverty Level, the filing group is no longer categorically eligible. The overpayment is the amount of SNAP program benefits incorrectly received.

(12) In the OSIP and OSIPM programs, when a client does not pay his or her share of the cost of services (see OAR 461-160-0610) or the OSIP-EPD or OSIPM-EPD program participant fee (see OAR 461-160-0800) in the month in which it is due, an overpayment is calculated as follows:

(a) All payments made by the Department on behalf of the client during the month in question are totaled, including but not limited to any payment for:

(A) Capitation;

(B) Long term care services;

(C) Medical expenses for the month in question;

(D) Medicare buy-in (when not concurrently eligible for an MSP);

(E) Medicare Part D;

(F) Mileage reimbursement;

(G) Special needs under OAR 461-155-0500 to 461-155-0710; and

(H) Home and community-based care (see OAR 461-001-0030), including home delivered meals and non-medical transportation.

(b) Any partial or late liability payment made by a client receiving home and community-based care in-home services or participant fee paid by an OSIP-EPD or OSIPM-EPD program client is subtracted from the total calculated under subsection (a) of this section. The remainder, if any, is the amount of the overpayment.

(13) When a client's liability is unreduced pending the outcome of a contested case hearing about that liability the overpayment is the difference between the liability amount determined in the final order and the amount, if any, the client has repaid.

(14) In the OCCS Medical programs, OSIPM, QMB, and REFM programs if the client was not eligible for one program, but during the period in question was eligible for another program:

(a) With the same benefit level, there is no overpayment.

(b) With a lesser benefit level, the overpayment is the amount of medical program benefit payments made on behalf of the client exceeding the amount for which the client was eligible.

(15) When an overpayment is caused by administrative error (see OAR 461-195-0501), any overpayment of GA, OSIP, REF, SFPSS, or TANF program benefits is not counted as income when determining eligi-

bility for the GAM, OCCS Medical programs, OSIPM, and REFM programs.

(16) Credit against an overpayment is allowed as follows:

(a) In the GA, REF, and TANF programs, a credit is allowed for a client's payment for medical services made during the period covered by the overpayment, in an amount not to exceed the Department fee schedule for the service, but credit is not allowed for an elective procedure unless the Department authorized the procedure prior to its completion.

(b) In the SNAP program, if the overpayment was caused by unreported earned income, verified child care costs are allowed as a credit to the extent the costs would have been deductible under OAR 461-160-0040 and 461-160-0430.

(c) In the SFPSS and TANF programs, if the overpayment is caused by reported earned income, a credit is allowed for the Post-TANF grant if the client meets eligibility under OAR 461-135-1250 and the client has received less than 12 months of Post-TANF program benefits.

(d) In all programs, for an underpayment of benefits.

(17) In the SNAP program, in compliance with the American Recovery and Reinvestment Act of 2009, effective April 1, 2009 through September 30, 2009, the amount between the normal Thrifty Food Plan (TFP) benefit amount under this section and the increased TFP benefit amount under OAR 461-155-0190 is not counted in the overpayment amount unless the filing group was ineligible for SNAP program benefits. [Table not included. See ED. NOTE.]

(18) In the REF program, when an individual used or accessed cash benefits in violation of OAR 461-165-0010(8)(a), the amount of the overpayment is the amount of cash benefits the client used or accessed.

(19) In the SFPSS and TANF programs, when an individual used or accessed cash benefits in violation of OAR 461-165-0010(9)(a), the amount of the overpayment is the amount of cash benefits the client used or accessed.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.660, 411.706, 411.816, 412.014, 412.049, 412.124, 414.231, HB 2089 (2013, Section 10)

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.620, 411.630, 411.635, 411.640, 411.660, 411.690, 411.706, 411.816, 412.014, 412.049, 412.124, 414.231, 416.350

Hist.: AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 22-2002, f. 12-31-02, cert ef. 1-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 36-2013(Temp), f. & cert. ef. 11-1-13 thru 4-30-14; SSP 9-2014, f. & cert. ef. 4-1-14; SSP 19-2015, f. & cert. ef. 7-1-15

**461-195-0601**
**Intentional Program Violations; Defined**

(1) In the child care programs, a provider commits an intentional program violation (IPV) by intentionally making a false or misleading statement or misrepresenting, concealing, or withholding information related to his or her request to be eligible for a child care payment under OAR 461-165-0180 or a claim for a child care payment.

(2) In the SNAP program:

(a) An individual commits an intentional program violation by:

(A) Making a false or misleading statement or misrepresenting, concealing or withholding a fact relating to the use, presentation, transfer, acquisition, receipt, possession, or trafficking (see OAR 461-195-0601(2)(b)) of SNAP benefits; or

(B) Committing any act that constitutes a violation of the Food Stamp Act, the SNAP program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, possession, or trafficking of SNAP benefits.

(b) "Trafficking" means any of the following:

(A) The buying, selling, stealing, or other exchange of SNAP benefits for cash or consideration other than eligible food, either directly or indirectly, in complicity or collusion with others or acting alone.

(B) The exchange of firearms, ammunition, explosives, or controlled substances (as defined in section 802 of title 21, United States Code), for SNAP benefits.

(C) Purchasing a product with SNAP benefits that has a container return deposit with the intent of obtaining cash by intentionally discarding the product and returning the container for the deposit amount.

(D) Purchasing a product with SNAP benefits with the intent of obtaining cash or consideration other than eligible food by intentionally reselling the product purchased with SNAP benefits.

(E) Intentionally purchasing products originally purchased with SNAP benefits in exchange for cash or consideration other than eligible food.

(3) In the SFPSS program, an individual commits an intentional program violation by intentionally:

(a) Making a false or misleading statement or misrepresenting, concealing, or withholding a fact for the purpose of establishing or maintaining eligibility (see OAR 461-001-0000) for SFPSS or increasing, or preventing a reduction in, the amount of the SFPSS grant; or

(b) Committing any act intended to mislead or to conceal or withhold information for the purpose of establishing or maintaining eligibility for SFPSS or increasing, or preventing a reduction in, the amount of the SFPSS grant.

(4) In the TANF program, an individual commits an intentional program violation by intentionally:

(a) Making a false or misleading statement or misrepresenting, concealing, or withholding a fact for the purpose of establishing or maintaining eligibility for TANF or increasing, or preventing a reduction in, the amount of the TANF grant; or

(b) Committing any act intended to mislead or to conceal or withhold information for the purpose of establishing or maintaining eligibility for TANF or increasing, or preventing a reduction in, the amount of the TANF grant.

Stat. Auth.: ORS 411.060, 411.660, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.630, 411.635, 411.660, 411.816, 412.014, 412.049

Hist.: AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 7-2013(Temp), f. & cert. ef. 3-25-13 thru 9-21-13; SSP 23-2013, f. & cert. ef. 9-20-13; SSP 19-2015, f. & cert. ef. 7-1-15

**461-195-0621**
**Intentional Program Violations; Penalties and Liability for Overpayments**

(1) Disqualification penalties resulting from intentional program violations and other violations of law are listed in this rule. An individual may be subject to disqualification for an intentional program violation (IPV) (see OAR 461-195-0601) only if the individual was advised of the disqualification penalties prior to committing the IPV. A disqualification established in another state or established in the Food Distribution Program on Indian Reservations continues in effect in Oregon.

(2) In the ERDC program, if an IPV is established against an individual through a contested case hearing, a waiver of the right to hearing, or by a state or federal court, that individual is liable for repayment to the Department of the full amount of overpayment (see OAR 461-195-0501) the Department has established. The amount of restitution to the Department ordered by a court as part of a criminal proceeding does not lower the amount owed to the Department. Payments of restitution to the Department are credited against the amount owed. A client is not subject to an IPV disqualification but is still required to repay overpayment amounts.

(3) A child care provider found to have committed an IPV is ineligible for payment for child care as follows:

(a) A child care provider with an IPV established between April 1, 2001 and September 30, 2005 is permanently disqualified to receive payment.

(b) A child care provider who has incurred an overpayment established as an IPV claim after September 30, 2005 is ineligible for payment:

(A) For six months and until the full amount of the overpayment is paid; or

(B) Permanently, if the Child Care Program Manager finds that such ineligibility is in the public interest. The following is a non-exclusive list of reasons that support a determination of permanent ineligibility: safety concerns; or, the likelihood of future violations; or, the degree of egregiousness of any of the established IPVs; or, the degree of primary involvement in the violation by the provider.

(4) In the SNAP and TANF programs, when an IPV is established against an individual through a contested case hearing, a waiver of the right to hearing, or by a state or federal court:

(a) That individual is liable for repayment to the Department of the full amount of overpayment the Department has established, regardless of any restitution ordered by a court.

(b) Except as otherwise set forth in this section, the individual is disqualified from receiving benefits in the program in which the IPV was committed for a period of 12 calendar months for the first IPV, 24 calendar months for the second IPV, and permanently for the third IPV.

(c) An individual found by a federal, state, or local court to have traded a controlled substance for SNAP benefits is disqualified from participation in the SNAP program as follows:

(A) For a period of two years upon the first occasion.

(B) Permanently upon the second occasion.

(d) An individual found by a federal, state, or local court to have traded firearms, ammunition, or explosives for SNAP benefits is permanently disqualified from participation in the SNAP program.

(e) An individual convicted of trafficking (see OAR 461-195-0601) benefits for a value of $500 or more is permanently disqualified from participation in the SNAP program.

(f) An individual is disqualified for a 10-year period, except if permanently disqualified under subsection (b) of this section, from receiving benefits in the program in which the individual committed fraud if the individual:

(A) In TANF program:

(i) Is convicted in state or federal court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from two or more states under programs that are funded under Title IV or XIX of the Social Security Act; or

(ii) Is found in an IPV hearing or admits, in a written waiver of the right to an IPV hearing, to having made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive benefits simultaneously from two or more states.

(B) In the SNAP program, is found to have or admits to having made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple SNAP benefits simultaneously.

(5) If the TANF grant is affected by the IPV penalty imposed under this rule, eligibility (see OAR 461-001-0000) for and the level of SNAP benefits are determined in accordance with OAR 461-145-0105.

(6) The Department issues notice of disqualification in accordance with OAR 461-175-0220. The disqualification provided for in this rule begins the first of the month following the month in which the notice period ends.

(7) Once a disqualification period begins, it continues uninterrupted until completed, regardless of the eligibility of the filing group (see OAR 461-110-0310) of the disqualified individual.

Stat. Auth.: ORS 409.050, 411.060, 411.816, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.816, 412.049

Hist.: AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 7-2013(Temp), f. & cert. ef. 3-25-13 thru 9-21-13; SSP 23-2013, f. & cert. ef. 9-20-13; SSP 19-2015, f. & cert. ef. 7-1-15

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**Rule Caption:** Amending rule relating to calculating SNAP benefits

**Adm. Order No.:** SSP 20-2015(Temp)

**Filed with Sec. of State:** 7-1-2015

**Certified to be Effective:** 7-1-15 thru 12-27-15

**Notice Publication Date:**

**Rules Amended:** 461-160-0410

**Subject:** OAR 461-160-0410 about use of income and income deductions in the Supplemental Nutrition Assistance Program (SNAP) when there are ineligible or disqualified members in the filing group is being amended to comply with federal guidance to the Department regarding calculating the income for noncitizens receiving Temporary Assistance for Needy Families (TANF) benefits. The current rule requires the TANF benefit amount to be prorated and only counted for the eligible filing group members. The amendment removes this requirement and will result in the full TANF benefit amount being used to calculate benefits for the household.

**Rules Coordinator:** Kris Skaro—(503) 945-6067

**461-160-0410**

**Use of Income and Income Deductions When There Are Ineligible or Disqualified Group Members; SNAP**

When a member of the filing group (see OAR 461-110-0370) is not in the need group (see 461-110-0630), benefits in the SNAP program are calculated as follows:

(1) If the member is a qualified non-citizen (see OAR 461-120-0125(1)(a)–(g)) who does not meet the alien status requirements, the following procedure is used:

(a) Benefits are calculated as if the qualified non-citizen is eligible. Benefits are then calculated as if the qualified non-citizen is not a member of the filing group. Any income received by another member of the filing group from the qualified non-citizen is counted as income of the filing group. No expenses paid by the qualified non-citizen are deducted from gross income.

(b) The household's benefits are the lesser of the amounts calculated in subsection (a) of this section.

(2) The process described in sections (3) and (4) of this rule is used if the member is:

(a) A non-citizen but not a qualified non-citizen;

(b) Disqualified for failing to obtain or provide a Social Security Number; or

(c) Unwilling to disclose alien status.

(3) If the member is in a group described in section (2) of this rule:

(a) The member's countable (see OAR 461-001-0000) income is prorated among the members in the filing group.

(b) The pro rata share of each individual not in the benefit group (see OAR 461-110-0750) is excluded.

(c) The rest of the prorated income is countable income for the filing group.

(4) An ineligible or disqualified member covered by section (2) of this rule is entitled to all income deductions for which the member qualifies. When paid by the member, or billed to the member and unpaid, deductions for shelter, child support, medical costs, and dependent care are calculated as follows:

(a) The deductions, except deductions for the utility standard, are prorated among the members of the filing group.

(b) The prorated share of the members of the benefit group is deducted.

(c) The deduction for the utility standard is made in accordance with OAR 461-160-0420.

(5) The countable income of the following financial group (see OAR 461-110-0530) members, subject to allowable deductions, is used to determine benefits:

(a) A client disqualified for failure to comply with the requirements of the OFSET program or because of an intentional program violation.

(b) A client:

(A) Fleeing to avoid prosecution, or custody or confinement after conviction, under the law of the place from which the client is fleeing, for a crime, or attempt to commit a crime, that is a felony under the law of the place from which the client is fleeing or that, in the case of New Jersey, is a high misdemeanor under the law of New Jersey; or

(B) Violating a condition of probation or parole imposed under a federal or state law.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.837

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-979; AFS 12-2000(Temp), f. 5-1-00, cert. ef. 5-1-00 thru 9-30-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 10-2001(Temp), f. 6-29-01, cert. ef. 7-1-01 thru 10-1-01; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 6-2002(Temp), f. & cert. ef. 4-1-02 thru 6-30-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 20-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

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**Rule Caption:** Amending rules relating to Aging and People with Disabilities (APD) programs

**Adm. Order No.:** SSP 21-2015

**Filed with Sec. of State:** 7-1-2015

**Certified to be Effective:** 7-1-15

**Notice Publication Date:** 6-1-2015

**Rules Amended:** 461-155-0020, 461-160-0620

**Rules Repealed:** 461-135-0825

**Subject:** OAR 461-135-0825 about continued eligibility for clients under the age of 18 who no longer meet SSI disability criteria is being repealed. The class of children to which the rule applies no longer exists. (Anyone alive on August 22, 1996, would be at least 19 years old in 2015.)

OAR 461-155-0020 about prorated standards and adjusted number in household is being amended to add the TANF program back to section (4)(g)(B). On October 1, 2008, the TANF and SAC pro-

grams were inadvertently deleted from that section when other unrelated amendments were filed to this rule. This amendment adds the TANF program back to section (4)(g)(B). (All references to the SAC program were removed from chapter 461 on July 1, 2014, so that program is not being added back.)

OAR 461-160-0620 about income deductions and client liability for long-term care services or home and community-based care in the OSIPM (Oregon Supplemental Income Program Medical) program is being amended to state that if an all-inclusive rate covers items that are not allowable shelter expenses, including meals or housekeeping in an assisted living facility, or the rate includes utilities, they are deducted from the total shelter expense, to the extent that they can be distinguished, when determining the allowable shelter expense for the maintenance needs allowance of a community spouse.

OAR 461-160-0620 is also being amended to update the minimum community spouse income allowance (Minimum Monthly Maintenance Needs Allowance) which is published by the federal government each year. This amendment keeps Oregon in compliance with current federal standards for Department Medicaid programs and changes to the minimum monthly maintenance allowance under the Spousal Impoverishment laws.

In addition, non-substantive edits were made to: ensure consistent terminology throughout self-sufficiency program rules and policies; update statutory and rule references; correct formatting and punctuation; remove unnecessary language; and improve clarity and readability.

**Rules Coordinator:** Kris Skaro—(503) 945-6067

**461-155-0020**
**Prorated Standards; Adjusted Number in Household**

(1) Prorated standards are used only in the no-adult tables and the non-SSI OSIP and OSIPM table.

(2) In the OSIP and OSIPM programs:

(a) Prorated standards only apply when an individual or a couple receives free food and shelter from others living in the household, and the individual or couple does not have an ownership interest or rental liability in the residence.

(b) Prorated standards are not applied to cases in which an individual receives services described in OAR chapter 411, division 015.

(c) Shelter-in-kind (see OAR 461-145-0470) may apply when prorated standards are not used.

(3) In the TANF program, the no-adult tables are used when there are no adults in the TANF need group (see OAR 461-110-0630).

(4) Prorated standards are based on the number of people in the need group, compared to the adjusted number in the household group (see OAR 461-110-0210). The adjusted number in the household is determined by taking the total number of individuals in the household, minus the following individuals unless they are included in the need group:

(a) Unborns.

(b) Individuals receiving long-term care (see OAR 461-001-0000) or home and community-based care (see OAR 461-001-0030).

(c) Foster children.

(d) Children receiving adoption assistance.

(e) Live-in attendants who live with the filing group (see OAR 461-110-0310) solely to provide necessary medical or housekeeping services and are paid to provide these services.

(f) Landlords and tenants. A landlord-tenant relationship exists if one person pays another at fair market value (see OAR 461-001-0000) for housing and if:

(A) The filing group lives independently from the landlord or tenant;

(B) The filing group has and uses sleeping, bathroom, and kitchen facilities that are separate from the landlord or tenant; and

(C) If bathroom or kitchen facilities are shared, the housing must be a commercial establishment that provides either room, board, or both for fair market value compensation.

(g) In the OSIP and OSIPM programs only:

(A) The biological and adoptive children of either spouse (see OAR 461-001-0000).

(B) Recipients of GA, OCCS Medical Programs (see OAR 461-001-0000), OSIP, OSIPM, QMB, or TANF.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.402, 411.404, 411.706, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.402, 411.404, 411.706, 412.049, 413.085, 414.685

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 17-1998, f. & cert. ef. 10-1-98; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 17-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 26-2013, f. & cert. ef. 10-1-13; SSP 21-2015, f. & cert. ef. 7-1-15

**461-160-0620**
**Income Deductions and Client Liability; Long-Term Care Services or Home and Community-Based Care; OSIPM**

In the OSIPM program:

(1) Deductions from income are made for an individual residing in or entering a long-term care facility or receiving home and community-based care (see OAR 461-001-0030) as explained in subsections (3)(a) to (3)(h) of this rule.

(2) Except as provided otherwise in OAR 461-160-0610, the liability of the individual is determined according to subsection (3)(i) of this rule.

(3) Deductions are made in the following order:

(a) One standard earned income deduction of $65 is made from the earned income in the OSIPM-AD and OSIPM-OAA programs. The deduction is $85 in the OSIPM-AB program.

(b) The deductions under the plan for self-support as allowed by OAR 461-145-0405.

(c) One of the following need standards:

(A) A $60 personal needs allowance for an individual receiving long-term care services.

(B) A $90 personal needs allowance for an individual receiving long-term care services who is eligible for VA benefits based on unreimbursed medical expenses. The $90 allowance is allowed only when the VA benefit has been reduced to $90.

(C) For an individual who receives home and community-based care:

(i) Except as provided in subparagraph (ii) of this paragraph, the OSIPM maintenance standard.

(ii) For an individual who receives in-home services, the OSIPM maintenance standard plus $500.

(d) A community spouse (see OAR 461-001-0030) monthly income allowance is deducted from the income of the institutionalized spouse (see OAR 461-001-0030) to the extent that the income is made available to or for the benefit of the community spouse, using the following calculation.

(A) Step 1 — Determine the maintenance needs allowance. $1,992 is added to the amount over $598 that is needed to pay monthly shelter expenses for the principal residence of the couple. This sum or $2,980.50 whichever is less, is the maintenance needs allowance. For the purpose of this calculation, shelter expenses are the rent or home mortgage payment (principal and interest), taxes, insurance, required maintenance charges for a condominium or cooperative, and the full standard utility allowance for the SNAP program (see OAR 461-160-0420). If an all-inclusive rate covers items that are not allowable shelter expenses, including meals or housekeeping in an assisted living facility, or the rate includes utilities, to the extent they can be distinguished, these items must be deducted from the all-inclusive rate to determine allowable shelter expenses.

(B) Step 2 — Compare maintenance needs allowance with community spouse's countable income. The countable (see OAR 461-001-0000) income of the community spouse is subtracted from the maintenance needs allowance determined in step 1. The difference is the income allowance unless the allowance described in step 3 is greater.

(C) Step 3 — If a spousal support order or exceptional circumstances resulting in significant financial distress require a greater income allowance than that calculated in step 2, the greater amount is the allowance.

(e) A dependent income allowance as follows:

(A) For a case with a community spouse, a deduction is permitted only if the monthly income of the eligible dependent is below $1,992. To determine the income allowance of each eligible dependent:

(i) The monthly income of the eligible dependent is deducted from $1,992.

(ii) One-third of the amount remaining after the subtraction in paragraph (A) of this subsection is the income allowance of the eligible dependent.

(B) For a case with no community spouse:

(i) The allowance is the TANF adjusted income standard for the individual and eligible dependents.

(ii) The TANF standard is not reduced by the income of the dependent.

(f) Costs for maintaining a home if the individual meets the criteria in OAR 461-160-0630.

(g) Medical deductions allowed by OAR 461-160-0030 and 461-160-0055 are made for costs not covered under the state plan. This includes the

public and private health insurance premiums of the community spouse and the individual's dependent.

(h) After taking all the deductions allowed by this rule, the remaining balance is the adjusted income.

(i) The individual's liability is determined as follows:

(A) For an individual receiving home and community-based care (except an individual identified in OAR 461-160-0610(4)), the liability is the actual cost of the home and community-based care or the adjusted income of the individual, whichever is less. This amount must be paid to the Department each month as a condition of being eligible for home and community-based care. In OSIPM-IC, the liability is subtracted from the gross monthly benefit.

(B) For an individual who resides in a nursing facility, a state psychiatric hospital, an Intermediate Care Facility for the Mentally Retarded, or a mental health facility, there is a liability as described at OAR 461-160-0610.

(4) The deduction used to determine adjusted income for a GA and GAM client receiving long-term care services or home and community-based care is as follows:

(a) One standard earned income deduction of $65 is made from the earned income for an individual who is not blind; or

(b) One standard earned income deduction of $85 is made from the earned income for an individual who is blind.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.706, 413.085, 414.065, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.706, 413.085, 414.065, 414.685

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 13-1991. f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 3-1999, f. 3-31-99, cert. ef. 4-1-99; AFS 6-1999, f. & cert. ef. 4-22-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 8-2005(Temp), f. & cert. ef. 7-1-05 thru 10-1-05; SSP 9-2005(Temp), f. & cert. ef. 7-6-05 thru 10-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 23-2012(Temp), f. 6-29-12, cert. ef. 7-1-12 thu 12-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 16-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SSP 25-2013, f. & cert. ef. 10-1-13; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 3-2014, f. 1-31-14, cert. ef. 2-1-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 17-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 4-2015, f. & cert. ef. 1-1-15; SSP 21-2015, f. & cert. ef. 7-1-15

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## Department of Justice
## Chapter 137

**Rule Caption:** Implementing Legislation Regarding Issuance of Disqualification Orders and Civil Penalties for Reporting Violations.

**Adm. Order No.:** DOJ 8-2015

**Filed with Sec. of State:** 7-1-2015

**Certified to be Effective:** 7-1-15

**Notice Publication Date:** 4-1-2015

**Rules Adopted:** 137-010-0032

**Rules Amended:** 137-010-0005, 137-010-0010, 137-010-0015, 137-010-0020, 137-010-0025, 137-010-0033, 137-010-0034, 137-010-0040, 137-010-0041

**Rules Repealed:** 137-010-0042

**Subject:** Proposed Rule 137-010-0032 implements HB 2060 (2013). HB 2060 authorizes the Attorney General to issue orders disqualifying certain registered charities from being eligible to receive contributions that are tax deductible as charitable donations for Oregon income tax purposes if they spend on average less than 30% of expenditures on program services. The disqualified status must also be disclosed in solicitations to prospective donors. The legislation is intended to address a small but persistent number of charities that consistently spend most of the donations they receive on fundraising and administration, rather than on the charitable programs that prompted donations. Disqualification orders will be based on the charities' own Internal Revenue Service (IRS) Form 990 financial reports and issued in accordance with the notice and hearing requirements of the Administrative Procedures Act. The proposed rule contains a number of exemptions from its application to ensure the rule is consistent with the purposes of the legislation. Among the organizations exempted from application of the rule are small organizations that are not required to file the full IRS Form 990, organizations that are accumulating revenues for specific purposes such as capital or endowment campaigns, private foundations, and organizations that receive most of their income from sources other than tax deductible donations.

The proposed rule amendments also implement HB 4081 (2014). HB 4081 sets forth acts and practices that violate the Department's registration and reporting requirements, including failing to register or willfully filing false reports with the Department. The legislation specifies a variety of actions the Attorney General can take in response to reporting violations and increases the Department's administrative civil penalty authority from $1,000 to $2,000 per violation. The proposed rule amendments include revisions necessary to implement HB 4081, including revising the maximum civil penalty to $2,000 to correspond to the legislation. Other proposed rule amendments include using the term "organizations" rather than "corporations and trustees" in order to be consistent with existing statutory language, revising certain reporting thresholds to more closely correspond to IRS filing thresholds, and other minor housekeeping changes for clarity and consistency.

**Rules Coordinator:** Carol Riches—(503) 378-5987

**137-010-0005**
**General Registration**

(1) Charitable organizations, including trustees of charitable remainder trusts, which hold property for charitable purposes over which the State or the Attorney General has enforcement or supervisory power are required to register with the Charitable Activities Section of the office of the Attorney General.

(2) Charitable organizations are not required to register under this section if:

(a) The charitable organization is exempt under ORS 128.640; or

(b) The charitable organization has not received property for charitable purposes; or

(c) The organization is an educational institution which does not hold property in this state and solicitations of individuals residing in this state are confined to alumni of the institution; or

(d) A trustee of a charitable remainder trust is also the sole charitable beneficiary of the trust estate.

(3) Registration shall be on forms provided or accepted by the Attorney General and shall be accompanied by a copy of the articles of incorporation and bylaws, trust agreement, or other instruments governing the charitable organization. In the case of a testamentary trust, the attachments shall include a copy of the decree of distribution.

Stat. Auth.: ORS 128.876

Stats. Implemented: ORS 128.640 & 128.650

Hist.: 1AG 2, f. 2-17-64; 1AG 5, f. 8-3-72, ef. 8-15-72; 1AG 15, f. & ef. 5-27-76; 1AG 1-1979, f. & ef. 2-1-79; 1AG 2-1981, f. & ef. 12-1-81; JD 2-1982, f. & ef. 12-30-82; JD 1-1990, f. & cert. ef. 1-25-90; DOJ 8-2015, f. & cert. ef. 7-1-15

**137-010-0010**
**Contents of General Registration Statement**

Every registration statement filed pursuant to the general registration and reporting provisions of ORS Chapter 128 shall set forth in detail the following information to the extent requested by the Attorney General:

(1) Name and contact information for the charitable organization subject to the Act, including mailing address, telephone number, facsimile number, email address, and website address.

(2) Employer Identification Number.

(3) Type of organization and type of instrument creating or governing the charitable organization, date of instrument, and where filed, including date and state of filing of articles of incorporation. Governing documents shall be attached and identified by title in the registration statement.

(4) Names, position, and contact information for trustees, corporate officers and directors, key officials or employees, or other charitable fiduciaries, including telephone number, mailing address, and email address.

(5) Purpose of the charitable organization.

(6) Accounting year adopted by the charitable organization.

(7) Names and addresses of beneficiaries designated by the instrument governing the charitable organization.

(8) The charitable organization's primary county of operations, principle place of business or administration, or similar information.

(9) Information about the organization's tax-exempt status, including the status of any IRS application and a copy of any IRS determination letter.

(10) Information about any fundraising contracts to which the charitable organization is a party and any charitable gaming activity conducted by the charitable organization.

(11) Information about whether the organization or its fiduciaries are parties to any voluntary agreements, administrative actions, or legal actions relating to charitable solicitations, charitable administration, or fiduciary practices.

Stat. Auth.: ORS 128.876
Stats. Implemented: ORS 128.650
Hist.: 1AG 2, f. 2-17-64; 1AG 15, f. & ef. 5-27-76; 1AG 2-1981, f. & ef. 12-1-81; JD 2-1982, f. & ef. 12-30-82; JD 1-1990, f. & cert. ef. 1-25-90; DOJ 8-2015, f. & cert. ef. 7-1-15

**137-010-0015**
**General Reporting Requirements**

(1) Charitable organizations required to register under OAR 137-010-0005 shall submit annual reports to the Charitable Activities Section of the office of the Attorney General.

(2) Charitable organizations are not required to complete and file a financial reporting form as described in OAR 137-010-0020 if the reporting requirements have been suspended by the Attorney General as to a particular charitable organization pursuant to ORS 128.670(3).

(3) When a charitable organization is terminated or dissolved, a final report shall be filed with the Attorney General showing the disposition of all remaining assets.

(4) The annual reports shall be on forms as specified in OAR 137-010-0020.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 128.670
Stats. Implemented: ORS 128.670
Hist.: 1AG 2, f. 2-17-64; 1AG 3, f. 12-31-68; 1AG 5, f. 8-3-72, ef. 8-15-72; 1AG 6, f. 8-3-72, ef. 8-15-72; 1AG 1-1979, f. & ef. 2-1-79; 1AG 2-1981, f. & ef. 12-1-81; JD 2-1982, f. & ef. 12-30-82; JD 1-1990, f. & cert. ef. 1-25-90; DOJ 4-1998, f. & cert. ef. 4-2-98; DOJ 8-2015, f. & cert. ef. 7-1-15

**137-010-0020**
**Contents of Annual Reports**

(1) A complete annual report for a charitable organization incorporated, headquartered, or organized in a state other than Oregon, including outside of the United States, shall include a completed Attorney General's form CT-12F.

(2) A complete annual report for a trust with both charitable and noncharitable beneficiaries shall include a completed Attorney General's form CT-12S.

(3) A complete annual report for a charitable organization incorporated, organized, or headquartered in Oregon or not described in OAR 137-010-0020(1) or (2) shall include a completed Attorney General's form CT-12.

(4) A complete annual report is required to also include:

(a) A copy of all year-end, federal reporting forms, schedules and attachments filed with the Internal Revenue Service for the same period, such as a form 990, 990EZ, 990PF, or 5227. Organizations are not required to provide copies of a 990N (epostcard) filing if they otherwise provide confirmation that a 990N return was filed with the IRS.

(b) A copy of the independent auditor's report on the corporation's financial records and accompanying financial statements and other attachments if such an audit was prepared.

(c) Updates to information requested in the registration statement, information regarding legal actions as described in OAR 137-010-0010(1), information on whether the organization is ceasing operations in Oregon, and information related to a determination of applicable filing requirements under ORS 128.610 to 128.769.

(d) Information related to revenues, expenditures, and assets, including information necessary to the determination or calculation of applicable fees.

(5) In the event the charitable organization has total annual gross receipts of $50,000 or more or total assets of $100,000 or more, but the organization did not file with the IRS an IRS form 990, 990EZ, 990PF, or 5227 for the reporting period because the organization does not hold tax exempt status, because the organization is eligible to file the 990N, or for some other reason, such organization is required to complete for purposes of its Oregon annual report, an IRS form 990 or 990EZ, including all applicable schedules. If the organization's annual gross receipts are less than $200,000, it may use IRS 990EZ. Otherwise, the organization is required to use IRS form 990. If the IRS form was not filed with the IRS but is provided in connection with Oregon's annual report requirements, the form is required to be clearly labeled as for Oregon purposes only or otherwise identify that the form has not been filed with the IRS. Organizations may request a waiver of this requirement by submitting a written request for a waiver with their annual report, along with an income statement and balance sheet, or statements containing similar information.

(6) Charitable organizations are required to file annual reports covering all time periods preceding the date that the organization requested closure of its registration file or notified the Department that it ceased operations.

(7) A charitable organization is not required to submit as part of its annual report to the Attorney General a copy of any IRS form 990 Schedule B listing of contributors that would be exempt from disclosure under federal law.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 128.670
Stats. Implemented: ORS 128.670
Hist.: 1AG 2, f. 2-17-64; 1AG 5, f. 8-3-72, ef. 8-15-72; 1AG 2-1981, f. & ef. 12-1-81; JD 2-1982, f. & ef. 12-30-82; JD 1-1990, f. & cert. ef. 1-25-90; DOJ 4-1998, f. & cert. ef. 4-2-98; DOJ 8-2015, f. & cert. ef. 7-1-15

**137-010-0025**
**Reporting Period**

(1) Annual reports required by ORS Chapter 128 shall be on a calendar or fiscal year basis selected by the charitable organization, but such fiscal year must coincide with the reporting period used by the organization on returns prepared for the Internal Revenue Service.

(2) Annual reports shall be submitted not later than four months and 15 days following the close of each calendar or fiscal year adopted by the charitable organization.

(3) When the filing day as specified in section (2) of this rule falls on a Saturday, Sunday, or a legal holiday, the due date is the next business day following such Saturday, Sunday, or legal holiday.

(4) Any change in the accounting year should be reported to the Charitable Activities Section, Department of Justice. A short period report is required to be filed with a change of accounting year, covering the financial transactions from the day after the close of the former accounting period to the day before the beginning of the new accounting period. This short period report is treated the same as any report required by the Act, and is due not later than four months and 15 days following the close of the period.

(5) An extension of time may be granted by the Attorney General for a reasonable period for filing a report upon written application filed by or on behalf of the charitable organization stating, if requested, the reason that additional time should be allowed for filing the report beyond the ordinary due date. The request should be submitted on or before the due date for filing the report. An extension of time for filing any required information return with the Internal Revenue Service does not extend the time for filing the report with the Attorney General. However, if the charitable organization intends to file a copy of the federal reporting form as part of the report to the Attorney General and if a request for an extension of time has been submitted to the Internal Revenue Service, a signed copy of the federal extension request may be furnished as the form of similar request for an extension of time for filing the complete report with the Attorney General if provided to the Charitable Activities Section, Department of Justice, on or before the original due date for the annual report. The maximum length of any extension for filing an annual report will be no more than six months from the original due date of the report.

(6) The Attorney General shall not consider an annual report or extension as timely filed if the annual report or extension was received by the Charitable Activities Section, Department of Justice, more than 5 business days after the due date described in this rule unless the organization furnishes proof that the annual report or extension was delivered to the Charitable Activities Section on or before the due date for the annual report or extension.

Stat. Auth.: ORS 128.670
Stats. Implemented: ORS 128.670
Hist.: 1AG 2, f. 2-17-64; 1AG 5, f. 8-3-72, ef. 8-15-72; 1AG 1-1979, f. & ef. 2-1-79; 1AG 2-1981, f. & ef. 12-1-81; JD 2-1982, f. & ef. 12-30-82; JD 1-1990, f. & cert. ef. 1-25-90; DOJ 4-1998, f. & cert. ef. 4-2-98; DOJ 8-2015, f. & cert. ef. 7-1-15

**137-010-0032**
**Disqualification Orders**

Pursuant to ORS 128.760, the Attorney General may issue an order disqualifying a charitable organization from receiving contributions that are deductible as charitable donations for the purpose of Oregon income tax and corporate excise tax if the Attorney General finds that the organization has failed to expend at least 30 percent of the organization's total annual functional expenses on program services when those expenses are averaged over the most recent three fiscal years for which the Attorney General has reports containing expense information.

(1) The calculation of program services expenses and total functional expenses shall be based on the amounts of program services expenses and total functional expenses identified by the organization in the organization's Internal Revenue Service ("IRS") form 990 return or equivalent return required to be filed as part of the organization's report to the Attorney General.

(2) Pursuant to ORS 128.760, a disqualification order may not be issued if the organization meets any of the following criteria:

(a) The organization is a private foundation as defined in section 509 of the Internal Revenue Code, as in effect on October 7, 2013.

(b) The organization is a community trust or foundation operating as described in 26 C.F.R. 1.170A-9(f)(10) and (11), as in effect on October 7, 2013.

(c) The organization is a qualified charitable remainder trust described in section 664 of the Internal Revenue Code, as in effect on October 7, 2013.

(d) The organization does not qualify to receive tax deductible contributions. This includes organizations that hold IRS 501(c)(4) status.

(e) The organization is not required to file annual reports with the Attorney General.

(f) The organization is not required to file an Internal Revenue Service form 990 return or an equivalent Internal Revenue Service return.

(g) The organization receives less than 50 percent of the organization's total annual revenues from contributions or grants identified in accordance with Internal Revenue Service form 990 or an equivalent form.

(h) The organization has been in existence for less than four years, based upon the date of incorporation or organization.

(3) In addition to the exemptions outlined in OAR 137-010-0032(2) and notwithstanding a finding that the charitable organization's program services expenses fall below the minimum percentage specified in OAR 137-010-0032(1), the Attorney General may decline to issue a disqualification order if the organization establishes:

(a) That the organization made payments to affiliates that should be considered in calculating the organization's program services expenses;

(b) That the organization is accumulating revenue or charitable assets for a specific program purpose consistent with representations in solicitations. Such purposes may include a capital campaign, conservation campaign, development of an endowment fund, or similar purposes that result in the significant accumulation of charitable assets relative to program or other expenditures.

(c) The organization supports a related organization or is closely affiliated with another charitable organization such that the IRS form 990 reflects administrative or fundraising expenses incurred on behalf of the related or affiliated organization's charitable programs. The making of grants to another organization is not sufficient to establish that the organization is related or closely affiliated to the recipient organization. The fact that the organizations have consolidated financial statements is relevant to establishing that the organizations are closely affiliated.

(d) The majority of the organization's revenues are from sources that are not eligible for treatment as tax deductible charitable donations, including investment income, program service income, or payments from governmental entitites, or if the organization's revenues from charitable donations average less than $200,000 per year.

(e) The organization's IRS form 990 report contains typographical errors or other errors in its completion that would result in a program service expenditures of at least 30 percent if the errors were corrected.

(f) The organization has experienced unusual fluctuations in revenues or expenditures such that the program service calculation described in OAR 137-010-0032(1) does not fairly reflect the organization's historic expenditures on charitable programs.

(4) If an organization is registered with the Attorney General, has not yet filed at least three or the three most recent IRS form 990 returns with the Charitable Activities Section, but has filed such returns with the IRS, the Attorney General may utilize the IRS returns in connection with the calculation described in ORS 128.760 and OAR 137-010-0032(1).

(5) A disqualification order may not be issued if an organization was eligible to and filed an IRS form 990EZ or 990N, rather than the full IRS form 990, for any one of its most recent three fiscal years or if the organization would have been eligible to file a form 990EZ or 990N for any one of its most recent three fiscal years, but voluntarily filed the full IRS form 990.

(6) If during the period under review, the organization changes its fiscal year such that it files an IRS form 990 for less than a full year, the Attorney General may make appropriate adjustments to ensure that the calculation described in OAR 137-010-0032(1) includes at least three full years' of expenditure information.

(7) For purposes of determining whether to issue a disqualification order or whether an organization has established that it should not be subject to a disqualification order, information contained in an organization's reports filed with the Charitable Activities Section, the organization's IRS form 990 returns, the organization's website or other public sources of information, information provided by the organization, and any other sources of relevant information may be considered.

(8) A charitable organization may request a contested case hearing within 60 days after notification from the Attorney General that the Attorney General proposes to issue a disqualification order.

(9) When a disqualification order is issued, the charitable organization that is the subject of the order does not qualify for and may not claim exemption from taxation under ORS 307.130 for the tax year following the tax year in which the order went into effect and subsequent tax years in which the order remains in effect.

(10) A disqualification order issued pursuant to ORS 128.760 and these rules remains in effect until such time as the charitable organization submits sufficient information to the Attorney General to demonstrate that the organization's program services expenses meet the minimum percentage specified in ORS 128.760. A charitable organization may submit information under this subsection no earlier than one year after the disqualification order becomes final, and may not submit information under this subsection more than once each year after the initial submission is made. The information submitted under this subsection must include all Internal Revenue Service form 990 returns, or equivalent Internal Revenue Service returns, filed by the organization after the disqualification order became final.

Stat. Auth.: ORS 128.670
Stats. Implemented: ORS 128.670
Hist.: DOJ 8-2015, f. & cert. ef. 7-1-15

**137-010-0033**
**Imposition of Civil Penalty**

(1) In addition to any other action allowed by law, the Attorney General may impose a civil penalty of not more than $2,000 in connection with any violation of ORS 128.610 to 128.769 or related rules, including but not limited to:

(a) Failing to file the registration statement required under ORS 128.660;

(b) Failing to file an annual report required under ORS 128.670, including any required attachments;

(c) Failing to pay any fee required under ORS 128.670;

(d) Willfully making a false or misleading statement in a registration statement, annual report, or other document required to be filed under ORS 128.610 to 128.769;

(e) Willfully failing to provide the Attorney General, in a timely manner, upon request, documents or information necessary for the Attorney General to:

(A) Substantiate representations, statements, or information contained in a registration statement, annual report or other document filed pursuant to ORS 128.610 to 128.769;

(B) Establish and maintain the register required under ORS 128.650; or

(C) Establish that a charitable organization has properly applied charitable funds received by the organization; or

(f) Failing to appear or otherwise comply with an order issued under ORS 128.690.

(2) Civil penalties for violations of ORS 128.610 to 128.769 or related rules may be imposed against the charitable organization or upon a charitable fiduciary responsible for the violation.

(3) The charitable organization or charitable fiduciary receiving a notice of imposition of civil penalty shall, upon written request be entitled to a contested case hearing before the Attorney General or his designee to dispute the imposition of the penalty or to submit evidence in mitigation. The hearing shall be held and the Attorney General's order may be appealed

in accordance with the procedure for contested cases provided in ORS Chapter 183.

(4) The Attorney General may file a certified copy of the original notice assessing civil penalties, or of the order entered after hearing, with the clerk of any circuit court in the state, after expiration of the time to request a hearing, or expiration of the time in which to appeal, or after final determination of the matter on appeal, whichever is appropriate, and such notice or order shall be docketed in the judgment docket and may be enforced in the same manner as a judgment.

Stat. Auth.: ORS 128. 670, 128.876
Stats. Implemented: ORS 128.670(8), SB 109 (2007)
Hist.: 1AG 15, f. & ef. 5-27-76; 1AG 2-1981, f. & ef. 12-1-81; JD 1-1990, f. & cert. ef. 1-25-90; DOJ 7-2008, f. & cert. ef. 4-22-08; DOJ 8-2015, f. & cert. ef. 7-1-15

**137-010-0034**
**Mitigating and Aggravating Factors to be Considered**

In establishing the amount of any civil penalty to be imposed, the Attorney General may consider the following factors and shall cite those found applicable:

(1) The past history of the charitable organization or charitable fiduciary in connection with compliance with the requirements of ORS 128.610 to 128.769 and timely filing of required reports or documentation.

(2) Whether the cause of the violation was unavoidable, or was due to negligence or the willful or intentional act of the charitable organization or charitable fiduciary.

(3) The opportunity and degree of difficulty to correct the violation.

(4) The cooperativeness and efforts made by the charitable organization or charitable fiduciary to correct the violation for which the civil penalty is to be imposed.

(5) The cost to the Department of Justice and time involved in investigation and correspondence prior to the time the violation is actually corrected.

(6) Any other relevant factor.

Stat. Auth.: ORS 128.876
Stats. Implemented: ORS 128.670(8)
Hist.: 1AG 15, f. & ef. 5-27-76; 1AG 1-1981, f. & ef. 12-1-81; JD 1-1990, f. & cert. ef. 1-25-90; DOJ 8-2015, f. & cert. ef. 7-1-15

**137-010-0040**
**Place of Filing**

Registration and annual reports required under ORS Chapter 128 shall be submitted to the Charitable Activities Section, Oregon Department of Justice, 1515 S.W. 5th, Suite 410, Portland, Oregon 97201-5451.

Stat. Auth.: ORS 128.876
Stats. Implemented: ORS 128.650, 128.660, 128.670, 128.802, 128.804, 128.807, 128.812, 128.821, 128.826 & 128.841
Hist.: JD 2-1982, f. & ef. 12-30-82; JD 1-1990, f. & cert. ef. 1-25-90; DOJ 8-2015, f. & cert. ef. 7-1-15

**137-010-0041**
**Model APA Rules and Definitions**

(1) The Attorney General's Model Rules of Procedure Under the Administrative Procedures Act, effective March 2015, are by this reference adopted as the rules and procedures for carrying out the applicable administrative provisions of the Charitable Solicitations Act (ORS 128.801 to 128.898 and 128.995) and ORS 128.610 to 128.769 and 128.896), except as otherwise specifically provided herein.

(2) As used in the Charitable Solicitations Act and these rules, solicitation "campaign" means the day the first solicitation, as defined in ORS 128.801(6), is made until the later of the following dates:

(a) The last day a solicitation is made; or

(b) The day that an entertainment event, if any, occurs in conjunction with the solicitations.

(3) As used in ORS 128.821(3), "personal address" means the street address of a person's dwelling, house or usual place of abode.

(4) As used in the Charitable Solicitations Act, "clear and conspicuous" means that a message is conveyed in a manner that is readily noticeable and will be readily understood by a person being solicited. The location of a written statement on the reverse side of a document is rebuttably presumed not to be conspicuous.

Stat. Auth.: ORS 128.876
Stats. Implemented: ORS 128.670(8)(b), 128.801(6), 128.821(3) & 128.871
Hist.: JD 1-1990, f. & cert. ef. 1-25-90; JD 5-1991, f. & cert. ef. 10-22-91; DOJ 8-2015, f. & cert. ef. 7-1-15

## Department of Public Safety Standards and Training
## Chapter 259

**Rule Caption:** Updates OAR 259-008-0011 to reflect the current date of the NENA Hearing Standards for Telecommunicators/EMD's.
**Adm. Order No.:** DPSST 10-2015
**Filed with Sec. of State:** 6-23-2015
**Certified to be Effective:** 7-1-15
**Notice Publication Date:** 6-1-2015
**Rules Amended:** 259-008-0011
**Subject:** This rule change updates OAR 259-008-0011 to reflect the current date of the adopted National Emergency Number Association (NENA) hearing standards for telecommunicators and emergency medical dispatchers.
**Rules Coordinator:** Sharon Huck—(503) 378-2432

**259-008-0011**
**Minimum Standards for Employment as a Telecommunicator and Emergency Medical Dispatcher**

(1) Fingerprints. Within 90 days of the date of employment in a certifiable position, each telecommunicator and emergency medical dispatcher must be fingerprinted on a standard applicant fingerprint card.

(a) If the hiring agency is a public agency, it is responsible for fingerprinting and forwarding one fingerprint card to the Oregon State Police Identification Services Section for processing and the assignment of an identification number.

(b) If the hiring agency is a private agency, it is responsible for fingerprinting and forwarding one fingerprint card to the Department along with the appropriate fee.

(c) Applications for certification will not be processed until an applicant's fingerprints have cleared Oregon State Police Identification Services.

(d) If any procedural change is made by either the Federal Bureau of Investigation or the Oregon State Police Identification Services Section, the Department will comply with the most current requirements.

(2) Criminal Records. No telecommunicator or emergency medical dispatcher will have been convicted:

(a) In this state or any other jurisdiction, of a crime designated under the law where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one (1) year may be imposed;

(b) Of violating any law involving the unlawful use, possession, delivery, or manufacture of a controlled substance, narcotic, or dangerous drug;

(c) In this state of violating any law subject to denial or revocation as identified in OAR 259-008-0070 or has been convicted of violating the statutory counterpart of any of those offenses in any other jurisdiction.

(3) Notification of Conviction:

(a) A telecommunicator or emergency medical dispatcher who is convicted of a crime as identified in OAR 259-008-0070 while employed by a public or private public safety agency must notify the agency head within 72 hours of conviction.

(b) When an agency receives notification of a conviction from its employee or another source, they must notify the Department within five (5) business days. The notification to the Department must be in writing and include the specific charges of the conviction, the county and state where the conviction occurred, the investigating agency and the date of conviction.

(4) Moral Fitness (Professional Fitness). All telecommunicators and emergency medical dispatchers must be of good moral fitness. For purposes of this standard, lack of good moral fitness includes, but is not limited to:

(a) Mandatory disqualifying misconduct as described in OAR 259-008-0070(3); or

(b) Discretionary disqualifying misconduct as described in OAR 259-008-0070(4).

(5) Education:

(a) Applicants for the position of a telecommunicator or emergency medical dispatcher will be required to furnish documentary evidence of one of the following:

(A) High School diploma;

(B) Successful completion of the General Educational Development (GED) Test; or

(C) A four-year, post-secondary degree issued by a degree-granting college or university accredited by a recognized national or regional

accrediting body, or recognized by the Oregon Office of Degree Authorization under the provisions of ORS 348.604.

(i) For the purpose of determining high school graduation level as required by these rules, the applicant must have achieved a score no less than that required by the Oregon Board of Education before issuing an Oregon GED certificate.

(ii) Applicants holding a GED from another state may be required to obtain an Oregon certificate at the discretion of the Department.

(b) Evidence of the above must consist of official transcripts, diplomas, or GED test report forms. Other documentation may be accepted, at the discretion of the Department.

(6) Academic Proficiency Standard. Before beginning basic telecommunicator or Emergency Medical Dispatcher (EMD) training or challenging basic telecommunicator training, each applicant must provide evidence to DPSST that the applicant possesses the academic tools necessary to successfully complete basic telecommunicator or EMD training.

(a) The hiring agency is responsible for ensuring a telecommunicator/EMD proficiency test or validated written test designed to evaluate predictors of job-related skills and behavior has been administered. The hiring agency must verify the completion of the test and report the date of completion to the Department on a Form F-5 (Application for Training) prior to the applicant being admitted to basic telecommunicator or EMD training.

(b) Individuals submitting transcripts verifying that they possess at least a four-year academic degree from an institution recognized by DPSST under the provisions of OAR 259-008-0045 are exempt from this testing requirement.

(c) Individuals who have successfully completed training resulting in the award of certification in the discipline they are applying for training are exempt from this testing requirement. Individuals must submit proof of training and certification.

(7) Physical Examination. All Telecommunicators and Emergency Medical Dispatcher applicants must be examined by a licensed health professional.

(a) The medical examination must be completed not more than 180 days prior to initial offer of employment, and not more than 90 days after the initial offer of employment.

(b) The examination must conform to applicable standards of the Americans with Disabilities Act (ADA). Title 42 USC 12101.

(c) Individuals who have successfully completed a physical examination (while at the same employer) and are selected for a certifiable position in a discipline in which the individual is not yet certified must complete and pass a new physical examination.

(d) The Department will not require a new physical examination when a Telecommunicator or Emergency Medical Dispatcher obtains employment or re-employment if the Telecommunicator or Emergency Medical Dispatcher:

(A) Has successfully completed a physical examination for employment in the same discipline and is currently certified;

(B) Is currently employed full-time in another jurisdiction and has successfully completed a comparable physical examination in that jurisdiction;

(C) Is employed in a limited duration, administrative position as described in OAR 259-008-0078.

(e) Notwithstanding subsection (d), a medical examination may be required by a hiring agency at its discretion.

(f) Telecommunicator and Emergency Medical Dispatcher applicants must meet the following criteria:

(A) Visual Acuity. Corrected vision must be at least 20/30 (Snellen) when tested using both eyes together.

(B) Color Vision. Red or green deficiencies may be acceptable, providing the applicant can read at least nine (9) of the first thirteen (13) plates of the Ishihara Test (24 Plate Edition). Applicants who fail the Ishihara test can meet the color vision standard by demonstrating that they can correctly discriminate colors via a field test conducted by the employer and approved by DPSST. The results of the field test and the methods for testing must be maintained by the employing agency.

(i) Any employing agency that conducts a field test to meet the color vision standard must also complete a Department approved affidavit attesting that the applicant can either correctly discriminate colors or is able to successfully perform the required tasks of a Telecommunicator or Emergency Medical Dispatcher, notwithstanding the applicant's inability to correctly discriminate colors.

(ii) Any affidavit required by (i), that the Department receives and accepts, is non-transferable to any subsequent employer and may not be used by any other entity for certification purposes.

(iii) Notwithstanding subsection (d) of this rule, each employer must complete an agency-specific field test and a Department approved affidavit as described in subsection (i) of this section for any Telecommunicator or Emergency Medical Dispatcher who previously met the color vision standard by completing a field test.

(C) Peripheral Vision. Visual Field Performance must be 120 degrees in the horizontal meridian combined.

(g) Applicants for the position of Telecommunicator or Emergency Medical Dispatcher must have sufficient hearing in both ears to perform essential tasks without posing a direct threat to themselves or others.

(A) The applicant must meet National Emergency Number Association (NENA) hearing standard NENA-STA-007.2-2014 (June 14, 2014).

(B) If the applicant cannot meet the identified hearing standard without correction, the applicant may utilize hearing amplification devices to meet the hearing standard. The Department may require an applicant to have another examination by a licensed audiologist or otorhinolaryngologist (ear, nose, throat) designated by the Department to verify that the applicant's corrected hearing meets the Board's minimum hearing standard.

(h) Applicants for the position of Telecommunicator or Emergency Medical Dispatcher must be able to use vocal cords and exhibit normal speech patterns, sufficient to perform speaking-related essential tasks.

(8) If further medical examination is required, it will be at the expense of the applicant or the hiring authority.

(9) All Telecommunicator and Emergency Medical Dispatcher applicants must submit a current-version Medical Examination Report for Telecommunicators and Emergency Medical Dispatchers (DPSST Form F-2T) or a signed medical report completed by a licensed health professional identified by the Department containing, at a minimum, the information on Form F-2T prior to the acceptance into a basic course or any course where such a report is required by the Department. The Form F-2T will be furnished to the examining health professional by the hiring agency.

(10) The Department may require an applicant offered conditional employment to take a subsequent examination by a licensed physician of the Department's choice at the expense of the applicant or the hiring authority.

(11) The Board may waive any physical requirement where, in its judgment, the waiver would not be detrimental to the performance of a Telecommunicator or Emergency Medical Dispatcher's duties. The applicant may be required to demonstrate the ability to perform the essential functions of the job.

(12) A person or department head requesting a waiver of any physical requirement set forth in section (11) of this rule must submit the request to the Department in writing, accompanied by supporting documents or pertinent testimony which would justify the action requested. The supporting documents must include information pertinent to the waiver request.

(a) The Board or Department may require additional documentation or testimony by the person or department head requesting the waiver if clarification is needed.

(b) Any expense associated with providing documentation or testimony will be borne by the person requesting the waiver or the requesting agency.

(c) If the person requesting the waiver does not obtain employment within one (1) year from the date a waiver is granted, the waiver will be considered void.

(d) If the Board grants a waiver, it will be recorded on the certification and any subsequent certification unless removed by the Board upon proof that the condition prompting the waiver no longer exists.

(e) If the Board denies a request for a waiver of any physical requirement set forth in section (7) of this rule, the Department will issue Notice and proceed as provided in section (13) of this rule.

(13) Contested Case Hearing Process for Denial of Waiver.

(a) Initiation of Proceedings: Upon determination that the reason for denial of a waiver is supported by factual data meeting the statutory and administrative rule requirements, a contested case notice will be prepared.

(b) Contested Case Notice: All contested case notice will be prepared in accordance with the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.

(c) Response Time: A party who has been served with a "Contested Case Notice of Intent to Deny a Waiver" has 60 days from the date of mailing or personal service of the notice in which to file a written request for a hearing with the Department.

(d) Default Order: If a timely request for a hearing is not received, the Contested Case Notice will become a final order denying the requested waiver pursuant to OAR 137-003-0672.

(e) Hearing Request: If a timely request for a hearing is received, the Department will refer the matter to the Office of Administrative Hearings in accordance with OAR 137-003-0515.

(f) Proposed and Final Orders: In cases in which a hearing was requested, proposed orders, exceptions, and final orders will be issued pursuant to the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 181.640, 183.341

Stats. Implemented: ORS 181.640, 183.341

Hist.: BPSST 1-2002, f. & cert. ef. 2-6-02; DPSST 1-2004, f. 1-16-04, cert. ef. 1-20-04; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 3-2007, f. & cert. ef. 1-12-07; DPSST 10-2007, f. & cert. ef. 10-15-07; DPSST 5-2008, f. & cert. ef. 4-15-08; DPSST 21-2008, f. 12-15-08, cert. ef. 1-1-09; DPSST 6-2009, f. & cert. ef. 7-13-09; DPSST 9-2010(Temp), f. & cert. ef. 10-15-10 thru 4-12-11; DPSST 13-2010, f. & cert. ef. 12-23-10; DPSST 9-2011, f. & cert. ef. 6-28-11; DPSST 14-2011, f. 9-26-11, cert. ef. 10-1-11; DPSST 5-2012, f. & cert. ef. 3-26-12; DPSST 19-2012, f. & cert. ef. 8-31-12; DPSST 18-2013, f. & cert. ef. 7-23-13; DPSST 13-2014, f. & cert. ef. 6-24-14; DPSST 32-2014, f. 12-29-14, cert. ef. 1-1-15; DPSST 7-2015, f. & cert. ef. 3-24-15; DPSST 10-2015, f. 6-23-15, cert. ef. 7-1-15

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**Rule Caption:** Adds liquor enforcement inspectors to the definition of law enforcement officer; updates other affected rules.

**Adm. Order No.:** DPSST 11-2015

**Filed with Sec. of State:** 6-23-2015

**Certified to be Effective:** 7-1-15

**Notice Publication Date:** 6-1-2015

**Rules Amended:** 259-008-0000, 259-008-0005, 259-008-0010, 259-008-0025, 259-008-0035, 259-008-0040, 259-008-0060, 259-008-0100

**Subject:** This rule change adds liquor enforcement inspectors to DPSST's definition of law enforcement officer. As such, except for the exclusions provided in statute, liquor enforcement inspectors are required to meet DPSST's minimum standards for employment for law enforcement officers, including medical standards, moral fitness and education, prior to being granted entry into a basic training class or certification. The rule change also updates other areas of rule that are affected by the liquor enforcement inspector certification requirements.

The original proposed rule filing included amendments to OAR 259-008-0250, regarding imposing civil penalties for violations of ORS 181.646. Upon further analysis of statute, DPSST does not have the statutory authority to impose civil penalties for violating ORS 181.646. On June 23, 2015, DPSST Director Gabliks approved filing this rule change permanently, omitting the original proposed language to 259-008-0250.

**Rules Coordinator:** Sharon Huck—(503) 378-2432

**259-008-0000**
**Policies and Objectives**

(1) The Board and Department adopt the following policies in response to ORS 181.630:

(a) The Board and Department exist to develop talented individuals into public safety providers who are:

(A) Culturally competent;

(B) Ethically, physically and emotionally fit; and

(C) Well trained, highly skilled and responsive to the needs of their communities.

(b) The Board and Department will promote the safety, efficiency, effectiveness, self-sufficiency and competence of public safety agencies and professionals.

(c) The Board and Department will encourage participation among public and private security, law enforcement, telecommunications and corrections organizations, the related organizations with whom they work as well as the interests of the communities they serve.

(d) The Board and Department will work together on matters related to public safety standards, training and certification.

(e) The Board may adopt or approve any policy, standard or minimum requirement related to public safety certifications and training.

(f) The Department may administer operations and procedures and implement or apply the policies and standards of the Board.

(g) The Department is a full department of the state.

(2) The objectives of the Board and Department are:

(a) To improve public safety services in Oregon by raising the level of competence of public safety personnel and their support staffs:

(A) By setting minimum standards for all levels of career development in areas such as employment; promotion; education; physical, emotional, intellectual, and moral fitness; and any other matter that relates to the competence and reliability of a person seeking employment or promotion within public safety.

(B) By setting minimum standards for training and certifying public safety personnel for all levels of professional development, basic through executive;

(C) By providing, sponsoring, certifying or coordinating training courses for public safety personnel.

(b) To conduct and stimulate research to improve the police, fire service, corrections, adult parole and probation, emergency medical dispatch and telecommunicator professions.

Stat. Auth.: ORS 181.630 & 181.640

Stats. Implemented: ORS 181.630 & 181.640

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1983, f. & ef. 12-15-83; Renumbered from 259-010-0000, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 14-2009, f. & cert. ef. 12-15-09; DPSST 11-2015, f. 6-23-15, cert. ef. 7-1-15

**259-008-0005**
**Definitions**

(1) "Academy Training Division" means the division of the Department which coordinates and facilitates criminal justice training courses to include the development, evaluation, and validation of curriculum and training.

(2) "Assistant Department Head" means a public safety officer employed in the first position subordinate to a Department Head who is primarily responsible for supervision of middle managers and supervisors.

(3) "Board" means the Board on Public Safety Standards and Training.

(4) "Casual employment" means employment that is occasional, irregular, or incidental for which the employee does not receive seniority rights or fringe benefits.

(5) "Certified Reserve Officer" means a reserve officer who has been designated by a local law enforcement unit, has received training necessary for certification and has met the minimum standards and training requirements established under ORS 181.640.

(6) "Commissioned" means being authorized to perform various acts or duties of a police officer or reserve officer and acting under the supervision and responsibility of a county sheriff or as otherwise provided by law.

(7) "Community College" means a public institution operated by a community college district for the purpose of providing courses of study limited to not more than two years full-time attendance and designed to meet the needs of a geographical area by providing educational services, including, but not limited to, vocational or technical education programs or lower division collegiate programs.

(8) "Corrections Officer" means an officer or member employed full-time by a law enforcement unit who:

(a) Is charged with and primarily performs the duty of custody, control or supervision of individuals convicted of or arrested for a criminal offense and confined in a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles;

(b) Has been certified as a corrections officer described in paragraph (a) of this subsection and has supervisory or management authority for corrections officers as described in paragraph (a) of this subsections; or

(c) Is any full-time employee of the Department who possesses requisite qualifications and is so certified pursuant to ORS 181.652.

(9) "Department" and "DPSST" means the Department of Public Safety Standards and Training.

(10) "Department Head" means the chief of police, sheriff, or chief executive of a law enforcement unit or a public or private safety agency directly responsible for the administration of that unit.

(11) "Director" means the Director of the Department of Public Safety Standards and Training.

(12) "Educational Credits" are credits earned for studies satisfactorily completed at an accredited post-secondary education institution recognized under OAR 259-008-0045.

(13) "Emergency Medical Dispatcher" means a person who has responsibility to process requests for medical assistance from the public or to dispatch medical care providers.

(14) "First-Level Supervisor" means a public safety officer employed in a position between the operational level and the middle manager, who is primarily responsible for the direct supervision of subordinates. A first level

supervisor position does not include a position with limited or acting supervisory responsibilities.

(15) "Full-time employment" means the employment of a person who has the responsibility for, and is paid to perform the duties of a public safety professional for more than 80 hours per month for a period of more than 90 consecutive calendar days. For purposes of this rule, any employment that meets the definition of seasonal, casual, or temporary employment is not considered full-time employment as a public safety professional.

(16) "High School" is a school accredited as a high school by the Oregon Department of Education, a school accredited as a high school by the recognized regional accrediting body, or a school accredited as a high school by the state university of the state in which the high school is located.

(17) "Instructor" means an individual who has completed the requisite training and certification requirements prescribed by statute, rule, and policy and has been certified by the Department. The Department will only certify instructors who instruct mandated courses.

(18) "Law Enforcement Officers" means police, corrections, parole and probation officers and liquor enforcement inspectors as described in the Public Safety Standards and Training Act.

(19) "Law Enforcement Unit" means:

(a) A police force or organization of the state, a city, university that has established a police department under ORS 352.383, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal governments as defined in section 1, chapter 644, Oregon Laws 2011, that employs authorized tribal police officers as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Department of Corrections, the Oregon State Lottery Commission, the Security and Emergency Preparedness Office of the Judicial Department or common carrier railroad the primary duty of which, as prescribed by law, ordinance, or directive, is any one or more of the following:

(A) Detecting crime and enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(B) The custody, control, or supervision of individuals convicted of or arrested for a criminal offense and confined to a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles; or

(C) The control, supervision, and reformation of adult offenders placed on parole or sentenced to probation and investigation of adult offenders on parole or probation or being considered for parole or probation.

(b) A police force or organization of a private entity with a population of more than 1,000 residents in an unincorporated area the employees of which are commissioned by a county sheriff;

(c) A district attorney's office;

(d) The Oregon Liquor Control Commission with regard to liquor enforcement inspectors; or

(e) A humane investigation agency as defined in section 1, chapter 67, Oregon Laws 2012.

(20) "Leave" means an authorized absence granted to a public safety professional by their employing public or private safety agency.

(21) "Limited Duration, Administrative Position" means a non-elected, certifiable public safety position where the primary duties relate to the administration, operation, and accountability of a public safety agency, including, but not limited to, the responsibility for command assignments and the supervision of subordinate managers.

(a) Primary duties are regular or recurring supervisory or managerial duties that are performed in a continuous manner and are the foundation of a limited duration, administrative position.

(b) Non-supervisory or non-managerial public safety duties, such as patrol, criminal investigations, or enforcement actions are not primary duties of a limited duration, administrative position.

(22) "Liquor enforcement inspector" means a full-time employee of the Oregon Liquor Control Commission (OLCC) who is authorized to act as an agent of the OLCC in conducting inspections or investigations, making arrests and seizures, aiding in prosecutions for offenses, issuing citations for violations and otherwise enforcing Chapter 471, ORS 474.005 to 474.095 and 474.115, OLCC rules and any other statutes the OLCC considers related to alcoholic liquor.

(23) "Middle Manager" means a public safety officer working in a position that is between a first-level supervisor and a department head, who is primarily responsible for management and command duties. A middle manager position does not include a position with limited or acting middle management duties.

(24) "Part-time Employment" means the employment of a person who has the responsibility for, and is paid to perform the duties of a public safety professional for 80 hours or less per month for a period of more than 90 consecutive calendar days.

(25) "Parole and Probation Officer" means:

(a) An officer who is employed full-time by the Department of Corrections, a county or a court and who is charged with and performs the duty of:

(A) Community protection by controlling, investigating, supervising, and providing or making referrals to reformative services for adult parolees or probationers or offenders on post-prison supervision; or

(B) Investigating adult offenders on parole or probation or being considered for parole or probation; or

(b) Any officer who:

(A) Is certified and has been employed as a full-time parole and probation officer for more than one year;

(B) Is employed part-time by the Department of Corrections, a county or a court; and

(C) Is charged with and performs the duty of:

(i) Community protection by controlling, investigating, supervising, and providing or making referrals to reformative services for adult parolees or probationers or offenders on post-prison supervision; or

(ii) Investigating adult offenders on parole or probation or being considered for parole or probation; or

(c) A full-time employee of the Department who possesses requisite qualifications and is so certified pursuant to ORS 181.652.

(26) "Police Officer" means:

(a) An officer, member or employee of a law enforcement unit employed full-time as a peace officer who is:

(A) Commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.383, the Governor or the Department of State Police; and

(B) Responsible for enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(b) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or another state;

(c) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011;

(d) A special agent commissioned under section 1, chapter 67, Oregon Laws 2012;

(e) An individual member of the judicial security personnel identified pursuant to ORS 1.177 who is trained pursuant to section 3, chapter 88, Oregon Laws 2012; or

(f) Any full-time employee of the Department who possesses requisite qualifications and is so certified pursuant to ORS 181.665.

(27) "Public or private safety agency" means:

(a) A law enforcement unit; or

(b) A unit of state or local government, a special purpose district or a private firm that provides, or has authority to provide, police, ambulance or emergency medical services.

(28) "Public Safety Personnel" and "Public Safety Officer" include corrections officers, emergency medical dispatchers, parole and probation officers, police officers, certified reserve officers, telecommunicators and liquor enforcement inspectors.

(29) "Public Safety Professional" includes public safety personnel, public safety officers, and instructors.

(30) "Regulations" mean written directives established by the Department or its designated staff describing training activities and student procedures at the Oregon Public Safety Academy.

(31) "Reimbursement" is the money allocated from the Police Standards and Training Account, established by ORS 181.690, to a law enforcement unit meeting the requirements of these regulations to defray the costs of officer salaries, relief duty assignments, and other expenses incurred while officers attend approved training courses certified by the Department.

(32) "Reserve Officer" means an officer or member of a law enforcement unit who is:

(a) A volunteer or employed less than full time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in section 1, chapter 644,

Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, the Governor, or the Department of State Police;

(b) Armed with a firearm; and

(c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordinances relating to airport security.

(33) "Seasonal Employment" means employment that can be carried on only at certain seasons or fairly definite portions of the year, with defined starting and ending dates based on a seasonally determined need.

(34) "Staff" means those employees occupying full-time, part-time, or temporary positions with the Department.

(35) "Standards and Certification" means the division of the Department which implements and regulates compliance with Board-established, statewide standards for public safety professionals. Standards and Certification oversees the issuance, maintenance, denial, suspension or revocation of public safety certifications.

(36) "Suspension" means the administrative inactivation of a certificate issued by the Department until maintenance requirements or other administrative requirements for certification are met and certification is restored.

(37) "Telecommunicator" means:

(a) A person employed as an emergency telephone worker as defined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, processing and transmitting public safety information received through a 9-1-1 emergency reporting system as defined in ORS 403.105; or

(b) A full-time employee of the Department who possesses requisite qualifications and is so certified pursuant to ORS 181.652.

(38) "Temporary employment" means employment that lasts no more than 90 consecutive calendar days and is not permanent.

(39) "The Act" refers to the Public Safety Standards and Training Act (ORS 181.610 to 181.715).

(40) "Waiver" means to refrain from pressing or enforcing a rule.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0010, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 2-1996, f. 5-15-96, cert. ef. 5-20-96; PS 3-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 7-2000, f. & cert. ef. 9-29-00; BPSST 11-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 12-2006, f. & cert. ef. 10-13-06; DPSST 3-2007, f. & cert. ef. 1-12-07; DPSST 7-2010, f. 7-15-10, cert. ef. 8-1-10; DPSST 6-2012, f. & cert. ef. 3-27-12; DPSST 24-2012, f. & cert. ef. 10-26-12; DPSST 31-2012, f. & cert. ef. 12-27-12; DPSST 1-2014, f. & cert. ef. 1-2-14; DPSST 5-2014, f. & cert. ef. 1-29-14; DPSST 7-2015, f. & cert. ef. 3-24-15; DPSST 11-2015, f. 6-23-15, cert. ef. 7-1-15

**259-008-0010**

**Minimum Standards for Employment as a Law Enforcement Officer**

(1) Citizenship.

(a) A person may not be employed as a corrections officer for more than one year unless the person is a citizen of the United States.

(b) A person may not be employed as a police officer, parole and probation officer or a liquor enforcement inspector for more than 18 months unless the person is a citizen of the United States.

(c) The citizenship requirement found in (b) does not apply to a person employed as a liquor enforcement inspector on March 16, 2012, who continues full-time employment as a liquor enforcement inspector without a lapse.

(2) Age. No law enforcement unit in this state may employ any person under the age of 21 years as a law enforcement officer.

(3) Fingerprints. Within 90 days of the date of employment in a certifiable position, each law enforcement officer must be fingerprinted on a standard applicant fingerprint card.

(a) The hiring agency is responsible for fingerprinting and must forward one card to the Oregon State Police Identification Services Section for processing and the assignment of an identification number.

(b) If any procedural change is made by either the Federal Bureau of Investigation or the Oregon State Police Identification Services Section, the Department must comply with the most current requirements.

(c) Applications for certification will not be processed until an applicant's fingerprints have cleared Oregon State Police Identification Services.

(4) Criminal Records. No law enforcement officer may have been convicted:

(a) In this state or any other jurisdiction, of a crime designated under the law where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one (1) year may be imposed;

(b) Of violating any law involving the unlawful use, possession, delivery, or manufacture of a controlled substance, narcotic, or dangerous drug;

(c) In this state of violating any law subject to denial or revocation as identified in OAR 259-008-0070 or has been convicted of violating the statutory counterpart of any of those offenses in any other jurisdiction.

(5) Notification of Conviction:

(a) A law enforcement officer who is convicted of a crime, as identified in OAR 259-008-0070, while employed by a public or private safety agency must notify the agency head within 72 hours of the conviction.

(b) When an agency receives notification of a conviction from its employee, or another source, they must notify the Department within five (5) business days. The notification to the Department must be in writing and include the specific charges of the conviction, the county and state where the conviction occurred, the investigating agency and the date of the conviction.

(6) Moral Fitness (Professional Fitness). All law enforcement officers must be of good moral fitness. For purposes of this standard, lack of good moral fitness includes, but is not limited to:

(a) Mandatory disqualifying misconduct as described in OAR 259-008-0070(3); or

(b) Discretionary disqualifying misconduct as described in OAR 259-008-0070(4).

(7) Education:

(a) Applicants for the position of a law enforcement officer will be required to furnish documentary evidence of one of the following:

(A) High School diploma;

(B) Successful completion of the General Educational Development (GED) Test; or

(C) A four-year, post-secondary degree issued by an accredited, degree-granting college or university recognized by the Oregon Office of Degree Authorization under the provisions of ORS 348.604.

(i) For the purpose of determining high school graduation level as required by these rules, the applicant must have achieved a score no less than that required by the Oregon Board of Education before issuing an Oregon GED certificate.

(ii) Applicants holding a GED from another state may be required to obtain an Oregon certificate at the discretion of the Department.

(b) Evidence of the above must consist of official transcripts, diplomas, or GED test report forms. Other documentation may be accepted, at the discretion of the Department.

(c) Academic Proficiency Standard. Before beginning basic training or beginning the career officer development course, each applicant must provide evidence to DPSST that the applicant possesses the academic tools necessary to successfully complete basic training.

(A) The hiring agency is responsible for ensuring a law enforcement proficiency test or validated written test designed to evaluate predictors of job-related skills and behaviors has been administered. The hiring agency must verify the completion of the test and report the date of completion to the Department on a Form F-5 (Application for Training) prior to the applicant being admitted to basic training.

(B) Individuals submitting transcripts verifying that they possess at least a four-year academic degree from an institution recognized by the Department under the provisions of OAR 259-008-0045 are exempt from this testing requirement.

(C) Individuals who have successfully completed training resulting in the award of certification in the discipline they are applying for training are exempt from this testing requirement. Individuals must submit proof of training and certification.

(8) Physical Examination. All law enforcement officer applicants must be examined by a licensed physician or surgeon.

(a) The medical examination must be completed not more than 180 days prior to initial offer of employment, nor more than 90 days after initial offer of employment, and must conform to applicable standards of the Americans with Disabilities Act (ADA). Title 42 USC 1210.

(b) Individuals who have had a successfully completed physical examination (while at the same employer) and are selected for a certifiable position in a discipline in which the individual is not yet certified must complete and pass a new physical examination.

(c) Liquor enforcement inspectors employed by OLCC prior to July 1, 2015 who have previously completed OLCC basic training are exempt from completion of the physical examination.

(d) Except as provided in (f) below, the Department will not require a new physical examination when a law enforcement officer obtains employment or re-employment if the officer;

(A) Has successfully completed a physical examination for employment in the same discipline and is currently certified;

(B) Is currently employed full-time in another jurisdiction who has successfully completed a comparable physical examination in that jurisdiction; or

(C) Is employed in a limited duration, administrative position as described in OAR 259-008-0078.

(e) Notwithstanding subsection (d), a medical examination may be required by a hiring agency at its discretion.

(f) Notwithstanding subsection (d), any law enforcement officer who is separated from employment for a reason related to a physical inability to perform an essential task of a law enforcement officer must successfully complete a physical examination prior to obtaining re-employment in a certifiable position.

(g) Law Enforcement applicants must meet the following criteria:

(A) Visual Acuity. Corrected vision must be at least 20/30 (Snellen) in each eye. Due to the demonstrated likelihood of dislodgment or breakage, candidates who are able to wear only glasses with frames must meet an uncorrected standard not worse than 20/100 (Snellen) in each eye. Those candidates who use soft contact lenses (SCLs) must have vision correctable to at least 20/30 in each eye, with no uncorrected standard, provided the employing agency will monitor compliance. Replacement glasses or lenses (as appropriate) must be on the person or readily available at all times during each work shift.

(B) Color Vision. Red or green deficiencies may be acceptable, providing the applicant can read at least nine (9) of the first thirteen (13) plates of the Ishihara Test (24 Plate Edition). Applicants who fail the Ishihara test can meet the color vision standard by demonstrating that they can correctly discriminate colors via a field test conducted by the employer and approved by DPSST.

(C) Depth Perception. Depth Perception must be sufficient to demonstrate stereopsis adequate to perform the essential tasks of the job. The recommended test is the Random Stereo Test with 60 seconds of arc.

(D) Peripheral Vision. Visual Field Performance must be 140 degrees in the horizontal meridian combined.

(E) Night Blindness. A history of night blindness should be evaluated to determine applicant's capacity to perform essential tasks at night or in dark or low light settings.

(h) Applicants for the position of police officer, corrections officer, or liquor enforcement inspector must have sufficient hearing in both ears to perform essential tasks without posing a direct threat to themselves or others. The applicant must have no average loss greater than 25 decibels (db) at the 500, 1,000, 2,000 and 3,000-Hertz levels in either ear with no single loss in excess of 40 db.

(i) Applicants for the position of parole and probation officer must have sufficient hearing in both ears to perform essential tasks without posing a direct threat to themselves or others. The applicant must have no average loss greater than 35 decibels (db) at the 500, 1000, 2000, and 3000 Hertz levels in either ear with no single loss in excess of 45 db.

(j) If amplification device(s) is (are) necessary to meet the criteria in (h) or (i) above, or if applicant cannot meet the above criteria and wishes to pursue application, applicant must:

(A) Obtain a hearing evaluation by a licensed audiologist or otorhinolaryngologist (ear, nose, throat) to determine current hearing aid requirement; and

(B) Achieve a Speech Reception Threshold (SRT) of no greater than 25 db for each ear;

(C) Law enforcement applicants must achieve a Speech Discrimination test score of no less than 90% utilizing a standard 50-word presentation at 60 db Hearing Threshold Level (HTL). The Department may require an applicant to have another examination by a licensed audiologist or otorhinolaryngologist (ear, nose, and throat) designated by the Department to verify that the applicant's hearing meets the Board's minimum hearing standard. The verification examination will be at the expense of the applicant or the applicant's employing agency. The equipment utilized for all of these evaluations must be calibrated annually using current ANSI standards.

(D) Hearing amplification devices used to meet the hearing standard must be the type that protects the applicant from further hearing degradation due to amplification of loud sounds.

(k) Law enforcement applicants must be able to use vocal chords and have significant speaking ability to perform speaking-related essential tasks. For police, corrections officers, and liquor enforcement inspectors, abnormalities of the nose, throat or mouth must not interfere with the applicant's breathing or proper fitting of gas mask or similar device.

(l) Law enforcement applicants who have a history of organic cardiovascular disease or a finding during the medical examination of organic cardio-vascular disease will necessitate further medical evaluation.

(A) Resting blood pressure must be less than or equal to 140 mmHg systolic and 90 mmHg diastolic on three successive readings.

(B) Applicants must not have a functional and therapeutic cardiac classification greater than the Heart Association's Class A.

(C) Failure to meet guidelines (k), (A) and (B) will require further medical evaluation.

(D) If the applicant has controlled hypertension not exceeding the above standards and is on medication with side effect profiles, which do not interfere with performance of duty, then the condition may not be excludable.

(E) Functional Capacity I patients with cardiac disease may not be excludable, if they have no limitations of physical activity and ordinary physical activity does not cause discomfort and they do not have symptoms of cardiac insufficiency, nor experience angina pain.

(F) Therapeutic Classification A patients with cardiac disease, whose physical activity is restricted, should be evaluated thoroughly.

(G) If further medical examination is required under (k), it will be at the expense of the applicant or hiring authority.

(m) All law enforcement applicants must submit a current-version DPSST Medical Examination Report (DPSST Form F2), or a medical report completed by a licensed physician containing at a minimum the information on Form F2 and a signed statement by the examining physician that the applicant does not have any condition, physical, mental, or emotional, which, in his/her opinion, suggests further examination. This Report will be furnished to the examining physician by the hiring agency. The physician must indicate that the applicant is or is not physically able to perform the duties of a law enforcement officer as prescribed by DPSST.

(n) A copy of the Medical Examination Report must be sent to the Department prior to acceptance into a basic course, or any course where such report is required by the Department.

(o) The Department may require an applicant offered conditional employment to take a subsequent examination by a licensed physician of the Department's choice at the expense of the applicant or the hiring authority.

(p) The Board may waive any physical requirement where, in its judgment, the waiver would not be detrimental to the performance of an officer's duties, including the protection of the public and the safety of coworkers. The applicant may be required to demonstrate the ability to perform the essential functions of the job.

(q) A person or department head requesting a waiver of any physical requirement set forth in section (8) of this rule shall submit the request to the Department in writing, accompanied by supporting documents or pertinent testimony which would justify the action requested. The supporting documents must include information pertinent to the waiver request. The Board or Department may require additional documentation or testimony by the person or department head requesting the waiver if clarification is needed. Any expense associated with providing documentation or testimony will be borne by the person requesting the waiver or the requesting agency. If the person requesting the waiver does not obtain employment within one (1) year from the date a waiver is granted, the waiver will be considered void.

(A) If the Board grants a waiver, it will be recorded on the certification and any subsequent certification unless removed by the Board upon proof that the condition prompting the waiver no longer exists.

(B) If the Board denies a request for a waiver of any physical requirement set forth in section (8) of this rule, the Department will issue Notice and proceed as provided in section (9) of this rule.

(9) Contested Case Hearing Process for Denial of Waiver.

(a) Initiation of Proceedings: Upon determination that the reason for denial of a waiver is supported by factual data meeting the statutory and administrative rule requirements, a contested case notice will be prepared.

(b) Contested Case Notice: All contested case notice will be prepared in accordance with the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.

(c) Response Time: A party who has been served with a "Contested Case Notice of Intent to Deny a Waiver" has 60 days from the date of mailing or personal service of the notice in which to file a written request for a hearing with the Department.

(d) Default Order: If a timely request for a hearing is not received, the Contested Case Notice will become a final order denying the requested waiver pursuant to OAR 137-003-0672.

(e) Hearing Request: If a timely request for a hearing is received, the Department will refer the matter to the Office of Administrative Hearings in accordance with OAR 137-003-0515.

(f) Proposed and Final Orders: In cases in which a hearing was requested, proposed orders, exceptions, and final orders will be issued pursuant to the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 181.640, 183.341

Stats. Implemented: ORS 181.640, 183.341

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1981, f. 9-26-81, ef. 11-2-81; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; PS 1-1987, f. & ef. 10-26-87; Renumbered from 259-010-0015, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 2-1996, f. 5-15-96, cert. ef. 5-20-96; PS 4-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 1-1999, f. & cert. ef. 3-9-99; BPSST 9-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 3-2001, f. & cert. ef. 8-22-01; BPSST 12-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; BPSST 5-2002(Temp), f. 4-3-02, cert. ef. 4-6-02 thru 8-1-02; BPSST 16-2002, f. & cert. ef. 7-5-2002; BPSST 20-2002, f. & cert. ef. 11-21-02; DPSST 3-2003, f. & cert. ef. 1-22-03; DPSST 6-2003, f. & cert. ef. 4-11-03; DPSST 8-2003, f. & cert. ef. 4-18-03; DPSST 14-2003, f. & cert. ef. 12-22-03; DPSST 3-2006, f. & cert. ef. 2-28-06; DPSST 12-2006, f. & cert. ef. 10-13-06; DPSST 10-2007, f. & cert. ef. 10-15-07; DPSST 13-2007(Temp), f. & cert. ef. 11-1-07 thru 4-18-08; DPSST 1-2008(Temp), f. & cert. ef. 1-15-08 thru 4-18-08; DPSST 4-2008, f. & cert. ef. 4-15-08; DPSST 21-2008, f. 12-15-08, cert. ef. 1-1-09; DPSST 10-2009, f. & cert. ef. 9-21-09; DPSST 9-2011, f. & cert. ef. 6-28-11; DPSST 14-2011, f. 9-26-11, cert. ef. 10-1-11; DPSST 18-2012, f. & cert. ef. 8-27-12; DPSST 19-2012, f. & cert. ef. 8-31-12; DPSST 18-2013, f. & cert. ef. 7-23-13; DPSST 1-2014, f. & cert. ef. 1-2-14; DPSST 13-2014, f. & cert. ef. 6-24-14; DPSST 32-2014, f. 12-29-14, cert. ef. 1-1-15; DPSST 7-2015, f. & cert. ef. 3-24-15; DPSST 11-2015, f. 6-23-15, cert. ef. 7-1-15

**259-008-0025**
**Minimum Standards for Training**

(1) Basic Course:

(a) Except as provided in OAR 259-008-0035, all law enforcement officers, telecommunicators, and emergency medical dispatchers must satisfactorily complete the prescribed Basic Course, including the field training portion. The Basic Course and field training portion must be completed within twelve months from the date of employment by corrections officers and within 18 months by police officers, parole and probation officers, telecommunicators, emergency medical dispatchers and liquor enforcement inspectors.

(b) The field training program shall be conducted under the supervision of the employing department. When the field training manual is properly completed, the sign-off pages of the field training manual must be forwarded to the Department. Upon the approval of the Department, the employee shall receive credit toward basic certification.

(c) Liquor enforcement inspectors employed by OLCC prior to July 1, 2015 who have previously completed OLCC basic training may be exempted from completion of the basic liquor enforcement inspector course.

(d) Effective July 1, 2007, all police officers must satisfactorily complete the Department's physical fitness standard. The Department's physical standard is:

(A) Successful completion of the OR-PAT at 5:30 (five minutes and thirty seconds) when tested upon entry at the Basic Police Course; or

(B) Successful completion of the OR-PAT at 5:30 (five minutes and thirty seconds) when tested prior to graduation from the Basic Police Course.

(e) Law enforcement officers who have previously completed the Basic Course, but have not been employed as a law enforcement officer as defined in ORS 181.610 and OAR 259-008-0005 during the last five years or more, must satisfactorily complete the full required Basic Course to qualify for certification. This requirement may be waived by the Department upon a finding that the applicant has current knowledge and skills to perform as an officer.

(f) Telecommunicators and emergency medical dispatchers who have previously completed the Basic Course, but have not been employed as a telecommunicator or EMD, as described in ORS 181.610 and OAR 259-008-0005 for 2–1/2 years or more, must satisfactorily complete the full required Basic Course to qualify for certification. This requirement may be waived by the Department upon finding that a Telecommunicator has current knowledge and skills to perform as a Telecommunicator. There is no waiver available for an emergency medical dispatcher.

(g) Previously employed telecommunicators may challenge the Basic Telecommunications Course based on the following criteria:

(A) The department head of the applicant's employing agency shall submit the "challenge request" within the time limits set forth in the Oregon Revised Statutes and Oregon Administrative Rules.

(B) The applicant must provide proof of successful completion of prior equivalent training.

(C) The applicant must provide documentation of the course content with hour and subject breakdown.

(D) The applicant must obtain a minimum passing score on all written examinations for the course.

(E) The applicant must demonstrate performance at the minimum acceptable level for the course.

(F) Failure of written examination or demonstrated performance shall require attendance of the course challenged.

(G) The applicant will only be given one opportunity to challenge a course.

(h) Previously employed police officers, corrections officers, parole and probation officers, and liquor enforcement inspectors who are required to attend the Basic Course may not challenge the Basic Course.

(i) Except as provided in section (2)(b) of this rule, all law enforcement officers who have previously completed the Basic Course, but have not been employed as a law enforcement officer as described in ORS 181.610 and OAR 259-008-0005 over 2–1/2 years but less than five years must complete a Career Officer Development (COD) Course if returning to the same discipline. This requirement may be waived after a staff determination that the applicant has demonstrated the knowledge and skills required for satisfactory completion of a Career Officer Development Course.

(j) Corrections and police officers who have not completed the Basic Course must begin training within 90 days of their initial date of employment.

(A) A police officer must begin training at an academy operated by the Department.

(B) A corrections officer who is employed by Oregon Department of Corrections (DOC) must begin DOC Basic Corrections Course (DOC BCC) training provided by DOC as described in section (6) of this rule.

(C) A corrections officer who is not employed by DOC must begin training at an academy operated by the Department.

(D) A 30-day extension of this time period shall be granted by the Board or its designee upon receipt of a written statement of the reasons for the delay from the officer's employer. Any delays caused by the inability of the Department to provide basic training for any reason, shall not be counted as part of the periods set forth above (refer to ORS 181.665 and 181.652).

(k) Law enforcement officers who have previously completed a basic training course out of state while employed by a law enforcement unit, or public or private safety agency, may, upon proper documentation of such training and with approval of the Department, satisfy the requirements of this section by successfully completing a prescribed Career Officer Development Course or other appropriate course of instruction.

(l) The basic course for police officers must include:

(A) Training on the law, theory, policies and practices related to vehicle pursuit driving;

(B) Vehicle pursuit training exercises, subject to the availability of funding; and

(C) A minimum of 24 hours of training in the recognition of mental illnesses utilizing a crisis intervention training model. A minimum of one hour of this training must be on the appropriate use of the medical health database maintained by the Department of State Police within the Law Enforcement Data System.

(2) Career Officer Development Course:

(a) Except as provided in (b), all law enforcement officers who have not been employed as such for between 2–1/2 years and five years, must satisfactorily complete a Career Officer Development (COD) Course approved by the Department.

(A) A law enforcement officer assigned to a COD Course must also complete the Board's field training program under the supervision of the employing department and submit to the Department a properly completed Field Training Manual. The Department may waive the Field Training Manual requirement upon demonstration by the employing agency that it is not necessary (refer to OAR 259-008-0025(1)(b)).

(B) A law enforcement officer who fails to achieve a minimum passing test score after completing a COD Course will be given one opportunity to remediate through self-study and re-test within 60 days of the initial date of failure.

(C) A law enforcement officer who fails to achieve a minimum passing test score after re-testing will have been determined to have failed academically and will be required to attend the next available Basic Course.

(D) A law enforcement officer who is scheduled to complete a distance learning COD Course must achieve a minimum passing test score within the timeframe set by the Department. Failure to successfully com-

plete a distance COD Course within the timeframe set by the Department will require an officer to attend the next available COD Course.

(b) Law enforcement officers employed in a limited duration, administrative position, as described in OAR 259-008-0078, are exempted from completion of the COD course.

(c) The Department may also require successful completion of additional specified courses or remedial training.

(3) Supervision Course. All law enforcement officers, telecommunicators, and emergency medical dispatchers promoted, appointed, or transferred to a first-level supervisory position must satisfactorily complete Supervision training that complies with the requirements outlined in DPSST Form F-21. The required training must be completed within 12 months after initial promotion, appointment, or transfer to such position. This section applies whether the individual is promoted or transferred to a supervisory position within a department, or is appointed from an outside department, without having completed the required Supervision training within the preceding five (5) years.

(4) Middle Management Course. All law enforcement officers, telecommunicators, and emergency medical dispatchers promoted, appointed, or transferred to a middle management position must satisfactorily complete Middle Management training that complies with the requirements outlined in DPSST Form F-22. The required training must be completed within 12 months after initial promotion, appointment, or transfer to such position. This section applies whether the individual is promoted or transferred to a middle management position within a department, or is appointed to the position from an outside department without having completed the required Middle Management training within the preceding five (5) years.

(5) Specialized Courses.

(a) Specialized courses are optional and may be presented at the Academy or regionally. The curriculum is generally selected because of relevancy to current trends and needs in public safety fields, at the local or statewide level.

(b) Specialized courses may be developed and presented by individual departments of the criminal justice system, local training districts, a college, the Department, or other interested persons. Department staff may be available to provide assistance when resources are not available in the local region.

(c) Police officers, including certified reserve officers, must be trained on how to investigate and report cases of missing children and adults.

(A) The above mandated training is subject to the availability of funds.

(B) Federal training programs must be offered to police officers, including certified reserve officers, when they are made available at no cost to the state.

(6) The DOC Basic Corrections Course.

Course Requirements:

(a) Except as provided in OAR 259-008-0035, all corrections officers hired by the Oregon Department of Corrections (DOC) must satisfactorily complete the DOC Basic Corrections Course (DOC BCC), including the field training portion. All corrections officers must complete the DOC BCC and field training portion within twelve months from the date of employment.

(b) Prior to attending a DOC BCC, a corrections officer hired by DOC must:

(A) Meet the minimum standards for employment as a law enforcement officer contained in OAR 259-008-0010;

(B) Meet the background investigation requirements for a law enforcement officer contained in OAR 259-008-0015; and

(C) Meet the minimum standards for training contained in this section.

(c) The DOC BCC must conform to the content and standard approved by the Board. The DOC BCC must include, but is not limited to:

(A) Minimum training standards for the basic certification of corrections officers employed by DOC. The minimum training developed by DOC must be adopted by the Board and must meet or exceed the minimum training standards for the basic certification of corrections officers employed by a law enforcement unit other than DOC.

(B) Minimum Course Hours. The minimum course hours are 240. DOC BCC Course hours refer to hours of training related to DPSST Instructional Goals and may include classroom, scenarios, skills sheets or other related training methodology.

(i) The DOC BCC must include hours addressing all Instructional Goals within each of the following sections:

(I) Section A — 20 hours in Legal Considerations;

(II) Section B — 37 hours in Security Procedures;

(III) Section C — 43 hours in Inmate Supervision;

(IV) Section D — 16 hours in Inmate Health Care;

(V) Section E — 16 hours in Professional Skills;

(VI) Section F — 27 hours in Personal Fitness;

(VII) Section G — 41 hours in Defensive Tactics; and

(VIII) Section H — 26 hours in Skills — Firearms.

(ii) Administrative time is not included within the hours identified in subsection (i). Administrative time may be up to 6% of the overall course hours, or a maximum of 14 hours.

(iii) A minimum of 80% of the classes in the DOC BCC must include:

(I) Participatory learning activities which include, but are not limited to, scenario training, hands-on training and problem-based learning; and

(II) Sufficient hours to address the Instructional Goals in subsection (i).

(C) Attendance Standards. Attendance rosters must be kept and copies of these rosters must be submitted to the Department at the conclusion of a student's training, or when requested by the Department. To successfully complete the DOC BCC, a student may not miss more than 10% of the DOC BCC.

(D) Notwithstanding (C) above, successful completion of the DOC BCC requires 100% attendance during classes in which the following Instructional Goals are covered:

(i) B1.2 Instruction and practice applying safe and efficient tactics for inmate monitoring, inmate counts and facility perimeter checks;

(ii) B2.2 Instruction and practice conducting appropriate, safe and systematic searches of inmates and correctional facilities;

(iii) B5.2 Instruction and practice restraining individuals in an appropriate, safe and systematic manner;

(iv) B8 Reality based scenarios that enhance a new corrections professional's understanding and application of security procedures in a correctional facility;

(v) C3.2 Instruction and practice using interpersonal skills to effectively communicate with inmates and other persons in a correctional setting;

(vi) C10 Reality-based scenarios that enhance a new corrections professional's understanding and application of inmate supervision strategies within a correctional facility;

(vii) D3.2 Instruction and practice applying appropriate intervention strategies for dealing with inmates with major mental illnesses;

(viii) G1 Decision-making skills related to the use of reasonable force to effectively overcome and control resistive and/or hostile behavior;

(ix) G2 Instruction and practice using reasonable force tactics to effectively overcome and control resistive and/or hostile behavior;

(x) G3 Reality-based scenarios that enhance a new corrections professional's understanding and application of reasonable force decision-making and tactics within a correctional facility;

(xi) H1 Basic gun-handling skills; and

(xii) H2 Basic understanding of the use, limitations and techniques of a service handgun, and proficiency in safety, proper gun-handling, marksmanship and firearms tactics.

(E) Conduct. An individual attending a DOC BCC is expected to uphold the minimum moral fitness standards for Oregon public safety officers during their training. DOC will document the date, type, and disposition of any student misconduct relating to the minimum standards for correctional officers. These include, but are not limited to, the following Zero Tolerance Offenses:

(i) Any unlawful act;

(ii) Dishonesty, lying or attempting to conceal violations;

(iii) Cheating;

(iv) Harassment; or

(v) Alcohol possession or use at the training venue.

(F) Course Curriculum.

(i) The DOC BCC will be based on the critical and essential job tasks identified in the most current Job Task Analysis for corrections officers provided to DOC by the Department.

(ii) The DOC BCC will incorporate the most current Instructional Goals provided to DOC by the Department.

(iii) The DOC BCC will incorporate curriculum updates provided to DOC by the Department, when those updates address the critical and essential job tasks or Instructional Goals referenced above. Testing Requirements:

(G) Academic Testing. Academic testing will consist of written test questions that are valid, create reasonable academic rigor, and require students to demonstrate knowledge and application of the essential tasks iden-

tified within the DOC BCC curriculum. DOC must administer examinations and maintain a file of examinations conducted.

(i) Academic Testing Passing Score. Except as provided below, to successfully complete the DOC BCC, students must achieve a minimum score of 75% on each academic test. If a student does not attain a 75% score, and DOC retains the student as an employee in a certifiable position, DOC must remediate the student. After remediation, a student will be allowed one opportunity to re-test and achieve a minimum score of 75%.

(ii) Students must attain a score of 100% on all academic test questions on Use of Force topics. If a student fails to attain a 100% score on Use of Force topics, and DOC retains the student as an employee in a certifiable position, DOC must remediate the student. Remediation must include the student completing the DPSST Use of Force Remediation form to demonstrate understanding of each topic missed.

(H) Skills Testing. Skills testing will consist of evaluations documented by use of Skills Sheets during which students must demonstrate competence and achieve a "pass" score in each skill tested.

(I) Test Security and Integrity.

(i) DOC must develop and strictly enforce measures to ensure the security of test questions and integrity of all testing processes.

(ii) DOC must randomize the order of test questions and must develop a sufficient bank of test questions to ensure that students who fail to achieve a passing score and are remediated are given a randomized test that includes some questions that are different than those in the test the student originally failed.

(J) Instructor Requirements: Instructor Qualifications.

(i) All instructors for the DOC BCC must meet or exceed the Instructor Certification standards for instructors at DPSST Basic courses and must be currently certified by the Department in the categories instructed.

(ii) DOC must verify that an instructor providing instruction within a category has the requisite subject matter knowledge, skills and abilities.

(K) The equivalency of the DOC BCC is subject to approval by the Board and verified by ongoing audits.

(L) DOC BCC documentation must include, but is not limited to:

(i) Training schedules, to include all training related to DOC BCC hours, such as classroom, skills sheets, online training and scenarios;

(ii) Classes with associated Instructional Goals and related hours;

(iii) Participatory learning activities within each class;

(iv) Testing Measures for each class; and

(v) Attendance rosters.

(M) DOC BCC Class Training Schedule documentation for each DOC BCC must include, but is not limited to:

(i) Notification of all anticipated DOC BCC training dates to include DOC BCC remediation training;

(ii) Times of DOC BCC training;

(iii) Locations of DOC BCC training; and

(iv) Instructors scheduled to provide training.

(N) Ongoing DOC BCC student documentation during each DOC BCC must include, but is not limited to:

(i) A list of students scheduled to attend training;

(ii) Student names, DPSST numbers, dates of employment and employing institutions;

(iii) Identification of any class or skill failure requiring remediation to including, but not limited to, the date and location of failure, date and location of remediation, the instructor who had oversight over remediation, and the result of remediation.

Certification Requirements

(O) Officer Certification. The applicant must meet the minimum standards for certification as a corrections officer contained in OAR 259-008-0060. DOC must submit the following documents at the time Basic certification is requested:

(i) F-7 (Application for Certification);

(ii) F-6 (Course Roster) for DOC BCC including the number of hours and the final cumulative score;

(iii) F-6 (Course Roster) for DOC Advanced Corrections Course with attached itemized list of classes attended;

(iv) Proof of current First Aid/CPR;

(v) F-11 (Criminal Justice Code of Ethics); and

(vi) FTO Manual Completion Report.

(P) Course Certification. Each DOC BCC class must be certified before officers who complete that BCC may be certified. The following Class Notebook requirements are needed prior to course certification:

(i) F-6 DPSST Class Roster, listing all students who began the course, passed or failed the course, and those who did not complete the course.

(ii) Curriculum for all components of the BCC, to include classroom, skills, online, and scenario training. The curriculum components must include lesson outlines, PowerPoint, handouts and other related documents to support each class.

(iii) Schedule of classes within the course, to include roster for each class, weekly schedule outlining the dates of training, the location of training, the phases of training, the number of hours for each class, the name of the class, the instructors who provided instruction.

(iv) Documentation of all training failures and remediation, to include class, date and location of training failure, the type of failure, the date, location and instructor who had oversight over the remediation of the failure and the result of the remediation.

(v) Testing measures, to include test questions and answers, individual student tests, student scores by student name, DPSST number and date of examination, and the overall class percentage.

(vi) Individual student records, to include evaluation forms, PQC qualification card, training records, and absence reports.

(vii) All skill sheets for every student completing some or all of the required skill sheets.

(7) Waiver. A person requesting a waiver of any course requirements is required to submit to the Department any supporting documents or pertinent expert testimony and evaluation requested. Any expense associated with providing such documentation, testimony or evaluation shall be borne by the person requesting the waiver or the requesting agency.

(8) Notwithstanding this rule, the Department may prescribe additional training for Basic certification, up to and including completion of the full Basic course, in situations in which previous periods of employment have been limited.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1982, f. & ef. 7-2-82; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0030, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 5-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 11-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 13-2001(Temp), f. & cert. ef. 10-26-01 thru 4-10-02; BPSST 2-2002, f. & cert. ef. 2-6-02; BPSST 8-2002, f. & cert. ef. 4-3-02; BPSST 15-2002, f. & cert. ef. 7-5-02; DPSST 14-2003, f. & cert. ef. 12-22-03; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 3-2007, f. & cert. ef. 1-12-06; DPSST 3-2007, f. & cert. ef. 1-12-07; DPSST 9-2008, f. & cert. ef. 7-15-08; DPSST 14-2008, f. & cert. ef. 10-15-08; DPSST 3-2009, f. & cert. ef. 4-8-09; DPSST 8-2009(Temp), f. & cert. ef. 9-15-09 thru 3-1-10; DPSST 15-2009, f. & cert. ef. 12-15-09; DPSST 3-2010, f. 4-12-10, cert. ef. 5-1-10; DPSST 2-2011, f. 3-23-11, cert. ef. 5-1-11; DPSST 13-2012(Temp), f. & cert. ef. 5-8-12 thru 10-1-12; DPSST 17-2012, f. & cert. ef. 8-24-12; DPSST 6-2013, f. & cert. ef. 3-8-13; DPSST 15-2013, f. & cert. ef. 6-25-13; DPSST 1-2014, f. & cert. ef. 1-2-14; DPSST 2-2014, f. & cert. ef. 1-2-14; DPSST 10-2014, f. & cert. ef. 4-10-14; DPSST 7-2015, f. & cert. ef. 3-24-15; DPSST 11-2015, f. 6-23-15, cert. ef. 7-1-15

**259-008-0035**
**Waiver for Equivalent Training or Experience — Reciprocity**

(1) The Board or its designee may waive the completion of any course required by OAR 259-008-0025 upon presentation of documentary evidence by a law enforcement unit or public or private safety agency that a law enforcement officer, telecommunicator, or emergency medical dispatcher has satisfactorily completed equivalent training or experience.

(2) In order to be considered for equivalency, training received in a state with laws governing or regulating training of law enforcement officers shall, if subject to such review, have been approved or certified by the employing agency in the state in which the training was received.

(3) The Department may elect to prescribe as a condition of certification successful completion of specified courses or remedial training.

(4) The Department may enter into standing reciprocity compacts or agreements with those states which, by law, regulate and supervise the quality of public safety officers and require a minimum number of hours of classroom training equivalent to standards established by the Board.

Stat. Auth.: ORS 181.660

Stats. Implemented: ORS 181.660

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1983, f. & ef. 12-15-83; Renumbered from 259-010-0045, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 11-2015, f. 6-23-15, cert. ef. 7-1-15

**259-008-0040**
**Period of Service**

(1) A law enforcement officer, telecommunicator, or emergency medical dispatcher who is not certified must complete no less than nine (9) months of service in the field in which they are employed, to be eligible for certification. This requirement does not apply to a department head.

(2) No person may be employed as a police officer, parole and probation officer, telecommunicator, emergency medical dispatcher, or liquor

enforcement inspector for more than 18 months unless that officer, telecommunicator, emergency medical dispatcher or liquor enforcement inspector has been certified under the provisions of ORS 181.610 to 181.705 and the certification has neither lapsed nor been revoked.

(3) No person may be employed as a corrections officer for more than one (1) year unless that officer has been certified under the provisions of ORS 181.610 to 181.705 and the certification has neither lapsed nor been revoked.

(4) For purposes of this rule, the Department will count all periods of full-time employment identified in subsection (2) and (3) in the aggregate if:

(a) An individual was reclassified from a certifiable position to a non-certifiable position for a period of less than six months; and

(b) The individual is then returned to a certifiable position in the same discipline, while employed with the same employer.

(5) The Board or its designee, upon the facts contained in an affidavit accompanying the request for an extension, may find good cause for failure to obtain certification within the time period described in section (2) or (3) of this rule. If the Board finds that there is good cause for such failure, the Board may extend for up to one year the period that a person may serve as a law enforcement officer, telecommunicator, or emergency medical dispatcher without certification. The grant or denial of such an extension is within the sole discretion of the Board.

(6) The Board, or its designee, may further extend the time period for a law enforcement officer, telecommunicator, or emergency medical dispatcher who has been deployed to full-time active military duty during the time period described in section (2) or (3) of this rule. Conditions for certification upon an officer's return to his or her employer, may include, but are not limited to:

(a) Remediation of Basic course;

(b) Successful completion of Career Officer Development Course;

(c) Demonstrated proficiency of skills and ability;

(d) F-2 (Medical Form).

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 12, f. & ef. 12-19-77; Renumbered from 259-010-0020, PS 1-1983, f. & ef. 12-15-83; Renumbered from 259-010-0047, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 13-2001(Temp), f. & cert. ef. 10-26-01 thru 4-10-02; BPSST 8-2002, f. & cert. ef. 4-3-02; DPSST 7-2005, f. & cert. ef. 8-5-05; DPSST 3-2010, f. 4-12-10, cert. ef. 5-1-10; DPSST 11-2015, f. 6-23-15, cert. ef. 7-1-15

**259-008-0060**

**Public Safety Officer Certification**

(1)(a) Basic, Intermediate, and Advanced Certificates are awarded by the Department to law enforcement officers and telecommunicators meeting prescribed standards of training, education, and experience. Emergency medical dispatchers may be awarded basic certification only.

(b) The Department of Public Safety Standards and Training certifies police officers for the purposes of ORS 813.131(2).

(2) Supervisory, Management, and Executive Certificates are awarded to law enforcement officers and telecommunicators meeting the prescribed standards in section (1) of this rule and the ranks established by the employing law enforcement units, or public or private safety agencies.

(3) Basic certification is mandatory and must be acquired by all police officers, parole and probation officers, telecommunicators, emergency medical dispatchers, and liquor enforcement inspectors within 18 months of employment, and by all corrections officers within 12 months of employment, unless an extension is granted by the Department.

(4) To be eligible for the award of a certificate, law enforcement officers must:

(a) Be full-time employees as defined in OAR 259-008-0005 or part-time parole and probation officers, as defined in OAR 259-008-0066.

(b) Meet the prescribed minimum employment standards in OAR 259-008-0010;

(c) Law enforcement officers must subscribe to and swear or affirm to abide by the Criminal Justice Code of Ethics (Form F-11); and

(d) Have valid first aid and cardiopulmonary resuscitation (CPR) certification.

(5) To be eligible for the award of a certificate, telecommunicators and emergency medical dispatchers must:

(a) Meet the prescribed minimum employment standards as established by OAR 259-008-0011;

(b) Subscribe to and swear or affirm to abide by the Telecommunicator Code of Ethics (Form F-11T); and

(c) Have valid first aid and cardiopulmonary resuscitation (CPR) certification.

(6) Applications for certification must:

(a) Be submitted on Form F-7 (Application for Certification), with all applicable sections completed and signed by the applicant.

(b) Be signed by the employing agency's department head or authorized representative recommending that requested certification be issued. The department head's signature affirms that the applicant meets the minimum standards for employment, training, education, and experience and is competent to hold the level of certification being applied for.

(7) When a department head is the applicant, the above recommendation must be made by the department head's appointing authority, such as the city manager or mayor, or in the case of a specialized agency, the applicant's superior. Elected department heads are authorized to sign as both applicant and department head.

(8) In addition to the requirements in sections (1) through (7) of this rule, each applicant must have completed the designated education and training, combined with the prescribed corrections, parole and probation, police, liquor enforcement or telecommunications experience for the award of an Intermediate, Advanced, Supervisory, Management, or Executive Certificate.

(a) Each quarter credit unit granted by an accredited college or university which operates on a quarterly schedule will equal one education credit.

(b) Each semester credit unit granted by an accredited college or university operating on a semester schedule will equal 1-1/2 education credits.

(c) The Department must receive sealed official transcripts from a college prior to entering college credit on an individual's official record.

(9) Training:

(a) Basic courses certified by the Department will be approved by the Board.

(b) The Department may record training hours for departmental or other in-service training which is recorded and documented in the personnel files of the trainee's department. These records must include the subject, instructor, classroom hours, date, sponsor, and location.

(c) Training completed in other states, military training, and other specialized training, if properly documented, may be accepted, subject to staff evaluation and approval. These records must include the subject, date, and classroom hours, and must be certified true copies of the original.

(d) College credits earned may be counted for either training hours or education credits, whichever is to the advantage of the applicant.

(e) College credit awarded based on training completed may be applied toward either training hours or education credits, whichever is to the advantage of the applicant.

(A) Prior to applying an applicant's college credit toward any upper level of certification, the Department must receive documentation of the number of college credits awarded based on training attended.

(B) The training hours identified under section (9) (e) (A) and submitted as college credit toward an upper level of certification will not be included in any calculation of whether the applicant has earned sufficient training hours to qualify for the requested certification level.

(i) Any college credit received for practical or skills-based training attended will be calculated at a ratio of 1:20 hours for each quarter credit, for purposes of training hour deductions.

(ii) Any college credit received for academic training attended will be calculated at a ratio of 1:10 hours for each quarter credit, for purposes of training hour deductions.

(f) No credit can be applied toward both education credits and training hours when originating from the same training event.

(10) Experience/Employment:

(a) Experience gained as a corrections officer, parole and probation officer, police officer, or liquor enforcement inspector employed full time with municipal, county, state, or federal agencies, may be accepted if the experience is in the discipline the certification is requested and is approved by the Department.

(b) Experience acquired as a telecommunicator or emergency medical dispatcher employed with a public or private safety agency may be accepted if the experience is in the discipline the certification is requested and is approved by the Department.

(c) Experience acquired as a certified part-time telecommunicator or emergency medical dispatcher as defined in OAR 259-008-0005, or part time parole and probation officer as defined under 259-008-0005 and 259-008-0066, will count on a pro-rated basis.

(d) Partial credit may be given to law enforcement experience that is not in the discipline the certification is requested, when supported by job

descriptions or other documentary evidence. In all cases, experience claimed is subject to evaluation and approval by the Department.

(e) For the purpose of this rule, creditable service time for experience will not accrue under the following circumstances:

(A) When an individual is employed in a casual, seasonal, or temporary capacity;

(B) When an individual is on leave, other than full-time military leave;

(C) From the date a public safety officer's certification is suspended until it is reinstated by the Department;

(D) When a public safety officer fails to obtain Basic certification within a mandated timeframe and is prohibited from being employed as a public safety officer; or

(E) When a public safety officer is employed in a limited duration, administrative position, as described in OAR 259-008-0078.

(11) The Basic Certificate. In addition to the requirements in sections (1) through (7) of this rule, the following are required for the award of the Basic Certificate:

(a) Applicants must have completed a period of service in a certifiable position of not less than nine months with one or more law enforcement units or public or private safety agencies in the discipline the certification is requested;

(b) Applicants must have satisfactorily completed the required Basic Course as prescribed in OAR 259-008-0025, in the discipline the certification is requested or have completed equivalent training, as determined by the Department.

(12) The Intermediate Certificate. In addition to the requirements in sections (1) through (7) of this rule, the following are required for the award of the Intermediate Certificate:

(a) Applicants must possess a Basic Certificate in the discipline the certification is requested; and

(b) Applicants must have acquired a combination of work experience in the discipline the certification is requested, along with training hours and college education credits or college degree, as identified in the Intermediate/Advanced Certification Charts. [Table not included. See ED. NOTE.]

(A) Applicants may determine eligibility for intermediate certification by referencing either:

(i) The "All Disciplines" chart (referred to as the old chart). This is the original certification chart and may be referenced by all police, corrections, parole and probation, and telecommunicator applicants until October 31, 2015; or

(ii) The "Police/Corrections/Parole & Probation" chart. This certification chart became effective November 1, 2012, and may be referenced by police, corrections, and parole and probation applicants; or

(iii) The "Telecommunicators" chart. This certification chart became effective November 1, 2012, and may be referenced by telecommunicator applicants.

(B) Applicants may apply for certification using the chart that best fits their experience, education and training.

(C) If applying using either the "Police/Corrections/Parole & Probation Chart" or the "Telecommunicators" chart in section (12)(b)(A)(ii) and (iii) of this rule, training hours originating from a single training event used to meet the training hour requirement for intermediate certification cannot be applied towards future levels of certification.

(c) The required years of experience are for the purpose of developing and demonstrating competency at the intermediate level. The signature of the agency head or authorized representative on an F-7 at the intermediate level represents the agency's attestation that the applicant is performing competently at the intermediate level.

(13) The Advanced Certificate. In addition to the requirements in sections (1) through (7) of this rule, the following are required for the award of the Advanced Certificate:

(a) Applicants must possess or be eligible to possess the Intermediate Certificate in the discipline the certification is requested; and

(b) Applicants must have acquired a combination of work experience in the discipline the certification is requested, along with training hours and college education credits or college degree, as identified in the Intermediate/Advanced Certification Charts. [Table not included. See ED. NOTE.]

(A) Applicants may determine eligibility for advanced certification by referencing either:

(i) The "All Disciplines" chart (referred to as the old chart). This is the original certification chart and may be referenced by all police, corrections, parole and probation, and telecommunicator applicants until October 31, 2015; or

(ii) The "Police/Corrections/Parole & Probation" chart. This certification chart became effective November 1, 2012, and may be referenced by police, corrections, and parole and probation applicants; or

(iii) The "Telecommunicators" chart. This certification chart became effective November 1, 2012, and may be referenced by Telecommunicator applicants.

(B) Applicants may apply for certification using the chart that best fits their experience, education and training.

(C) If applying using either the "Police/Corrections/Parole & Probation Chart" or the "Telecommunicators" chart in section (13) (b) (A) (ii) and (iii) of this rule, training hours originating from a single training event used to meet the training hour requirement for advanced certification cannot be applied towards future levels of certification.

(c) The required years of experience are for the purpose of developing and demonstrating competency at the advanced level. The signature of the agency head or authorized representative on an F-7 at the advanced level represents the agency's attestation that the applicant is performing competently at the advanced level.

(14) The Supervisory Certificate. In addition to requirements in sections (1) through (7) of this rule, the following are required for the award of the Supervisory Certificate:

(a) Applicants must possess or be eligible to possess the Advanced Certificate in the discipline the certification is requested;

(b) Applicants must have satisfactorily completed no less than 45 education credits as defined in sections (8) and (9) of this rule;

(c) Applicants must have satisfactorily completed the prescribed supervision training within five years of the application for the Supervisory Certificate; and

(d) Applicants must be presently employed in and have satisfactorily performed the duties of a first-level supervisor as defined in OAR 259-008-0005.

(A) The applicant's department head must attest that the first-level supervisor duties were performed for a period of one year.

(B) The required experience must have been acquired within five years of the date of the application.

(e) Upon request of the employing agency, the Department may waive the requirements of section (14) (c) or (d), provided the employing agency demonstrates that the applicant performs supervisory duties on a regular basis.

(15) The Management Certificate. In addition to requirements in sections (1) through (7) of this rule, the following are required for the award of the Management Certificate:

(a) Applicants must possess or be eligible to possess the Supervisory Certificate in the discipline the certification is requested;

(b) Applicants must have satisfactorily completed no less than 90 education credits as defined in sections (8) and (9) of this rule;

(c) Applicants must have satisfactorily completed the prescribed middle management training within five years of the application for the Management Certificate; and

(d) Applicants must be presently employed in and must have satisfactorily served in a middle management position as a department head or assistant department head as defined in OAR 259-008-0005 for a period of two years. The required experience must have been acquired within five years of the date of the application.

(e) Upon request of the employing agency, the Department may waive the requirements of section (15) (c) or (d), provided the employing agency demonstrates that the applicant performs management duties on a regular basis.

(16) The Executive Certificate. In addition to requirements in section (1) through (7) of this rule, the following are required for the award of the Executive Certificate:

(a) Applicants must possess or be eligible to possess the Management Certificate in the discipline the certification is requested;

(b) Applicants must have satisfactorily completed no less than 90 education credits as defined in sections (8) and (9) of this rule;

(c) Applicants must have satisfactorily completed 100 hours of Department-approved executive level training within five years of the application for the Executive Certificate; and

(d) Applicants must be presently employed in and must have satisfactorily served in a middle management position as department head or assistant department head, as defined in OAR 259-008-0005 for a period of two years. The required experience must have been acquired within five years of the date of the application.

(e) Upon request of the employing agency, the Department may waive the requirements of section (16) (c) or (d), provided the employing agency demonstrates that the applicant performs the duties of a department head or assistant department head on a regular basis.

(17) Multi-discipline Certification. Upon receiving written request from the department head stating a justified and demonstrated need exists for the efficient operation of the employing agency, the Department may approve multi-discipline certification for law enforcement officers who meet all minimum employment, training and education standards established in OAR 259-008-0010, 259-008-0011, 259-008-0025, and this rule, in the disciplines which they are requesting certification. The officer must meet the following requirements for the award of multi-discipline certification:

(a) Basic certification. A law enforcement officer who is certified in one discipline may apply for multi-discipline certification if employed in or transferred to another discipline within the same law enforcement unit. The applicant must demonstrate completion of all training requirements in the discipline in which certification is being requested.

(b) Higher levels of certification. Law enforcement officers who possess higher levels of certification in one discipline may, upon employment in or transfer to another discipline within the same law enforcement unit, apply for the same level of certification after completion of nine (9) months experience in the discipline in which they are requesting certification and meeting the requirements for those higher levels of certification as outlined in this rule. This section does not apply to the emergency medical dispatcher discipline since it only exists at the basic certification level.

(c) Retention of multi-discipline certification. In order to maintain multi-discipline certification, each discipline in which certification is held requires successful completion and documentation of training hours by the holders of the certificates every twelve (12) months. The training must be reported to the Department, as follows:

(A) For a law enforcement officer who also holds emergency medical dispatcher certification, a minimum of four (4) hours of training specific to the emergency medical dispatcher discipline must be reported annually as required under OAR 259-008-0064.

(B) For a law enforcement officer who also holds telecommunicator certification, a minimum of twelve (12) hours of training specific to the telecommunicator discipline must be reported annually as required under OAR 259-008-0064.

(C) A minimum of twenty (20) hours of training specific to each law enforcement discipline in which certification is held must be reported annually as required under subsections (h) through (l) of this section.

(d) The same training may be used for more than one discipline if the content is specific to each discipline. It is the responsibility of the agency head to determine if the training is appropriate for more than one discipline.

(e) The maintenance training cycle for law enforcement officers who are certified in more than one discipline begins on July 1st of each year and ends on June 30th the following year.

(f) The employing agency must maintain documentation of all required maintenance training completed.

(g) If reported on a Form F-6 (Course Attendance Roster), required maintenance training must be submitted to the Department by June 30th of each year. Training reported on a Form F-6 will result in credit for training hours. No training hours will be added to a law enforcement officer's record, unless accompanied by a Form F-6 Course Attendance Roster.

(h) On or after July 1st of each year, the Department will identify all law enforcement officers who are deficient in maintenance training according to Department records. A Contested Case Notice of Intent to Suspend will be prepared and served on the law enforcement officer pursuant to ORS 181.662(c) and these rules. A copy of the Notice will be sent to the officer's employing agency.

(A) All Contested Case Notices will be prepared in accordance with the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.

(B) A law enforcement officer who has been served with a Contested Case Notice of Intent to Suspend has 30 days from the date of mailing or personal service of the notice to notify the Department of the training status identified as deficient by submitting a Form F-16 (Maintenance Training Log) to the Department identifying the maintenance training completed during the previous one (1) year reporting period or to file a written request for hearing with the Department.

(C) Maintenance training hours reported to the Department on a Form F-16 will be used solely to verify completion of maintenance training requirements and will not be added to an officer's training record.

(i) Default Order: If the required training is not reported to the Department or a request for a hearing received within 30 days from the date of the mailing or personal service of the notice, the Contested Case Notice will become a final order suspending certification pursuant to OAR 137-003-0672.

(j) A law enforcement officer with a suspended certification is prohibited from being employed in any position for which the certification has been suspended.

(k) Recertification following a suspension may be obtained, subject to Department approval, by submitting the following:

(A) A written request from the employing agency head requesting recertification, along with a justification of why the maintenance training was not completed; and

(B) Verification that the missing training was completed.

(l) Failure to complete the required maintenance training may not result in a suspension of certification if the law enforcement officer is on leave from a public or private safety agency.

(23) Certificates and awards are the property of the Department. The Department has the power to revoke or suspend any certificate or award as provided in the Act.

[ED. NOTE: Forms & Tables referenced are available from the agency.]

Stat. Auth.: ORS 181.640, 181.644, 181.651, 181.652, 181.653, 181.654 & 181.665

Stats. Implemented: ORS 181.640, 181.644, 181.651, 181.652, 181.653, 181.654 & 181.665

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1980(Temp), f. & ef. 6-26-80; PS 2-1980, f. & ef. 12-8-80; PS 1-1981, f. 9-26-81, ef. 11-2-81; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0055, PS 1-1990, f. & cert. ef. 2-7-90; PS 1-1995, f. & cert. ef. 3-30-95, PS 2-1995, f. & cert. ef. 9-27-95; PS 7-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 1-1999, f. & cert. ef. 3-9-99; BPSST 6-1999, f. & cert. ef. 7-29-99; BPSST 11-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 13-2001(Temp), f. & cert. ef. 10-26-01 thru 4-10-02; BPSST 8-2002, f. & cert. ef. 4-3-02; BPSST 21-2002, f. & cert. ef. 11-21-02; DPSST 1-2004, f. 1-16-04, cert. ef. 1-20-04; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 2-2008, f. & cert. ef. 1-15-08; DPSST 9-2008, f. & cert. ef. 7-15-08; DPSST 22-2008, f. & cert. ef. 12-29-08; DPSST 4-2009, f. & cert. ef. 4-8-09; DPSST 1-2010, f. & cert. ef. 1-11-10; DPSST 2-2010, f. & cert. ef. 3-15-10; DPSST 4-2010, f. & cert. ef. 6-2-10; DPSST 7-2010, f. 7-15-10, cert. ef. 8-1-10; DPSST 8-2010, f. & cert. ef 8-13-10; DPSST 8-2011, f. & cert. ef. 6-24-11; DPSST 17-2011, f. & cert. ef. 12-23-11; DPSST 23-2012, f. 10-25-12, cert. ef. 11-1-12; DPSST 31-2012, f. & cert. ef. 12-27-12; DPSST 15-2013, f. & cert. ef. 6-25-13; DPSST 1-2014, f. & cert. ef. 1-2-14; DPSST 12-2014, f. & cert. ef. 6-24-14; DPSST 28-2014(Temp), f. & cert. ef. 10-8-14 thru 4-6-15; DPSST 1-2015, f. & cert. ef. 1-5-15; DPSST 7-2015, f. & cert. ef. 3-24-15; DPSST 11-2015, f. 6-23-15, cert. ef. 7-1-15

**259-008-0100**
**Miscellaneous Activities of the Board or Department**

(1) The Board or Department may make or encourage studies of any aspect of corrections, parole and probation, telecommunications, liquor enforcement, emergency medical dispatch, fire, or police administration, including the stimulation of research by public and private agencies which shall be designed to improve the Criminal Justice System.

(2) The Board or Department may cooperate and consult with counties, municipalities, agencies of this State, other governmental agencies, and with universities, colleges, community colleges, and other institutions concerning the development of criminal justice training schools and programs or courses of instruction.

(3) The Board or Department may cooperate and consult with official bodies or individuals charged by law with the responsibility for corrections, parole and probation, liquor enforcement, telecommunications, emergency medical dispatch, fire or police selection and training standards in other states.

(4) The Board or Department may periodically publish or recommend that other governmental agencies publish curricula, manuals, lesson plans, brochures, newsletters, and other materials to aid departments in achieving the objectives of the Act.

(5) The Department may direct, operate, or sponsor training schools and set reasonable rules and regulations for the operation and use by trainees.

(6) The Department may, on request, issue retirement cards to Department-certified public safety officers who have honorably served the citizens of Oregon and who have honorably retired from their agency.

(a) For the purposes of this rule, "honorably retired" means reaching the State of Oregon's recognized retirement age and retiring in good standing from a certified position as a public safety officer with a minimum of five years of full-time public safety experience in Oregon.

(b) A public safety officer who has sustained a permanent disability that prevents them from returning to their certifiable position may qualify for a retirement card if the public safety officer has served a minimum of five years as a full-time public safety officer in Oregon.

(c) The request for a retirement card must be made by the agency where the public safety officer was last employed prior to retirement. The request must be made using a Form F-30 Retirement Card Request Form.

(d) The Department will issue only one retirement card per qualifying public safety officer.

(e) If a retirement card is lost or damaged, the Department may issue a replacement card if requested by the applicable public safety officer. Additional verification of original eligibility may be required.

(7) In accordance with the Oregon Revised Statutes, the Board, in consultation with the Department, designates the following classifications of public safety personnel killed in the line of duty who may be honored at the Law Enforcement Memorial Wall.

(a) Eligibility: For the purpose of placing names, law enforcement officer includes, as defined in ORS 181.610, police officer, reserve officer, corrections officer, parole and probation officer, and liquor enforcement inspector. Also included are federal law enforcement officers assigned to or performing law enforcement duties in Oregon.

(b) Criteria for placement on the Law Enforcement Memorial Wall: Officers who suffered an "in-the-line-of-duty" death.

(A) "In the line of duty death" means a fatal injury which is the direct or proximate result of any enforcement action or emergency response resulting in death or death directly resulting from law enforcement training for enforcement action or emergency response that the law enforcement officer is authorized or obligated to perform by law, rule, regulation, or condition of employment or service while on or off duty.

(B) A fatal injury may include a medical condition which arises out of law enforcement actions or training for enforcement action or emergency response causing an officer's death immediately or within 24 hours or causing her/his death during a continuous period of hospitalization resulting from a law enforcement action.

(C) Not included under this definition are deaths attributed to natural causes (except when a medical condition arises out of law enforcement action or law enforcement training for enforcement action or emergency response causing an officer's death immediately or within 24 hours or causing his/her death during a continuous period of hospitalization immediately following the taking of law enforcement action). Deaths attributed to voluntary alcohol or controlled substance abuse, deaths caused by the intentional misconduct of the officer, deaths caused by the officer's intention to bring about his or her own death, and deaths attributed to an officer performing his or her duty in a grossly negligent manner at time of death are not included under this definition.

(D) When there is doubt arising from circumstances of the officer's death or with respect to individual status as a law enforcement officer, the matter shall be resolved by a majority vote of the Board on Public Safety Standards and Training Executive Committee.

(c) Exclusions from the Law Enforcement Memorial Wall:

(A) Officers whose deaths are attributed to natural causes are not eligible for inclusion in the wall; or

(B) A death that is attributed to the officer's voluntary alcohol or substance abuse use; or

(C) Death caused by intentional misconduct of the officer; or

(D) Death caused by the officer's intention to bring about his or her own death; and

(E) Death attributed to an officer performing his or her duty in a grossly negligent manner at the time of death.

(d) When there is doubt arising from the circumstances of the officer's death or with respect to the individual status as a law enforcement officer, the matter shall be resolved by a majority vote of the Executive Committee.

(e) The costs of maintenance and relocation of the Law Enforcement Memorial Wall and the costs of an annual memorial service honoring persons killed in the line of duty shall be paid out of the Police Memorial Trust Fund.

(8) It is the responsibility of the Governor's Commission on the Law Enforcement Medal of Honor to establish qualification criteria for nomination for the Law Enforcement Medal of Honor and the Law Enforcement Medal of Ultimate Sacrifice.

(a) Eligibility. For the purposes of nomination, law enforcement officer includes, but is not limited to, a police officer, reserve officer, corrections officer, or parole and probation officer. Also included are any state, county, municipal, federal or tribal individual who is:

(A) Commissioned; and

(B) Responsible for enforcing criminal laws in the state of Oregon.

(b) Officers nominated for the Law Enforcement Medal of Honor must have distinguished themselves by exceptionally honorable and meritorious conduct while in the performance of duty.

(A) "Exceptionally honorable and meritorious conduct" means an officer has distinguished themselves conspicuously by gallantry and fortitude at the risk of their life "above and beyond" the call of duty while performing or fulfilling their responsibilities as a law enforcement officer. It involves risk of life and is an act of bravery, self-sacrifice so conspicuous as to clearly distinguish the individual above their comrades.

(B) "While in the performance of duty" requires acting in an official capacity and performing a law enforcement function.

(C) The exceptionally honorable and meritorious conduct must have occurred on or after January 1, 2006.

(c) Officers nominated for the Law Enforcement Medal of Ultimate Sacrifice must have died while performing duties as a law enforcement officer or have been killed because of employment as a law enforcement officer. The death must have occurred on or after January 1, 2011.

(d) Process for Nominations.

(A) All nominations must be submitted on an official nomination form to the Department of Public Safety Standards and Training.

(B) All nominations must be postmarked no later than one year after the date an officer has performed exceptionally honorable and meritorious conduct or the death of an officer.

(C) All nominations must be approved by the Department head or designee of the nominee.

(D) Commission members are prohibited from voting on any nomination submitted from their employing agency.

(E) Notwithstanding subsection (D), Commission members must unanimously approve nominations for the Law Enforcement Medal of Honor.

(F) Any supporting documentation including, but not limited to, police reports, media reports, pictures, testimonials or affidavits, must accompany the nomination form. If necessary, the Commission may request additional information. The request will be in writing and addressed to the individual identified as the contributor on an official nomination form.

(e) Award of the Law Enforcement Medal of Honor and Law Enforcement Medal of Ultimate Sacrifice.

(A) All awards will be presented by the Governor or the Governor's designee at an appropriate time determined by the Commission and approved by the Governor.

(B) An individual or family member receiving the Law Enforcement Medal of Honor or Law Enforcement Medal of Ultimate Sacrifice will retain the option for a public or private ceremony.

(C) The Commission will determine the protocol for all award ceremonies.

Stat. Auth.: ORS 176.260 & 181.640
Stats. Implemented: ORS 176.260 & 181.640
Hist.: PS 12, f. & ef. 12-19-77; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0080, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 16-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; Administrative correction 5-7-02; BPSST 17-2002, f. & cert. ef. 7-5-02; DPSST 12-2007, f. & cert. ef. 10-15-07; DPSST 10-2012, f.& cert. ef. 4-9-12; DPSST 13-2013, f. & cert. ef. 6-24-13; DPSST 1-2014, f. & cert. ef. 1-2-14; DPSST 11-2015, f. 6-23-15, cert. ef. 7-1-15

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**Rule Caption:** Adds individuals utilized as volunteers to the fire service background investigation rule; repeals temporary rule.
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**Rules Amended:** 259-009-0015
**Rules Repealed:** 259-009-0015(T)
**Subject:** Because of the nature of the fire service profession, the Fire Policy Committee and the Board recognized the need to conduct thorough background investigations on any applicant requesting to become a career or volunteer fire service professional. A workgroup was formed and created a background investigation rule for fire service professionals. The proposed rule was approved by the Fire Police Committee and the Board. The proposed rule was filed permanently on December 29, 2014.

Soon after filing the permanent rule, DPSST realized that the new rule failed to extend the background investigation requirement to agencies considering individuals who would be utilized as volunteers. The clear intent of the background investigation workgroup was to include all fire service professionals, whether career or vol-

unteer. To eliminate any confusion amongst fire service constituents, DPSST filed a temporary rule on January 15, 2015, to add to rule that individuals who are utilized as volunteers are subject to the fire service background investigation rule requirements. This permanent rule change repeals the temporary rule.

**Rules Coordinator:** Sharon Huck—(503) 378-2432

**259-009-0015**

**Background Investigation**

(1) A background investigation must be conducted by a fire service agency on each individual being considered for employment or utilization as a fire service professional to determine if applicant is of good character.

(a) The background investigation must include, but is not limited to, investigation into the following:

(A) Criminal history and arrests;

(B) Department of Motor Vehicles (DMV) records;

(C) Drug and alcohol use;

(D) Education verification;

(E) Employment history;

(F) Military history verification;

(G) Personal and professional references. Personal and professional references may include, but are not limited to, friends, associates, family members, and neighbors;

(H) Personal Interview. The personal interview may occur before or after the investigation and may be used to clarify discrepancies in the investigation;

(I) Records checks, which may include, but are not limited to:

(i) Police records, district attorney, court and Oregon Judicial Information Network (OJIN) records;

(ii) Open sources or social media, as permitted by law;

(iii) Financial information, as permitted by law; and

(iv) Department of Public Safety Standards and Training Professional Standards records.

(J) Residential history; and

(K) Work eligibility.

(b) Each individual being considered for employment or utilization as a fire service professional must provide a notarized personal history statement. The statement must include, but is not limited to:

(A) Verification of the background information referred to in section (1)(a);

(B) A complete list of all fire service agencies an individual has applied with; and

(C) A signed release allowing background investigation information to be shared with other public or private safety agencies in which the applicant may become affiliated with.

(2) Results of the background investigation on all fire service professionals must be retained by the fire service agency in accordance with the Secretary of State's Record Retention Schedule and must be available for review at any reasonable time by the Department.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: DPSST 31-2014, f. & cert. ef. 12-29-14; DPSST 4-2015(Temp), f. & cert. ef. 1-15-15 thru 7-13-15; DPSST 12-2015, f. & cert. ef. 6-23-15

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**Rule Caption:** Adds clarification that the fingerprint submission requirement for fire service professionals is for certification purposes.

**Adm. Order No.:** DPSST 13-2015

**Filed with Sec. of State:** 6-23-2015

**Certified to be Effective:** 6-23-15

**Notice Publication Date:** 6-1-2015

**Rules Amended:** 259-009-0059

**Subject:** DPSST recently recognized that our OAR lacked the requirement that applicants for fire service certification submit fingerprints to DPSST if the individual has never been fingerprinted for certification purposes. To remedy the oversight, The Fire Policy Committee approved a rule change to OAR 259-009-0059. The Board on Public Safety Standards and Training (Board) affirmed the Fire Policy Committee's recommendation. The rule change was open for public comment from December 1 to December 22, 2014. No public comments were received and the rule was filed permanently. After the rule became permanent, it quickly became apparent that the number of individuals affected by the rule change was much greater than originally anticipated and that the requirement was causing a great deal of confusion in the fire service. To address these issues, in February, 2015, DPSST addressed the Fire Policy Committee and numerous fire service constituents to answer questions and concerns about the fingerprint submission requirement. The outcome of this meeting was that the Fire Policy Committee requested that OAR 259-009-0059 be amended to clarify that the fingerprint submission requirement is for DPSST fire certification purposes. The Fire Policy Committee also requested that the Board consider the potential for a fiscal impact to fire service constituents.

On April 23, 2015, The Board met and reviewed the Fire Policy's recommendation and request. The Board asked that the rule language in OAR 259-009-0059 be further amended to update the fingerprint process to include electronic fingerprint capture services. The Board also discussed the potential fiscal impact. They determined that there may be a fiscal impact to fire service constituents; however, the fiscal impact is partially mitigated by the voluntary nature of fire service certification in Oregon. The Board also offered ways to mitigate the impact, such as providing funding to assist agencies who want to pursue DPSST certification, but can't afford the fingerprint processing fee.

**Rules Coordinator:** Sharon Huck—(503) 378-2432

**259-009-0059**

**Minimum Standards for Employment as a Fire Service Professional**

(1) No person may be certified as a Fire Service Professional who is not 18 years of age.

(2) Only training received after attaining the age of 16 will be applied for certification purposes.

(3) DPSST Fire Service Agency affiliation must be attained after the age of 16 via submission of a Personnel Agency Form.

(4) Fingerprints. Any individual employed or utilized by a fire service agency that has never been fingerprinted for certification purposes or is identified in the Oregon LEDS system as a multi-source offender is required to be fingerprinted. Fingerprints must be submitted to the Department on a standard applicant fingerprint card or through a Department-approved vendor of electronic fingerprint capture services, with the appropriate processing fee.

(5) Notification of Conviction:

(a) A fire service professional or instructor who is convicted of a crime, as identified in OAR 259-009-0070, while employed by a fire service agency, must notify the agency head within five business days of the conviction.

(b) When an agency receives notification of a conviction from a fire service professional, instructor, or another source, the agency must notify the Department within 30 calendar days. The notification to the Department must be in writing and include the specific charges of the conviction, the county and state where the conviction occurred, the investigating agency and the date of the conviction.

Stat. Auth.: ORS 181.610 & 181.640

Stats. Implemented: ORS 181.610 & 181.640

Hist.: DPSST 1-2006(Temp), f. & cert. ef. 1-23-06 thru 6-1-06; DPSST 5-2006, f. & cert. ef. 5-3-06; DPSST 7-2009, f. & cert. ef. 7-13-09; DPSST 22-2013, f. & cert. ef. 10-3-13; DPSST 37-2014, f. & cert. ef. 12-31-14; DPSST 13-2015, f. & cert. ef. 6-23-15

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**Rule Caption:** Adds a two-year college degree as an option in the education standard in OAR 259-060-0020.

**Adm. Order No.:** DPSST 14-2015

**Filed with Sec. of State:** 6-23-2015

**Certified to be Effective:** 6-23-15

**Notice Publication Date:** 6-1-2015

**Rules Amended:** 259-060-0020

**Subject:** In 2013, education requirements were added to the private security rules to include that applicants for certification must have a high school diploma, a General Education Development (GED) certificate, or a four-year post-secondary degree issued by an accredited degree-granting college or university. When the education standard was implemented, the option for a two-year degree was excluded to ensure that the applicant's education was obtained from a degree-granting, accredited college or university, rather than a vocational school. Upon further review, the option for a two-year degree

has been added to rule, as long as the degree is issued by an accredited, degree-granting college or university.
**Rules Coordinator:** Sharon Huck—(503) 378-2432

**259-060-0020**
**Minimum Standards for Certification or Licensure**

(1) Age. Private security providers must be:

(a) At least 18 years of age to be certified as an unarmed private security professional or licensed supervisory manager; and

(b) At least 21 years of age to be certified as an armed private security professional or instructor or be licensed as an executive manager.

(2) Education.

(a) Applicants for certification or licensure must have earned one of the following:

(A) A high school diploma;

(B) A General Education Development (GED) certificate; or

(C) A two-year or four-year, post-secondary degree issued by an accredited degree-granting college or university recognized by the Oregon Office of Degree Authorization under the provision of ORS 348.594(2).

(b) The Department may require documentary evidence of the above. Acceptable evidence consists of official transcripts, diplomas, or GED test report forms. Other documentation may be accepted at the discretion of the Department.

(c) The requirement found in subsection (2)(a) applies only to individuals submitting an application for new certification or licensure as described in OAR 259-060-0025 on or after November 1, 2012.

(3) Training. An applicant for certification or licensing must satisfactorily complete the applicable training requirements prescribed by these rules.

(4) Moral Fitness. All private security providers must be of good moral fitness as determined by a criminal background check, department investigation or other reliable sources.

(a) Lack of good moral fitness includes, but is not limited to, mandatory and discretionary disqualifying misconduct as described in OAR 259-060-0300.

(b) For the purposes of this standard, the Department, through the Policy Committee and the Board, has defined core values that are integral to the private security profession. These values are:

(A) Honesty. Honesty includes integrity, credibility, acting honorably and maintaining confidences;

(B) Character. Good character includes being respectful and courteous, being faithful, diligent and loyal to the employer's charge, using discretion, demonstrating compassion and exhibiting courage;

(C) Fair Treatment of Others. Fair treatment of others includes treating others equitably, demonstrating good judgment and not being discriminatory;

(D) Public Trust. Public trust includes maintaining public confidences, being law-abiding and adhering to recognized industry standards; and

(E) Respect for the laws of this state and nation.

(5) Minimum Standards for Armed Certification.

(a) An applicant for certification as an armed private security professional or firearms instructor must not:

(b) Have been committed to the Mental Health and Development Disability Services Division under ORS 426.130, or similar order in another jurisdiction;

(c) Have been found to be mentally ill and subject to an order under ORS 426.130 prohibiting the person from purchasing or possessing a firearm as a result of that mental illness;

(d) Be prohibited under US Code Title 18, Section 922(g)(8) (relating to civil restraining orders including stalking or harassment) from possessing a firearm in interstate commerce; or

(e) Be prohibited under any law of this state or any federal law from purchasing, owning or possessing a firearm.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 181.875, 181.878 & 181.883
Stats. Implemented: ORS 181.875 & 181.878
Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 10-2003(Temp), f. & cert. ef. 6-16-03 thru 12-1-03; DPSST 12-2003, f. & cert. ef. 7-24-03; DPSST 6-2004, f. & cert. ef. 4-23-04; DPSST 9-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 19-2008, f. & cert. ef. 10-15-08; DPSST 25-2012, f. 10-26-12, cert. ef. 11-1-12; DPSST 12-2013, f. & cert. ef. 6-24-13; DPSST 20-2013, f. & cert. ef. 9-23-13; DPSST 14-2015, f. & cert. ef. 6-23-15

## Department of State Police, Office of State Fire Marshal
## Chapter 837

**Rule Caption:** Adopt, by reference, the Hazardous Substance Possession Fee schedule effective July 1, 2015.
**Adm. Order No.:** OSFM 1-2015
**Filed with Sec. of State:** 6-22-2015
**Certified to be Effective:** 7-1-15
**Notice Publication Date:** 6-1-2015
**Rules Amended:** 837-090-1030
**Subject:** Fee schedules are established by Office of State Fire Marshal for any person possessing a hazardous substance at a facility in this state. This rule amendment adopts, by reference, the Hazardous Substance Possession Fee schedule effective July 1, 2015.
**Rules Coordinator:** Valerie Abrahamson—(503) 934-8211

**837-090-1030**
**State Fee Schedules**

(1) Three state fee schedules shall be developed annually as the basis for assessing each person returning Hazardous Substance Information Survey (see OAR 837-090-1000 to 837-090-1045) a Hazardous Substance Possession Fee.

(2) The annual fee assessed under each schedule shall be based upon the single largest maximum aggregate quantity of substance reported in the Hazardous Substance Information Survey that is manufactured, stored, or otherwise possessed by a facility during the survey year.

(3) The programs to be funded from fees collected under ORS 453.396 to 453.414 and these rules, and the range of the fee schedules that may be considered, beginning July 1989, are as follows:

(a) For funding the Community Right to Know and Protection Act, not less than $25 and not more than $2,000 per facility;

(b) For funding the Toxics Use Reduction and Hazardous Waste Reduction Act, not less than $25 and not more than $2,000 per facility;

(c) For each employer's share of a total of up to $1 million to be deposited into the Orphan Site Account established under ORS 465.381, not less than zero and not more than $9,000 per facility. This schedule shall not require an employer to pay a total more than $25,000 for all facilities.

(4) Employers that believe a billing error has occurred may request a fee review. Fee review requests must be made in writing to the Office of State Fire Marshal within 20 days of the billing mail date. Fee review requests must include the company name, facility ID number, site address, name of the substance the fee was based on, amount of the fee assessed, telephone number and the reason for requesting a review.

(5) Any dispute as to the amount or validity of a hazardous substance fee assessment shall be resolved in accordance with the appeals process procedures outlined in the Administrative Procedures Act (APA), ORS 183.025 to 183.725, unless specifically addressed in these rules.

(6) The Office of State Fire Marshal adopts by reference the Hazardous Substance Possession Fee schedules effective July 1, 2015. Copies of these fee schedules are available for review at the central office of the State Fire Marshal during normal business hours or online at http://www.oregon.gov/OSP/SFM/Pages/index.aspx

(7) If a person can provide evidence that all or part of their propane is derived from the refining of crude oil, the fee assessment Reporting Quantity Range and the fee shall be adjusted accordingly;

(8) If a person can provide evidence that all or part of their propane is used to power motor vehicles licensed for public highway use, the fee assessment Reporting Quantity Range and the fee shall be adjusted accordingly.

Stat. Auth.: ORS 453.408, 833 & 1071
Stats. Implemented: ORS 453.402
Hist.: FM 4-1989, f. & cert. ef. 8-31-89; FM 7-1990(Temp), f. & cert. ef. 11-15-90; FM 3-1991(Temp), f. & cert. ef. 12-23-91; FM 7-1992, f. 6-15-92, cert. ef. 7-15-92, Renumbered from 837-090-0900; FM 9-1992(Temp), f. & cert. ef. 9-28-92; OSFM 9-2002, f. 11-14-02, cert. ef. 11-17-02; OSFM 2-2013, f. 6-26-13, cert. ef. 7-1-13; OSFM 4-2014, f. & cert. ef. 7-1-14; OSFM 1-2015, f. 6-22-15, cert. ef. 7-1-15

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## Department of Transportation
## Chapter 731

**Rule Caption:** Repeal of Completed Road Usage Charge Pilot Program
**Adm. Order No.:** DOT 2-2015
**Filed with Sec. of State:** 6-22-2015
**Certified to be Effective:** 6-22-15

**Notice Publication Date:** 5-1-2015
**Rules Repealed:** 731-080-0010, 731-080-0020, 731-080-0030, 731-080-0040, 731-080-0070, 731-080-0080
**Subject:** These rules were authorized under Section 3(9) of chapter 862, OL 2001 and adopted for the administration, operations and compliance of the Road Usage Charge Pilot Program, a volunteer pilot program. They are now repealed because the program was completed in 2012.
**Rules Coordinator:** Lauri Kunze—(503) 986-3171

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

**Rule Caption:** DMV/DOC Program for Inmates to Obtain Driver License or Identification Card Prior to Release
**Adm. Order No.:** DMV 3-2015
**Filed with Sec. of State:** 6-19-2015
**Certified to be Effective:** 7-1-15
**Notice Publication Date:** 5-1-2015
**Rules Amended:** 735-001-0062
**Subject:** ORS 802.087 requires DMV and DOC to jointly adopt rules and enter into interagency agreements necessary to assist offenders in obtaining a driver license or identification card prior to an offender's release from a correctional institution. In an effort to increase efficiencies in the program, DMV and DOC met to determine if there were changes to the agreement or the rules that should be made. Small changes were made in rule as follows:

1. Refer to DMV's administrative rule regarding the renewal of a driver license or identification card rather than stating that the card can be renewed up to 14 months in advance. This change is because DMV's policy regarding renewal is being evaluated and the previously stated time period may change.

2. Allow DOC to complete an application packet for an eligible inmate up to 180 days in advance of release date rather than 90 days. This is an effort to provide the service to more inmates.

3. Remove the requirement that a photo of the inmate that contains the state identification (SID) number be part of the application packet. This is because DMV reviews the photo electronically at the time of the initial screening of the inmate's eligibility.

**Rules Coordinator:** Lauri Kunze—(503) 986-3171

**735-001-0062**
**DMV/DOC Program for an Inmate Obtaining a Driver License or Identification Card Prior to Release**

(1) The Oregon Department of Transportation, Driver and Motor Vehicle Services Division (DMV) and the Oregon Department of Corrections (DOC) have established, through interagency agreement, the following program to help an inmate obtain a driver license or identification card prior to his or her release from custody.

(2) For purposes of this rule, the term "inmate" means any person under the supervision of the DOC and who is not on parole, probation or post-prison supervision status.

(3) Notwithstanding OAR 735-062-0016, DMV may issue a renewal or replacement driver license or an identification card containing the last photograph of the inmate on file with DMV. The photograph on file must not be older than nine years and two months. DMV will issue as follows:

(a) A replacement driver license to an inmate whose driving privileges are valid or are reinstated at the time of issuance;

(b) A renewal driver license to an inmate whose driving privileges are valid or are reinstated at the time of issuance and whose driver license is within the allotted time for early renewal as described in OAR 735-062-0090(4) or has been expired for less than one year; or

(c) An original, renewal or replacement identification card to an inmate:

(A) Who is not eligible for driving privileges under sections (4), (7) or (8) of this rule;

(B) Whose previous driver license has been expired for more than one year;

(C) Whose driving privileges are suspended, revoked or cancelled; or

(D) Who has never been issued or does not currently qualify for a driver license under ORS 807.040.

(4) DMV will make an inquiry to the National Driver Register/Problem Driver Pointer System (NDR/PDPS) and the Commercial Driver License Information System (CDLIS), to determine if the inmate's driving privileges are suspended, revoked, cancelled or otherwise not valid in any other jurisdiction. An inmate whose driving privileges are not valid in any other jurisdiction is not eligible to replace or renew driving privileges in Oregon.

(5) DOC may complete an application packet for each eligible inmate within no more than 180 days prior to the inmate's date of release from DOC custody. The application packet must include:

(a) A completed Valid with Previous Photo DL/ID Card (VWPP) Application, DMV Form 735-171C, signed by the inmate. The application must include the inmate's Social Security Number (SSN). DMV must verify, or have previously verified, the SSN with the Social Security Administration, as required by OAR 735-062-0005;

(b) Proof of legal name as required by OAR 735-062-0014;

(c) Proof of legal presence as required by OAR 735-062-0015 and the interagency agreement; and

(d) Proof of date of birth and identity as required by OAR 735-062-0020.

(6) On the application DOC must certify:

(a) That the copies of the documents submitted to meet the requirements of section (5) of this rule are true copies of the original documents and that the documents pertain to the inmate for whom DOC is submitting the VWPP application; and

(b) That the inmate will be living in Oregon when released and the address provided on the application meets the requirements for residence or mailing address as outlined in the interagency agreement.

(7) An inmate is not eligible for driving privileges, under ORS 807.060(4) or (5), and DMV will not replace or renew a driver license, if on the VWPP Application the inmate:

(a) Answers yes to the question "Do you have a vision condition or impairment that has not been corrected by glasses, contacts or surgery that affects your ability to drive safely?";

(b) Answers yes to the question "Do you have any physical or mental conditions or impairments that affect your ability to drive safely?"; or

(c) Answers yes to the question "Do you use alcohol, inhalants, or controlled substances to a degree that affects your ability to drive safely?"

(8) An inmate who is eligible to renew his or her driving privileges, and is or will be 50 years of age or older at the time his or her driving privileges expire, must meet the requirements of OAR 735-062-0060. As the inmate will not be at a DMV field office for the vision screening, DOC must provide a vision examination form, Certificate of Vision, DMV Form 735-24, completed by a licensed ophthalmologist or optometrist with the VWPP application. If no Certificate of Vision form is included or the inmate does not meet the vision standards set forth in 735-062-0050, the inmate is only eligible for an identification card.

(9) When an inmate's driving privileges are valid (not suspended, revoked, cancelled or expired more than one year) the inmate must surrender driving privileges in order to be eligible for an identification card. A completed Surrender of Driving Privilege(s), DMV Form 735-7206, must be included with the VWPP application of any inmate who is surrendering driving privileges. A person who surrenders driving privileges must pass all tests and pay all fees associated with an original driver license to regain driving privileges at a later date.

(10) DOC will pay the fee listed in ORS 807.370 or 807.410, as appropriate, for each inmate issued a driver license or identification card in a manner outlined in the interagency agreement.

(11) When an inmate's driver license or identification card issued pursuant to this rule is renewed or replaced, he or she must provide proof of citizenship or permanent legal residency as required by OAR 735-062-0015, unless DMV records show the person has previously provided such proof.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.087 & 807.110
Stats. Implemented: ORS 802.087
Hist.: DMV 16-2012, f. 12-21-12, cert. ef. 1-1-13; DMV 5-2013, f. & cert. ef. 5-3-13; DMV 3-2015, f. 6-19-15, cert. ef. 7-1-15

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**Rule Caption:** Biometric Data (Photograph) to Establish Identity
**Adm. Order No.:** DMV 4-2015
**Filed with Sec. of State:** 6-19-2015
**Certified to be Effective:** 6-19-15
**Notice Publication Date:** 5-1-2015
**Rules Amended:** 735-062-0016

**Subject:** Pursuant to ORS 807.024 DMV photographs applicants for the issuance or renewal of a driver license, driver permit or identity card in order to collect biometric data. The biometric data is obtained from facial recognition software used on the photograph taken at the time of issuance or renewal and comparing that information to other photos in DMV's data base. OAR 735-062-0016 specifies the requirements of the photograph, where there can be exceptions and what will happen if the applicant is unable to establish his or her identity through this process.

DMV has amended the rule to allow for a second exception - the ability to wear an eye patch or eye covering if the condition that caused the wearing of an eye patch or eye covering is a permanent medical condition. DMV has further amended the rule to reflect that even if an applicant's iris and pupil of each eye cannot be shown in the photograph that biometric data is still captured and that the comparisons with the applicant's prior photographs and with all photographs in DMV's data base will be conducted through the use of facial recognition software. Therefore, the requirement is removed that an applicant photographed with his or her eyes closed must establish his or her identity through an extra step of providing documentation in lieu of biometric data.

**Rules Coordinator:** Lauri Kunze—(503) 986-3171

**735-062-0016**

**Requirements for Establishing Identity Under ORS 807.024 and Consequences of Applicant's Failure to Establish Identity**

(1) An applicant for an original, renewal or replacement driver license, driver permit or identification card must submit to the collection of biometric data, as provided in ORS 807.024, for the purpose of establishing identity, unless the applicant meets the requirements of OAR 735-062-0120 or 735-062-0125.

(2) To optimize the collection of biometric data DMV will take a digital photograph of the applicant which must:

(a) Be full-faced;

(b) Clearly show the iris and pupil of each eye; and

(c) Capture the applicant's natural appearance in accordance with the requirements set forth in section (4) of this rule.

(3) Notwithstanding subsection (2)(b) of this rule, an applicant for an original, renewal or replacement driver license, driver permit or identification card may be photographed:

(a) With his or her eyes closed if the applicant provides documentation from a licensed physician, satisfactory to DMV, that indicates that the camera flash may cause a seizure or other serious medical condition. Except for subsection (4)(b) of this rule, the person must comply with all other requirements for the digital photograph.

(b) Wearing an eye patch or eye covering if the condition that caused the wearing of the eye patch or eye covering is a permanent medical condition. Except for subsection (4)(c) of this rule, the person must comply with all other requirements for the digital photograph.

(4) To comply with Section (2) of this rule, DMV will require the applicant to:

(a) Remove any eyeglasses;

(b) Remove any contact lens that significantly changes the appearance of the applicant's eye;

(c) Remove any clothing or similar material that partially or completely covers the applicant's face;

(d) Remove any head covering, including a hat or cap, unless the head covering is for medical or religious reasons. A head covering worn for medical or religious reasons must not cover or distort the applicant's face; and

(e) Remove makeup, face paint, jewelry, sticker or other temporary substance that covers or distorts all or part of the face so as to significantly alter the applicant's natural appearance and which DMV determines is likely to affect the biometric measurements of the digital photograph.

(5) Except as provided in OAR 735-062-0120, 735-062-0125, if an applicant's identity is not established by the biometric data submitted pursuant to subsection (1) of this rule, the applicant must provide documentation or other evidence sufficient to establish the applicant's identity to the satisfaction of DMV. The documents or other evidence may include, but are not limited to, one or more of the following:

(a) Documents listed in OAR 735-062-0020 that provide proof of the applicant's identity and date of birth to the satisfaction of DMV.

(b) The applicant's SSN and proof and verification of the SSN as provided in OAR 735-062-0005.

(c) A letter from a treating physician that identifies the person and states a medical reason for the person's change in appearance, if applicable.

(d) A document or letter from a law enforcement agency verifying identity; or

(e) A court document verifying identity.

(6) Except as provided in OAR 735-062-0120 and 735-062-0125, DMV will not issue a driver license, driver permit or identification card, if the applicant's identity is not established under this rule.

(7) Pursuant to ORS 809.310(3) and OAR 735-070-0004, DMV will suspend an applicant's driving privileges and the person's right to apply for driving privileges if the person fails to establish his or her identity as required by this rule and the failure to establish identity is the result of the applicant's committing any of the acts identified in ORS 809.310(3)(a) through (h).

(8) Pursuant to ORS 809.310(1), 807.400(17), and OAR 735-070-0004, DMV will cancel a driver license, driver permit or identification card issued to an applicant who fails to establish his or her identity as required by this rule when applying for the license, permit or identification card.

(9) Pursuant to ORS 809.310(2), 807.400(17), and OAR 735-070-0004, DMV will cancel a driver license, driver permit or identification card issued to an applicant who fails to establish his or her identity as required by this rule when applying for the license, permit or identification card, and the failure to establish identity is the result of the applicant's providing false information to DMV.

(10) If, based on the identification procedures required under section (1) or section (2) of this rule, DMV determines that an applicant has used different names to identify himself or herself in different applications submitted to DMV and the different names are not the result of the applicant's having legally changed his or her name, DMV may take the actions authorized by ORS 809.135.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.021 & 807.024
Stats. Implemented: ORS 807.021, 807.024, 807.400, 809.135, 809.310, 807.400 & 809.411
Hist.: DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 13-2010, f. & cert. ef. 7-30-10; DMV 6-2011, f. & cert. ef. 6-21-11; DMV 11-2011, f. & cert. ef. 11-23-11; DMV 9-2012, f. & cert. ef. 7-19-12; DMV 4-2015, f. & cert. ef. 6-19-15

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**Rule Caption:** Establishing Serious Traffic Violations and Marijuana Offenses
**Adm. Order No.:** DMV 5-2015
**Filed with Sec. of State:** 6-19-2015
**Certified to be Effective:** 7-8-15
**Notice Publication Date:** 5-1-2015
**Rules Adopted:** 735-063-0130
**Rules Amended:** 735-064-0040, 735-064-0100, 735-064-0220, 735-072-0035
**Rules Repealed:** 735-070-0037
**Rules Ren. & Amend:** 735-070-0200 to 735-063-0180

**Subject:** ORS 801.477 which defines "Serious Traffic Violations" is repealed effective July 8, 2015. ORS 809.525, effective July 8, 2015, requires DMV to designate, by administrative rule, traffic violations that constitute serious traffic violations. Therefore, DMV has adopted OAR 735-063-0130 to designate serious traffic violations. DMV has repealed OAR 735-070-0037 because the specific information it contained regarding fatal accidents and serious traffic violations is contained in the new OAR 735-063-0130. The changes to OAR 735-064-0220 include changing the reference from ORS 801.477 to OAR 735-063-0130 along with the deletion of two sections of the rule. One of these sections was deleted because all the Oregon offenses listed were repealed either in 2003 or 2005. The other section is for out-of-state convictions sent by AAMVAnet Code Dictionary (ACD) codes that have been obsolete since 2005. In both cases, no such conviction appearing on a driving record will count any longer toward a suspension or revocation.

DMV has amended OAR 735-070-0200 and renumbered it as OAR 735-063-0180. The renumbering is part of an effort to have rules specific to commercial driving privileges in the same division of rules. Effective July 8, 2015, ORS 809.404 is repealed and ORS 809.520 is effective. ORS 809.520 requires DMV to permanently revoke commercial driving privileges when a person is convicted of certain offenses under certain circumstances. OAR 735-070-0200 establishes how a person may be eligible to regain commercial driving privileges after 10 years as allowed by statute. As ORS

809.404(2) authorizes permanent revocations of commercial driving privileges prior to July 8, 2015 that statutory reference will remain in rule for the time being.

In November 2014 the citizens of Oregon passed Ballot Measure 91 which resulted in the Act regarding Control, Regulation, and Taxation of Marijuana and Industrial Hemp. Ballot Measure 91 (2014), Section 73, creates a traffic violation for a person who uses any marijuana items while driving a motor vehicle upon a highway. DMV designates convictions that count in the Driver Improvement Programs by administrative rule. DMV has amended OAR 735-072-0035 to include the new conviction for using marijuana while driving. DMV has further amended OAR 735-072-0035 to delete the section of the rule that includes obsolete ACD codes for out-of-state convictions as those codes can no longer impact a suspension under the Driver Improvement Programs.

Ballot Measure 91 (2014), Section 49, authorizes the courts to suspend a person's driving privileges when the person attempts to purchase marijuana items through the misrepresentation of age. There is an existing suspension when the misrepresentation of age involves alcohol and DMV will use the same procedures regardless of whether the offense involved alcohol or marijuana. DMV has amended OAR 735-064-0040 to include that a person suspended by a court for misrepresentation of age involving marijuana must receive the court's recommendation prior to being issued a hardship permit just as a minor would if the offense involved alcohol.

DMV has also amended OAR 735-064-0100 to include that a person issued a hardship or probationary permit must not be convicted of or forfeit bail for the offense of driving while using marijuana.

**Rules Coordinator:** Lauri Kunze—(503) 986-3171

**735-063-0130**
**Serious Traffic Violations**

ORS 809.525 sets forth the suspension of commercial driving privileges based on a serious traffic violation. Offenses from other states are posted to an Oregon driver record using an AAMVAnet Code Dictionary (ACD) code. Therefore, offenses are shown below with the applicable Oregon statute and the possible ACD code. DMV designates the following offenses serious traffic offenses:

(1) A violation, while operating a motor vehicle and a holder of commercial driving privileges, of:

(a) Reckless driving — ORS 811.140, ACD code M84;

(b) Any law establishing a speed limit, if the person is operating the vehicle 30 miles per hour or more above the posted limit and a court orders a suspension under ORS 811.109; or

(c) Any law establishing a speed limit, if the person is operating the vehicle at a speed of 100 miles per hour or greater, ORS 811.109.

(2) A violation, while operating a CMV, of:

(a) Any law establishing a speed limit, if the person is operating the vehicle 15 miles per hour more above the posted limit — ORS 811.111, ACD codes S15, S16, S21, S26, S31, S36, S41, S71, S81, S91, S92.

(b) The basic speed rule established in ORS 811.100 if the person is operating the vehicle 15 miles per hour or more above the speed established in ORS 811.105 as prima facie evidence of violating of the basic speed rule.

(c) Operating a CMV without driving privileges — ORS 807.010(1), ACD code B56.

(d) Failure to carry or present to a police officer proof of commercial driving privileges - ORS 807.570, ACD code B57.

(e) Reckless driving — ORS 811.140, ACD code M84.

(f) Driving on the left on a curve or grade or at an intersection or rail crossing - ORS 811.305, ACD code M42.

(g) Failure to drive within a lane — ORS 811.370, ACD code M42.

(h) Unsafe passing on the left — ORS 811.410, ACD code M42.

(i) Unsafe passing on the right — ORS 811.415, ACD code M42.

(j) Following too closely — ORS 811.485, ACD code M34.

(k) Operating motor vehicle while using a mobile communication device — ORS 811.507, ACD codes M85, M86.

(L) Any law relating to motor vehicle traffic control if the violation is connected to a fatal accident — ACD code U31. Motor vehicle traffic control violations as used in this subsection are those listed in ORS 809.600(1) and OAR 735-064-0220, and include city traffic offenses and offenses under federal law or the laws of another state as set forth in ORS 809.600(4). This subsection does not apply to violations of parking laws or laws regulating vehicle weight or equipment.

(m) Operating a CMV without proper classification or endorsement — ORS 807.010, ACD code B91.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 809.525
Other Auth.: 49 CFR §383.51
Stats. Implemented: ORS 809.525
Hist.: DMV 5-2015, f. 6-19-15, cert. ef. 7-8-15

**735-063-0180**
**Reinstatement of CDL Disqualification**

(1) A person disqualified by Oregon DMV from holding a commercial driver license under ORS 809.404(2) or 809.520 may apply to DMV for reinstatement 10 years after the beginning date of the most recent disqualification.

(2) To be eligible for reinstatement, the person must:

(a) Meet all requirements for issuance of a commercial driver license;

(b) Provide any information requested sufficient for DMV to find there is good cause for reinstatement; and

(c) Voluntarily and successfully complete rehabilitation as approved by DMV.

(3) In determining whether good cause for reinstatement has been shown, DMV will consider the person's driving record in this state or any other jurisdiction for the 10 years preceding the date of application for reinstatement. DMV will not reinstate commercial driving privileges if any of the following appear on the person's driving record:

(a) A conviction for an offense involving the operation of a commercial motor vehicle.

(b) A conviction, suspension or diversion for an offense involving any vehicle and alcohol, controlled substances or inhalants.

(c) A conviction for failure to perform the duties of a driver (leaving the scene of an accident) in any vehicle.

(d) A felony conviction involving the operation of any motor vehicle.

(e) A revocation of driving privileges as a habitual offender under ORS 809.600.

(f) A conviction for reckless driving in any vehicle.

(g) A conviction for reckless endangering a highway worker in any vehicle.

(h) A conviction for assault in the fourth degree resulting from the operation of any motor vehicle.

(i) A suspension of driving privileges for violating the speed limit driving 100 miles per hour or greater in any vehicle.

(j) A suspension of driving privileges for violating the speed limit by more than 30 miles per hour in any vehicle.

(4) The department will not reinstate commercial driving privileges if a suspension of driving privileges under the Driver Improvement Program appears on the person's driving record, kept in this state or by any other jurisdiction, within the three years preceding the date of application for reinstatement.

(5) The following National Safety Council courses are approved by DMV as meeting the rehabilitation requirement. A person applying for reinstatement must show proof of successful completion of:

(a) DDC Attitudinal Dynamics of Driving; and

(b) DDC Professional Truck Drivers.

(6) If a required course listed in section (5) of this rule is not available in Oregon, DMV will accept proof the person has successfully completed the on-line version of the course. If a required course is not available in Oregon and there is no on-line version available, DMV may accept proof of successful completion of an equivalent rehabilitation course or program.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 809.520
Stats. Implemented: ORS 809.520
Hist.: DMV 15-2006, f. 10-13-06, cert. ef. 11-1-06; Renumbered from 735-070-0200, DMV 5-2015, f. 6-19-15, cert. ef. 7-8-15

**735-064-0040**
**Application Requirements for a Hardship or Probationary Permit**

(1) Documents required to obtain a hardship permit depend on the reason(s) for the suspension. Documents required to obtain a probationary permit depend on whether the applicant's driving privileges are also suspended and the reason for the suspension. An applicant must comply with any sections of this rule that apply to the applicant's suspension, revocation or combination of suspension(s) and revocation(s). All applicants must:

(a) Complete a Hardship/Probationary Application, (DMV Form 735-6044). This form is available at any DMV office and on the Internet at www.oregondmv.com; and

(b) Pay the hardship or probationary permit fee and the reinstatement fee.

(2) An applicant, whose driving privileges are suspended based on a conviction for DUII, reckless driving, fleeing or attempting to elude a police officer or misrepresentation of age by a minor to purchase or consume alcohol or attempt to purchase marijuana, must obtain the recommendation and signature of the convicting judge on the Hardship/Probationary Application form.

(3) An applicant, whose driving privileges are suspended for two or more DUII convictions where the commission of the later offense and the conviction for a separate offense occurred within a five-year period, must submit a recommendation for issuance of a hardship or probationary permit from a program approved by AMH.

(4) An applicant, whose driving privileges are suspended under ORS 809.310(3) or 809.411(9) for committing a fraudulent or unlawful act in applying for or in the use of a driver license, driver permit or identification card, must:

(a) Provide proof of a verifiable Social Security Number or proof of not being eligible for one;

(b) Provide proof of legal presence;

(c) Submit to the collection of biometric data and establish identity as provided in ORS 807.024; and

(d) Provide proof of identity and date of birth.

(5) Unless driving privileges are suspended for a DUII conviction, an applicant for a hardship permit must submit a SR22 insurance certificate or other proof of financial responsibility as described in ORS 806.240. An applicant whose driving privileges are suspended for a DUII conviction must submit a SR22 certificate as proof of financial responsibility that shows at least the minimum coverage amounts specified in ORS 806.075. An applicant for a probationary permit must submit a SR22 insurance certificate if the applicant's driving privileges are suspended in addition to the habitual traffic offender revocation.

(6) An applicant for a probationary permit must submit to DMV a medical report form or a report on the Hardship/Probationary Permit Application (DMV Form 735-6044), completed by a licensed physician showing to the satisfaction of DMV that the applicant has no medical condition or impairment that makes it unsafe for the applicant to operate a motor vehicle.

(7) An applicant for a probationary permit must submit verification of the successful completion of a driver improvement course approved by DMV. Names of approved courses can be obtained by contacting DMV.

(8) An applicant must provide the following information, depending upon the driving privileges sought:

(a) An applicant who is required to drive for employment purposes must provide the routes, counties, days and times the applicant is required to drive. In addition, this information must be supported by any of the following that apply:

(A) The applicant must submit a letter from the applicant's employer in order to verify the hours of work and the need for on the job driving;

(B) The applicant must submit proof of self-employment. Acceptable proof includes a copy of a business license, business tax statement, newspaper advertisement or business receipts; and

(C) The applicant must provide the days, hours and counties for seeking employment.

(b) An applicant who needs to drive to attend an alcohol or drug treatment or rehabilitation program must provide the name and address of the program, routes, days and times the applicant is required to drive to and from the program;

(c) An applicant for a hardship permit who needs to drive to receive medical treatment on a regular basis for himself or herself or a member of the person's immediate family, must provide the name and address of the medical treatment facility, routes, days and times the applicant is required to drive to receive medical treatment on a regular basis for the person or a member of the person's immediate family. The applicant must submit a signed statement from the physician or certified nurse practitioner treating the person or the person's immediate family member, advising of the need for medical treatment on a regular basis. The statement must include how often the treatment is required and hours of the day and days of the week treatment is available. Actual appointment times are subject to verification by DMV and law enforcement;

(d) An applicant for a hardship permit, whose driving privileges are suspended for violation of ORS 165.805, 471.430, or 806.010, is eligible to request driving privileges for family necessities. The applicant must provide the name and address of the person to whom or facility to which the applicant is driving for the family necessity, routes, days and times the applicant is required to drive for family necessities, as defined in OAR 735-064-0005.

(9) Applicants may submit documents to DMV as they meet requirements. DMV, however, will not issue the hardship or probationary permit until all required documents are received and processed by DMV, Driver Suspensions Unit.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.240, 807.270

Stats. Implemented: ORS 807.240, 807.250, 807.270, 807.370, 813.500, 813.510, Ballot Measure 91 (2014), Sec. 49

Hist.: MV 7-1984, f. 6-29-84, ef. 7-1-84; MV 17-1986, f. & ef. 10-1-86; MV 12-1987(Temp), f. 9-16-87, ef. 9-27-87; MV 31-1987, f. & ef. 10-5-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0095; MV 29-1989, f. & cert. ef. 10-3-89; DMV 12-1996, f. & cert. ef. 12-20-96; DMV 14-2005, f. & cert. ef. 5-19-05; DMV 2-2006, f. & cert. ef. 2-15-06; DMV 17-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 12-2009, f. & cert. ef. 6-25-09; DMV 5-2015, f. 6-19-15, cert. ef. 7-8-15

**735-064-0100**
**Hardship or Probationary Permit Restrictions**

(1) A person issued a hardship or probationary permit must not do any of the following:

(a) The person must not drive outside the hardship or probationary permit driving restrictions;

(b) The person must not be convicted of or forfeit bail for more than one traffic offense listed in ORS 809.600(2)(b) (including city traffic offenses and similar offenses under federal or state law) within any 12-month period. See OAR 735-064-0220 for a list of offenses and statutory references;

(c) The person must not be convicted of or forfeit bail for an offense as specified in ORS 809.600(1)(a) through (g). These offenses are: murder, manslaughter, criminally negligent homicide, assault, recklessly endangering another person, menacing, or criminal mischief resulting from the operation of a motor vehicle; reckless driving, driving while under the influence of intoxicants, failure to perform the duties of a driver involved in an accident or collision, criminal driving while suspended or revoked, fleeing or attempting to elude a police officer, aggravated vehicular homicide or aggravated driving while suspended or revoked;

(d) The person must not use intoxicants and drive;

(e) The person must not refuse to submit to a chemical breath test, blood test or urine test;

(f) The person must not be convicted of or forfeit bail for an offense under ORS 811.170 or Ballot Measure 91 (2014), Section 73; or

(g) The person must not falsify any information appearing on the Hardship/Probationary Application.

(2) The person required to have an IID must not violate the following conditions:

(a) Drive any vehicle which does not have an IID installed unless exempted by statute and administrative rule;

(b) Drive an employer's owned or leased vehicle without an IID unless the person is carrying a copy of an employer's exemption letter, Employer IID Exemption form or medical exemption letter in his or her possession;

(c) Tamper with the IID; or

(d) Solicit another person to blow into the IID.

(3) Evidence that a restriction or condition has been violated includes, but is not limited to the following:

(a) Police reports;

(b) Accident reports;

(c) Written reports from family members or the general public;

(d) A written report which indicates the person has driven outside the hardship or probationary permit restrictions;

(e) A written report which indicates the person has been driving after using intoxicants;

(f) A written report from a police officer that indicates the person has refused the chemical breath test, blood test or urine test following an arrest for driving under the influence of intoxicants;

(g) A report from a police officer;

(h) A court conviction; and

(i) A written report from an IID provider that the person has tampered with the IID installed in his or her vehicle.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.270 & 813.510

Stats. Implemented: ORS 807.240, 807.270, 813.100, 813.510, 813.602, 813.608, 813.610, 813.612, & 813.614

Hist.: MV 7-1984, f. 6-29-84, ef. 7-1-84; MV 17-1986, f. & ef. 10-1-86; MV 12-1987(Temp), f. 9-16-87, ef. 9-27-87; MV 31-1987, f. & ef. 10-5-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0120; MV 30-1989, f. & cert. ef. 10-3-89; DMV 4-1994, f. & cert. ef. 7-21-94; DMV 12-1996, f. & cert. ef. 12-20-96; DMV 2-2006, f. & cert. ef. 2-15-06; DMV 3-2008, f. & cert. ef. 1-25-08; DMV 27-2009, f. 12-22-09, cert. ef. 1-1-10; DMV 2-2013, f. & cert. ef. 3-22-13; DMV 5-2015, f. 6-19-15, cert. ef. 7-8-15

**735-064-0220**
**Traffic Offenses Used in Habitual Offender, Driver Improvement, CMV Serious Violations and Hardship/Probationary Driver Permit Programs**

(1) A conviction for an offense listed in this rule counts toward:

(a) The Habitual Offender Program pursuant to ORS 809.600(2);

(b) The Provisional and Adult Driver Improvement Programs outlined in Oregon Administrative Rule chapter 735, division 72;

(c) Motor vehicle traffic control violations connected to a fatal accident as defined in OAR 735-063-0130 that can lead to a suspension of commercial motor vehicle driving privileges.

(d) Revocation of a probationary driver permit pursuant to ORS 807.270(7); and

(e) Revocation of a hardship permit pursuant to OAR 735-064-0100 and 735-064-0110.

(2) This section lists the offenses and the statutory citations for Oregon offenses used in the programs identified in section (1) of this rule:

(3) Offenses from other states may be posted to driver records using an AAMVAnet Code Dictionary (ACD) code. This section identifies the code that appears on the driver record, a description of the offense and the ORS reference covering an equivalent offense(s) for Oregon: [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619, 802.010, 809.480 & 809.605
Stats. Implemented: ORS 807.240, 807.270, 809.480, 809.600(2) & 809.605
Hist.: MV 17-1986, f. & ef. 10-1-86; MV 33-1987, f. & ef. 11-2-87; Administrative Renumbering 3-1988, Renumbered from 735-031-0180; MV 32-1989, f. & cert. ef. 10-3-89; MV 7-1990, f. & cert. ef. 5-16-90; MV 18-1991, f. 9-18-91, cert. ef. 9-29-91; MV 26-1991, f. & cert. ef. 11-18-91; DMV 8-1995, f. & cert. ef. 6-19-95; DMV 5-1997, f. & cert. ef. 2-20-97; DMV 8-1998, f. & cert. ef. 6-19-98; DMV 27-2001(Temp), f. 12-14-01, cert. ef. 1-1-02 thru 6-29-02; DMV 11-2002, f. 6-24-02, cert. ef. 6-30-02; DMV 33-2003(Temp), f. 12-15-03 cert. ef. 1-1-04 thru 6-28-04; DMV 4-2004, f. & cert. ef. 2-23-04; DMV 21-2005(Temp), f. 9-19-05, cert. ef. 10-1-05 thru 3-29-06; DMV 28-2005, f. & cert. ef. 12-14-05; DMV 19-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 28-2009, f. 12-22-09, cert. ef. 1-1-10; DMV 18-2011, f. 12-22-11, cert. ef. 1-1-12; DMV 5-2015, f. 6-19-15, cert. ef. 7-8-15

**735-072-0035**
**Driver Improvement Offenses**

(1) The conviction for an offense listed below counts toward both the Provisional and Adult Driver Improvement Programs. It takes five convictions from the following list to equal one driver improvement violation. All other convictions counting in the Driver Improvement Programs are outlined in OAR 735-064-0220.

(2) Offenses from other states are posted to driver records using an AAMVAnet Code Dictionary (ACD) code. This section identifies the code that appears on the driver record, a description of the offense and the ORS or administrative rule reference to the equivalent offense(s) in Oregon. The offenses listed below also count towards both the Provisional and Adult Driver Improvement Programs as described in section (1) of this rule.

[ED. NOTE: Lists referenced are available from the agency.]
Stat. Auth.: ORS 184.616, 184.619, 802.010 & 809.480
Stats. Implemented: ORS 809.480
Hist.: DMV 29-2001(Temp), f. 12-14-01 cert. ef. 1-1-02 thru 6-29-02; DMV 12-2002, f. 6-24-02, cert. ef. 6-30-02; DMV 19-2007, f. 12-24-07, cert. ef. 1-1-08; DMV 28-2009, f. 12-22-09, cert. ef. 1-1-10; DMV 18-2011, f. 12-22-11, cert. ef. 1-1-12; DMV 23-2013, f. 12-20-13, cert. ef. 1-1-14; DMV 5-2015, f. 6-19-15, cert. ef. 7-8-15

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

**Rule Caption:** Fire Apparatus Authorization
**Adm. Order No.:** HWD 4-2015
**Filed with Sec. of State:** 6-23-2015
**Certified to be Effective:** 6-23-15
**Notice Publication Date:** 5-1-2015
**Rules Amended:** 734-082-0009
**Subject:** This rule is related to the issuance of variance permits for fire apparatus. Since 2003 fire apparatus exceeding legal size and weight limits have been required to obtain variance permits for operations in Oregon, subject to a permitted weight limit of 600 pounds per inch of tire width. In 2008 the permitted weight changed from 600 pounds to 635 pounds. This rule was amended to reflect the change.
**Rules Coordinator:** Lauri Kunze—(503) 986-3171

**734-082-0009**
**Fire Apparatus Authorization**

(1) Fire apparatus are authorized to operate with a variance permit that is not subject to the maximum limits established in division 82 when:

(a) Operating within the fire district boundary of the owner of the apparatus, including any "mutual aid" agreement area;

(b) Operating in response to any emergency act declared by the Governor; or

(c) Maintaining, deploying or re-deploying such fire apparatus.

(2) Fire apparatus operations conducted under a variance permit are subject to the terms of the variance permit, which includes the following:

(a) The fully loaded fire apparatus must be equipped with tires of sufficient size that the gross weight on any wheel, axle, tandem axle, or group of axles does not exceed 635 pounds per inch of tire width or the manufacturer's sidewall tire rating, whichever is less; and

(b) All movements are subject to the weight limitation in effect on any highway, highway section, bridge, or structure. Bridges with weight restrictions on state and interstate highways can be found on the Oregon Road & Bridge Restriction List, which can be found at http://www.oregontruckingonline.com/cf/MCAD/pubMetaEntry/restrictionsList/.

(3) Prior to the original issuance of a variance permit or subsequent renewal for vehicles not previously weighed, the fully loaded fire apparatus must be weighed by ODOT Motor Carrier Enforcement staff to ensure the maximum weight limit described in section (2) (a) is not exceeded.

Stat. Auth.: ORS 184.616, 184.619, 810.050, 810.060 & 818.200
Stats. Implemented: ORS 818.220 & 818.225
Hist.: HWY 1-1990(Temp), f. & cert. ef. 1-5-90; HWY 17-1990, f. & cert. ef. 12-28-90; HWY 2-1992, f. & cert. ef. 2-18-92; HWY 5-1997, f. & cert. ef. 5-9-97; HWD 1-2003, f. & cert. ef. 8-21-03; HWD 4-2015, f. & cert. ef. 6-23-15

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## Higher Education Coordinating Commission
## Chapter 715

**Rule Caption:** Adopt fees to be reflected in rule and amend new school fee.
**Adm. Order No.:** HECC 7-2015(Temp)
**Filed with Sec. of State:** 6-25-2015
**Certified to be Effective:** 6-25-15 thru 12-21-15
**Notice Publication Date:**
**Rules Amended:** 715-045-0007
**Subject:** The Higher Education Coordinating Commission (Commission) is proposing to adopt fees in rule because current fees are scheduled to sunset in statute effective July, 2015. The proposed rule change in OAR 715-045-0007 would not increase the fees but adopt the existing fees in rule. The Oregon Department of Education, where the Private Career Schools unit was previously housed, was given 2 years in statute to adopt the fee schedule in rule assuming during the two years no suggested revisions were proposed. Now under the authority of the Commission, the PCS unit needs to have the fees adopted in rule prior to their scheduled sunset.
**Rules Coordinator:** Kelly Dickinson—(503) 378-5690

**715-045-0007**
**Fees**

(1)(a) Before issuing a career school license under ORS 345.010 to 345.450, the Executive Director shall collect a nonrefundable, annual license fee based on the fee schedule below in OAR 715-045-0007(1)(c) for In-State Schools and for Out-of-State Schools.

(b) For purposes of ORS 345.080, "tuition income" means "gross tuition income," as that term is defined at OAR 581-045-0001 and 715-045-0007.

(c) In-State Schools: [Table not included. See ED. NOTE.]

(2) Applications for a new license must be accompanied by a nonrefundable application fee, based on the fourth step of the fee schedule in above in OAR 715-045-0007(1)(c) .

(3) The Commission shall collect a nonrefundable fee of $12 to conduct a search of a closed career school's transcripts and, if any are found, provide four copies of a former student's transcript. If more than four copies are requested, the requestor shall pay a nonrefundable fee of $2 for each additional copy.

(4) Teacher registration applications shall be accompanied by a nonrefundable application fee of $75.

(5) Requests to verify a teacher's registration, training, or experience shall be accompanied by a nonrefundable verification fee of $25.

(6) Applications for teacher trainee registrations must be accompanied by a nonrefundable registration fee of $7.

(7) Requests to determine whether an out-of-state applicant for a cosmetology license is qualified to take a test of the Board of Cosmetology shall be accompanied by a nonrefundable review fee of $25.

(8) The Commission shall collect a nonrefundable fee of $100 for processing:

(a) Career school license renewal applications submitted after the applicable due date established in OAR 715-045-0062. This fee shall be in addition to any civil penalties that may be assessed for renewal applications that are not submitted in compliance with the requirements of OAR 715-045-0062 and any other applicable rules.

(b) Payments to the Tuition Protection Fund established under ORS 345.110 after the due dates established in OAR 715-045-0029. This fee shall be in addition to any civil penalties that may be assessed for payments to the Fund that are not submitted in compliance with the requirements of OAR 715-045-0029 and any other applicable rules.

(9) The Commission shall collect the annual, nonrefundable cosmetology school inspection fee of $100 established in ORS 345.450 from schools teaching hair design, barbering, esthetics, or nail technology. This inspection fee shall be transferred to the Health Licensing Office.

(10)(a) The Commission shall assess a nonrefundable fee of $200 for investigations of career schools when the Commission determines that a career school has violated any provision of ORS 345.010 to 345.450, or any rule adopted pursuant to ORS 345.010 to 345.450.

(b) If the Commission must engage an individual or business, such as a forensic accountant or an attorney, for assistance in conducting an investigation, then the Commission shall assess a nonrefundable fee in an amount equal to the investigative costs incurred by the Commission; however, the amount of the fee may not exceed $5,000.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 345.080
Stats. Implemented: ORS 345.080
Hist.: EB 13-1996, f. & cert. ef. 7-26-96; Renumbered from 581-045-0002, ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; Renumbered from 581-045-0007 by HECC 2-2014, f. & cert. ef. 4-23-14; HECC 9-2014, f. & cert. ef. 12-18-14; HECC 7-2015(Temp), f. & cert. ef. 6-25-15 thru 12-21-15

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## Landscape Contractors Board
## Chapter 808

**Rule Caption:** Adopt 2015-2017 LCB operating budget
**Adm. Order No.:** LCB 5-2015
**Filed with Sec. of State:** 6-18-2015
**Certified to be Effective:** 6-18-15
**Notice Publication Date:** 5-1-2015
**Rules Amended:** 808-001-0008
**Subject:** Adopt 2015-2017 LCB operating budget
**Rules Coordinator:** Kim Gladwill-Rowley—(503) 967-6291, ext. 223

**808-001-0008**
**Operating Budget**

(1) Pursuant to ORS 182.462, the Board adopts the budget, for the biennium beginning July 1, 2015 and ending June 30, 2017, as approved at a Board Meeting held June 18, 2015. The Board Administrator will amend accounts as necessary, within the approved budget amount for the effective operation of the Board. Copies of the budget are available at the Board's office.

(2) Effective July 1, 2015, the Board adopts the July 1, 2015 through June 30, 2017 budget to reflect a total income amount of $1,241,618 and a total expense of $1,217,545.36 with a projected net income of $28,072.64.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 670.310 & 671.670
Stats. Implemented: ORS 182.462
Hist.: LCB 3-2003, f. 5-27-03, cert. ef. 6-1-03; LCB 3-2005, f. & cert. ef. 6-1-05; LCB 1-2006, f. 3-27-06, cert. ef. 4-1-06; LCB 2-2007, f. & cert. ef. 5-16-07; LCB 4-2009, f. 6-1-09 cert. ef. 7-1-09; LCB 5-2011, f. & cert. ef. 6-17-11; LCB 5-2012, f. & cert. ef. 8-2-12; LCB 3-2013, f. 6-21-13, cert. ef. 7-1-13; LCB 3-2015, f. & cert. ef. 3-24-15; LCB 5-2015, f. & cert. ef. 6-18-15

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## Oregon Board of Dentistry
## Chapter 818

**Rule Caption:** Implement a legislatively approved fee increase of $75 on all licensees' biennial licensure fees.
**Adm. Order No.:** OBD 2-2015(Temp)
**Filed with Sec. of State:** 6-26-2015
**Certified to be Effective:** 6-26-15 thru 12-22-15
**Notice Publication Date:**
**Rules Amended:** 818-001-0087
**Subject:** The Board shall increase the biennial license fee by $75 for all licensees.
**Rules Coordinator:** Stephen Prisby—(971) 673-3200

**818-001-0087**
**Fees**

(1) The Board adopts the following fees:
(a) Biennial License Fees:
(A) Dental — $390;
(B) Dental — retired — $0;
(C) Dental Faculty — $335;
(D) Volunteer Dentist — $0;
(E) Dental Hygiene — $230;
(F) Dental Hygiene — retired — $0;
(G) Volunteer Dental Hygienist — $0.
(b) Biennial Permits, Endorsements or Certificates:
(A) Nitrous Oxide Permit — $40;
(B) Minimal Sedation Permit — $75;
(C) Moderate Sedation Permit — $75;
(D) Deep Sedation Permit — $75;
(E) General Anesthesia Permit — $140;
(F) Radiology — $75;
(G) Expanded Function Dental Assistant — $50;
(H) Expanded Function Orthodontic Assistant — $50;
(I) Instructor Permits — $40;
(J) Dental Hygiene Restorative Functions Endorsement — $50;
(K) Restorative Functions Dental Assistant — $50;
(L) Anesthesia Dental Assistant — $50;
(M) Dental Hygiene, Expanded Practice Permit — $75;
(N) Non-Resident Dental Permit - $100.00;
(c) Applications for Licensure:
(A) Dental — General and Specialty — $345;
(B) Dental Faculty — $305;
(C) Dental Hygiene — $180;
(D) Licensure Without Further Examination — Dental and Dental Hygiene — $790.
(d) Examinations:
(A) Jurisprudence — $0;
(B) Dental Specialty:
(i) If only one candidate applies for the exam, a fee of $2,000.00 will be required at the time of application; and
(ii) If two candidates apply for the exam, a fee of $1,000.00 will be required at the time of application; and
(iii) If three or more candidates apply for the exam, a fee of $750.00 will be required at the time of application.
(e) Duplicate Wall Certificates — $50.

(2) Fees must be paid at the time of application and are not refundable.

(3) The Board shall not refund moneys under $5.01 received in excess of amounts due or to which the

Board has no legal interest unless the person who made the payment or the person's legal representative requests a refund in writing within one year of payment to the Board.

Stat. Auth.: ORS 679 & 680
Stats. Implemented: ORS 293.445, 679.060, 679.115, 679.120, 679.250, 680.050, 680.075, 680.200 & 680.205
Hist.: DE 6-1985(Temp), f. & ef. 9-20-85; DE 3-1986, f. & ef. 3-31-86; DE 1-1987, f. & ef. 10-7-87; DE 1-1988, f. 12-28-88, cert. ef. 2-1-89, corrected by DE 1-1989, f. 1-27-89, cert. ef. 2-1-89; Renumbered from 818-001-0085; DE 2-1989(Temp), f. & cert. ef. 11-30-89; DE 1-1990, f. 3-19-90, cert. ef. 4-2-90; DE 1-1991(Temp), f. 8-5-91, cert. ef. 8-15-91; DE 2-1991, f. & cert. ef. 12-31-91; DE 1-1992(Temp), f. & cert. ef. 6-24-92; DE 2-1993, f. & cert. ef. 7-13-93; OBD 1-1998, f. & cert. ef. 6-8-98; OBD 3-1999, f. 6-25-99, cert. ef. 7-1-99; Administrative correction, 8-2-99; OBD 5-2000, f. 6-22-00, cert. ef. 7-1-00; OBD 8-2001, f. & cert. ef. 1-8-01; OBD 2-2005, f. 1-31-05, cert. ef. 2-1-05; OBD 2-2007, f. 4-26-07, cert. ef. 5-1-07; OBD 3-2007, f. & cert. ef. 11-30-07; OBD 1-2009(Temp), f. 6-11-09, cert. e. 7-1-09 thru 11-1-09; OBD 2-2009, f. 10-21-09, cert. ef. 11-1-09; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 3-2011(Temp), f. 6-30-11, cert. ef. 7-1-11 thru 12-27-11; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 1-2012, f. & cert. ef. 1-27-12; OBD 1-2013, f. 5-15-13, cert. ef. 7-1-13; OBD 1-2014, f. 7-2-14, cert. ef. 8-1-14; OBD 2-2015(Temp), f. & cert. ef. 6-26-15 thru 12-22-15

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## Oregon Business Development Department
## Chapter 123

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

**Adm. Order No.:** OBDD 4-2015(Temp)
**Filed with Sec. of State:** 7-13-2015
**Certified to be Effective:** 7-13-15 thru 1-8-16
**Notice Publication Date:**
**Rules Amended:** 123-052-1500
**Subject:** HB 3239 passed the 2015 Legislative Session updating the definition of "Lender" to include seller financing. As a result of this change in statute, and the emergency clause in the bill, we are amending our Requirements for Lenders to include language for seller financing. This temporary rule filing will immediately be followed by a notice of proposed rulemaking to make this change permanent.
**Rules Coordinator:** Mindee Sublette—(503) 986-0036

**123-052-1500**
**Requirements for Lenders**

(1) A lender must either be:

(a) An insured institution, as defined by ORS 706.008, that is authorized to do business in Oregon and that makes loans to persons engaging in farming or similar operations;

(b) An "Accredited Investor" (AI) as defined under Section 3(a)(2) of the Securities Act of 1933;

(c) A "Qualified Institutional Buyer" (QIB) as defined under Rule 144A of the Securities Act of 1933;

(d) A "Sophisticated Investor" (SI) as defined in Rule 501 of Regulation D under the Securities Act of 1933 and as further described in 17 CFR 230.506(b)(2)(ii) as one who has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment.; or

(e) An institution organized and existing under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.)

(2) The lender must represent in writing that it is an insured institution, AI, QIB, SI, or an institution organized and existing under the Farm Credit Act of 1971, pursuant to 123-052-1500(1), that the aggie bonds are being acquired for investment, and that the lender intends to hold the aggie bonds for the lender's own account and not with a view to, or for resale.

(3) Under no circumstances can a lender be a substantial user of the Financed Property or related to a substantial user of that property. For this purpose "related" means a Related Person within the meaning of OAR 123-052-1100(22) but shall also include a partnership and any of its partners (and their spouses and minor children), and an S corporation and each of its shareholders (and their spouses and minor children).

(4) The Lender must execute a Financing Agreement in substantially the form and with the substance of the form of Financing Agreement provided by the Department, or must use a form that is specifically approved in advance and in writing by the Department. The Lender must make loans under Loan Agreements that are substantially in the form and with the substance of the form of Loan Agreement provided by the Department, or must use a form that is specifically approved in advance and in writing by the Department.

(5) Seller financing is allowed, subject to the provisions of the Code, State Treasurer, OAR 123-052, including the Securities Act of 1933.

Stat. Auth.: ORS 285A.420 - 285A.435, ch. 742 OL 2013
Stats. Implemented: ORS 285A.420.420 - 285A.435, ch. 742 OL 2013
Hist.: OBDD 3-2015, f. & cert. ef. 2-24-15; OBDD 4-2015(Temp), f. & cert. ef. 7-13-15 thru 1-8-16

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## Oregon Department of Aviation
## Chapter 738

**Rule Caption:** Department of Aviation adoption of DOJ Model Rules of Procedure for Public Contracting and Procurement
**Adm. Order No.:** AVIA 1-2015
**Filed with Sec. of State:** 7-1-2015
**Certified to be Effective:** 7-1-15
**Notice Publication Date:** 6-1-2015
**Rules Amended:** 738-001-0006
**Rules Repealed:** 738-001-0025, 738-001-0030
**Subject:** The Department of Aviation has updated and streamlined its public contracting and procurement rules by adopting the DOJ model rules of procedure in OAR 137, divisions 46 through 49 in their entirety and repealing 738-001-0025 and 738-001-0030 because their provisions are now incorporated into 738-001-0006.
**Rules Coordinator:** Lauri Kunze—(503) 986-3171

**738-001-0006**
**Uniform and Model Rules of Procedure**

(1) Pursuant to ORS 183.341(2), the Oregon Department of Aviation adopts the Attorney General's Model Rules of Procedure under the Administrative Procedures Act, OAR chapter 137, divisions 1 through 5 to govern its rulemaking and contested cases or equivalent proceedings.

(2) Pursuant to ORS 183.341, the Oregon Department of Aviation adopts the Attorney General's Model Rules of Procedure under the Administrative Procedures Act, OAR chapter 137, divisions 46 through 49 to govern its procurement and public contracting.

(3) Sections (1) and (2) above adopt the Model Rules in effect on the date this rule is filed with the Secretary of State.

Stat. Auth.: ORS 835.035 & 835.112
Stats. Implemented: ORS 183.341 & 279A.050
Hist.: AVIA 1-2000, f. & cert. ef. 12-26-00; AVIA 1-2004, f. & cert. ef. 2-17-04; AVIA 1-2015, f. & cert. ef. 7-1-15

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## Oregon Department of Education
## Chapter 581

**Rule Caption:** Modifies the definition of sheltered workshop for transition aged students
**Adm. Order No.:** ODE 9-2015
**Filed with Sec. of State:** 7-13-2015
**Certified to be Effective:** 7-13-15
**Notice Publication Date:** 6-1-2015
**Rules Amended:** 581-015-2000
**Subject:** Modifies definition of sheltered workshops to fully align with definition used by Department of Human Services
**Rules Coordinator:** Cindy Hunt—(503) 947-5651

**581-015-2000**
**Definitions**

The definitions below apply to OARs 581-015-2000–581-015-2999, unless the context indicates otherwise.

(1) "Adult student" is a student for whom special education procedural safeguard rights have transferred as described in OAR 581-015-2325.

(2) "Assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such device.

(3) "Assistive technology service" means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes:

(a) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;

(b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;

(c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(e) Training or technical assistance for a child with a disability or, if appropriate, that child's family; and

(f) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child.

(4) "Children with disabilities" or "students with disabilities" means children or students who require special education because of: autism; communication disorders; deafblindness; emotional disturbances; hearing impairments, including deafness; intellectual disability; orthopedic impairments; other health impairments; specific learning disabilities; traumatic brain injuries; or visual impairments, including blindness.

(a) "Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction that adversely affects a child's educational performance. Other characteristics that may be associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. Essential features are typically but not necessarily manifested before age three. Autism may include autism spectrum disorders such as but not limited to autistic disorder, pervasive developmental disorder, not otherwise specified, and

Asperger's syndrome. The term does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance. However, a child who qualifies for special education under the category of autism may also have an emotional disturbance as a secondary disability if the child meets the criteria under emotional disturbance.

(b) "Communication Disorder" means the impairment of speech articulation, voice, fluency, or the impairment or deviant development of language comprehension and/or expression, or the impairment of the use of a spoken or other symbol system that adversely affects educational performance. The language impairment may be manifested by one or more of the following components of language: morphology, syntax, semantics, phonology, and pragmatics.

(c) "Deafblindness" means having both hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that the child cannot be accommodated in special education programs designed solely for students having hearing or visual impairments.

(d) "Emotional Disturbance" means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:

(A) An inability to learn that cannot be explained by intellectual, sensory, or health factors;

(B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(C) Inappropriate types of behavior or feelings under normal circumstances;

(D) A general pervasive mood of unhappiness or depression; or

(E) A tendency to develop physical symptoms or fears associated with personal or school problems;

(F) The term includes schizophrenia but does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance.

(e) "Hearing Impairment" means a hearing condition, whether permanent or fluctuating, that adversely affects a child's educational performance. The term includes those children who are hard of hearing or deaf.

(f) "Intellectual Disability" means significantly sub average general intellectual functioning, and includes a student whose intelligence test score is two or more standard deviations below the norm on a standardized individual intelligence test, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, and that adversely affects a child's educational performance.

(g) "Orthopedic Impairment" means a motor disability that adversely affects the child's educational performance. The term includes impairments caused by an anomaly, disease or other conditions (e.g., cerebral palsy, spinal bifida, muscular dystrophy or traumatic injury).

(h) "Other Health Impairment" means limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment, that:

(A) Is due to chronic or acute health problems (e.g. a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, attention deficit disorder, attention deficit hyperactivity disorder, leukemia, Tourette's syndrome or diabetes); and

(B) Adversely affects a child's educational performance.

(i) "Specific Learning Disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or do mathematical calculations. Specific learning disability includes conditions such as perceptual disabilities, brain injury, dyslexia, minimal brain dysfunction, and developmental aphasia. The term does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, intellectual disability, emotional disturbance, or environmental, cultural, or economic disadvantage.

(j) "Traumatic Brain Injury" means an acquired injury to the brain caused by an external physical force resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term includes open or closed head injuries resulting in impairments in one or more areas, including cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not include brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

(k) "Visual Impairment" means a visual impairment that, even with correction, adversely affects a child's educational performance. The term includes those children who are partially sighted or blind.

(5) "Consent" means that:

(a) The parent or adult student has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language or other mode of communication;

(b) The parent or adult student understands and agrees in writing to the carrying out of the activity for which consent is sought; and the consent describes that activity and lists any records that will be released and to whom; and

(c) The parent or adult student understands that the granting of consent is voluntary and may be revoked at any time in accordance with OAR 581-015-2090(4) or 581-015-2735.

(6) "Day" means calendar day unless otherwise indicated as:

(a) "Business day," which means Mondays through Fridays, other than holidays; or as

(b) "School day," which means any day, including partial days that children are in attendance at school for instructional purposes. The term "school day" has the same meaning for all children in school, including those with and without disabilities.

(7) "Department" means the Oregon Department of Education.

(8) "EI/ECSE" means early intervention/early childhood special education and refers to services or programs for preschool children with disabilities.

(9) "Elementary or secondary school or facility" means a school or facility with any combination of grades K through 12.

(10) "Evaluation" means procedures used to determine whether the child has a disability, and the nature and extent of the special education and related services that the child needs.

(11) "General education curriculum" means the same curriculum as for children without disabilities (children without disabilities). For preschool children with disabilities, the term means age-appropriate activities.

(12) "Health assessment statement" means a written statement issued by a nurse practitioner licensed by a State Board of Nursing specially certified as a nurse practitioner, or by a physician assistant licensed by a State Board of Medical Examiners. Both a nurse practitioner and a physician assistant must be practicing within his or her area of specialty.

(13) "Homeless children" (or "homeless youth") has the same meaning as in section 725 of the McKinney-Vento Act, 42 USC § 11434a(2).

(14) "Identification" means the process of determining a child's disability and eligibility for special education and related services.

(15) "Individualized Education Program" (IEP) means a written statement of an educational program which is developed, reviewed, revised and implemented for a school-aged child with a disability.

(16) "Individualized Family Service Plan" (IFSP) is defined in OAR 581-051-2700.

(17) "Limited English proficient" has the same meaning as in the Elementary and Secondary Education Act, 20 USC § 9101(25).

(18) "Mediation" means a voluntary process in which an impartial mediator assists and facilitates two or more parties to a controversy in reaching a mutually acceptable resolution of the controversy and includes all contacts between a mediator and any party or agent of a party, until such a time as a resolution is agreed to by the parties or the mediation process is terminated.

(19) "Medical statement" means a written statement issued by a physician licensed by a State Board of Medical Examiners.

(20) "Native language", when used with respect to a person who is limited English proficient, means the language normally used by that person or, in the case of a child, the language normally used by the parent of the child. For an individual with deafness, blindness, deafblindness or no written language, the term means the mode of communication normally used by the person (such as sign language, Braille, or oral communication). In direct contact with a child, the term means the language normally used by the child.

(21) "Parent" means:

(a) One or more of the following persons:

(A) A biological or adoptive parent of the child;

(B) A foster parent of the child,

(C) A legal guardian, other than a state agency;

(D) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or

(E) A surrogate parent who has been appointed in accordance with OAR 581-015-2320, for school-age children, or 581-015-2760 for preschool children.

(b) Except as provided in subsection (c), if more than one party is qualified under subsection (a) to act as a parent and the biological or adoptive parent is attempting to act as the parent, the biological or adoptive parent is presumed to be the parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

(c) If a judicial decree or order identifies a specific person under subsection (a) to act as the parent of a child or to make educational decisions on behalf of a child, then that person will be the parent for special education purposes.

(22) "Participating agency" means a state or local agency, other than the school district responsible for a student's education, that is financially and legally responsible for providing transition services to the student.

(23) "Personally identifiable information" means information as defined in the Family Educational Rights and Privacy Act (FERPA), found at 34 CFR 99.3, which includes, but is not limited to:

(a) The name of the child, the child's parent or other family member;

(b) The address of the child or the child's family;

(c) A personal identifier, such as the child's social security number or student number, or biometric record; and

(d) Other indirect identifiers, such as the child's date of birth, place of birth, and mother's maiden name;

(e) Other information that alone or in combination is linked or linkable to a specific child that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the child with reasonable certainty; or

(f) Other information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

(24) "Placement" means educational placement, not social service placement by a state agency.

(25) "Preschool child" means "preschool child with a disability" as defined under OAR 581-015-2700.

(26) "Private school" means an educational institution or agency not operated by a public agency.

(27) "Public agency" means a school district, an education service district, a state agency or institution, EI/ECSE contractor or subcontractor, responsible for early intervention, early childhood special education or special education.

(28) "Related services" includes transportation and such developmental, corrective and other supportive services as are required to assist a child with a disability to benefit from special education, and includes orientation and mobility services, speech language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation including therapeutic recreation, school health services and school nurse services, counseling services, including rehabilitation counseling services, social work services in schools, parent counseling and training, school health services and medical services for diagnostic or evaluation purposes, and includes early identification and assessment of disabling conditions in children. This definition incorporates the exception for services for children with surgically implanted devices, including cochlear implants, in 34 CFR 300.34(b) and the definitions for individual related services in 34 CFR 300.34(c).

(29) "School age child or children" means a child or children who have reached 5 years of age but have not reached 21 years of age on or before September 1 of the current school year.

(30) "Scientifically Based Research" is defined in section 9101(37) of the Elementary and Secondary Education Act of 1965, as amended ESEA.

(31) "School district" means the public education agency (school district, ESD, or state agency) that is responsible by statute, rule or contract for providing education to children with disabilities.

(32) "Services plan" is defined in OAR 581-015-2450.

(33) "Sheltered Workshop" is a facility in which individuals with disabilities, including intellectual or developmental disabilities, are congregated for the purpose of receiving employment services and performing work tasks for pay at the facility. A Sheltered Workshop primarily employs these individuals with the exception of service support staff. A Sheltered Workshop is a fixed site that is owned, operated, or controlled by a provider, where an individual has few or no opportunities to interact with nondisabled individuals, except paid support staff. A Sheltered Workshop is not Small Group Employment in an Integrated Employment Setting as defined in Executive Order 15-01, and is not otherwise an Integrated Employment Setting as defined in Executive Order 15-01.

(34) "Short term objectives" means measurable intermediate performance steps that will enable parents, students and educators to gage, at intermediate times during the year, how well the child is progressing toward the annual goals by either:

(a) Breaking down the skills described in the goal into discrete components, or

(b) Describing the amount of progress the child is expected to make within specified segments of the year.

(35) "Special education" means specially designed instruction that is provided at no cost to parents to meet the unique needs of a child with a disability "Special education" includes instruction that:

(a) May be conducted in the classroom, the home, a hospital, an institution, a special school or another setting; and

(b) May involve physical education services, speech language services, transition services or other related services designated by rule to be services to meet the unique needs of a child with a disability.

(36) "Specially designed instruction" means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction:

(a) To address the unique needs of the child that result from the child's disability; and

(b) To ensure access of the child to the general curriculum, so that he or she can meet the educational standards within the jurisdiction of the public agency that apply to all children.

(37) "Supplementary aids and services" means aids, services and other supports that are provided in regular education classes or other education-related settings and in extracurricular and nonacademic settings to enable children with disabilities to be educated with children without disabilities to the maximum extent appropriate.

(38) "Superintendent" means the State Superintendent of Public Instruction or the designee of the State Superintendent of Public Instruction.

(39) "Surrogate parent" means an individual appointed under OAR 581-015-2320 for school age children or 581-015-2760 for preschool children who acts in place of a biological or adoptive parent in safeguarding a child's rights in the special education decision-making process.

(40) "Transition services" means a coordinated set of activities for a student with a disability that:

(a) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the student to facilitate the student's movement from school to post school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

(b) Is based on the individual student's needs, taking into account the student's preferences and interests; and

(c) Includes:

(A) Instruction;

(B) Related services;

(C) Community experiences;

(D) The development of employment and other post school adult living objectives; and

(E) If appropriate, acquisition of daily living skills and functional vocational evaluation; and

(d) May be special education, if provided as specially designed instruction, or related services, if required to assist a student with a disability to benefit from special education.

(41) "Ward of the state" means child who is in the temporary or permanent custody of, or committed to, the Department of Human Services or Oregon Youth Authority through the action of the juvenile court.

Stat. Auth.: ORS 343.041, 343.045, 343.155 & 343.223

Stats. Implemented: ORS 343.045, 343.155, 343.223, 34 CFR 300.5, 300.6, 300.8, 300.11, 300.15, 300.19, 300.22, 300.27, 300.28, 300.29, 300.30, 300.34, 300.37, 300.39, 300.42, 300.43 & 300.45

Hist.: 1EB 8-1978, f. & ef. 3-3-78; 1EB 35-1978, f. & ef. 10-5-78; 1EB 18-1979(Temp), f. & ef. 11-15-79; 1EB 5-1980, f. 2-22-80, ef. 2-23-80; 1EB 18-1983(Temp), f. & ef. 12-20-83; 1EB 5-1985, f. 1-30-85, ef. 1-31-85; EB 39-1988(Temp), f. & cert. ef. 11-15-88; EB 18-1989, f. & cert. ef. 5-15-89; EB 28-1989(Temp), f. & cert. ef. 10-16-89; EB 3-1990, f. & cert. ef. 1-26-90; EB 25-1991(Temp), f. & cert. ef. 11-29-91; EB 16-1992, f. & cert. ef. 5-13-92; EB 9-1993, f. & cert. ef. 3-25-93; EB 18-1994, f. & cert. ef. 12-15-94; EB 22-1995, f. & cert. ef. 9-15-95; ODE 10-2000, f. & cert. ef. 5-3-00; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0005, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 26-2008, f. 10-23-08, cert. ef. 10-24-08; ODE 13-2009, f. & cert. ef. 12-10-09; ODE 12-2011, f. & cert. ef. 10-31-11; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12; ODE 29-2013, f. & cert. ef. 12-18-13; ODE 41-2014(Temp), f. & cert. ef. 9-8-14 thru 3-7-15; ODE 47-2014, f. & cert. ef. 12-17-14; ODE 9-2015, f. & cert. ef. 7-13-15

**Rule Caption:** Long-term care and treatment education program funding formula
**Adm. Order No.:** ODE 10-2015
**Filed with Sec. of State:** 7-13-2015
**Certified to be Effective:** 7-13-15
**Notice Publication Date:** 6-1-2015
**Rules Amended:** 581-015-2572
**Subject:** The rule amendments modify the current funding formula for Long term Care and Treatment program funding by increasing the service level factor for psychiatric day treatment programs from 1.75 to 2.00 per student. This makes the factor identical to other programs.
**Rules Coordinator:** Cindy Hunt—(503) 947-5651

**581-015-2572**
**Long-Term Care and Treatment (LTCT) Education Program Funding Formula**

The Department of Education shall provide funding to education programs based on the following:

(1) For the purpose of allocation of state funds under this rule, the following definitions apply:

(a) "Net operating expenditures (NOE)" means the sum of expenditures as defined in ORS 327.006(6), divided by the average daily membership of the school district, or in the case of an ESD, its districts, which contracts for education services offered in the program;

(b) "Service level factors" means: .00 for students in Day Treatment Programs and Psychiatric Residential Treatment Facilities.

(c) "State agency slots" means the number of slots available for students in education programs under ORS 343.961, as determined by the Department based on information received from the Oregon Department of Human Services, the Oregon Health Authority, the Oregon Youth Authority and eligible day treatment programs and eligible residential treatment programs for the school year;

(2) The Department shall use the following formula for distribution of funding:

(Service level factors) x [(the contracting district's NOE in year one) x (state agency slots for year one) + (the contracting district's NOE in year two) x (state agency slots for year two)] = total state funding contract amount;

(3) If the total state funding available for all LTCT programs is less than the total state funding needed to fully fund each LTCT contract, the amount of state funding in each contract determined under paragraph (b) of this subsection will be prorated.

(4) A special needs fund is established at the Oregon Department of Education which will be up to five percent of the total state monies made available for the LTCT program during a biennium:

(a) Individual applications may be made to the Department for this fund to cover unexpected, emergency expenses;

(b) Funds not utilized under this paragraph for the first year of the biennium will be carried forward by the Department to the next fiscal year.

Stat. Auth. ORS 326.051 & 343.961
Stats. Implemented: ORS 343.243 & 343.961
Hist.: ODE 14-2009, f. & cert. ef. 12-10-09; ODE 15-2011, f. & cert. ef. 12-15-11; ODE 19-2014, f. & cert. ef. 6-3-14; ODE 10-2015, f. & cert. ef. 7-13-15

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**Rule Caption:** Educator Evaluation System
**Adm. Order No.:** ODE 11-2015(Temp)
**Filed with Sec. of State:** 7-15-2015
**Certified to be Effective:** 7-15-15 thru 1-10-16
**Notice Publication Date:**
**Rules Amended:** 581-022-1723
**Subject:** The rule was amended to reference the Oregon Framework for Teacher and Administrator Evaluation and Support systems and the Oregon Matrix for educator evaluations.
**Rules Coordinator:** Cindy Hunt—(503) 947-5651

**581-022-1723**
**Teacher and Administrator Evaluation and Support**

(1) A school district board shall include the core teaching standards and administrator standards adopted by the State Board for all evaluations of teachers and administrators of the school district occurring on or after July 1, 2013. The standards shall be customized based on the collaborative efforts of the teachers and administrators of the school district and the exclusive bargaining representative of the employees of the school district.

(2) The core teaching standards and administrator standards must:

(a) Take into consideration multiple measures of teacher and administrator effectiveness that encompass a range of appropriate teaching and administrator behaviors based on the adopted standards of professional practice to evaluate teacher and administrator performance which may include, but are not limited to:

(A) Classroom-based assessments including observations, lesson plans and assignments;

(B) Portfolios of evidence;

(C) Supervisor reports; and

(D) Self-reflections and assessments.

(b) Take into consideration evidence of student academic growth and learning based on multiple measures of student progress, including performance data of students, schools, and school districts;

(c) Be research-based;

(d) Be separately developed for teachers and administrators; and

(e) Be customized for each school district, which may include individualized weighting and application of standards.

(3) Evaluations using the core teaching and administrator standards must attempt to:

(a) Strengthen the knowledge, skills, disposition and classroom and administrative practices of teachers and administrators in public schools;

(b) Refine the support, assistance and professional growth opportunities offered to a teacher or an administrator, based on the individual needs of the teacher and administrator and the needs of the students, the school and the school district;

(c) Allow each teacher or administrator to establish a set of classroom or administrative practices and student learning objectives that are based on the individual circumstances of the teacher or administrator, including the classroom or other assignments of the teacher or administrator;

(d) Establish a formative growth process for each teacher and administrator that supports professional learning and collaboration with other teachers and administrators; and

(e) Use evaluation methods and professional development, support and other activities that are based on curricular standards and that are targeted to the needs of each teacher and administrator.

(4) Local evaluation and support systems established by school districts for teachers and administrators must be designed to meet or exceed the requirements defined in the Oregon Framework for Teacher and Administrator Evaluation and Support Systems, including:

(a) Four performance level ratings of effectiveness;

(b) Using the Oregon Matrix as the summative evaluation method for combining multiple measures of professional practice, professional responsibilities, and student learning and growth to determine the educator's professional growth plan and overall performance level beginning in the 2014-2015 school year.

(c) Based on significant consideration of student learning and growth which must include but is not limited to:

(A) Academic performance, as determined by the statewide assessment system implemented by the Department of Education under ORS 329.485;

(B) Formative and summative assessments; and

(C) For teachers, classroom-level student learning and growth goals set collaboratively between teachers and evaluators.

(5) Local evaluation and support systems established by school districts must evaluate teachers and administrators on a regular cycle.

(6) District superintendents shall regularly report to their governing boards on implementation of their local evaluation and support systems and educator effectiveness.

Stat. Auth: ORS 342.805 - 342.937
Stats. Implemented: 2011 OL Ch. 729 Sec. 2 (Enrolled SB 290)
Hist.: ODE 21-2011, f. & cert. ef. 12-15-11; ODE 23-2012, f. & cert. ef. 8-1-12; ODE 11-2015(Temp), f. & cert. ef. 7-15-15 thru 1-10-16

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**Rule Caption:** Rules relating to Interdistrict Transfer Rule
**Adm. Order No.:** ODE 12-2015
**Filed with Sec. of State:** 7-15-2015
**Certified to be Effective:** 7-15-15
**Notice Publication Date:** 10-1-2014
**Rules Amended:** 581-015-2005, 581-015-2010, 581-015-2040, 581-015-2080, 581-015-2565
**Subject:** Changes one citation in three Division 15 Administrative Rules and asks for permanent adoption of the rules, in order to bring the rules into alignment with the current state residency laws includ-

ing those related to interdistrict transfer which were adopted in June of 2014.

**Rules Coordinator:** Cindy Hunt—(503) 947-5651

**581-015-2005**
**Criteria for Approving School District Special Education Programs**

(1) School districts operating or initiating special education programs must have their programs approved by the State Superintendent of Public Instruction in order to qualify such programs for state reimbursement. As part of this process, districts must subscribe to the following:

(a) In accordance with OAR 581-015-2245, school districts must ensure that a continuum of alternative placements is available to meet the individual special education and related services needs of all children with disabilities for whom the district is responsible pursuant to ORS 339, OAR 581-021-0019, or open enrollment under section 9, chapter 718, Oregon Laws 2011. For all school purposes residency for children with disabilities enrolled in charter schools is determined in accordance with ORS Chapter 338.

(b) Special education must be established and conducted as an integral part of the district's regular school program.

(c) Children who require special education have the same rights and privileges provided to other students.

(2) In addition, the school district must have on file with the Oregon Department of Education a set of assurances and other documentation as required that ensure district compliance with requirements set forth in Oregon Revised Statutes and Oregon Administrative Rules for the education of children with disabilities.

Stat. Auth.: ORS 343.041, 343.045
Stats. Implemented: ORS 343.221
Hist.: 1EB 208, f. 12-19-75, ef. 1-16-76; Renumbered from 581-022-0175; 1EB 248, f. & ef. 9-23-76; 1EB 269, f. & ef. 12-22-77; 1EB 48-1978, f. & ef. 11-17-78; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0035, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 10-2011(Temp), f. & cert. ef. 8-23-11 thru 2-19-12; ODE 8-2012, f. & cert. ef. 2-17-12; ODE 38-2014(Temp), f. & cert. ef. 9-3-14 thru 3-2-15; Administrative correction, 3-23-15; ODE 12-2015, f. & cert. ef. 7-15-15

**581-015-2010**
**Census and Data Reporting**

(1) Each school district must report to the Department all children with disabilities, for whom the district has responsibility for FAPE, who have been identified, located and evaluated and are receiving early intervention, early childhood special education or special education from a public or private educational program on December 1 of each school year.

(2) Charter School Students. Each school district in which a charter school is located reports children with disabilities enrolled in the charter schools located in the district and receiving services described in (1), regardless of parental residency. Residency for children enrolled in charter schools is determined in accordance with ORS Chapter 338.

(3) If no children have been identified, located, and evaluated as being disabled, school districts must report this fact.

(4) Private School Students. Each school district must conduct an annual count of the number of private school children as follows:

(a) On October 1 of each year, each school district must count all children attending private schools located within the boundaries of the district.

(b) On December 1 of each year, each school district must count all parentally placed children with disabilities attending non-profit private schools located within the boundaries of the district, in accordance with OAR 581-015-2475, whether or not these children are receiving equitable special education services as described in OAR 581-015-2460.

(5) School districts must report to the Department additional data as required by the Department for the preparation of reports to federal or state agencies. The Department will notify school districts of additional data needed to meet the requirements of federal or state law and the applicable reporting dates.

Stat. Auth.: ORS 343.041, 343.045 & 343.055;
Stats. Implemented: ORS 343.155, 34 CFR 300.137 & 139
Hist.: ODE 2-2000, f. & cert. ef. 2-1-00; Renumbered from 581-015-0038, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 10-2011(Temp), f. & cert. ef. 8-23-11 thru 2-19-12; ODE 8-2012, f. & cert. ef. 2-17-12; ODE 38-2014(Temp), f. & cert. ef. 9-3-14 thru 3-2-15; Administrative correction, 3-23-15; ODE 12-2015, f. & cert. ef. 7-15-15

**581-015-2040**
**Free Appropriate Public Education (FAPE) and Age Ranges**

(1) Except as provided in OAR 581-015-2045, school districts must provide a free appropriate public education all school-age children with disabilities for whom the district is responsible pursuant to ORS 338, ORS 339, OAR 581-021-0019, or open enrollment under section 9, chapter 718, Oregon Laws 2011, "School-age children" are children who have reached five years of age but have not yet reached 21 years of age on or before September 1 of the current school year.

(2) An otherwise eligible person whose 21st birthday occurs during the school year is eligible for FAPE for the remainder of the school year.

(3) The requirements of this rule also apply to children with disabilities who have been suspended or expelled from school in accordance with OAR 581-015-2410 to 581-015-2440.

Stat. Auth.: ORS 343.055
Stats. Implemented: ORS 338.165, 343.041, 339.115, 34 CFR 300.101
Hist.: ODE 3-2000, f. & cert. ef. 2-1-00; Renumbered from 581-015-0600, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 10-2011(Temp), f. & cert. ef. 8-23-11 thru 2-19-12; ODE 8-2012, f. & cert. ef. 2-17-12; ODE 38-2014(Temp), f. & cert. ef. 9-3-14 thru 3-2-15; Administrative correction, 3-23-15; ODE 12-2015, f. & cert. ef. 7-15-15

**581-015-2080**
**Child Find**

(1) The requirements of this rule apply to all children unless they are no longer entitled to a free appropriate public education under OAR 581-015-2040–581-015-2050.

(2) Pursuant to ORS 338, 339, OAR 581-021-0019, or open enrollment under section 9, chapter 718, Oregon Laws 2011school districts must identify, locate and evaluate all children with disabilities for whom they are responsible, regardless of the severity of the disability, who are in need of early intervention, early childhood special education, or special education services, including:

(a) Highly mobile children with disabilities (such as migrant and homeless children),

(b) Children who are wards of the state;

(c) Indian preschool children who reside on reservations;

(d) Children who are suspected of having a disability even though they are advancing from grade to grade;

(e) Children enrolled in public charter schools;

(f) Children who are home schooled;

(g) Children below the age of compulsory school attendance who are not enrolled in a public or private school program; and

(h) Children above the age of compulsory school attendance who have not graduated with a regular high school diploma; and

(i) Children attending private schools, pursuant to OAR 581-015-2085.

(3) For purposes of this rule, residency is determined in accordance with ORS Chapter 339, except for children enrolled in charter schools. Residency for children enrolled in charter schools is determined in accordance with ORS Chapter 338. The district in which the charter school is located is responsible for child find for students enrolled in the charter school regardless of parental resident district.

(4) The district in which the private school is located is responsible for conducting child find activities for all children enrolled in the private school, in accordance with OAR 581-015-2085, regardless of parental resident district.

Stat. Auth.: ORS 343.041, 343.045, 343.157
Stats. Implemented: ORS 343.045, 343.157, 34 CFR 300.111, 34 CFR 303.302, 34 CFR 301
Hist.: 1EB 269, f. & ef. 12-22-77; 1EB 14-1983, f. 11-23-83, ef. 11-25-83; EB 11-1995, f. & cert. ef. 5-25-95; ODE 16-2000, f. & cert. ef. 5-23-00; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0037, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 10-2011(Temp), f. & cert. ef. 8-23-11 thru 2-19-12; ODE 8-2012, f. & cert. ef. 2-17-12; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12; ODE 38-2014(Temp), f. & cert. ef. 9-3-14 thru 3-2-15; Administrative correction, 3-23-15; ODE 12-2015, f. & cert. ef. 7-15-15

**581-015-2565**
**Regional Program Services**

(1) Pursuant to ORS 338, ORS 339, OAR 581-021-0019, and open enrollment under section 9, chapter 718, Oregon Laws 2011, the resident school district has the primary responsibility for the education of an eligible school age child, and is responsible for all costs beyond the fiscal capacity of the regional program that result from the full implementation of the child's IEP.

(2) The Department, through its contractors and subcontractors, has the primary responsibility for early intervention and early childhood special education services for eligible children from birth until eligible for kindergarten, and is responsible for all costs beyond the fiscal capacity of the regional program which result from full implementation of the child's IFSP.

(3) Eligible children may receive one or more of the following regional services based upon the child's needs according to the IEP or IFSP and available resources of the regional program and agreement of the resident school district or EI/ECSE contractor:

(a) Direct services to the child as determined in the IEP/IFSP by an itinerant specialist up to full-time instruction in a self-contained classroom operated by the regional program;

(b) Consultation to providers of the child's educational or early intervention/early childhood special education program and/or the parents;

(c) Participation in developing the student's IEP or IFSP;

(d) Recommendations for classroom activities, materials, equipment, adaptations and modifications to instruction, and/or assessment;

(e) Evaluation and interpretation of assessment information;

(f) Audiological management;

(g) Inservice for staff and parents; and

(h) Provision of certain related services.

(4) Teachers and therapists employed by the regional program to serve eligible children must hold the appropriate special education or appropriate state licensure.

(5) Regional programs must be in compliance with all applicable statutes and administrative rules pertaining to the education of children with disabilities.

Stat. Auth.: ORS 343.236
Stats. Implemented: ORS 343.236
Hist.: EB 27-1988, f. & cert. ef. 6-9-88; EB 10-1996, f. & cert. ef. 6-26-96; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0296, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 38-2014(Temp), f. & cert. ef. 9-3-14 thru 3-2-15; Administrative correction, 3-23-15; ODE 12-2015, f. & cert. ef. 7-15-15

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**Rule Caption:** Revision for Beginning Teacher and Administrator Mentoring Program
**Adm. Order No.:** ODE 13-2015(Temp)
**Filed with Sec. of State:** 7-15-2015
**Certified to be Effective:** 7-15-15 thru 1-10-16
**Notice Publication Date:**
**Rules Amended:** 581-018-0130, 581-018-0145, 581-018-0148
**Subject:** Changes in the Beginning Teacher and Administrator Mentoring Program OARs are necessary to align with Senate Bill 216, passed by the 78th Oregon Legislative Assembly. A temporary rule is needed in order to provide school districts with a Request for Proposal (RFP) to apply for the grant funds in a timely fashion.
**Rules Coordinator:** Cindy Hunt—(503) 947-5651

**581-018-0130**
**Beginning Teacher and Administrator Support Program Definitions**

The following definitions apply to Oregon Administrative Rules 581-018-0130 through 581-018-0151 unless the context requires otherwise:

(1) "Administrator's Present Position" means being assigned in the role as a principal or a superintendent.

(2) "Beginning Administrator" means a principal or superintendent who:

(a) Possesses an administrative license issued by the Teacher Standards and Practices Commission;

(b) Is employed as a principal or superintendent by a school district; and

(c) Has been assigned for fewer than two school years in the administrator's present position.

(3) "Beginning Teacher" means a teacher who:

(a) Possesses a teaching license issued by the Teacher Standards and Practices Commission;

(b) Is employed at least half time, primarily as a classroom teacher, by a school district; and

(c) Has taught fewer than two school years, as a licensed teacher in any public, private, or state-operated school.

(4) "Classroom Teachers" means all teachers who provide direct instruction to students.

(5) "District" means a school district, an education service district, a state-operated school, or any legally constituted combination of such districts.

(6) "Mentor " means an individual who:

(a) Is an acting or retired teacher, principal or superintendent;

(b) Has met established best practice and research-based criteria as defined by the State Board of Education by rule

(c) Possesses a teaching or administrative license issued by the Teacher Standards and Practices Commission;

(d) Has successfully served for five or more years as a licensed teacher, principal or superintendent in any public school; and

(e) Has been selected and trained as described in ORS 329.815.

(7) "Mentorship program" means a program provided by a mentor to a beginning teacher or administrator that includes, but is not limited to, direct classroom observation and consultation; assistance in instructional planning and preparation; support in implementation and delivery of classroom instruction; development of school leadership skills and other assistance intended to assist the beginning teacher or administrator to become a confident and competent professional educator who makes a positive impact on student learning.

(8) "Teacher" means a licensed employee of a common or union high school district, an employee of an education service district or a state-operated school who has direct responsibility for instruction, coordination of educational programs or supervision of teachers and who is compensated for services from public funds. "Teacher" does not include a school nurse as defined in ORS 342.455 or a person whose duties require an administrative certificate.

(9) "Mentoring" means a professional relationship between an educator and a skilled mentor. In a confidential and trusting partnership, the mentor supports the educator to transform practice through a process of reflection and inquiry. The goals of this collaborative and continuous work are: to accelerate instructional practice, ensure equitable learning for all students, retain effective educators, and empower educational leaders.

(10) "Culturally or Linguistically Diverse" means characteristics of a person, including:

(a) Origins in any of the black racial groups of Africa but is not Hispanic;

(b) Hispanic in culture or origin, regardless of race;

(c) Origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands;

(d) Origins in any of the original peoples of North American, including American Indians or Alaskan Natives; or

(e) A first language that in not English.

Stat. Auth.: ORS 326.051 & 329.795
Stats. Implemented: ORS 329.790 - 329.820
Hist.: EB 18-1988, f. & cert. ef. 3-16-88; EB 9-1990, f. & cert. ef. 1-30-90; ODE 2-2008, f. & cert. ef. 1-25-08; Renumbered from 581-020-0065 by ODE 43-2014, f. & cert. ef. 12-4-14; Renumbered from 581-020-0065 by ODE 1-2015, f. & cert. ef. 1-26-15; ODE 13-2015(Temp); f. & cert. ef. 7-15-15 thru 1-10-16

**581-018-0145**
**Grant Application**

Each district that wishes to participate in the beginning teacher and administrator mentorship program shall submit a formal application to the Department of Education. The application shall include:

(1) A description of the priorities to be addressed by moneys received by a school district for the mentorship program, including:

(a) Efforts to increase the number of culturally and linguistically diverse educators hired; and

(b) Efforts to close the cultural and linguistic gap between the demographics of the district's teachers and administrators with the demographics of the students served by the school district.

(2) The names of all eligible beginning teachers and administrators employed by the district and a description of their assignments and;

(3) A description of the proposed mentorship program, which must provide at least 75-90 hours of frequent contact, totaling a minimum of 90 hours between mentors and beginning teachers and administrators, throughout the school year.

(4) A description of the research based training that will be provided to mentors and beginning teachers and administrators.

(5) A description of how the training will build relationships of trust and mutual collaboration with beginning teachers and administrators.

(6) A description of the professional development mentors will receive before the school year begins and throughout the school year.

(7) A school district shall certify in the application that no eligible beginning professional educators are or may be under a conditional license, except as provided for by rules of the Teacher Standards and Practices Commission.

Stat. Auth.: ORS 326.051 & 329.795
Stats. Implemented: ORS 329.790 - 329.820
Hist.: EB 18-1988, f. & cert. ef. 3-16-88; EB 9-1990, f. & cert. ef. 1-30-90; ODE 2-2008, f. & cert. ef. 1-25-08; Renumbered from 581-020-0075 by ODE 43-2014, f. & cert. ef. 12-4-14; ODE 13-2015(Temp); f. & cert. ef. 7-15-15 thru 1-10-16

**581-018-0148**
**Funding**

(1) Subject to ORS 291.230 to 291.260, the Department of Education shall distribute grants-in-aid to qualifying school districts to offset the costs of beginning teacher and administrator mentorship programs. A qualifying district shall receive annually an amount that is aligned with evidence-based best practices for beginning teachers and administrators approved for support.

(2) If the funds are insufficient for all eligible proposals, the Department of Education shall award grants on a competitive basis taking into consideration:

(a) Successful or promising efforts to increase the number of culturally and linguistically diverse educators hired; and

(b) Closing the cultural and linguistic gap between demographics of the district's teachers and administrators and the demographics of students served by of the school district; and

(3) Whether the school district is a small school district or serves a rural community, geographic and demographic diversity.

Stat. Auth.: ORS 326.051 & 329.795
Stats. Implemented: ORS 329.790 - 329.820
Hist.: EB 18-1988, f. & cert. ef. 3-16-88; EB 36-1988, f. & cert. ef. 8-5-88; EB 9-1990, f. & cert. ef. 1-30-90; EB 25-1990(Temp), f. & cert. ef. 5-18-90; ODE 2-2008, f. & cert. ef. 1-25-08; Renumbered from 581-020-0080 by ODE 43-2014, f. & cert. ef. 12-4-14; Renumbered from 581-020-0080 by ODE 1-2015, f. & cert. ef. 1-26-15; ODE 13-2015(Temp); f. & cert. ef. 7-15-15 thru 1-10-16

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## Oregon Health Authority, Division of Medical Assistance Programs
## Chapter 410

**Rule Caption:** Specific Requirements; Extended Medical Assistance
**Adm. Order No.:** DMAP 31-2015(Temp)
**Filed with Sec. of State:** 6-16-2015
**Certified to be Effective:** 6-16-15 thru 9-28-15
**Notice Publication Date:**
**Rules Amended:** 410-200-0440
**Subject:** On 1/1/15, the Centers for Medicare and Medicaid Services (CMS) released guidance that section 1925 of the Social Security Act sunsetted on 03/31/15. Section 1925 of the Social Security Act allowed Oregon to provide 12 months of Transitional Medical Assistance (TMA - Oregon titled these benefits Extended Medical Assistance) for individuals who lose eligibility for Medicaid under section 1931 of the Social Security Act due to earnings. This prompted a temporary rule amendment.

On 4/14/15, the Senate passed HR 2 (http://energycommerce.house.gov/sites/republicans.energycommerce.house.gov/files/114/BILLS-114hr2ih.pdf), which the president signed into law. HR 2, in part, maintains section 1925 of the Social Security Act permanently.
**Rules Coordinator:** Sandy Cafourek—(503) 945-6430

**410-200-0440**
**Specific Requirements; Extended Medical Assistance**

(1) The following individuals may be eligible for Extended Medical Assistance (EXT) if they lose eligibility for Medical Assistance Assumed (MAA), Medical Assistance to Families (MAF), or MAGI Parent or Other Caretaker Relative (MAGI PCR) benefits:

(a) Individuals who lose eligibility for MAA, MAF, or MAGI PCR due to the receipt or increase of earned income are eligible for 12 months of EXT if eligibility is redetermined and the individual is not eligible for any other Medicaid/CHIP program.

(b) Individuals who lose eligibility for MAA, MAF, or MAGI PCR due to the receipt or increase of spousal support are eligible for four months of EXT benefits if:

(A) Individuals were eligible for and receiving MAA, MAF, or MAGI PCR benefits for any three of the six months preceding the receipt or increase in spousal support that resulted in loss of eligibility, and;

(B) Eligibility is redetermined and the individual is not eligible for any other Medicaid/CHIP program.

(2) The EXT beneficiary must be a resident of Oregon.

(3) Individuals who lose EXT eligibility for one of the following reasons may regain EXT eligibility for the remainder of the original eligibility period if the requirements outlined in sections (1) and (2) are met:

(a) EXT eligibility is lost because the individual leaves the household during the EXT eligibility period. The individual may regain EXT eligibility if they return to the household; or

(b) EXT eligibility is lost due to a change in circumstance that results in eligibility for another OCCS medical program, and then a subsequent change in circumstance occurs that results in ineligibility for all OCCS medical programs, the individual may regain EXT eligibility.

(4) The effective date of EXT is the first of the month following the month in which MAA, MAF, or MAGI PCR program eligibility ends.

(5) If an individual receives MAA, MAF, or MAGI PCR benefits during months when they were eligible for EXT:

(a) Such months are not an overpayment;

(b) Any month in which an individual receives MAA, MAF, or MAGI PCR benefits when they were eligible for EXT is counted as a month of the EXT eligibility period.

(6) If a beneficiary of MAA, MAF, or MAGI PCR benefits experiences another change in conjunction with the receipt or increase of earned income or spousal support, and the other change, by itself, makes the beneficiary ineligible for the current program, the beneficiary is not eligible for EXT.

Stat. Auth.: ORS 411.095, 411.402, 411.404, 413.038, 414.025
Stats. Implemented: ORS 411.095, 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 411.447, 414.706
Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14: DMAP 67-2014(Temp), f. 11-14-14, cert. ef. 11-15-14 thru 5-13-15; DMAP 3-2015, f. & cert. ef. 1-30-15; DMAP 19-2015(Temp), f. & cert. ef. 4-2-15 thru 9-28-15; DMAP 31-2015(Temp), f. & cert. ef 6-16-15 thru 9-28-15

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**Subject:** These rules describe the process for Medicaid providers to receive payment for providing behavioral health services to Oregon Medicaid recipients.
**Rules Coordinator:** Sandy Cafourek—(503) 945-6430

**410-172-0600**
**Acronyms and Definitions**

(1) "ASAM PPC" means the most current publication of the American Society of Addiction Medicine Patient Placement Criteria for the Treatment of Substance-related Disorders, which is a clinical guide used in matching individuals to appropriate levels of care.

(2) "Behavioral Health" means mental health, mental illness, addiction disorders, and substance use disorders.

(3) "Behavioral Health Services" means medically appropriate services rendered or made available to a recipient for treatment of a behavioral health or substance use disorders diagnosis.

(4) "Community Mental Health Program (CMHP)" means an entity that is responsible for planning and delivery of services for persons with substance use disorders or a mental health diagnosis, operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Division as defined in OAR 309-019-0105.

(5) "Letter" means the document awarded to providers by AMH indicating the provider has complied with specific program requirements or administrative rule.

(6) "Level of Care" means the type, frequency, and duration of medically appropriate services provided to a recipient of behavioral health services.

(7) "Level of Care Determination" means the standardized process implemented to establish the type, frequency, and duration of medically appropriate services required to treat a diagnosed behavioral health condition.

(8) "Recovery Assistant" means a provider who provides a flexible range of services. Recovery assistants provide face-to-face services in accordance with a service plan that enables a participant to maintain a home or apartment, encourages the use of existing natural supports, and fosters involvement in treatment, social, and community activities. A recovery assistant shall:

(a) Be at least 18 years old;

(b) Meet the background check requirements described in OAR 410-180-0326;

(c) Conform to the standards of conduct as described in OAR 410-180-0340.

Stat. Auth.: ORS 413.042 & 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, 430.715
Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

**410-172-0610**
**Provider Enrollment**

(1) Providers shall be enrolled with the Division as a behavioral health provider. Paid providers of behavioral health services shall possess a current and valid license, letter, or certificate.

(2) Providers shall provide services within the scope of professional standards and practice defined by the providers licensing board or certifying organization.

(3) Providers shall meet all requirements in OAR 410-120-1260 (Medical Assistance Programs Provider Enrollment), OAR 943-120-0310 (Provider Requirements), and OAR 943-120-0320 (Provider Enrollment).

(4) Providers shall not be included on any US Office of Inspector General Exclusion lists.

Stat. Auth.: ORS 413.042 & 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, & 430.715
Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

**410-172-0620**
**Documentation Standards**

(1) OHP providers shall maintain records that fully support the extent of services for which payment has been requested and provide the records to the Division upon request.

(2) All records shall document the specific service provided, the number of services comprising the service provided, the extent of the service provided, the dates on which the service was provided, and the individual who provided the service.

(3) Clinical records shall document the recipient's diagnosis and the medical need for the service.

(4) The record shall be annotated each time a service is provided and be signed or initialed by the individual providing the service.

(5) Information contained in the record shall be appropriate in quality and quantity to meet the professional standards applicable to the provider and any additional standards for documentation found in these rules, other Division rules, and pertinent contracts.

(6) For AMH certified providers, in addition to meeting the requirements in this rule, clinical documentation for behavioral health services shall also comply with the requirements in OAR 309-019-0135 through OAR 309-019-0140, and clinical documentation standards for substance use disorder services shall comply with OAR 309-018-0140 through OAR 309-018-0150.

Stat. Auth.: ORS 413.042, 430.640, 430.705, & 430.715
Stats. Implemented: ORS 414.025, 414.065, & 430.640
Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

**410-172-0630**
**Medically Appropriate**

(1) In addition to the definition of medically appropriate in OAR 410-120-0000 for behavioral health services, "medically appropriate" means the services and supports required to diagnose, stabilize, care for, and treat a behavioral health condition.

(2) The Division shall make payment for medically appropriate behavioral health services when the services or supports are:

(a) Rendered by a provider whose training, credentials, or license is appropriate to treat the identified condition and deliver the service;

(b) Based on the standards of evidence-based practice, and the services provided are appropriate and consistent with the diagnosis identified in the behavioral health assessment;

(c) Provided in accordance with an individualized service plan and appropriate to achieve the specific and measurable goals identified in the service plan;

(d) Not provided solely for the convenience of the recipient, the recipient's family, or the provider of the services or supplies;

(e) Not provided solely for recreational purposes;

(f) Not provided solely for research and data collection;

(g) Not provided solely for the purpose of fulfilling a legal requirement placed on the recipient.

Stat. Auth.: ORS 413.042, 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, 430.715
Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

**410-172-0640**
**Behavioral Health Services Fee Schedule**

(1) The Division shall pay providers based on the Behavioral Health Services Fee Schedule (fee-for-service (FFS) payment rates for behavioral health services) posted on the Authority web site.

(2) Payment shall be made at each provider's usual and customary charge or the Division's published reimbursement upper payment limit, whichever is less, minus payments received or due from other payers. Payments to other specified providers shall be made according to other approved schedules.

(3) The Division's maximum allowable rate-setting process uses a methodology that is based on the existing Medicaid fee schedule with adjustments for legislative changes and payment levels.

(4) Limitations contained in the Behavioral Health Services Fee Schedule, such as the maximum rate and the amount, duration, and scope of services provided, are subject to change at the discretion of the Division. Updates and changes are posted on the Behavioral Health Services Fee Schedule website at www.oregon.gov/oha/healthplan/pages/feeschedule.aspx.

(5) Payment shall be made for services listed in the Medicaid Behavioral Health Procedure Fee Schedule that are rendered to Medicaid-eligible individuals by a qualified provider during the period in which the provider is enrolled with the Division.

(6) For cost-reimbursed services, the provider shall maintain adequate records to thoroughly explain how the amounts reported on the cost statement were determined. The records shall be accurate and in sufficient detail to substantiate the data reported. Providers whose rates are paid based on a collective bargaining agreement are not exempt from this requirement.

(7) In accordance with 42 CFR § 405.506, a charge that exceeds the customary charge of the physician or other person who rendered the medical or other health service, or the prevailing charge in the locality, or an applicable lowest charge level may be found to be reasonable, but only where there are unusual circumstances, or medical complications requiring additional time, effort, or expense that support an additional charge, and only if it is acceptable medical or medical service practice in the locality to make an extra charge in such cases. The mere fact that the physician's or other person's customary charge is higher than prevailing would not justify a determination that it is reasonable.

(8) Payment by the Division does not limit the Authority or any state or federal oversight entity from reviewing or auditing a claim before or after the payment. Payment may be denied or subject to recovery if medical review, audit, or other post-payment review determines that payment for the service was not provided in accordance with applicable Oregon Administrative Rules or the service does not meet the criteria for quality or medical appropriateness of the care.

Stat. Auth.: ORS 413.042 & 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, & 430.715
Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

**410-172-0650**
**Prior Authorization**

(1) Some services or items covered by the Division require authorization before the service may be provided. Services requiring prior authorization are published on the Medicaid Behavioral Health Services Fee Schedule.

(2) The Division shall authorize payment for the type of service or level of care that meets the recipient's medical need and that has been adequately documented.

(3) The Division shall only authorize services that are medically appropriate and for which the required documentation has been supplied. The Division may request additional information from the provider to determine medical appropriateness.

(4) Documentation submitted when requesting authorization shall support the medical justification for the service. The authorization request shall contain:

(a) A cover sheet detailing relevant provider and recipient Medicaid numbers;

(b) Requested dates of service;

(c) HCPCS or CPT Procedure code requested; and

(d) Amount of service or units requested;

(e) A behavioral health assessment and service plan meeting the requirements described in OAR 309-019-0135 through 309-019-0140; or

(f) Any additional supporting clinical information supporting medical justification for the services requested;

(g) For substance use disorder services, the Division uses the American Society of Addition Medicine (ASAM) Patient Placement Criteria second edition-revised (PPC-2R) to determine the appropriate level of SUD treatment of care. Providers shall use the ASAM;

(h) For Applied Behavioral Analysis services, the Division requires submission of:

(A) An evaluation as described in OAR 410-172-0770(1) from a physician or psychologist experienced in the diagnosis and treatment of autism;

(B) An order for treatment as described in OAR 410-172-0770(1)(e) from a physician or psychologist experienced in the diagnosis and treatment of autism;

(C) A functional analysis and a behavior treatment plan from a Board Certified Behavior Analyst or a Board Certified Assistant Behavior Analyst certified by the Oregon Behavior Analysis Regulatory Board;

(D) A copy of a Division-authorized standard needs assessment supporting the level of service requested;

(i) Residential treatment services for children may require a letter of approval by a designated quality improvement organization (QIO) as defined in this rule;

(j) Some services require additional approval or authorization by a physician, the Authority, or designee. Services requiring additional approval are listed on the Behavioral Health Fee Schedule or described in this rule.

(5) The Division may not authorize services under the following circumstances:

(a) The request received by the Division was not complete;

(b) The provider did not hold the appropriate license, certificate, or credential at the time services were requested;

(c) The recipient was not eligible for Medicaid at the time services were requested;

(d) The provider cannot produce appropriate documentation to support medical appropriateness, or the appropriate documentation was not submitted to the Division;

(e) The services requested are not in compliance with OAR 410-120-1260 through 410-120-1860;

(f) Authorization for payment may be given for a past date of service if:

(A) On the date of service, the recipient was made retroactively eligible or was retroactively dis-enrolled from a Coordinated Care Organization (CCO) or Prepaid Health Plan (PHP);

(B) The services provided meet all other criteria and Division or Authority administrative rules and;

(C) The request for authorization is received within 30 days of the date of service.

(6) Any requests for authorization after 30 days from date of service require documentation from the provider that authorization could not have been obtained within 30 days of the date of service.

(7) Payment authorization is valid for the time-period specified on the authorization notice but may not exceed 12 months unless the recipient's benefit package no longer covers the service, in which case the authorization shall terminate on the date coverage ends.

(8) Prior authorization of services shall be subject to periodic utilization review and retrospective review to ensure services meet the definition of medical appropriateness.

(9) Payments shall be made for the provision of active treatment services. If active treatment is not documented during any period in which the Division has prior authorized services, the Division may limit or cancel prior authorization or recoup such payments.

(10) If providers fail to comply with requests for documents for purposes of verifying medical appropriateness within the specified timeframes, the Authority may deem the records non-existent and cancel prior authorization.

Stat. Auth.: ORS 413.042 & 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, & 430.715
Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

**410-172-0660**
**Rehabilitative Mental Health Services**

(1) Rehabilitative mental health services means medical or remedial services recommended by a licensed medical practitioner or other licensed practitioner to reduce impairment to an individual's functioning associated with the symptoms of a mental disorder or substance use disorder and are intended to restore functioning to the highest degree possible.

(2) Remedial rehabilitative behavioral health services shall be recommended by a licensed practitioner of the healing arts within the scope of their practice under state law.

(3) Rehabilitative behavioral health services that include medical services shall be provided under ongoing oversight of a licensed medical practitioner.

(4) Paid providers of rehabilitative behavioral health services shall meet one of the following qualifications or hold at least one of the following educational degrees and valid licensure:

(a) Physician or Physician Assistant licensed by the Oregon Medical Board;

(b) Advanced Practice Nurse including Clinical Nurse Specialist and Certified Nurse Practitioner licensed by the Oregon Board of Nursing;

(c) Psychologist licensed by the Oregon Board of Psychology;

(d) Professional Counselor or Marriage and Family Therapist licensed by the Oregon Board of Licensed Professional Counselors and Therapists;

(e) Clinical Social Worker licensed by the Oregon Board of Licensed Social Workers;

(f) Certificate issued by AMH as described in OAR 309-012-0130 through 309-012-0220.

(5) Non-paid providers shall be employed by a provider organization certified by AMH as described in OAR 309-012-0130 through 309-012-0220 and meet one of the following qualifications:

(a) Qualified mental health professional as defined in OAR 309-019-0105;

(b) Qualified mental health associate as defined in OAR 309-019-0105;

(c) Mental health intern as defined in OAR 309-019-0105; or

(d) Peer-Support Specialist as defined in OAR 410-180-0305.

Stat. Auth.: ORS 413.042 & 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, 430.715
Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

**410-172-0670**
**Substance Use Disorder Treatment Services**

(1) Substance Use Disorder (SUD) treatment services include, but are not limited to, screening; assessment; individual counseling; group counseling; individual family, group or couple counseling; care coordination; medication-assisted treatment; medication management; collection and handling of specimens for substance analysis; interpretation services; detoxification for substance use disorders; synthetic opioid treatment; and acupuncture.

(2) Paid providers of SUD treatment services shall meet one of the following requirements:

(a) Outpatient substance use disorder providers shall have a certificate issued by AMH as described in OAR chapter 415 division 012;

(b) Any facility that meets the definition of a residential treatment facility for substance-dependent individuals under ORS 443.400 or a detoxification center as defined in ORS 430.306 shall have a certificate issued by AMH as described in OAR chapter 415, division 012;

(c) Synthetic opioid treatment programs shall meet the requirements described in OAR chapter 415, division 020.

(d) Substance use detoxification programs shall meet the standards described in OAR 415, chapter 050.

(e) Physician or Physician Assistant licensed by the Oregon Medical Board;

(f) Advanced Practice Nurse including Clinical Nurse Specialist and Certified Nurse Practitioner licensed by the Oregon Board of Nursing;

(g) Professional Counselor or Marriage and Family Therapist licensed by the Oregon Board of Licensed Professional Counselors and Therapists;

(h) Clinical Social Worker licensed by the Oregon Board of Licensed Social Workers;

(i) Psychologist licensed by the Oregon Board of Psychology;

(j) Acupuncturist licensed by the Oregon Medical Board;

(k) Non-paid providers shall be employed by a provider organization licensed or certified by AMH and meet one of the following qualifications for the scope of service provided:

(A) Qualified mental health professional as defined in OAR 309-019-0105;

(B) Qualified mental health associate as defined in OAR 309-019-0105;

(C) Mental health intern as defined in OAR 309-019-0105;

(D) Peer-support specialist as defined in OAR 410-180-0305;

(L) SUD counselor certified by a national or state accrediting body, including Certified Alcohol and Drug Counselor (CADC) certificate issued by the Addictions Counselor Certification Board of Oregon (ACCBO) including:

(A) CADC I - Requires education, supervised experience hours, and successful completion of a written examination: 150 hours of SUD education provided by an accredited or approved body; 1,000 hours of supervised experience; completion of the NCAC I professional psychometric national certification examination from the National Association of Alcohol and Drug Abuse Counselors;

(B) CADC II – Requires a minimum of a BA or BS degree with a minimum of 300 hours of SUD education provided by an accredited or approved body; 4,000 hours of supervised experience; completion of the NCAC II professional psychometric national certification examination from the National Association of Alcohol and Drug Abuse Counselors;

(C) CADC III – Requires a minimum of a Master's degree with a minimum of 300 hours of SUD education provided by an accredited or approved body; 6,000 hours of supervised experience; completion of the NCAC II professional psychometric national certification examination from the National Association of Alcohol and Drug Abuse Counselors.

(3) Treatment staff holding certification in addiction counseling, qualification for the certification shall include at least: 750 hours of supervised experience in substance use counseling; 150 contact hours of education and training in substance use related subjects; and successful completion of a written objective examination or portfolio review by the certifying body.

(4) For treatment staff holding a health license described in this rule, the provider shall possess documentation of at least 60 (120 for supervisors) contact hours of academic or continuing professional education in SUD treatment.

Stat. Auth.: ORS 413.042 & 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, & 430.715
Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

**410-172-0680**
**Residential Treatment Services for Children**

(1) Paid providers of children's psychiatric residential treatment services shall:

(a) Hold a Certificate of Approval Pursuant to OAR 309-012-0130 through 309-012-0220 from AMH; and

(b) Be accredited as a psychiatric residential treatment facility for children under age 18 by JCAHO, CARF, or any other accrediting organization with comparable standards that is recognized by the State of Oregon;

(c) Be licensed by the Office of Licensing and Regulatory Oversight (OLRO);

(2) Residential Treatment Services for Children shall provide a program consistent with standards set by JCAHO, CARF, or any other accrediting organization with comparable standards that is recognized by the state.

Stat. Auth.: ORS 413.042 & 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, & 430.715
Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

**410-172-0690**
**Admission Procedure for Residential Treatment Services for Children**

(1) Admission procedures for children eligible for Medicaid shall be reviewed through an independent psychiatric review process established by the Division to certify the need for services.

(2) The referring source or the facility shall make available for the Certificate of Need (CONS) process the following information about the referred child:

(a) A written psychological or psychiatric evaluation completed within the previous 60 days;

(b) A written psychosocial history following the format required by the admission procedure of the facility to which the child has been referred;

(c) Results of any direct recipient observation and assessment subsequent to the referral;

(d) Other information from the referral source, other involved community agencies, and the family that are pertinent and appropriate to the admission procedure;

(e) Level of Need Determination Process outcome and Child and Adolescent Service intensity instrument (CASII) score;

(f) Identified care coordinator;

(g) Identified Intensive Community Based Treatment Services (ICTS) provider;

(h) Identified child and family team members;

(i) Service Coordination Plan or expected date of completion;

(j) Documentation regarding attempt or failure at lower level of care placement;

(k) Letter from Community Mental Health Program (CMHP) approving the referral to this level of care;

(L) Documentation that private insurance benefit will not fund stay.

(3) Certification for emergency admissions shall be made by the team responsible for a plan of care as described in CFR 441.156 within 14 days from the date of admission.

(4) The Division shall authorize payment for psychiatric residential treatment services for children upon the approval of a certificate of need by the Division or designee.

Stat. Auth.: ORS 413.042 & 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, 430.715
Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

**410-172-0700**
**1915(i) Home and Community Based Services**

(1) Habilitation services are designed to help an individual attain or maintain their maximal level of independence, including the individual's acceptance of a current residence and the prevention of unnecessary changes in residence. Services are provided in order to assist an individual to acquire, retain, or improve skills in one or more of the following areas: Assistance with activities of daily living, cooking, home maintenance, community inclusion and mobility, money management, shopping, community survival skills, communication, self-help, socialization, and adaptive skills necessary to reside successfully in home and community-based settings.

(2) Psychosocial rehabilitation services are medical or remedial services recommended by a licensed physician or other licensed practitioner to reduce impairment to an individual's functioning associated with the symptoms of a mental disorder or to restore functioning to the highest degree possible.

(3) Paid providers of 1915(i) services shall meet one of the following qualifications:

(a) Physician or Physician Assistant licensed by the Oregon Medical Board;

(b) Advanced Practice Nurse including Clinical Nurse Specialist and Certified Nurse Practitioner licensed by the Oregon Board of Nursing;

(c) Professional Counselor or Marriage and Family Therapist licensed by the Oregon Board of Licensed Professional Counselors and Therapists;

(d) Clinical Social Worker licensed by the Oregon Board of Licensed Social Workers;

(e) Psychologist licensed by the Oregon Board of Psychology;

(f) Residential treatment home or facility licensed pursuant to OAR chapter 309, division 035;

(g) Adult Foster Home licensed pursuant to OAR chapter 309, division 040;

(h) Certificate issued by AMH pursuant to OAR chapter 309, division 012;

(4) Non-paid providers shall be employed or subcontracted with a provider licensed or certified by AMH and meet one of the following qualifications:

(a) Qualified Mental Health Professional as defined in OAR 309-019-0105;

(b) Qualified Mental Health Associate as defined in OAR 309-019-0105;

(c) Mental Health Intern as defined in OAR 309-019-0105;

(d) Peer-Support Specialist as defined in OAR 410-180-0305;

(e) Recovery Assistant.

(5) Providers of 1915(i) services may be required to meet Community Mental Health Program (CMHP) liability insurance requirements.

(6) Due to federal requirements for the Authority to ensure the impartiality of paid providers rendering services to 1915(i) eligible members, providers may be restricted from conducting eligibility reviews or developing the behavioral health assessment or service plan.

(7) To be eligible for services under the 1915(i) State Plan HCBS, the individual shall meet the following requirements:

(a) Been diagnosed with a chronic mental illness as defined in ORS 426.495;

(b) Been assessed as needing assistance to perform at least two personal care services as identified in these rules due to a chronic mental illness.

(8) Eligibility for 1915(i) services is determined by an external Quality Improvement Organization (QIO) as identified by the Division.

Stat. Auth.: ORS 413.042 & 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, & 430.715
Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

**410-172-0710**
**Residential Personal Care**

(1) Personal care services provided to a resident of an AMH licensed residential treatment program include a range of assistance, as developmentally appropriate, and are provided to individuals with behavioral health conditions that enable them to accomplish tasks that they would normally do for themselves if they did not have a behavioral health condition. Assistance may be in the form of hands-on assistance (actually performing a personal care task) or cueing (redirecting) so that the individual performs the task by him or herself.

(2) Personal care assistance most often relates to performance of activities of daily living (ADLs) and instrumental activities of daily living (IADLs). ADLs include eating, bathing, dressing, toileting, transferring, and maintaining continence. IADLs capture more complex life activities and include personal hygiene, light housework, laundry, meal preparation, transportation, grocery shopping, using the telephone, medication management, and money management.

(3) Personal care services may be provided on a continuing basis or on episodic occasions.

(4) Paid providers of facility-based personal care services shall meet one of the following:

(a) Licensed residential facility pursuant to OAR chapter 309, divisions 035 and 040;

(b) Secure Residential Treatment Facility (SRTF);

(c) Residential Treatment Facility (RTF);

(d) Residential Treatment Home (RTH);

(e) Adult Foster Home (AFH).

Stat. Auth.: ORS 413.042 & 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, & 430.715
Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

**410-172-0720**
**Prior Authorization and Re-Authorization for Residential Treatment**

(1) The Authority does not consider a request for a fixed episode of care or standardized length of stay to be medically appropriate. Requested length of stay shall be based on an assessment of individual need and the medical appropriateness of the proposed time for treatment.

(2) Residential treatment is intended as an outcome-based, transitional, and episodic period of care to provide service and supports in a structured environment that will allow the individual to successfully reintegrate into an independent community-based living arrangement.

(3) Residential treatment is not intended to be used as a long-term substitute for lack of available supportive living environment in the community.

(4) Authority licensed residential treatment programs are reimbursed for the provision of rehabilitation, substance use disorder, habilitation, or personal care services as defined in these rules.

(5) The Division shall authorize admission and continued stay in residential programs based on the medical appropriateness of the request and supporting clinical documentation.

(6) Prior authorization requests for admission and continued stay may be reviewed to determine:

(a) The medical appropriateness of the admission for residential services provided;

(b) The appropriateness of the recommended length of stay;

(c) The appropriateness of the recommended plan of care;

(d) The appropriateness of the licensed setting selected for service delivery;

(e) A level of care determination was appropriately documented.

(7) If the Division determines that a residential service prior authorization request is not within coverage parameters, the provider shall be notified in writing and shall have ten business days to provide additional written documentation to support the medical appropriateness of the admission and procedures.

(8) If the reconsidered decision is to uphold the denial, prior authorization shall be denied.

(9) The provider may appeal any final decision through the Division administrative appeals process as described in OAR 410 120-1560 through1875.

(10) Upon denial of a prior authorization request for continued stay, the Division shall authorize payment for up to 60 days of continued stay for the purposes of supporting transition management and planning for the recipient.

(11) The Division shall determine re-authorization and authorization of continued stays based upon one of the following:

(a) The recipient continues to meet all basic elements of medical appropriateness and;

(b) One of the following criteria shall be met:

(A) Documentation that the treatment provided is resulting in measurable clinical outcomes but that the recipient is not sufficiently stabilized or yet developed the skills necessary to support transition to a less restrictive level of care;

(B) The recipient has developed new or worsening symptoms or behaviors that require continued stay in the current level of care;

(12) Requests for continued stay based on these criteria shall include documentation of ongoing re-assessment and necessary modification to the current treatment plan or residential plan of care.

Stat. Auth.: ORS 413.042 & 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, & 430.715
Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

**410-172-0730**
**Payment Limitations for Behavioral Health Services**

(1) Services shall be subject to periodic utilization review to determine medical appropriateness.

(2) If a review reveals that a recipient received less than active treatment, payment shall not be allowed under these rules and prior authorization may be cancelled.

(3) The Division shall make no payment for services if the Division or designee has determined the service is not medically appropriate.

(4) Residential treatment services are provided to Medicaid Title XIX eligible individuals in facilities with 16 or fewer beds. Payment is excluded for individuals in "institutions of mental diseases" (IMD) who are over age 18 and under age 65. IMDs are defined in 42 CFR 435.1010.

(5) For residential facilities, the Division may not pay for planned or unplanned absences unless the provider can document clinical services were rendered during the temporary absence.

(6) For residential facilities, the Division shall pay for the day of admission but may not pay for the day of transfer or discharge.

(7) Medicaid may not reimburse costs associated with room and board for recipients residing in Authority licensed residential treatment programs.

(8) Consistent with 42 CFR 447.40, payment for a reserved bed is not covered under Medicaid.

Stat. Auth.: ORS 413.042 & 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, & 430.715
Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

**410-172-0740**
**Supported Employment**

(1) To be eligible for Medicaid reimbursement, supported employment (SE) services shall be provided by a qualified SE provider.

(2) To become a qualified SE provider, an agency shall provide the evidence-based practice of individual placement support (IPS) and SE and submit a copy to AMH of a fidelity review conducted by an AMH approved fidelity reviewer that resulted in a score of 100 or better.

(3) Providers implementing IPS supported employment may become a provisionally-qualified SE provider by submitting a request to AMH with a letter of support that indicates receipt of technical assistance and training from an AMH approved IPS SE trainer. Medicaid reimbursement to a provisionally-qualified SE provider ends after 12 months. This option is intended only for providers initiating SE services.

Stat. Auth.: ORS 413.042, 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, 430.715
Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

**410-172-0750**
**Assertive Community Treatment (ACT)**

(1) Assertive Community Treatment (ACT) services shall be provided by a qualified ACT provider to be eligible for Medicaid reimbursement.

(2) An agency shall provide the evidence-based practice of ACT to become a qualified ACT provider and submit to AMH a copy of a fidelity review conducted by an AMH approved ACT Fidelity Reviewer with a minimum score of 114.

(3) Agencies may become a provisionally-qualified ACT provider by submitting to AMH a request with a letter of support that indicates receipt of technical assistance and training from an AMH approved ACT Trainer. Provisional ability to receive Medicaid reimbursement shall end after 12 months. This option is intended only for providers initiating ACT services.

(4) If a Qualified ACT provider does not receive a minimum score of 114 on a fidelity review, the following shall occur:

(a) Technical assistance shall be made available for a period of 90 days to address problem areas identified in the fidelity review;

(b) At the end of the 90-day period, a follow-up review shall be conducted by an AMH approved reviewer.

(5) The provider shall forward a copy of the amended fidelity review report to AMH.

(6) If the 90-day review results in a score of less than 114, the agency's designation as a Qualified ACT provider may be suspended for up to one calendar year.

Stat. Auth.: ORS 413.042, 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, 430.715
Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

**410-172-0760**
**Applied Behavior Analysis**

(1) ABA services shall be recommended by a licensed physician or licensed psychologist who has experience or training in the diagnosis of autism spectrum disorder and holds at least one of the following educational degrees and valid licensure:

(a) Physician licensed to practice in the State of Oregon;

(b) Psychologist licensed to practice in the State of Oregon;

(2) Paid providers of ABA services shall hold the following license or registration:

(a) Licensed Behavior Analyst as described in OAR 824-030-0010;

(b) Licensed health care professional who is registered with the Oregon Behavior Analyst Certification Board as described in OAR 824-030-0030.

(3) Non-paid providers of ABA services shall hold the following license or registration:

(a) Assistant Behavior Analyst licensed by the Oregon Behavior Analysis Regulatory Board as described in OAR 824-030-0020;

(b) Behavior Analysis Interventionists registered by the Oregon Behavior Analysis Regulatory Board as described in OAR 824-030-0040.

Stat. Auth.: ORS 413.042, 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, 430.715
Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

**410-172-0770**
**Individual Eligibility for Applied Behavioral Analysis Treatment**

(1) Prior to receiving services, individuals receiving ABA shall have an evaluation by a physician or psychologist experienced in the diagnosis and treatment of autism using the current DSM criteria that includes:

(a) A Diagnosis of an Autism spectrum disorder;

(b) Documentation of and results from a standardized tool that has been used to substantiate the autism disorder or questionnaires that have been used to substantiate a diagnosis of self-injurious behavior;

(c) Documentation of behaviors that are considered to have an adverse impact on the individual's development or communication;

(d) Documentation of behavior that is injurious to themselves or others and that interferes with everyday functions or activities;

(e) Documentation that less intensive treatment or other therapy has been considered or found insufficient;

(f) Any other documentation that would substantiate the diagnosis of autism or self-injurious behavior such as:

(A) Notes from well-child visits or other medical professionals;

(B) Copy of existing or past Individual Education Plans (IEP);

(C) Results from any additional assessments such as IQ tests, speech and language tests, or tests of auditory function.

(g) A prescription for ABA treatment shall include:

(A) A diagnosis of autism or self-injurious behavior;

(B) A copy of the evaluation described above;

(C) An order for ABA treatment without specifying hours or intensity.

(2) Recipients ages one through twelve are eligible for intensive and less intensive interventions:

(a) Intensive interventions include therapies that address multiple behaviors at once, are more comprehensive in nature, and start at an earlier age;

(b) Less intensive interventions focus on a few targeted behaviors and generally are used with older children.

(3) Recipients age 13 and older are eligible for less intensive services only.

(4) Intensive and less intensive interventions are based on medical appropriateness as defined in these rules.

Stat. Auth.: ORS 413.042, 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, 430.715
Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

**410-172-0780**
**Behavioral Health Personal Care Attendant Program**

(1) Behavioral health personal care attendant services are essential services that enable an individual to move into or remain in his or her own home. Behavioral health personal care attendant services are provided in accordance with an individual's authorized plan for services by a QMHA or QMHP as defined in OAR 309-019-0105:

(a) Behavioral health personal care attendant services are provided directly to an eligible individual and are not meant to provide respite or other services to an individual's natural support system. Behavioral health personal care attendant services may not be implemented for the purpose of benefiting an individual's family members or the individual's household in general;

(b) Behavioral health personal care attendant services are limited to 20 hours per month per eligible individual;

(c) To meet an extraordinary personal care need, an individual, representative, or legal representative may request an exception to the 20-hour per month limitation. An exception shall be requested through the local community mental health program or agency contracted with the Authority serving the individual. The Division has up to 45 days upon receipt of an exception request to determine whether an individual's assessed personal care needs warrant exceeding the 20-hour per month limitation.

(2) Personal care services include:

(a) Basic personal hygiene, providing or assisting an individual with such needs as bathing (tub, bed bath, shower), washing hair, grooming, shaving, nail care, foot care, dressing, skin care, mouth care, and oral hygiene;

(b) Toileting, bowel, or bladder care, assisting to and from bathroom, on and off toilet, commode, bedpan, urinal, or other assistive device used for toileting, changing incontinence supplies, following a toileting schedule, cleansing an individual or adjusting clothing related to toileting, emptying a catheter drainage bag or assistive device, ostomy care, and bowel care;

(c) Mobility, transfers, or repositioning, assisting an individual with ambulation or transfers with or without assistive devices, turning an individual or adjusting padding for physical comfort or pressure relief, and encouraging or assisting with range-of-motion exercises;

(d) Nutrition, preparing meals and special diets, assisting with adequate fluid intake or adequate nutrition, assisting with food intake (feeding), monitoring to prevent choking or aspiration, assisting with special utensils, cutting food, and placing food, dishes, and utensils within reach for eating;

(e) Medication or oxygen management, assisting with ordering, organizing, and administering oxygen or prescribed medications (including pills, drops, ointments, creams, injections, inhalers, and suppositories), monitoring for choking while taking medications, assisting with the admin-

istration of oxygen, maintaining clean oxygen equipment, and monitoring for adequate oxygen supply;

(f) Delegated nursing tasks, as defined in OAR 411-034-0010.

(3) When any of the services listed in section (2) of this rule are essential to the health, safety, and welfare of an individual and the individual is receiving personal care paid by the Division, the following support services may also be provided:

(a) Housekeeping tasks necessary to maintain the individual in a healthy and safe environment, including cleaning surfaces and floors, making the individual's bed, cleaning dishes, taking out the garbage, dusting, and gathering and washing soiled clothing and linens. Only the housekeeping activities related to the individual's needs may be considered in housekeeping;

(b) Arranging for necessary medical appointments including help scheduling appointments and arranging medical transportation services (described in OAR chapter 410, division 136) and assistance with mobility and transfers or cognition in getting to and from appointments or to an office within a medical clinic or center;

(c) Observing the individual's health status and reporting any significant changes to physicians, health care professionals, or other appropriate persons;

(d) First aid and handling of emergencies, including responding to medical incidents related to conditions such as seizures, spasms, or uncontrollable movements where assistance is needed by another individual and responding to an individual's call for help during an emergent situation or for unscheduled needs requiring immediate response; and

(e) Cognitive assistance or emotional support provided to an individual by another person due to confusion, dementia, behavioral symptoms, or mental or emotional disorders. Cognitive assistance or emotional support includes helping the individual cope with change and assisting the individual with decision-making, reassurance, orientation, memory, or other cognitive symptoms.

(4) Payment may not be made for any of the following excluded services:

(a) Shopping;

(b) Community transportation;

(c) Money management;

(d) Mileage reimbursement;

(e) Social companionship;

(f) Day care, adult day services (described in OAR chapter 411, division 066), respite, or baby-sitting services;

(g) Medicaid home delivered meals (described in OAR chapter 411, division 040);

(h) Care, grooming, or feeding of pets or other animals; or

(i) Yard work, gardening, or home repair.

Stat. Auth.: ORS 413.042 & 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, 430.715
Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

**410-172-0790**
**Eligibility for Behavioral Health Personal Care Attendant Services**

(1) To be eligible for Behavioral Health personal care attendant services, an individual shall:

(a) Demonstrate the need for assistance from a qualified provider due to a disabling behavioral health condition with personal care services and meet the eligibility criteria described in this rule;

(b) Be a current recipient of a Medicaid OHP full benefit package.

(2) An individual is not eligible to receive Behavioral Health personal care attendant services if:

(a) The individual is receiving personal care services from a licensed 24-hour residential services program (such as an adult foster home, residential treatment home, or residential treatment facility);

(b) The individual is in a prison, hospital, sub-acute care facility, nursing facility, or other medical institution;

(c) The individual's assessed service needs are being met under other Medicaid-funded home and community-based service options of the individual's choosing.

(3) Behavioral health personal care attendant services are not intended to replace routine care commonly needed by an infant or child typically provided by the infant's or child's parent.

(4) Behavioral health personal care attendant services may not be used to replace other non-Medicaid governmental services.

(5) The Authority may close the eligibility and authorization for Behavioral Health personal care attendant services if an individual fails to:

(a) Employ a provider that meets the requirements in this rule;

(b) Receive personal care from a qualified provider paid by the Authority for 30 continuous calendar days or longer.

(6) Behavioral health personal care attendant services may not duplicate other Medicaid services.

(7) Individuals eligible for Behavioral Health personal care attendant services as described shall apply through the local community mental health program or agency contracted with AMH.

Stat. Auth.: ORS 413.042 & 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, & 430.715
Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

**410-172-0800**
**Personal Care Attendant Employer-Employee Relationship**

(1) The relationship between a provider and an eligible individual or the individual's representative is that of employee and employer.

(2) As an employer, the individual shall create and maintain a job description for a potential provider that is in coordination with the individual's plan for services.

(3) The only benefits available to homecare and personal support attendants are those negotiated in a collective bargaining agreement and as provided in statute. The collective bargaining agreement does not include participation in the Public Employees Retirement System or the Oregon Public Service Retirement Plan. Homecare and personal support workers are not state or Division employees.

(4) To be eligible for Behavioral Health personal care attendant services, the individual or the individual's representative shall demonstrate the ability to:

(a) Locate, screen, and hire a provider meeting the requirements described in this rule;

(b) Supervise and train a provider;

(c) Schedule work, leave, and coverage;

(d) Track the hours worked and verify the authorized hours completed by a provider;

(e) Recognize, discuss, and attempt to correct any performance deficiencies with the provider and provide appropriate, progressive, disciplinary action as needed; and

(f) Discharge an unsatisfactory provider.

(5) The Authority shall pay for Behavioral Health personal care attendant services to the provider on an individual's behalf. Payment for services is not guaranteed until the Authority has verified that an individual's provider meets the qualifications set forth in this rule.

(6) In order to receive Behavioral Health personal care attendant services from a personal support worker or homecare worker, an individual shall be able to meet or designate a representative to meet the employer responsibilities in section (4) of this rule.

(7) Termination and the grounds for termination of employment are determined by an individual or the individual's representative. An individual may terminate an employment relationship with a provider at any time and for any reason. An individual shall establish an employment agreement at the time of hire. The employment agreement may include grounds for dismissal, notice of resignation, work scheduling, and absence reporting.

(8) After appropriate intervention, an individual unable to meet the employer responsibilities in section (4) of this rule may be determined ineligible for Behavioral Health personal care attendant services.

(9) An individual determined ineligible for Behavioral Health personal care attendant services may request these services at the individual's next annual re-assessment. Improvements in health and cognitive functioning may be factors in demonstrating the individual's ability to meet the employer responsibilities described in section (4) of this rule. The waiting period may be shortened if an individual is able to demonstrate the ability to meet the employer responsibilities sooner than the individual's next annual re-assessment.

(10) An individual may designate a representative to act on the individual's behalf to meet the employer responsibilities in section (4) of this rule. An individual's legal representative may be designated as the individual's representative:

(a) The Authority may deny an individual's designation of a representative if the representative has:

(A) A history of a substantiated abuse of an adult as described in OAR chapter 411, division 20, OAR chapter 407, division 45, or OAR chapter 943, division 45;

(B) A history of founded abuse of a child as described in ORS 419 B.005;

(C) Participated in billing excessive or fraudulent charges; or

(D) Failed to meet the employer responsibilities, including previous termination for failure to meet the employer responsibilities in section (4) of this rule.

(b) An individual may select another representative if the Authority suspends, terminates, or denies an individual's designation of a representative.

(11) An individual with a guardian shall have a representative for service planning purposes. A guardian may designate themselves the individual's representative.

Stat. Auth.: ORS 413.042, 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, 430.715
Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

**410-172-0810**
**Personal Care Attendant Qualifications**

(1) A qualified provider is an individual who, in the Authority's judgment, demonstrates by background, skills, and abilities knowledge and ability to perform or to learn to perform the required work. A qualified provider shall:

(a) Maintain a drug-free work place;

(b) Complete the background check process described in OAR 943, division 007 with an outcome of approved or approved with restrictions;

(c) May not be an individual's legal representative;

(d) Be authorized to work in the United States in accordance with U.S. Department of Homeland Security, Bureau of Citizenship and Immigration rules;

(e) Be 18 years of age or older.

(2) A qualified provider may be employed through a contracted in-home care agency or enrolled as a homecare worker or personal support worker under a provider number. The Authority shall establish the rates for services.

(3) Providers that provide Behavioral Health personal care attendant services shall:

(a) Be enrolled in the Consumer-Employed Provider Program and meet all of the standards in OAR chapter 411, division 31;

(b) Meet the provider enrollment and termination criteria described in OAR 411-031-0040 for personal support workers.

(4) The Authority shall conduct background rechecks at least every other year from the date a provider is enrolled. The Authority may conduct a recheck more frequently based on additional information discovered about a provider, such as possible criminal activity or other allegations.

(5) Prior background check approval for another Authority provider type is inadequate to meet background check requirements for homecare or personal support workers.

(6) Provider enrollment may be inactivated when a provider fails to comply with the background recheck process. Once a provider's enrollment is inactivated, the provider shall reapply and meet the requirements described in these rules to reactivate provider enrollment.

Stat. Auth.: ORS 413.042, 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, 430.715
Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

**410-172-0820**
**Provider Termination**

(1) The Authority may deny or terminate a personal care attendant's provider enrollment and provider number as described in OAR 411-031-0050. The termination, administrative review, and hearings rights for homecare workers are set forth in OAR 411-031-0050.

(2) The Authority may deny or terminate a personal support worker's provider enrollment and provider number when the personal support worker:

(a) Has been appointed the legal guardian of an individual;

(b) Has a background check that results in a closed case pursuant to OAR chapter 943, division 007;

(c) Lacks the skills, knowledge, or ability to perform or learn to perform the required work;

(d) Violates the protective service and abuse rules in OAR chapter 411, division 20, OAR chapter 407, division 45, and OAR chapter 943, division 45;

(e) Commits fiscal improprieties;

(f) Fails to provide the authorized services required by an eligible individual;

(g) Has been repeatedly late in arriving to work or has absences from work not authorized in advance by an individual;

(h) Has been intoxicated by alcohol or drugs while providing authorized services to an individual or while in the individual's home;

(i) Has manufactured or distributed drugs while providing authorized services to an individual or while in the individual's home; or

(j) Has been excluded as a provider by the U.S. Department of Health and Human Services, Office of Inspector General from participation in Medicaid, Medicare, or any other federal health care programs.

(3) A personal support worker may contest the Authority's decision to terminate the personal support worker's provider enrollment and provider number:

(a) A designated employee from the Authority shall review the termination and notify the personal support worker of the decision;

(b) A personal support worker may file a request for a hearing with the Authority's local office if all levels of administrative review have been exhausted and the provider continues to dispute the Authority's decision. The local office shall file the request for a hearing with the Office of Administrative Hearings as described in OAR chapter 137, division 3. The request for a hearing shall be filed within 30 calendar days of the date of the written notice from the Authority;

(c) When a contested case is referred to the Office of Administrative Hearings, the referral shall indicate whether the Authority is authorizing a proposed order, a proposed and final order, or a final order;

(d) No additional hearing rights have been granted to a personal support worker by this rule other than the right to a hearing on the Authority's decision to terminate provider enrollment.

Stat. Auth.: ORS 413.042, 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, 430.715
Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

**410-172-0830**
**Personal Care Attendant Service Assessment, Authorization, and Monitoring**

(1) A behavioral health case manager shall meet in person with an individual to assess the individual's ability to perform the personal care tasks listed in this rule:

(a) An individual's natural supports may participate in the assessment if requested by the individual;

(b) A behavioral health case manager shall assess an individual's service needs, identify the resources meeting any, some, or all of the individual's needs and determine if the individual is eligible for behavioral health personal care attendant services or other services;

(c) A behavioral health case manager shall meet with an individual in person at least once every 365 days to review the individual's service needs.

(2) A behavioral health case manager shall prepare a service plan identifying the tasks for which an individual requires assistance and the number of monthly authorized service hours. The case manager shall document an individual's natural supports that currently meet some or all of the individual's assistance needs:

(a) The service plan shall describe the tasks to be performed by a qualified provider and shall authorize the maximum monthly hours that may be reimbursed for those services;

(b) A case manager shall consider the cost effectiveness of services that adequately meet the individual's service needs when developing service plans;

(c) Payment for behavioral health personal care attendant services shall be prior authorized by a behavioral health case manager and based on the service needs of an individual as documented in the individual's written service plan.

(3) When there is an indication that an individual's personal care needs have changed, a case manager shall conduct an in-person reassessment with the individual and any of the individual's natural supports if requested by the individual:

(a) Following annual reassessments and those conducted after a change in an individual's personal care needs, a case manager shall review service eligibility, the cost effectiveness of the individual's service plan, and whether the services provided are meeting the individual's identified service needs;

(b) The case manager may adjust the hours or services in the individual's service plan and shall authorize a new service plan, if appropriate, based on the individual's current service needs.

(4) A behavioral health case manager shall provide ongoing coordination of behavioral health personal care attendant services, including authorizing changes in providers and service hours, addressing risks, and monitoring and providing information and referral to an individual when indicated.

(5) The Authority may not authorize services within an eligible individual's home when:

(a) The individual's home has dangerous conditions that jeopardize the health or safety of the individual or the provider and necessary safeguards cannot be taken to improve the setting;

(b) The services cannot be provided safely or adequately by a provider;

(c) The individual does not have the ability to make an informed decision, does not have a designated representative to make decisions on his or her behalf, and necessary safeguards cannot be provided to protect the individual's safety, health, and welfare.

(6) A behavioral health case manager shall present an individual or the individual's representative with information on service alternatives and provide assistance to assess other choices when a provider or service setting selected by the individual or the individual's representative is not authorized.

Stat. Auth.: ORS 413.042, 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, 430.715
Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

**410-172-0840**
**Personal Care Attendant Payment Limitations**

(1) The number of behavioral health personal care attendant service hours authorized for an individual per calendar month is based on projected amounts of time to perform specific personal care and supportive services to the eligible individual. The total of these hours are limited to 20 hours per individual per month. Individuals whose assessed service needs exceed the 20 hour limit may receive approval for additional hours.

(2) The Authority shall pay for behavioral health personal care attendant services when all acceptable provider enrollment standards have been verified and both the employer and provider have been formally notified in writing that payment by the Authority is authorized.

(3) In accordance with OAR 410-120-1300, all provider claims for payment shall be submitted within 12 months of the date of service.

(4) Payment may not be claimed by a provider until the hours authorized for the payment period have been completed, as directed by an eligible individual or the individual's representative.

Stat. Auth.: ORS 413.042, 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, 430.715
Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

**410-172-0850**
**Telemedicine for Behavioral Health**

(1) Telemedicine encompasses different types of programs, services, and delivery mechanisms for medically appropriate covered services within the recipient's benefit package:

(a) Patient consultations using telephone and online or electronic mail (e-mail) are covered when billed services comply with the practice guidelines set forth by the Health Evidence Review Commission and the applicable HERC-approved code requirements, delivered consistent with the HERC Evidence-Based Guidelines;

(b) Patient consultations using videoconferencing, a synchronous (live two-way interactive) video transmission resulting in real time communication between a provider located in a distant site and the recipient being evaluated and located in an originating site, is covered when billed services comply with the billing requirements stated below.

(2) Behavioral health services specifically identified as allowable for telephonic delivery are listed on the Behavioral Health Fee schedule published by the Authority.

(3) Unless expressly authorized in OAR 410-120-1200 (Exclusions), other types of telecommunications are not covered such as images transmitted via facsimile machines and electronic mail when:

(a) Those methods are not being used in lieu of videoconferencing, due to limited videoconferencing equipment access; or

(b) Those methods and specific services are not specifically allowed pursuant to the Oregon Health Evidence Review Commission's Prioritized List of Health Services and Evidence Based Guidelines.

(4) Providers billing for covered telemedicine services shall:

(a) Comply with HIPAA and the Authority's Confidentiality and Privacy Rules and security protections for the patient in connection with the telemedicine communication and related records;

(b) Obtain and maintain technology used in the telemedicine communication that is compliant with privacy and security standards in HIPAA and the Authority's Privacy and Confidentiality Rules set forth in OAR 943 division 14;

(c) Ensure policies and procedures are in place to prevent a breach in privacy or exposure of patient health information or records (whether oral or recorded in any form or medium) to unauthorized individuals;

(d) Comply with the relevant HERC evidence-based guidelines for telephone and e-mail consultation. Refer to the current prioritized list and evidence based guidelines at http://www.oregon.gov/oha/herc/Pages/PrioritizedList.aspx;

(e) Maintain clinical and financial documentation related to telemedicine services as required in OAR 410-120-1360.

(5) For purposes of behavioral health services, the Authority shall provide coverage for telemedicine services to the same extent that the services would be covered if they were provided in person.

Stat. Auth.: ORS 413.042 & 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705 & 430.715
Hist.: DMAP 85-2014(Temp), f. 12-24-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

**410-172-0860**
**Billing for Dual Eligible Individuals**

(1) As described in OAR 410-120-1280 (8), when an individual has both Medicare and coverage through Medicaid, providers shall make reasonable efforts to obtain payment from other resources including Medicare or other Third Party Liability (TPL).

(2) In accordance with OAR 410-120-1280 (f), OAR 410-141-0420, and OAR 410-141-3420, behavioral health providers may bill the Division directly and may not be required to bill Medicare under the following circumstances:

(a) For behavioral health services that are never covered by Medicare or another insurer;

(b) For behavioral health services that are not covered when rendered by the following provider types:

(A) Qualified Mental Health Professional (non-licensed) as defined in OAR 309-019-0105;

(B) Qualified Mental Health Associate as defined in OAR 309-019-0105;

(C) Professional Counselor or Marriage and Family Therapist licensed by the Oregon Board of Licensed Professional Counselors and Therapists;

(D) Certified Peer Support Specialist as defined in OAR 410-180-0305;

(E) Recovery Assistant;

(F) Certified Alcohol and Drug Counselor.

Stat. Auth.: ORS 413.042, 430.640
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, 430.715
Hist.: DMAP 32-2015, f. 6-24-15, cert. ef. 6-26-15

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**Rule Caption:** Align with Department of Human Services OAR Chapter 461 Rules
**Adm. Order No.:** DMAP 33-2015
**Filed with Sec. of State:** 6-24-2015
**Certified to be Effective:** 7-1-15
**Notice Publication Date:** 5-1-2015
**Rules Amended:** 410-120-0006
**Rules Repealed:** 410-120-0006(T)
**Subject:** In coordination with the Department of Human Services' (Department) revision of rules established in OAR chapter 461 for all overpayment, personal injury liens and estate administration the Division is amending OAR 410-120-0006 to assure that the Division's rule aligns with and reflects information found in the Department's amended rules. In OAR 410-120-0006, the Division adopts and incorporates Department rules and must update OAR 410-120-0006 accordingly. The Division is amending this rule which incorporates rules established in OAR Chapter 461, for all overpayment, personal injury liens and estate administration for Authority programs covered under OAR 410-200. References to OAR Chapter 461 in contracts of the Authority are deemed to be references to the requirements of this rule.
**Rules Coordinator:** Sandy Cafourek—(503) 945-6430

**410-120-0006**
**Medical Eligibility Standards**

As the state Medicaid and CHIP agency, the Oregon Health Authority (Authority) is responsible for establishing and implementing eligibility policies and procedures consistent with applicable law. As outlined in OAR 943-001-0020, the Authority and the Department of Human Services

(Department) work together to adopt rules to assure that medical assistance eligibility procedures and determinations are consistent across both agencies.

(1) The Authority adopts and incorporates by reference the rules established in OAR Chapter 461 for all overpayment, personal injury liens and estates administration for Authority programs covered under OAR chapter 410, division 200.

(2) Any reference to OAR chapter 461 in contracts of the Authority are deemed to be references to the requirements of this rule and shall be construed to apply to all eligibility policies, procedures and determinations by or through the Authority.

(3) For purposes of this rule, references in OAR chapter 461 to the Department or to the Authority shall be construed to be references to both agencies.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 413.042, 414.065
Hist.: DMAP 10-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 18-2011(Temp), f. & cert. ef. 7-15-11 thru 1-11-12; DMAP 21-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 1-11-12; DMAP 25-2011(Temp), f. 9-28-11, cert. ef. 10-1-11 thru 1-11-12; DMAP 36-2011, f. 12-13-11, cert. ef. 1-1-12; DMAP 1-2012(Temp), f. & cert. e.f 1-13-12 thru 7-10-12; DMAP 2-2012(Temp), f. & cert. ef. 1-26-12 thru 7-10-12; DMAP 3-2012(Temp), f. & cert. ef. 1-31-12 thru 2-1-12; DMAP 4-2012(Temp), f. 1-31-12, cert. ef. 2-1-12 thru 7-10-12; DMAP 9-2012(Temp), f. & cert. ef. 3-1-12 thru 7-10-12; DMAP 21-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-10-12; DMAP 25-2012(Temp), f. & cert. ef. 5-1-12 thru 7-10-12; Administrative correction 8-1-12; DMAP 35-2012(Temp), f. & cert. ef. 7-20-12 thru 1-15-13; DMAP 45-2012(Temp), f. & cert. ef. 10-5-12 thru 1-19-13; DMAP 50-2012, f. 10-31-12, cert. ef. 11-1-12; DMAP 53-2012(Temp), f. & cert. ef. 11-1-12 thru 4-29-13; DMAP 56-2012(Temp), f. 11-30-12, cert. ef. 12-1-12 thru 4-1-13; DMAP 60-2012, f. 12-27-12, cert. ef. 1-1-13; DMAP 65-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-29-13; DMAP 2-2013(Temp), f. & cert. ef. 1-8-13 thru 6-29-13; DMAP 3-2013(Temp), f. & cert. ef. 1-30-13 thru 6-29-13; DMAP 5-2013(Temp), f. & cert. ef. 2-20-13 thru 6-29-13; DMAP 7-2013(Temp), f. & cert. ef. 3-1-13 thru 6-29-13; DMAP 12-2013, f. 3-27-13, cert. ef. 4-1-13; DMAP 17-2013, f. & cert. ef. 4-10-13; DMAP 24-2013, f. & cert. ef. 5-29-13; DMAP 32-2013, f. & cert. ef. 6-27-13; DMAP 39-2013(Temp), f. 7-26-13, cert. ef. 8-1-13 thru 1-28-14; DMAP 44-2013(Temp), f. 8-21-13, cert. ef. 8-23-13 thru 1-28-14; DMAP 51-2013, f. & cert. ef. 10-1-13; DMAP 52-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 55-2013(Temp), f. & cert. ef. 10-2-13 thru 3-31-14; DMAP 59-2013(Temp), f. 10-31-13, cert. ef. 11-1-13 thru 3-31-14; DMAP 9-2014(Temp), f. 1-31-14, cert. ef. 2-1-14 thru 3-31-14; DMAP 18-2014, f. 3-28-14, cert. ef. 3-31-14; DMAP 41-2014, f. & cert. ef. 7-1-14; DMAP 54-2014, f. & cert. ef. 9-23-14; DMAP 12-2015(Temp), f. 3-5-15, cert. ef. 3-19-15 thru 9-14-15; DMAP 33-2015, f. 6-24-15, cert. ef. 7-1-15

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**Rule Caption:** Amending Prior Authorization Approval Criteria Guide
**Adm. Order No.:** DMAP 34-2015
**Filed with Sec. of State:** 6-25-2015
**Certified to be Effective:** 6-26-15
**Notice Publication Date:** 5-1-2015
**Rules Amended:** 410-121-0040
**Rules Repealed:** 410-121-0040(T)
**Subject:** The Pharmaceutical Services program administrative rules (Division 121) govern Division payments for services provided to certain clients. The Division needs to amend rules as follows: The Authority is amending this rule to update the Oregon Medicaid Fee for Service Prior Authorization Criteria Guide found at http://www.oregon.gov/oha/healthplan/Pages/pharmacy-policy.aspx based on the P&T (Pharmacy and Therapeutic) Committee recommendations.
**Rules Coordinator:** Sandy Cafourek—(503) 945-6430

**410-121-0040**
**Prior Authorization Required for Drugs and Products**

(1) Prescribing practitioners shall obtain prior authorization (PA) for the drugs and categories of drugs requiring PA in this rule, using the procedures set forth in OAR 410-121-0060.

(2) All drugs and categories of drugs including, but not limited to, those drugs and categories of drugs that require PA shall meet the following requirements for coverage:

(a) Each drug must be prescribed for conditions funded by OHP in a manner consistent with the Health Evidence Review Commission (HERC) Prioritized List of Health Services (OAR 410-141-0480 through 410-141-0520). If the medication is for a non-covered diagnosis, the medication may not be covered unless there is a co-morbid condition for which coverage would be allowed. The use of the medication must meet corresponding treatment guidelines, be included within the client's benefit package of covered services, and not otherwise excluded or limited;

(b) Each drug must also meet other criteria applicable to the drug or category of drug in these pharmacy provider rules, including PA requirements imposed in this rule.

(3) The Authority may require PA for individual drugs and categories of drugs to ensure that the drugs prescribed are indicated for conditions funded by OHP and consistent with the Prioritized List of Health Services and its corresponding treatment guidelines (see OAR 410-141-0480). The drugs and categories of drugs that the Authority requires PA for this purpose are found in the Oregon Medicaid Fee-For-Service Prior Authorization Approval Criteria (PA Criteria guide) dated April 18, 2015, adopted and incorporated by reference and found at: www.oregon.gov/OHA/healthplan/pages/pharmacy-policy.aspx).

(4) The Authority may require PA for individual drugs and categories of drugs to ensure medically appropriate use or to address potential client safety risk associated with the particular drug or category of drug, as recommended by the Pharmacy & Therapeutics Committee (P&T) and adopted by the Authority in this rule. The drugs and categories of drugs for which the Authority requires PA for this purpose are found in the Pharmacy PA Criteria Guide.

(5) New drugs shall be evaluated when added to the weekly upload of the First Databank drug file:

(a) If the new drug is in a class where current PA criteria apply, all associated PA criteria shall be required at the time of the drug file load;

(b) If the new drug is indicated for a condition below the funding line on the Prioritized List of Health Services, PA shall be required to ensure that the drug is prescribed for a condition funded by OHP;

(c) PA criteria for all new drugs shall be reviewed by the DUR/P&T Committee.

(6) PA shall be obtained for brand name drugs that have two or more generically equivalent products available and that are not determined Narrow Therapeutic Index drugs by the DUR/P&T Committee:

(a) Immunosuppressant drugs used in connection with an organ transplant must be evaluated for narrow therapeutic index within 180 days after United States patent expiration;

(b) Manufacturers of immunosuppressant drugs used in connection with an organ transplant must notify the Authority of patent expiration within 30 days of patent expiration for section (5)(a) to apply;

(c) Criteria for approval are:

(A) If criteria established in section (3) or (4) of this rule applies, follow that criteria;

(B) If section (6)(A) does not apply, the prescribing practitioner must document that the use of the generically equivalent drug is medically contraindicated and provide evidence that either the drug has been used and has failed or that its use is contraindicated based on evidence-based peer reviewed literature that is appropriate to the client's medical condition.

(7) PA shall be obtained for non-preferred Preferred Drug List (PDL) products in a class evaluated for the PDL except in the following cases:

(a) The drug is a mental health drug as defined in OAR 410-121-0000;

(b) The original prescription is written prior to 1/1/10;

(c) The prescription is a refill for the treatment of seizures, cancer, HIV, or AIDS; or

(d) The prescription is a refill of an immunosuppressant.

(8) PA may not be required:

(a) When the prescription ingredient cost plus the dispensing fee is less than the PA processing fees as determined by the Authority;

(b) For over-the-counter (OTC) covered drugs when prescribed for conditions covered under OHP or;

(c) If a drug is in a class not evaluated from the Practitioner-Managed Prescription Drug Plan under ORS 414.334.

Stat. Auth.: ORS 413.032, 413.042, 414.065, 141.325, 414.330 - 414.414, 414.312, 414.316
Stats. Implemented: 414.065, 414.325, 414.334, 414.361, 414.371, 414.353, 414.354
Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; AFS 2-1990, f. & cert. ef. 1-16-90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 461-016-0170; HR 10-1991, f. & cert. ef. 2-19-91; HR 14-1993, f. & cert. ef. 7-2-93; HR 25-1994, f. & cert. ef. 7-1-94; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 18-1996(Temp), f. & cert. ef. 10-1-96; HR 8-1997, f. 3-13-97, cert. ef. 3-15-97; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 44-2002, f. & cert. ef. 10-1-02; OMAP 66-2002, f. 10-31-02, cert. ef. 11-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03; OMAP 43-2003(Temp), f. 6-10-03, cert. ef. 7-1-03 thru 12-15-03; OMAP 49-2003, f. 7-31-03 cert. ef. 8-1-03; OMAP 84-2003, f. 11-25-03 cert. ef. 12-1-03; OMAP 87-2003(Temp), f. & cert. ef. 12-15-03 thru 5-15-04; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 71-2004, f. 9-15-04, cert. ef. 10-1-04; OMAP 74-2004, f. 9-23-04, cert. ef. 10-1-04; OMAP 89-2004, f. 11-24-04 cert. ef. 12-1-04; OMAP 4-2006(Temp), f. & cert. ef. 3-15-06 thru 9-7-06; OMAP 32-2006, f. 8-31-06, cert. ef. 9-1-06; OMAP 41-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 26-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 9-2008, f. 3-31-08, cert. ef. 4-1-08; DMAP 16-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 14-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10; DMAP 40-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 27-2011(Temp), f. & cert. ef. 9-30-11 thru 3-15-12; DMAP 44-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 12-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 18-2012, f. 3-30-12, cert. ef. 4-9-12; DMAP 23-2012(Temp), f. & cert. ef. 4-20-12 thru 10-15-12; DMAP 27-2012(Temp), f. & cert. ef. 5-14-12 thru 10-15-12; DMAP 29-2012, f. & cert. ef. 6-21-12;

DMAP 33-2012(Temp), f. 7-18-12, cert. ef. 7-23-12 thru 1-18-13; DMAP 40-2012(Temp), f. & cert. ef. 8-20-12 thru 1-18-13; DMAP 44-2012(Temp), f. & cert. ef. 9-26-12 thru 1-18-13; DMAP 61-2012, f. 12-27-12, cert. ef. 1-1-13; DMAP 6-2013(Temp), f. & cert. ef. 2-21-13 thru 8-19-13; DMAP 23-2013(Temp), f. 4-30-13, cert. ef. 5-1-13 thru 8-19-13; Administrative correction, 7-18-13; DMAP 43-2013, f. & cert. ef. 8-16-13; DMAP 76-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 14-2014(Temp), f. & cert. ef. 3-21-14 thru 9-17-14; DMAP 27-2014(Temp), f. & cert. ef. 5-2-14 thru 6-30-14; DMAP 38-2014, f. & cert. ef. 6-30-14; DMAP 46-2014(Temp), f. & cert. ef. 7-15-14 thru 1-11-15; DMAP 49-2014(Temp), f. & cert. ef. 8-13-14 thru 1-11-15; DMAP 62-2014(Temp), f. 10-13-14, cert. ef. 10-14-14 thru 1-11-15; DMAP 75-2014, f. & cert. ef. 12-12-14; DMAP 76-2014(Temp), f. & cert. ef. 12-12-14 thru 6-7-15; DMAP 89-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-26-15; DMAP 4-2015(Temp), f. & cert. ef. 2-3-15 thru 6-26-15; DMAP 25-2015(Temp), f. 4-17-15, cert. ef. 4-18-15 thru 6-26-15; DMAP 34-2015, f. 6-25-15, cert. ef 6-26-15

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**Rule Caption:** Amending PDL January 29, 2015 DUR/P&T Action
**Adm. Order No.:** DMAP 35-2015
**Filed with Sec. of State:** 6-25-2015
**Certified to be Effective:** 6-26-15
**Notice Publication Date:** 5-1-2015
**Rules Amended:** 410-121-0030
**Rules Repealed:** 410-121-0030(T)
**Subject:** The Pharmaceutical Services program administrative rules (Division 121) govern Division payments for services provided to certain clients. The Division needs to amend rules as follows:

410-121-0030:
Preferred:
Guaifenesin/Codeine Phosphate Syrup
nitroglycerin Capsule ER
Lovenox ®- Brand Only Vial
Cholestyramine(with Sugar) Powd Pack
Cholestyramine/Aspartame Powd Pack
Aspirin Tab Chew
Aspirin Tablet DR
Spinosad Suspension
Insulin Detemir * INSULN PEN
Humulin70-30 TM
Humulin 70/30 KWIKPEN TM
Humalog mix 50-50 TM
Humalog mix 75-25 TM
Humulin R TM
Humulin N TM
Oxybutynin Patch TDSW
Etanercept (Enbrel TM) vial
Galantamine HBR Cap24H Pel
Memantine HCL Tab Ds Pk
Polymyxin B Sulf/Trimethoprim Drops
Dorzolamide/Timolol/PF
Neomycin/Polymyxin B Sulf/HC Drop/Susp
Buprenorpine Naloxone (ZubsolvTM)
Proventil HFA
Calcium Acetate Capsule
Bupropion HCL Tab ER 24H
Escitalopram Oxalate Solution
Fluphenazine decanoate vial
Haloperidol decanoate ampul
Haloperidol decanoate vial
Haloperidol lactate ampul
Haloperidol lactate vial
TBO- Filgrastim syringe
Ledipasvir/ Sofosbuvir (HarvoniTM)
Gentamicin/ Prednisol AC Drops Susp
Gentamicin/ Prednisol AC Oint. (G)
Neo/ Polymyx B Sulf/ Dexameth Oint. (G)
Cefuroxime Axetil Susp Recon
Non-Preferred:
Salsalate
Oxycodone/acetaminophen Capsules
Benicar®
Benicar HCT®
isosorbide dinitrate capsule ER
Hydrochlorothiazide Solution
triamterene
Estrogens, Conj., Synthetic A
Metformin HCL Tab ER 24
Estrogens, conjugated Cream (G)
Lipase/Protease/Amylase
Cimetidine
Neomy sulf/bacitrac zn/poly/HC
Pilocarpine HCL Gel (Gram)
chlorpromazine, Multiple products
Fluphenazine, Multiple products
Haloperidol, Multiple products
Loxapine, Multiple products
Perphenazine, Multiple products
Promazine, Multiple products
Thioridazine, Multiple products
Thiothixene, Multiple products
Trifluoperazine, Multiple products

**Rules Coordinator:** Sandy Cafourek—(503) 945-6430

**410-121-0030**
**Practitioner-Managed Prescription Drug Plan**

(1) The Practitioner-Managed Prescription Drug Plan (PMPDP) is a plan that ensures OHP fee-for-service clients have access to the most effective prescription drugs appropriate for their clinical conditions at the best possible price:

(a) Licensed health care practitioners who are informed by the latest peer reviewed research make decisions concerning the clinical effectiveness of the prescription drugs;

(b) Licensed health care practitioners also consider the client's health condition, personal characteristics, and the client's gender, race, or ethnicity.

(2) PMPDP Preferred Drug List (PDL):

(a) The PDL is the primary tool the Division uses to inform licensed health care practitioners about the results of the latest peer-reviewed research and cost effectiveness of prescription drugs;

(b) The PDL contains a list of prescription drugs that the Division, in consultation with the Drug Use Review (DUR)/Pharmacy & Therapeutics Committee (P&T), has determined represent the most effective drugs available at the best possible price;

(c) The PDL shall include drugs that are Medicaid reimbursable and the Food and Drug Administration (FDA) has determined to be safe and effective.

(3) PMPDP PDL Selection Process:

(a) The Division shall utilize the recommendations made by the P&T that result from an evidence-based evaluation process as the basis for selecting the most effective drugs;

(b) The Division shall ensure the drugs selected in section (3)(a) that are available for the best possible price and shall consider any input from the P&T about other FDA-approved drugs in the same class that are available for a lesser relative price. The Division shall determine relative price using the methodology described in section (4);

(c) The Division shall evaluate selected drugs for the drug classes periodically:

(A) The Division may evaluate more frequently if new safety information or the release of new drugs in a class or other information makes an evaluation advisable;

(B) New drugs in classes already evaluated for the PDL shall be non-preferred until the new drug has been reviewed by the P&T;

(C) The Division shall make all revisions to the PDL using the rule-making process and shall publish the changes on the Division's Pharmaceutical Services provider rules website.

(4) Relative cost and best possible price determination:

(a) The Division shall determine the relative cost of all drugs in each selected class that are Medicaid reimbursable and that the FDA has determined to be safe and effective;

(b) The Division may also consider dosing issues, patterns of use, and compliance issues. The Division shall weigh these factors with any advice provided by the P&T in reaching a final decision.

(5) Pharmacy providers shall dispense prescriptions in the generic form unless:

(a) The practitioner requests otherwise pursuant to OAR 410-121-0155;

(b) The brand name medication is listed as preferred on the PDL.

(6) The exception process for obtaining non-preferred physical health drugs that are not on the PDL drugs shall be as follows:

(a) If the prescribing practitioner in their professional judgment wishes to prescribe a physical health drug not on the PDL, they may request an exception subject to the requirements of OAR 410-121-0040;

(b) The prescribing practitioner must request an exception for physical health drugs not listed in the PDL subject to the requirements of OAR 410-121-0060;

(c) Exceptions shall be granted when:

(A) The prescriber in their professional judgment determines the non-preferred drug is medically appropriate after consulting with the Division or the Oregon Pharmacy Help Desk; or

(B) The prescriber requests an exception subject to the requirement of section (6)(b) and fails to receive a report of PA status within 24 hours, subject to OAR 410-121-0060.

(7) **Table 121-0030-1**, PMPDP PDL dated April 18, 2015 is adopted and incorporated by reference and is found at: www.orpdl.org.

[ED. NOTE: Table referenced are available from the agency.]

Stat. Auth.: ORS 413.032, 413.042, 414.065, 414.325, 414.330 to 414.414, 414.312 & 414.316

Stats. Implemented: ORS 414.065; 414.325, 414.334, 414.361, 414.369, 414.371, 414.353 & 414.354

Hist.: OMAP 25-2002, f. 6-14-02 cert. ef. 7-1-02; OMAP 31-2002, f. & cert. ef. 8-1-02; OMAP 36-2002, f. 8-30-02, cert. ef. 9-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 35-2003, f. & cert. ef. 5-1-03; OMAP 47-2003, f. & cert. ef. 7-1-03; OMAP 57-2003, f. 9-5-03, cert. ef. 10-1-03; OMAP 70-2003(Temp), f. 9-15-03, cert. ef. 10-1-03 thru 3-15-04; OMAP 82-2003, f. 10-31-03, cert. ef. 11-1-03; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 29-2004, f. 4-23-04 cert. ef. 5-1-04; OMAP 34-2004, f. 5-26-04 cert. ef. 6-1-04; OMAP 45-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 81-2004, f. 10-29-04 cert. ef. 11-1-04; OMAP 89-2004, f. 11-24-04 cert. ef. 12-1-04; OMAP 19-2005, f. 3-21-05, cert. ef. 4-1-05; OMAP 32-2005, f. 6-21-05, cert. ef. 7-1-05; OMAP 58-2005, f. 10-27-05, cert. ef. 11-1-05; OMAP 16-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 32-2006, f. 8-31-06, cert. ef. 9-1-06; OMAP 48-2006, f. 12-28-06, cert. ef. 1-1-07; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 16-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 36-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10; DMAP 40-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 2-2011(Temp), f. & cert. ef. 3-1-11 thru 8-20-11; DMAP 19-2011, f. 7-15-11, cert. ef. 7-17-11; DMAP 44-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 12-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 18-2012, f. 3-30-12, cert. ef. 4-9-12; DMAP 26-2012, f. & cert. ef. 5-14-12; DMAP 29-2012, f. & cert. ef. 6-21-12; DMAP 33-2012(Temp), f. 7-18-12, cert. ef. 7-23-12 thru 1-18-13; DMAP 40-2012(Temp), f. & cert. ef. 8-20-12 thru 1-18-13; DMAP 44-2012(Temp), f. & cert. ef. 9-26-12 thru 1-18-13; DMAP 61-2012, f. 12-27-12, cert. ef. 1-1-13; DMAP 6-2013(Temp), f. & cert. ef. 2-21-13 thru 8-19-13; DMAP 23-2013(Temp), f. 4-30-13, cert. ef. 5-1-13 thru 8-19-13; Administrative correction, 7-18-13; DMAP 43-2013, f. & cert. ef. 8-16-13; DMAP 76-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 1-2014(Temp), f. & cert. ef. 1-10-14 thru 7-9-14; DMAP 15-2014, f. & cert. ef. 3-21-14 thru 9-17-14; DMAP 28-2014(Temp), f. & cert. ef. 5-2-14 thru 6-30-14; DMAP 37-2014, f. & cert. ef. 6-30-14; DMAP 47-2014(Temp), f. & cert. ef. 7-15-14 thru 1-11-15; DMAP 52-2014(Temp), f. & cert. ef. 9-16-14 thru 1-11-15; DMAP 64-2014(Temp), f. 10-24-14, cert. ef. 10-29-14 thru 12-30-14; DMAP 77-2014, f. & cert. ef. 12-12-14; DMAP 78-2014(Temp), f. & cert. ef. 12-12-14 thru 6-9-15; DMAP 88-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 10-2015(Temp), f. & cert. ef. 3-3-15 thru 8-29-15; DMAP 26-2015(Temp), f. 4-17-15, cert. ef. 4-18-15 thru 6-26-15; DMAP 35-2015, f. 6-25-15, cert. ef. 6-26-15

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**Rule Caption:** Prior Authorization Approval Criteria Guide
**Adm. Order No.:** DMAP 36-2015(Temp)
**Filed with Sec. of State:** 6-26-2015
**Certified to be Effective:** 7-1-15 thru 12-27-15
**Notice Publication Date:**
**Rules Amended:** 410-121-0040
**Subject:** The Pharmaceutical Services Program administrative rules (division 121) govern Division payments for services provided to certain clients. The Division needs to amend rules as follows:

The Authority is amending this rule to update the Oregon Medicaid Fee for Service Prior Authorization Criteria Guide found at http://www.oregon.gov/oha/healthplan/Pages/pharmacy-policy.aspx and based on the P&T (Pharmacy and Therapeutic) Committee recommendations.

**Rules Coordinator:** Sandy Cafourek—(503) 945-6430

**410-121-0040**
**Prior Authorization Required for Drugs and Products**

(1) Prescribing practitioners shall obtain prior authorization (PA) for the drugs and categories of drugs requiring PA in this rule, using the procedures set forth in OAR 410-121-0060.

(2) All drugs and categories of drugs including, but not limited to, those drugs and categories of drugs that require PA shall meet the following requirements for coverage:

(a) Each drug shall be prescribed for conditions funded by the Oregon Health Plan (OHP) in a manner consistent with the Health Evidence Review Commission (HERC) Prioritized List of Health Services (OAR 410-141-0480 through 410-141-0520). If the medication is for a non-covered diagnosis, the medication may not be covered unless there is a co-morbid condition for which coverage would be allowed. The use of the medication shall meet corresponding treatment guidelines and be included within the client's benefit package of covered services and not otherwise excluded or limited;

(b) Each drug shall also meet other criteria applicable to the drug or category of drug in these pharmacy provider rules, including PA requirements imposed in this rule.

(3) The Authority may require PA for individual drugs and categories of drugs to ensure that the drugs prescribed are indicated for conditions funded by OHP and consistent with the Prioritized List of Health Services and its corresponding treatment guidelines (see OAR 410-141-0480). The drugs and categories of drugs that the Authority requires PA for this purpose are found in the Oregon Medicaid Fee-for-Service Prior Authorization Approval Criteria (PA Criteria guide) dated July 1, 2015, adopted and incorporated by reference and found at: http://www.oregon.gov/OHA/healthplan/pages/pharmacy-policy.aspx.

(4) The Authority may require PA for individual drugs and categories of drugs to ensure medically appropriate use or to address potential client safety risk associated with the particular drug or category of drug, as recommended by the Pharmacy & Therapeutics Committee (P&T) and adopted by the Authority in this rule. The drugs and categories of drugs for which the Authority requires PA for this purpose are found in the Pharmacy PA Criteria Guide.

(5) New drugs shall be evaluated when added to the weekly upload of the First Databank drug file:

(a) If the new drug is in a class where current PA criteria apply, all associated PA criteria shall be required at the time of the drug file load;

(b) If the new drug is indicated for a condition below the funding line on the Prioritized List of Health Services, PA shall be required to ensure that the drug is prescribed for a condition funded by OHP;

(c) PA criteria for all new drugs shall be reviewed by the DUR/P&T Committee.

(6) PA shall be obtained for brand name drugs that have two or more generically equivalent products available and that are not determined Narrow Therapeutic Index drugs by the DUR/P&T Committee:

(a) Immunosuppressant drugs used in connection with an organ transplant shall be evaluated for narrow therapeutic index within 180 days after United States patent expiration;

(b) Manufacturers of immunosuppressant drugs used in connection with an organ transplant shall notify the Authority of patent expiration within 30 days of patent expiration for section (5)(a) to apply;

(c) Criteria for approval are:

(A) If criteria established in section (3) or (4) of this rule applies, follow that criteria;

(B) If section (6)(A) does not apply, the prescribing practitioner shall document that the use of the generically equivalent drug is medically contraindicated and provide evidence that either the drug has been used and has failed or that its use is contraindicated based on evidence-based peer reviewed literature that is appropriate to the client's medical condition.

(7) PA shall be obtained for non-preferred Preferred Drug List (PDL) products in a class evaluated for the PDL except in the following cases:

(a) The drug is a mental health drug as defined in OAR 410-121-0000;

(b) The original prescription is written prior to 1/1/10;

(c) The prescription is a refill for the treatment of seizures, cancer, HIV, or AIDS; or

(d) The prescription is a refill of an immunosuppressant.

(8) PA may not be required:

(a) When the prescription ingredient cost plus the dispensing fee is less than the PA processing fees as determined by the Authority;

(b) For over-the-counter (OTC) covered drugs when prescribed for conditions covered under OHP; or

(c) If a drug is in a class not evaluated from the Practitioner-Managed Prescription Drug Plan under ORS 414.334.

Stat. Auth.: ORS 413.032, 413.042, 414.065, 141.325, 414.330 - 414.414, 414.312, 414.316

Stats. Implemented: 414.065, 414.325, 414.334, 414.361, 414.371, 414.353, 414.354

Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; AFS 2-1990, f. & cert. ef. 1-16-90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 461-016-0170; HR 10-1991, f. & cert. ef. 2-19-91; HR 14-1993, f. & cert. ef. 7-2-93; HR 25-1994, f. & cert. ef. 7-1-94; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 18-1996(Temp), f. & cert. ef. 10-1-96; HR 8-1997, f. 3-13-97, cert. ef. 3-15-97; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 44-2002, f. & cert. ef. 10-1-02; OMAP 66-2002, f. 10-31-02, cert. ef. 11-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03; OMAP 43-2003(Temp), f. 6-10-03, cert. ef. 7-1-03 thru 12-15-03; OMAP 49-2003, f. 7-31-03 cert. ef. 8-1-03; OMAP 84-2003, f. 11-25-03 cert. ef. 12-1-03; OMAP 87-2003(Temp), f. & cert. ef. 12-15-03 thru 5-15-04; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 71-2004, f. 9-15-04, cert. ef. 10-1-04; OMAP 74-2004, f. 9-23-04, cert. ef. 10-1-04; OMAP 89-2004, f. 11-24-04 cert. ef. 12-1-04; OMAP 4-

2006(Temp), f. & cert. ef. 3-15-06 thru 9-7-06; OMAP 32-2006, f. 8-31-06, cert. ef. 9-1-06; OMAP 41-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 26-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 9-2008, f. 3-31-08, cert. ef. 4-1-08; DMAP 16-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 14-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10; DMAP 40-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 27-2011(Temp), f. & cert. ef. 9-30-11 thru 3-15-12; DMAP 44-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 12-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 18-2012, f. 3-30-12, cert. ef. 4-9-12; DMAP 23-2012(Temp), f. & cert. ef. 4-20-12 thru 10-15-12; DMAP 27-2012(Temp), f. & cert. ef. 5-14-12 thru 10-15-12; DMAP 29-2012, f. & cert. ef. 6-21-12; DMAP 33-2012(Temp), f. 7-18-12, cert. ef. 7-23-12 thru 1-18-13; DMAP 40-2012(Temp), f. & cert. ef. 8-20-12 thru 1-18-13; DMAP 44-2012(Temp), f. & cert. ef. 9-26-12 thru 1-18-13; DMAP 61-2012, f. 12-27-12, cert. ef. 1-1-13; DMAP 6-2013(Temp), f. & cert. ef. 2-21-13 thru 8-19-13; DMAP 23-2013(Temp), f. 4-30-13, cert. ef. 5-1-13 thru 8-19-13; Administrative correction, 7-18-13; DMAP 43-2013, f. & cert. ef. 8-16-13; DMAP 76-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 14-2014(Temp), f. & cert. ef. 3-21-14 thru 9-17-14; DMAP 27-2014(Temp), f. & cert. ef. 5-2-14 thru 6-30-14; DMAP 38-2014, f. & cert. ef. 6-30-14; DMAP 46-2014(Temp), f. & cert. ef. 7-15-14 thru 1-11-15; DMAP 49-2014(Temp), f. & cert. ef. 8-13-14 thru 1-11-15; DMAP 62-2014(Temp), f. 10-13-14, cert. ef. 10-14-14 thru 1-11-15; DMAP 75-2014, f. & cert. ef. 12-12-14; DMAP 76-2014(Temp), f. & cert. ef. 12-12-14 thru 6-7-15; DMAP 89-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-26-15; DMAP 4-2015(Temp), f. & cert. ef. 2-3-15 thru 6-26-15; DMAP 25-2015(Temp), f. 4-17-15, cert. ef. 4-18-15 thru 6-26-15; DMAP 34-2015, f. 6-25-15, cert. ef 6-26-15; DMAP 36-2015(Temp), f. 6-26-15, cert. ef. 7-1-15 thru 12-27-15

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**Rule Caption:** Preferred Drug List March 26, 2015 DUR/P&T Action.
**Adm. Order No.:** DMAP 37-2015(Temp)
**Filed with Sec. of State:** 7-1-2015
**Certified to be Effective:** 7-1-15 thru 12-27-15
**Notice Publication Date:**
**Rules Amended:** 410-121-0030
**Subject:** The Pharmaceutical Services program administrative rules (Division 121) govern Division payments for services provided to certain clients. The Division needs to amend rules as follows:

410-121-0030:
Preferred:
Viekiera Pak™;
Laxative drug class:
- Polyethylene glycol 3350;
- Lactulose;
- Senna products;
- Bulk forming laxatives less than $1/unit;
- Osmotic laxatives less than $1/unit;
- Surfactant, stimulant, and saline laxatives.
Isosorbide dinitrate — capsule ER;
Nitroglycerin — capsule ER;
Adalimumab (Humira Pediatric Crohn's™);
Calcium Citrate — tablet;
Buprenorphine HCL / Naloxone HCL;
Dexmethylphenidate HCL;
Chlorpromazine HCL;
Fluphenazine HCL.
Non-Preferred:
Bulk forming laxatives $1/unit or more;
Osmotic laxatives $1/unit or more;
Lubricant laxatives;
Cimetidine — tablet;
Spinosad.
Clerical - Various clerical changes were made to system class, drug and form names.

**Rules Coordinator:** Sandy Cafourek—(503) 945-6430

**410-121-0030**
**Practitioner-Managed Prescription Drug Plan**

(1) The Practitioner-Managed Prescription Drug Plan (PMPDP) is a plan that ensures that OHP fee-for-service clients have access to the most effective prescription drugs appropriate for their clinical conditions at the best possible price:

(a) Licensed health care practitioners, who are informed by the latest peer reviewed research, make decisions concerning the clinical effectiveness of the prescription drugs;

(b) Licensed health care practitioners also consider the client's health condition, personal characteristics, and the client's gender, race, or ethnicity.

(2) PMPDP Preferred Drug List (PDL):

(a) The PDL is the primary tool the Division uses to inform licensed health care practitioners about the results of the latest peer-reviewed research and cost effectiveness of prescription drugs;

(b) The PDL contains a list of prescription drugs that the Division, in consultation with the Drug Use Review (DUR)/Pharmacy & Therapeutics Committee (P&T), has determined represent the most effective drugs available at the best possible price;

(c) The PDL shall include drugs that are Medicaid reimbursable and the Food and Drug Administration (FDA) has determined to be safe and effective.

(3) PMPDP PDL Selection Process:

(a) The Division shall utilize the recommendations made by the P&T that result from an evidence-based evaluation process as the basis for selecting the most effective drugs;

(b) The Division shall ensure the drugs selected in section (3)(a) that are available for the best possible price and shall consider any input from the P&T about other FDA-approved drugs in the same class that are available for a lesser relative price. The Division shall determine relative price using the methodology described in section (4);

(c) The Division shall evaluate selected drugs for the drug classes periodically:

(A) The Division may evaluate more frequently if new safety information or the release of new drugs in a class or other information makes an evaluation advisable;

(B) New drugs in classes already evaluated for the PDL shall be non-preferred until the new drug has been reviewed by the P&T;

(C) The Division shall make all revisions to the PDL using the rule-making process and shall publish the changes on the Division's Pharmaceutical Services provider rules website.

(4) Relative cost and best possible price determination:

(a) The Division shall determine the relative cost of all drugs in each selected class that are Medicaid reimbursable and that the FDA has determined to be safe and effective;

(b) The Division may also consider dosing issues, patterns of use, and compliance issues. The Division shall weigh these factors with any advice provided by the P&T in reaching a final decision.

(5) Pharmacy providers shall dispense prescriptions in the generic form unless:

(a) The practitioner requests otherwise pursuant to OAR 410-121-0155;

(b) The brand name medication is listed as preferred on the PDL.

(6) The exception process for obtaining non-preferred physical health drugs that are not on the PDL drugs shall be as follows:

(a) If the prescribing practitioner in their professional judgment wishes to prescribe a physical health drug not on the PDL, they may request an exception subject to the requirements of OAR 410-121-0040;

(b) The prescribing practitioner must request an exception for physical health drugs not listed in the PDL subject to the requirements of OAR 410-121-0060;

(c) Exceptions shall be granted when:

(A) The prescriber in their professional judgment determines the non-preferred drug is medically appropriate after consulting with the Division or the Oregon Pharmacy Call Center; or

(B) Where the prescriber requests an exception subject to the requirement of section (6)(b) and fails to receive a report of PA status within 24 hours, subject to OAR 410-121-0060.

(7) Table 121-0030-1, PMPDP PDL dated July 1, 2015 is adopted and incorporated by reference and is found at: www.orpdl.org.

[ED. NOTE: Table referenced are available from the agency.]

Stat. Auth.: ORS 413.032, 413.042, 414.065, 414.325, 414.330 to 414.414, 414.312 & 414.316

Stats. Implemented: ORS 414.065; 414.325, 414.334, 414.361, 414.369, 414.371, 414.353 & 414.354

Hist.: OMAP 25-2002, f. 6-14-02 cert. ef. 7-1-02; OMAP 31-2002, f. & cert. ef. 8-1-02; OMAP 36-2002, f. 8-30-02, cert. ef. 9-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 35-2003, f. & cert. ef. 5-1-03; OMAP 47-2003, f. & cert. ef. 7-1-03; OMAP 57-2003, f. 9-5-03, cert. ef. 10-1-03; OMAP 70-2003(Temp), f. 9-15-03, cert. ef. 10-1-03 thru 3-15-04; OMAP 82-2003, f. 10-31-03, cert. ef. 11-1-03; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 29-2004, f. 4-23-04 cert. ef. 5-1-04; OMAP 34-2004, f. 5-26-04 cert. ef. 6-1-04; OMAP 45-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 81-2004, f. 10-29-04 cert. ef. 11-1-04; OMAP 89-2004, f. 11-24-04 cert. ef. 12-1-04; OMAP 19-2005, f. 3-21-05, cert. ef. 4-1-05; OMAP 32-2005, f. 6-21-05, cert. ef. 7-1-05; OMAP 58-2005, f. 10-27-05, cert. ef. 11-1-05; OMAP 16-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 32-2006, f. 8-31-06, cert. ef. 9-1-06; OMAP 48-2006, f. 12-28-06, cert. ef. 1-1-07; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 16-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 36-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10; DMAP 40-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 2-2011(Temp), f. & cert. ef. 3-1-11 thru 8-20-11; DMAP 19-2011, f. 7-15-11, cert. ef. 7-17-11; DMAP 44-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 12-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 18-2012, f. 3-30-12, cert. ef. 4-9-12; DMAP 26-2012, f. & cert. ef. 5-14-12; DMAP 29-2012, f. & cert. ef. 6-21-12; DMAP 33-2012(Temp), f. 7-18-12, cert. ef. 7-23-12 thru 1-18-13; DMAP 40-

2012(Temp), f. & cert. ef. 8-20-12 thru 1-18-13; DMAP 44-2012(Temp), f. & cert. ef. 9-26-12 thru 1-18-13; DMAP 61-2012, f. 12-27-12, cert. ef. 1-1-13; DMAP 6-2013(Temp), f. & cert. ef. 2-21-13 thru 8-19-13; DMAP 23-2013(Temp), f. 4-30-13, cert. ef. 5-1-13 thru 8-19-13; Administrative correction, 7-18-13; DMAP 43-2013, f. & cert. ef. 8-16-13; DMAP 76-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 1-2014(Temp), f. & cert. ef. 1-10-14 thru 7-9-14; DMAP 15-2014, f. & cert. ef. 3-21-14 thru 9-17-14; DMAP 28-2014(Temp), f. & cert. ef. 5-2-14 thru 6-30-14; DMAP 37-2014, f. & cert. ef. 6-30-14; DMAP 47-2014(Temp), f. & cert. ef. 7-15-14 thru 1-11-15; DMAP 52-2014(Temp), f. & cert. ef. 9-16-14 thru 1-11-15; DMAP 64-2014(Temp), f. 10-24-14, cert. ef. 10-29-14 thru 12-30-14; DMAP 77-2014, f. & cert. ef. 12-12-14; DMAP 78-2014(Temp), f. & cert. ef. 12-12-14 thru 6-9-15; DMAP 88-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 10-2015(Temp), f. & cert. ef. 3-3-15 thru 8-29-15; DMAP 26-2015(Temp), f. 4-17-15, cert. ef. 4-18-15 thru 6-26-15; DMAP 35-2015, f. 6-25-15, cert. ef. 6-26-15; DMAP 37-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

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**Rule Caption:** Service Area Changes for Existing CCOs
**Adm. Order No.:** DMAP 38-2015(Temp)
**Filed with Sec. of State:** 7-1-2015
**Certified to be Effective:** 7-1-15 thru 12-27-15
**Notice Publication Date:**
**Rules Adopted:** 410-141-3040
**Subject:** The Division adopts this temporary rule to provide a consistent framework for existing CCOs electing to apply to the Authority for service area expansion, once the Authority has stated that it has a need for network and capacity in a given service area. The rule provides for the service area expansion process, the review tool and mechanism, and a means for CCO dispute should a CCO not agree with the application review findings or process.
**Rules Coordinator:** Sandy Cafourek—(503) 945-6430

**410-141-3040**
**Service Area Change (SAC) for Existing Coordinated Care Organizations (CCOs)**

For purposes of this rule, the following definitions apply:

(1) "Applicant" means a legal entity that submits an application and seeks recertification and a contract amendment. The legal entity is described, for this use, as the Applicant, upon their submission of the CCO Letter of Intent to Apply.

(2) "Certified" means the Authority's determination that an entity meets the criteria in OAR 410-141-3015 for being a CCO through initial certification or recertification.

(3) "Document Review" means the review conducted by the Authority, occurring at the point after the receipt of the completed SAC packet and before the effective date of the contract amendment, to determine applicant's ability to serve Medicaid beneficiaries in the requested service areas. Successful meeting of the requirements of the document review entitles the applicant to receive a contract amendment for the additional service areas as a recertified CCO in the delivery of Medicaid services.

(4) "Recertification" means the process outlined in this rule allowing the CCO contractor to submit an abbreviated application.

(5) Should a CCO withdraw from a portion of their service area, the CCO shall provide the Authority with a 120 day Letter of Intent to Exit the Service Area. This template can be found on the CCO Contract Forms page. The Authority will work with each CCO for a workable exit transition. Under any other condition, should the Authority identify a need for a CCO service area change, the Authority may implement the processes described within this rule to meet that need at any time.

(6) Existing CCOs wishing to submit a Letter of Intent to Apply (LOIA) for the service area vacated by another CCO will work to complete the Authority's SAC process for application, review, and recertification, supported by ORS 414.625. The Authority will announce the service area need at a CCO Advisory meeting, which is a public meeting, and post the announcement in the minutes reflecting that meeting. The posting will state the Authority's intent to receive LOIA from CCOs for service area changes in the stated service areas. Requests shall be sent to the Authority in the form of a binding LOIA, located on the CCO Contract Forms page. LOIA shall be received by the Authority within 30 calendar days of the date of the announcement posted in the minutes from the CCO Advisory meeting where the service area need was announced. In this letter, the CCO shall designate a sole point of contact for this process. The recertification application is the applicant's offer to enter into a contract and is a firm offer for the period specified in the SAC packet.

(7) Within 15 days of receipt of the LOIA, the Authority shall send a Letter of Acknowledgement and a SAC packet consisting of SAC guidance documents to each applicant that applies for recertification. The SAC packet shall be completed in its entirety and returned to the contract administration unit within 30 calendar days of receipt by the CCO. The Authority shall consider only packets that are responsive, completed as described in the SAC guidance document, and submitted in the time and manner described in this rule. The applicant has an additional 30 calendar days to submit any additional information requested by the Authority.

(8) The Authority shall complete a document review of submitted packets within 30 calendar days of the date the SAC packet and all additional requested information has been received by the Authority. The applicants are eligible for recertification based on criteria specified in the SAC guidance document, the application, written assurances, and any additional information that the Authority obtains and deems satisfactory. The applicant shall be responsible for and meet standards established by the Authority and the current CCO contract.

(9) Except as otherwise expressly provided, applicants shall have the right to dispute any Authority actions or decisions pertaining to this process. Applicants with such disputes pertaining to the obligations or responsibilities to this process may engage in dispute resolution as provided for in OAR 410-141-3267.

Stat. Auth: ORS 413.042, 414.645
Stats. Implemented: ORS 413.042
Hist.: DMAP 38-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

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**Rule Caption:** Process for Resolving Disputes between CCOs and the Oregon Health Authority
**Adm. Order No.:** DMAP 39-2015(Temp)
**Filed with Sec. of State:** 7-1-2015
**Certified to be Effective:** 7-1-15 thru 12-27-15
**Notice Publication Date:**
**Rules Adopted:** 410-141-3267
**Subject:** The Division created this temporary rule to provide immediate direction and clarification as an avenue of recourse for the Coordinated Care Organizations when in dispute with the Oregon Health Authority. This rule directs the CCOs to the administrative review process as identified in OAR 410-120-1580.
**Rules Coordinator:** Sandy Cafourek—(503) 945-6430

**410-141-3267**
**Process for Resolving Disputes between Coordinated Care Organizations (CCOs) and the Oregon Health Authority**

For purposes of this rule:

(1) "Party" means a CCO taking one side of a question or dispute.

(2) In the event of a dispute with the Oregon Health Authority (Authority) initiated by a CCO, the CCO shall use the Division's Administrative Review process as specified in OAR 410-120-1580. If the dispute is likely to impact another CCO, the Authority will notify all CCOs potentially impacted by the dispute and provide an opportunity for the impacted CCOs to participate in the dispute as a party. The Authority shall maintain the confidentiality of proprietary information of a CCO to the extent such information is protected under state or federal law if more than one CCO is involved in the dispute and the dispute involves a subject necessitating the use of proprietary information.

(3) An administrative review, for purposes of this rule, allows the opportunity for the director of the Division of Medical Assistance Programs (Division) or their designee to review a dispute affecting the CCO under the procedures set forth in OAR 410-120-1580. Examples of such disputes may include, but are not limited to, contract compliance disputes, service area changes, and the Authority decisions made through the OHA Provider Discrimination Review Process as a result of a provider discrimination appeal. These disputes primarily address legal or policy issues that may arise in the context of a Division decision that is perceived by the CCO to adversely affect the CCO and is not otherwise reviewed as a claim redeterminaton, a contested case, or client appeal.

(4) The Division shall send written results of the administrative review to the CCO initiating the dispute and any other impacted party within 30 calendar days of the conclusion of the administrative review proceeding, or such other time as may be agreed to by the parties and the Division.

(5) The Division's final decision on administrative review is the final decision of the Authority on the dispute and is binding on the parties. The decision is an order in other than a contested case. Judicial appeal of the decision is subject to ORS 183.484 and the procedures set forth in OAR 137-004-0080 to 137-004-0092.

Stat. Auth: ORS 183.484, ORS 413.042
Stats. Implemented: ORS 183.484, ORS 413.042
Hist.: DMAP 39-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**Rule Caption:** Add Acronym for CCO Where PHP Referenced, Housekeeping, Codification, and Clarification of Overpayments Language
**Adm. Order No.:** DMAP 40-2015
**Filed with Sec. of State:** 7-1-2015
**Certified to be Effective:** 7-1-15
**Notice Publication Date:** 5-1-2015
**Rules Amended:** 410-120-0025, 410-120-1280, 410-120-1360, 410-120-1510, 410-120-1560, 410-120-1960
**Subject:** The Division is amending these rules to reference CCO appropriately where PHP is referenced and make several technical housekeeping revisions, codification corrections, and clarifications for electronic signatures and overpayments.
**Rules Coordinator:** Sandy Cafourek—(503) 945-6430

**410-120-0025**
**Administration of Division of Medical Assistance Programs, Regulation and Rule Precedence**

(1) The Oregon Health Authority (Authority) and its Division of Medical Assistance Programs (Division) may adopt reasonable and lawful policies, procedures, rules, and interpretations to promote the orderly and efficient administration of medical assistance programs including the Oregon Health Plan pursuant to ORS 414.065 (generally, fee-for-service), ORS 414.651(Coordinated Care Organizations), and ORS 414.115 to 414.145 (services contracts), subject to the rulemaking requirements of the Oregon Revised Statutes and Oregon Administrative Rule (OAR) procedures.

(2) In applying its policies, procedures, rules, and interpretations, the Division shall construe them as much as possible to be complementary. In the event that Division policies, procedures, rules and interpretations may not be complementary, the Division shall apply the following order of precedence to guide its interpretation:

(a) For purposes of the provision of covered medical assistance to Division clients, including but not limited to authorization and delivery of service or denials of authorization or services, the Division, clients, enrolled providers, Coordinated Care Organizations, and the Prepaid Health Plans shall apply the following order of precedence:

(A) Oregon Revised Statutes governing medical assistance programs;

(B) Consistent with ORS 413.071,those federal laws and regulations governing the operation of the medical assistance program and any waivers granted the Authority by the Centers for Medicare and Medicaid Services to operate medical assistance programs including the Oregon Health Plan;

(C) Generally for Coordinated Care Organizations, the requirements applicable to the providing covered medical assistance to Division clients are found in OAR 410-141-3000 through 410-141-3485; and where applicable, 410-120-0000 through 410-120-1980; and the provider rules applicable to the category of medical service;

(D) Generally for Prepaid Health Plans, the requirements applicable to providing covered medical assistance to Division clients are found in OAR 410-141-0000 through 410-141-0860; and where applicable, 410-120-0000 through 410-120-1980; and the provider rules applicable to the category of medical service;

(E) Generally for enrolled fee-for-service providers or other contractors, the requirements applicable to providing covered medical assistance to Division clients are found in OAR 410-120-0000 through 410-120-1980, the Prioritized List and program coverage set forth in410-141-0480 to 410-141-0520, and the provider rules applicable to the category of medical service;

(F) Any other applicable duly promulgated rules issued by the Division and other offices or units within the Oregon Health Authority or Department of Human Services necessary to administer the State of Oregon's medical assistance programs, such as electronic data transaction rules in OAR 943-120-0100 to 943-120-0200; and

(G) The basic framework for provider enrollment in OAR 943-120-0300 through 943-120-0380 that generally apply to providers enrolled with the Authority or Department, subject to more specific requirements applicable to the administration of the Oregon Health Plan and medical assistance programs administered by the Authority. For purposes of this rule, "more specific" means the requirements, laws and rules applicable to the provider type and covered services described in paragraphs (A)–(F) of this section.

(b) For purposes of contract administration solely as between the Authority and its Coordinated Care Organizations or Prepaid Health Plans, the terms of the applicable contract and the requirements in section (2)(a) of this rule apply to the provision of covered medical assistance to Division clients:

(A) Nothing in this rule shall be deemed to incorporate into contracts provisions of law not expressly incorporated into such contracts, nor shall this rule be deemed to supersede any rules of construction of such contracts that may be provided for in such contracts;

(B) Nothing in this rule gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly or otherwise, to any individual or entity unless the individual or entity is identified as a named party to the contract.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: OMAP 39-2005, f. 9-2-05, cert. ef. 10-1-05; DMAP 6-2008(Temp), f. & cert. ef. 3-14-08 thru 9-1-08; DMAP 11-2008, f. 4-29-08, cert. ef. 5-1-08; DMAP 28-2012, f. 6-21-12, cert. ef. 7-1-12; DMAP 48-2013, f. & cert. ef. 9-12-13; DMAP 40-2015, f. & cert. ef. 7-1-15

**410-120-1280**
**Billing**

(1) A provider enrolled with the Authority or providing services to a client in a CCO or PHP under the Oregon Health Plan (OHP) may not seek payment, from the client for any services covered by Medicaid fee-for-service or through contracted health care plans:

(a) A client may not be billed for missed appointments. A missed appointment is not considered to be a distinct Medicaid service by the federal government and as such is not billable to the client or the Division;

(b) A client may not be billed for services or treatments that have been denied due to provider error (e.g., required documentation not submitted, prior authorization not obtained, etc.).

(2) For Medicaid covered services the provider may not bill the Division more than the provider's usual charge (see definitions) or the reimbursement specified in the applicable Division program rules.

(3) Providers shall only bill a client or a financially responsible relative or representative of that client in the following situations:

(a) For any applicable coinsurance, copayments and deductibles expressly authorized in OAR chapter 410, divisions 120 and 141, or any other Division program rules;

(b) The client did not inform the provider of their OHP coverage, enrollment in a PHP or CCO, or third party insurance coverage at the time of or after a service was provided, therefore, the provider could not bill the appropriate payer for reasons including, but not limited to, the lack of prior authorization, or the time limit to submit the claim for payment has passed. The provider must verify eligibility, pursuant to OAR 410-120-1140, and document attempts to obtain coverage information prior to billing the client;

(c) The client became eligible for benefits retroactively but did not meet all of the other criteria required to receive the service);

(d) A third party payer made payments directly to the client for services provided;

(e) The client has the limited Citizen Alien Waived Emergency Medical benefit package. CAWEM clients have the benefit package identifier of CWM. Clients receiving CAWEM benefits may be billed for services that are not part of the CAWEM benefits. (See OAR 410-120-1210 for coverage.) The provider must document that the client was informed in advance that the service or item would not be covered by the Division. A DMAP 3165 is not required for these services;

(f) The client has requested a continuation of benefits during the contested case hearing process and the final decision was not in favor of the client. The client shall pay for any charges incurred for the denied service, on or after the effective date on the Notice of Action or Notice of Appeal Resolution. The provider must complete the DMAP 3165 pursuant to section (3)(h) of this rule before providing these services;

(g) In exceptional circumstances, a client may decide to privately pay for a covered service. In this situation, the provider may bill the client if the provider informs the client in advance of all of the following:

(A) The requested service is a covered service, and the appropriate payer (the Division, PHP, CCO or third party payer) would pay the provider in full for the covered service; and

(B) The estimated cost of the covered service, including all related charges, the amount that the appropriate payer would pay for the service, and that the provider cannot bill the client for an amount greater than the amount the appropriate payer would pay; and

(C) That the client knowingly and voluntarily agrees to pay for the covered service;

(D) The provider documents in writing, signed by the client or the client's representative, indicating that the provider gave the client the information described in section (3)(g)(A-C); and that the client had an opportunity to ask questions, obtain additional information and consult with the

client's caseworker or client representative; and the client agreed to privately pay for the service by signing an agreement incorporating all of the information described above. The provider must give a copy of the signed agreement to the client. A provider may not submit a claim for payment for covered services to the Division or to the client's PHP, CCO or third party payer that is subject to the agreement.

(h) A provider may bill a client for services that are not covered by the Division, PHP, or CCO (see definition of non-covered services). Before providing the non-covered service, the client must sign the provider-completed Agreement to Pay (DMAP 3165), or a facsimile containing all of the information and elements of the DMAP 3165 as shown in Table 3165 of this rule. The completed DMAP 3165, or facsimile, is valid only if the estimated fee does not change and the service is scheduled within 30 days of the client's signature. Providers must make a copy of the completed DMAP 3165, or facsimile, available to the Division, PHP or CCO upon request.

(4) Code Set requirements:

(a) Federal Code Set requirements (45 CFR 162) apply to all Medicaid Code Set requirements, including the use of diagnostic or procedure codes for prior authorization, claims submissions and payments. Code Set has the meaning set forth in 45 CFR 162.103, and it includes the codes and the descriptors of the codes. Federal Code Set requirements are mandatory, and the Division lacks any authority to delay or alter their application or effective dates as established by the U.S. Department of Health and Human Services;

(b) The Division shall adhere to the Code Set requirements in 45 CFR 162.1000–162.1011;

(c) Periodically, the Division shall update its provider rules and tables to conform to national codes. In the event of an alleged variation between a Division-listed code and a national code, the Division shall apply the national code in effect on the date of request or date of service;

(d) Only codes with limitations or requiring prior authorization are noted in rules. National Code Set issuance alone should not be construed as coverage or a covered service by the Division;

(e) The Division adopts by reference the National Code Set revisions, deletions, and additions issued and published by the American Medical Association (Current Procedural Terminology — CPT) and on the CMS website (Healthcare Common Procedural Coding System — HCPCS). This code adoption should not be construed as coverage or as a covered service by the Division.

(5) Claims:

(a) Upon submission of a claim to the Division for payment, the provider agrees that it has complied with all Division program rules. Submission of a claim, however, does not relieve the provider from the requirement of a signed provider agreement;

(b) A provider enrolled with the Division must bill using the Authority assigned provider number, or the National Provider Identification (NPI) number if the NPI is available, pursuant to OAR 410-120-1260;

(c) The provider may not bill the Division more than the provider's usual charge (see definitions) or the reimbursement specified in the applicable Division program rules;

(d) Claims must be submitted on the appropriate form as described in the individual Division program rules or electronically in a manner authorized in OAR chapter 943, division 120;

(e) Claims must be for services provided within the provider's licensure or certification;

(f) Unless otherwise specified, claims must be submitted after:

(A) Delivery of service; or

(B) Dispensing, shipment or mailing of the item.

(g) The provider must submit true and accurate information when billing the Division. Use of a billing provider does not abrogate the performing provider's responsibility for the truth and accuracy of submitted information;

(h) A claim is considered a valid claim only if all required data is entered on or attached to the claim form. See the appropriate provider rules and supplemental information for specific instructions and requirements;

(i) A provider or its contracted agency, including billing providers, may not submit or cause to be submitted:

(A) Any false claim for payment;

(B) Any claim altered in such a way as to result in a payment for a service that has already been paid;

(C) Any claim upon which payment has been made or is expected to be made by another source unless the amount paid or to be paid by the other party is clearly entered on the claim form;

(D) Any claim for furnishing specific care, items, or services that has not been provided.

(j) The provider is required to submit an Individual Adjustment Request or to refund the amount of the overpayment on any claim where the provider identifies an overpayment made by the Division;

(k) A provider who, after having been previously warned in writing by the Division or the Department of Justice about improper billing practices, is found to have continued improper billing practices and has had an opportunity for a contested case hearing shall be liable to the Division for up to triple the amount of the Division established overpayment received as a result of the violation.

(6) Diagnosis code requirement:

(a) A primary diagnosis code is required on all claims, using the HIPAA nationally required diagnosis Code Set, unless specifically excluded in individual Division program rules;

(b) All diagnosis codes are required to the highest degree of specificity;

(c) Hospitals must bill using the 5th digit in accordance with methodology used in the Medicare Diagnosis Related Groups.

(7) Procedure code requirement:

(a) For claims requiring a procedure code the provider must bill as instructed in the appropriate Division program rules and must use the appropriate HIPAA procedure Code Set such as CPT, HCPCS, ICD-9-CM, ADA CDT, NDC, established according to 45 CFR 162.1000 to 162.1011, which best describes the specific service or item provided;

(b) For claims that require the listing of a diagnosis or procedure code as a condition of payment, the code listed on the claim form must be the code that most accurately describes the client's condition and the services provided. Providers must use the ICD-9-CM diagnosis coding system when a diagnosis is required unless otherwise specified in the appropriate individual Division program rules. Hospitals must follow national coding guidelines;

(c) When there is no appropriate descriptive procedure code to bill the Division, the provider must use the code for "unlisted services." Instructions on the specific use of unlisted services are contained in the individual provider rules. A complete and accurate description of the specific care, item, or service must be documented on the claim;

(d) Where there is one CPT, CDT, or HCPCS code that according to CPT, CDT, and HCPCS coding guidelines or standards describes an array of services, the provider must bill the Division using that code rather than itemizing the services under multiple codes. Providers may not "unbundle" services in order to increase the payment.

(8) Third party Liability (TPL):

(a) Federal law requires that state Medicaid agencies take all reasonable measures to ensure that in most instances the Division shall be the payer of last resort;

(b) Providers must make reasonable efforts to obtain payment first from other resources. For the purposes of this rule "reasonable efforts" include determining the existence of insurance or other resources on each date of service by:

(A) Using an insurance database such as Electronic Verification System (EVS) available to the provider;

(B) Using the Automated Voice Response (AVR) or secure provider web portal on each date of service and at the time of billing.

(c) Except as noted in section (8)(d)(A through E) below, when third party coverage is known to the provider prior to billing the Division the provider must:

(A) Bill the TPL; and

(B) Except for pharmacy claims billed through the Division's point-of-sale system, the provider must wait 30 days from submission date of a clean claim and have not received payment from the third party; and

(C) Comply with the insurer's billing and authorization requirements; and

(D) Appeal a denied claim when the service is payable in whole or in part by an insurer.

(d) In accordance with federal regulations the provider must bill the TPL prior to billing the Division, except under the following circumstances:

(A) The covered health service is provided by an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/ID);

(B) The covered health service is provided by institutional services for the mentally and emotionally disturbed;

(C) The covered health services are prenatal and preventive pediatric services;

(D) Services are covered by a third party insurer through an absent parent where the medical coverage is administratively or court ordered;

(E) When another party may be liable for an injury or illness (see definition of Liability Insurance), the provider may bill the insurer, the liable party, place a lien against a settlement, or bill the Division. The provider may not both place a lien against a settlement and bill the Division. The provider may withdraw the lien and bill the Division within 12 months of the date of service. If the provider bills the Division, the provider must accept payment made by the Division as payment in full.

(e) The provider may not return the payment made by the Division in order to accept payment from a liability settlement or liability insurer or place a lien against that settlement:

(A) In the circumstances outlined in section (8)(d)(A) through (E) above, the provider may choose to bill the primary insurance prior to billing the Division. Otherwise, the Division shall process the claim and, if applicable, pay the Division's allowable rate for these services and seek reimbursement from the liable third party insurance plan;

(B) In making the decision to bill the Division the provider should be cognizant of the possibility that the third party payer may reimburse the service at a higher rate than the Division, and that, once the Division makes payment no additional billing to the third party is permitted by the provider.

(f) The provider may bill the Division directly for services that are never covered by Medicare or another insurer on the appropriate form identified in the relevant provider rules. Documentation must be on file in the provider's records indicating this is a non-covered service for purposes of Third Party Resources. See the individual provider rules for further information on services that must be billed to Medicare first;

(g) Providers shall submit an Individual Adjustment Request showing the amount of the third party payment or to refund the amount received from another source within 30 days of the date the payment is received. Failure to submit the Individual Adjustment Request within 30 days of receipt of the third party payment or to refund the appropriate amount within this time frame is considered concealment of material facts and grounds for recovery and sanction:

(A) When a provider receives a payment from any source prior to the submission of a claim to the Division, the amount of the payment must be shown as a credit on the claim in the appropriate field;

(B) Any provider who accepts third party payment for furnishing a service or item to a Division client after having billed the Division shall:

(i) Submit an Individual Adjustment Request indicating the amount of the third party payment. Follow instructions in the individual Division program rules and supplemental billing; or

(ii) When the provider has already accepted payment from the Division for the service or item, the provider shall make direct payment of the amount of the third party payment to the Division. The check to repay the Division shall include the reason the payment is being made 333and either:

(I) An Individual Adjustment Request that identifies the original claim, name and number of the client, date of service and items or services for which the repayment is made; or

(II) A copy of the Remittance Advice showing the original Division payment.

(C) Any provider who accepts payment from a client, or client's representative and is subsequently paid for the service by the Division shall reimburse the client or their representative the full amount of their payment.

(h) The Division may make a claim against any third party payer after making payment to the provider of service. The Division may pursue alternate resources following payment if it deems this a more efficient approach. Pursuing alternate resources includes, but is not limited to, requesting the provider to bill the third party and to refund the Division in accordance with this rule;

(i) For services provided to a Medicare and Medicaid dual eligible client, the Division may request the provider to submit a claim for Medicare payment, and the provider must honor that request. Under federal regulation, a provider may not charge a beneficiary (or the state as the beneficiary's subrogee) for services for which a provider failed to file a timely claim (42 CFR 424) with Medicare despite being requested to do so;

(j) If Medicare is the primary payer and Medicare denies payment, Medicare appeals must be timely pursued, and Medicare denial must be obtained prior to submitting the claim for payment to the Division. Medicare denial on the basis of failure to submit a timely appeal may result in the Division reducing from the amount of the claim any amount the Division determines could have been paid by Medicare.

(9) Full use of alternate resources:

(a) The Division shall generally make payment only when other resources are not available for the client's medical needs. Full use must be made of reasonable alternate resources in the local community;

(b) Except as provided in subsection (10) of this rule, alternate resources may be available:

(A) Under a federal or state worker's compensation law or plan;

(B) For items or services furnished by reason of membership in a prepayment plan;

(C) For items or services provided or paid for directly or indirectly by a health insurance plan or as health benefits of a governmental entity such as:

(i) Armed Forces Retirees and Dependents Act (CHAMPVA);

(ii) Armed Forces Active Duty and Dependents Military Medical Benefits Act (CHAMPUS); or

(iii) Medicare Parts A and B.

(D) To residents of another state under that state's Title XIX or state funded medical assistance programs; or

(E) Through other reasonably available resources.

(10) Exceptions:

(a) Indian Health Services or Tribal Health Facilities. Pursuant to 42 CFR 136.61 subpart G and the Memorandum of Agreement in OAR 310-146-0000, Indian Health Services facilities and tribal facilities operating under Public Law 93, Section 638 agreement are payers of last resort and are not considered an alternate resource or TPL;

(b) Veterans Administration. Veterans who are also eligible for Medicaid benefits are encouraged to utilize Veterans' Administration facilities whenever possible. Veterans' benefits are prioritized for service related conditions and as such are not considered an alternate or TPL.

(11) Table 120-1280 – TPR codes.

(12) Table – OHP Client Agreement to Pay for Health Services, DMAP 3165.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.025, 414.065

Hist.: PWC 683, f. 7-19-74, ef. 8-11-74; PWC 803(Temp), f. & ef. 7-1-76; PWC 812, f. & ef. 10-1-76; AFS 5-1981, f. 1-23-81, ef. 3-1-81, Renumbered from 461-013-0050, 461-013-0060, 461-013-0090 & 461-013-0020; AFS 47-1982, f. 4-30-82, & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 117-1982, f. 12-30-82, ef. 1-1-83; AFS 42-1983, f. 9-2-83, ef. 10-1-83; AFS 45-1983, f. 9-19-83, ef. 10-1-83; AFS 6-1984(Temp), f. 2-28-84, ef. 3-1-84; AFS 36-1984, f. & ef. 8-20-84; AFS 24-1985, f. 4-24-85, cert. ef. 6-1-85; AFS 33-1986, f. 4-11-86, ef. 6-1-86; AFS 43-1986, f. 6-13-86, ef. 7-1-86; AFS 57-1986, f. 7-25-86, ef. 8-1-86; AFS 14-1987, f. 5-31-87, ef. 4-1-87; AFS 38-1988, f. 5-17-88, cert. ef. 6-1-88; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90, Renumbered from 461-013-0140, 461-013-0150, 461-013-0175 & 461-013-0180; HR 19-1990, f. & cert. ef. 7-9-90; HR 41-1991, f. & cert. ef. 10-1-91; HR 32-1993, f. & cert. ef. 11-1-93, Renumbered from 410-120-0040, 410-120-0260, 410-120-0280, 410-120-0300 & 410-120-0320; HR 31-1994, f. & cert. ef. 11-1-94; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; HR 21-1997, f. & cert. ef. 10-1-97; OMAP 20-1998, f. & cert. ef. 7-1-98; OMAP 10-1999, f. & cert. ef. 4-10-99; OMAP 31-1999, f. & cert. ef. 10-1-99; OMAP 35-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 30-2001, f. 9-24-01, cert. ef 10-1-01; OMAP 23-2002, f. 6-14-02 cert. ef. 8-1-02; OMAP 42-2002, f. & cert. ef. 10-1-02; OMAP 73-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 62-2003, f. 9-8-03, cert. ef.10-1-03; OMAP 10-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 10-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 39-2005, f. 9-2-05, cert. ef. 10-1-05; OMAP 67-2005, f. 12-21-05, cert. ef. 1-1-06; OMAP 15-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 45-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 39-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 49-2012, f. 10-31-12, cert. ef. 11-1-12; DMAP 61-2013, f. 10-31-13, cert. ef. 11-1-13; DMAP 40-2015, f. & cert. ef. 7-1-15

**410-120-1360**

**Requirements for Financial, Clinical and Other Records**

(1) The Authority shall analyze, monitor, audit, and verify the accuracy and appropriateness of payment, utilization of services, medical necessity, medical appropriateness, quality of care, and access to care of the Medical Assistance Programs and the Children's Health Insurance Program.

(2) The provider or the provider's designated billing service or other entity responsible for the maintenance of financial, clinical, and other records shall develop and maintain adequate financial and clinical records and other documentation that supports the specific care, items, or services for which payment has been requested. Payment shall be made only for services that are adequately documented. Documentation shall be completed before the service is billed to the Division and meet the following requirements:

(a) All records shall document the specific service provided, the number of services or items comprising the service provided, the extent of the service provided, the dates on which the service is provided, and the individual providing the service. Patient account and financial records shall also include documentation of charges, identify other payment resources pursued, indicate the date and amount of all debit or credit billing actions, and support the appropriateness of the amount billed and paid. For cost reimbursed services, the provider shall maintain adequate records to thoroughly explain how the amounts reported on the cost statement were deter-

mined. The records shall be accurate and in sufficient detail to substantiate the data reported;

(b) Clinical records, including records of all therapeutic services, shall document the client's diagnosis and the medical need for the service. The client's record shall be annotated each time a service is provided and signed or initialed by the individual who provided the service or shall clearly indicate the individual who provided the service. For purposes of medical review, the Authority adopts Medicare's electronic signature policy as outlined in the CMS Medicare Program Integrity Manual. Information contained in the record shall be appropriate in quality and quantity to meet the professional standards applicable to the provider or practitioner and any additional standards for documentation found in this rule, the individual provider rules, and any relevant contracts;

(c) Electronic Data Transmissions shall comply with the Uniform Electronic Transactions Act cited in ORS chapter 84 and OAR 943-120-0100;

(d) Policies and procedures shall ensure the maintenance of the confidentiality of medical record information. These procedures ensure the provider may release information in accordance with federal and state statutes, ORS 179.505 through 179.507, 411.320, and 433.045, 42 CFR part 2, 42 CFR subpart F, 45 CFR 205.50.

(e) Retain clinical records for seven years and financial and other records described in paragraphs (a) and (b) of this rule for at least five years from the date(s) of service.

(3) Upon written request from the Authority, the Medicaid Fraud Unit, Oregon Secretary of State, the Department of Health and Human Services (DHHS), or their authorized representatives furnish requested documentation immediately or within the time-frame specified in the request. Copies of the documents may be furnished unless the originals are requested. At their discretion, official representatives of the Authority, Medicaid Fraud Unit, or DHHS may review and copy the original documentation in the provider's place of business. Upon the written request of the provider, the program or the unit may, at their sole discretion, modify or extend the time for providing records if, in the opinion of the program or unit good cause for an extension is shown. Factors used in determining whether good cause exists include:

(a) Whether the written request was made in advance of the deadline for production;

(b) If the written request is made after the deadline for production, the amount of time elapsed since that deadline;

(c) The efforts already made to comply with the request;

(d) The reasons the deadline cannot be met;

(e) The degree of control that the provider had over its ability to produce the records prior to the deadline;

(f) Other extenuating factors.

(4) Access to records, inclusive of medical charts and financial records does not require authorization or release from the client if the purpose is:

(a) To perform billing review activities;

(b) To perform utilization review activities;

(c) To review quality, quantity, and medical appropriateness of care, items, and services provided;

(d) To facilitate payment authorization and related services;

(e) To investigate a client's contested case hearing request;

(f) To facilitate investigation by the Medicaid Fraud Unit or DHHS; or

(g) Where review of records is necessary to the operation of the program.

(5) Failure to comply with requests for documents within the specified time-frames means that the records subject to the request may be deemed by the Authority not to exist for purposes of verifying appropriateness of payment, medical appropriateness, the quality of care, and the access to care in an audit or overpayment determination may subject the provider to possible denial or recovery of payments made by the Division or to sanctions.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.025, 414.065, 414.115, 414.125, 414.135, 414.145

Hist.: PWC 683, f. 7-19-74, ef. 8-11-74; PWC 803(Temp), f. & ef. 7-1-76; PWC 812, f. & ef. 10-1-76; AFS 5-1981, f. 1-23-81, ef. 3-1-81, Renumbered from 461-013-0060; AFS 47-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 117-1982, f. 12-30-82, ef. 1-1-83; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90, Renumbered from 461-013-0180; HR 41-1991, f. & cert. ef. 10-1-91; HR 32-1993, f. & cert. ef. 11-1-93, Renumbered from 410-120-0040; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 20-1998, f. & cert. ef. 7-1-98; OMAP 10-1999, f. & cert. ef. 4-1-99; OMAP 31-1999, f. & cert. ef. 10-1-99; OMAP 35-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 19-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 10-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 39-2005, f. 9-2-05, cert. ef. 10-1-05; DMAP 49-2012, f. 10-31-12, cert. ef. 11-1-12; DMAP 40-2015, f. & cert. ef. 7-1-15

**410-120-1510**
**Fraud and Abuse**

(1) This rule sets forth requirements for reporting, detecting and investigating fraud and abuse. The terms fraud and abuse are defined in OAR 410-120-0000. For the purpose of these rules, the following definitions apply:

(a) "Credible allegation of fraud" means an allegation of fraud, that has been verified by the state and has indicia of reliability that comes from any source as defined in 42 CFR 455.2;

(b) "Conviction" or "convicted" means that a judgment of conviction has been entered by a federal, state, or local court regardless of whether an appeal from that judgment is pending;

(c) "Exclusion" means that the Authority or the Department of Human Services (Department) shall not reimburse a specific provider who has defrauded or abused the Authority or Department for items or services which that provider furnished;

(d) "Prohibited kickback relationships" means remuneration or payment practices that may result in federal civil penalties or exclusion for violation of 42 CFR 1001.951;

(e) "Suspension" means the Authority or Department shall not reimburse a specified provider who has been convicted of a program-related offense in a federal, state, or local court for items or services which that provider furnished.

(2) Cases involving one or more of the following situations shall constitute sufficient grounds for a provider fraud referral:

(a) Billing for services, supplies, or equipment that are not provided to or used for Medicaid patients;

(b) Billing for supplies or equipment that are clearly unsuitable for the patient's needs or are so lacking in quality or sufficiency for the purpose as to be virtually worthless;

(c) Claiming costs for non-covered or non-chargeable services, supplies, or equipment disguised as covered items;

(d) Materially misrepresenting dates and descriptions of services provided, and the identity of the individual who provided the services or of the recipient of the services;

(e) Duplicate billing of the Medicaid program or of the recipient that appears to be a deliberate attempt to obtain additional reimbursement; and

(f) Arrangements by providers with employees, independent contractors, suppliers, and other various devices such as commissions and fee splitting that appear to be designed primarily to obtain or conceal illegal payments or additional reimbursement from Medicaid.

(3) The provider shall promptly refer all suspected fraud and abuse, including fraud or abuse by its employees or in the Division administration, to the Medicaid Fraud Control Unit (MFCU) of the Department of Justice or to the Department's Provider Audit Unit (PAU). Contact information may be found online at: http://www.oregon.gov/oha/healthplan/Pages/general-rules.aspx.

(4) If the provider is aware of suspected fraud or abuse by an Authority or Department client, the provider shall report the incident to the Department's Fraud Investigations Unit (FIU). Contact information may be found online at http://www.oregon.gov/oha/healthplan/Pages/general-rules.aspx.

(5) The provider shall permit the MFCU, Authority, Department, or law enforcement entity, together or separately, to inspect, copy, evaluate, or audit books, records, documents, files, accounts, and facilities without charge, as required to investigate an incident of fraud or abuse. When a provider fails to provide immediate access to records, Medicaid payments may be withheld or suspended.

(6) Providers and their fiscal agents shall disclose ownership and control information and disclose information on a provider's owners and other persons convicted of criminal offenses against Medicare, Medicaid, CHIP, or the Title XX services program. Such disclosure and reporting is made a part of the provider enrollment agreement, and the provider shall update that information with an amended provider enrollment agreement if any of the information materially changes. The Authority or Department shall use that information to meet the requirements of 42 CFR 455.100 to 455.106, and this rule shall be construed in a manner that is consistent with the Authority or Department acting in compliance with those federal requirements.

(7) The Authority or Department may share information for health oversight purposes with the MFCU and other federal or state health oversight authorities.

(8) The Authority or Department may suspend payments in whole or part in a suspected case of fraud or abuse; or where there exists a credible allegation of fraud or abuse presented to the Authority, the Department, or law enforcement entity; or where there is a pending investigation or conclusion of legal proceedings related to the provider's alleged fraud or abuse.

(9) The Authority or Department may take the actions necessary to investigate and respond to credible allegations of fraud and abuse, including but not limited to suspending or terminating the provider from participation in the medical assistance programs, withholding payments or seeking recovery of payments made to the provider, or imposing other sanctions provided under state law or regulations. These actions by the Authority or Department may be reported to CMS, or other federal or state entities as appropriate.

(10) The Authority or Department shall not pay for covered services provided by persons who are currently suspended, debarred, or otherwise excluded from participating in Medicaid, Medicare, CHIP, or who have been convicted of a felony or misdemeanor related to a crime or violation of Title XVIII, XIX, XXI, or XX of the Social Security Act or related laws.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.025 & 414.065
Hist.: OMAP 39-2005, f. 9-2-05, cert. ef. 10-1-05; DMAP 36-2011, f. 12-13-11, cert. ef. 1-1-12; DMAP 40-2015, f. & cert. ef. 7-1-15

**410-120-1560**
**Provider Appeals**

(1) For purposes of Division provider appeal rules in chapter 410, division 120, the following terms and definitions are used:

(a) "Provider" means an individual or entity enrolled with the Division or under contract with the Division that is subject to the Division rules and that has requested an appeal in relation to health care, items, drugs, or services provided or requested to be provided to a client on a fee-for-service basis or under contract with the Division where that contract expressly incorporates these rules;

(b) "Provider Applicant" means an individual or entity that has submitted an application to become an enrolled provider with the Division, but the application has not been approved;

(c) "Prepaid Health Plan" has the meaning set forth in OAR 410-141-0000, except to the extent that Mental Health Organizations (MHO) have separate procedures applicable to provider grievances and appeals;

(d) "Prepaid Health Plan provider" means an individual or entity enrolled with the Division but that provided health care services, supplies or items to a client enrolled with a PHP, including both participating providers and non-participating providers as those terms are defined in OAR 410-141-0000, except that services provided to a client enrolled with an MHO shall be governed by the provider grievance and appeal procedures administered by the Authority's Addictions and Mental Health Division;

(e) The "Provider Appeal Rules" refers to the rules in OAR 410-120-1560 to 410-120-1700, describing the availability of appeal procedures and the procedures applicable to each;

(f) "Non-participating provider" has the meaning set forth in OAR 410-141-0000;

(g) Coordinated Care Organization (CCO) has the meaning set forth in OAR 410-141-0000.

(2) A Division enrolled provider may appeal a Division decision in which the provider is directly adversely affected including but not limited to the following:

(a) A denial or limitation of payment allowed for services or items provided;

(b) A denial related to an NCCI edit;

(c) A denial of provider's application for new or continued participation in the Medical Assistance Program; or

(d) Sanctions imposed, or intended to be imposed, by the Division on a provider or provider entity; and

(e) Division overpayment determinations made under OAR 410-120-1397.

(3) Client appeals of actions must be handled in accordance with OAR 140-120-1860 and 410-120-1865.

(4) A provider appeal is initiated by filing a timely request in writing for review with the Division:

(a) A provider appeal request is not required to follow a specific format as long as it provides a clear written expression from a provider or provider applicant expressing disagreement with a Division decision or from a CCO or PHP provider expressing disagreement with a decision by a CCO or PHP.

(b) The request must identify the decision made by the Division, a CCO, or PHP that is being appealed and the reason the provider disagrees with that decision.

(c) A provider appeal request is timely if it is received by the Division:

(A) Within 180 calendar days from the date of the Division's fee-for-service decision;

(B) Within 30 calendar days from the date of the CCO or PHP decision after the provider completes the CCO or PHP appeal process.

(5) Types and methods for provider appeals are:

(a) Claim redeterminations: A Division denial of or limitation of payment allowed, including prior authorization decision, or Division overpayment determination for services or items provided to a client must be appealed as claim re-determinations under OAR 410-120-1570.

(b) Contested Case: A notice of sanctions imposed or intended to be imposed, the effect of the notice of sanction is, or will be, to deny, suspend, or revoke a provider number necessary to participate in the medical assistance on a provider, or provider applicant is entitled to appeal under OAR 410-120-1600. A provider that may appeal a notice of sanction as a contested case may choose to request administrative review instead of contested case hearing if the provider submits a written request for administrative review and agrees in writing to waive the right to a contested case hearing and the Division agrees to review the appeal as an administrative review.

(c) Administrative review: All provider appeals of Division decisions not described in section (4)(a) or (b) are handled as administrative reviews in accordance with OAR 410-120-1580, unless the Division issues an order granting a contested case hearing.

(6) Decisions that adversely affect a provider may be made by different program areas within the Authority:

(a) Decisions issued by the Office of Payment Accuracy and Recovery (OPAR) or the Authority information security office shall be appealed in accordance with the process described in the notice;

(b) Other program areas within the Authority that have responsibility for administering medical assistance funding, such as nursing home care or community mental health and developmental disabilities program services, may make decisions that adversely affect a provider. Those providers are subject to the provider grievance or appeal processes applicable to those payment or program areas;

(c) Some decisions that adversely affect a provider are issued on behalf of the Division by Authority contractors such as the Division pharmacy benefits manager, by entities performing statutory functions related to the medical assistance programs such as the Drug Use Review Board, or by other entities in the conduct of program integrity activities applicable to the administration of the medical assistance programs. For these decisions made on behalf of the division in which the Division has legal authority to make the final decision in the matter, a provider may appeal the decision to the Division as an administrative review, and the Division may accept the review;

(d) This rule does not apply to contract administration issues that may arise solely between the Division and a CCO or PHP. Those issues shall be governed by the terms of the applicable contract;

(e) The Division provides limited provider appeals for CCO or PHP providers or non-participating providers concerning a decision by a CCO or PHP. In general, the relationship between a CCO or PHP and their providers is a contract matter between them. Client appeals are governed by the client appeal rules, not provider appeal rules.

(A) The CCO or PHP provider seeking a provider appeal must have a current valid provider enrollment agreement with the Division and, unless the provider is a non-participating provider, must also have a contract with the CCO or PHP; and

(B) The CCO or PHP provider or non-participating provider must have exhausted the applicable appeal procedure established by the CCO or PHP, and the request for provider appeal must include a copy of the CCO or PHP written decision that is being appealed and a copy of any CCO or PHP policy being applied in the appeal; and

(C) The CCO or PHP provider appeal or non-participating provider appeal from a CCO or PHP decision is limited to issues related to the scope of coverage and authorization of services under the OHP, including whether services are included as covered on the Prioritized List, guidelines, and in the OHP Benefit package. The Division provider appeal process does not include CCO or PHP payment or claims reimbursement amount issues, except in relation to non-participating provider matters governed by Division rule;

(D) A timely provider request for appeal must be made within 30 calendar days from the date of the CCO or PHP's decision and include evidence that the PHP was sent a copy of the provider appeal. In every

provider appeal involving a CCO or PHP decision, the CCO or PHP shall be treated as a participant in the appeal.

(7) If a provider's request for appeal is not timely, the Division shall determine whether the failure to file the request was caused by circumstances beyond the control of the provider, provider applicant, or CCO or PHP provider. In determining whether to accept a late request for review, the Division requires the request to be supported by a written statement that explains why the request for review is late. The Division may conduct further inquiry as the Division deems appropriate. In determining timeliness of filing a request for review, the amount of time that the Division determines accounts for circumstances beyond the control of the provider is not counted. The Division may refer an untimely request to the Office of Administrative Hearings for a hearing on the question of timeliness.

(8) The burden of presenting evidence to support a provider appeal is on the provider, provider applicant, CCO, or PHP provider:

(a) Consistent with OAR 410-120-1360, payment on a claim shall be made only for services that are adequately documented and billed in accordance with OAR 410-120-1280 and all applicable administrative rules related to covered services for the client's benefit package and establishing the conditions under which services, supplies or items are covered, such as the Prioritized List, medical appropriateness and other applicable standards;

(b) Eligibility for enrollment and for continued enrollment is based on compliance with applicable rules, the information submitted or required to be submitted with the application for enrollment and the enrollment agreement, and the documentation required to be produced or maintained in accordance with OAR 410-120-1360.

(9) Provider appeal proceedings, if any, shall be held in Salem, unless otherwise stipulated to by all parties and agreed to by the Division.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042

Hist.: AFS 13-1984(Temp), f. & ef. 4-2-84; AFS 37-1984, f. 8-30-44, ef. 9-1-84; AFS 51-1985, f. 8-16-85, ef. 9-1-85; AFS 47-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90, Renumbered from 461-013-0191; HR 41-1991, f. & cert. ef. 10-1-91; HR 32-1993, f. & cert. ef. 11-1-93, Renumbered from 410-120-0780; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 41-2000, f. & cert. ef. 12-1-00; OMAP 19-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 39-2005, f. 9-2-05, cert. ef. 10-1-05; OMAP 15-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 24-2007, f. 12-11-07 cert. ef. 1-1-08; DMAP 13-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 11-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 49-2012, f. 10-31-12, cert. ef. 11-1-12; DMAP 40-2015, f. & cert. ef. 7-1-15

**410-120-1960**

**Payment of Private Insurance Premiums**

(1) Private Insurance Premium (PHI) and Health Insurance Premium Payment (HIPP) are cost saving programs administered by the Authority and the Department for Medicaid enrollees. When a Medicaid client or eligible enrollee is covered by employer sponsored group health insurance or private health insurance, the Authority or Department may choose to reimburse all or a portion of the insurance premium, if it is determined to be cost effective for the Authority or Department.

(2) The Authority or Department may pay health insurance policy premiums or otherwise enter into agreements with other health insurance plans that comply with ORS 414.115 to 414.145 on behalf of eligible individuals when:

(a) The client is enrolled in a full coverage Medicaid program approved by the Authority or Department (excluding CHIP and CAWEM);

(b) The policy is a comprehensive major medical insurance plan (comparable to the Medicaid State Plan coverage) and at a minimum provides the following:

(A) Physician services;

(B) Hospitalization (inpatient and outpatient);

(C) Outpatient lab, x-ray, immunizations; and

(D) Full prescription drug coverage.

(c) The payment of premiums, co-insurance, and deductibles is likely to be cost-effective, as determined under section (5) of this rule;

(d) An eligible applicant may be a non-Medicaid individual living in or outside the household. The Authority or Department may pay the entire premium (excluding the employer's portion) if payment of the premium including the non-Medicaid individual is cost-effective and if it is necessary to include that individual in order to enroll the client in the health plan.

(3) The Authority or Department shall not pay private health insurance premiums for:

(a) Non-SSI institutionalized and waivered clients whose income deduction is used for payment of health insurance premiums;

(b) A policy that has limited benefits where the Authority or Department's annual cost for the premiums exceeds the benefit limits of the policy;

(c) Medicaid eligible clients enrolled in Medicare Part A, Part B, and Part C;

(d) Non-major medical stand-alone policies such as dental, vision, cancer, or accident only;

(e) When the purpose of the policy is providing court ordered health insurance.

(4) The Authority or Department shall assure that all Medicaid covered services continue to be made available to Medicaid-eligible individuals for whom the Authority or Department elects to purchase all or a portion of their private or employer-sponsored health insurance.

(5) Assessment of cost-effectiveness shall include:

(a) The Medical Savings Chart (MSC) is used to obtain the cost effectiveness rate for each Medicaid eligible client;

(b) In cases where there is more than one Medicaid eligible client covered by a single insurance policy, the cost effectiveness rates are combined and compared to the cost of the insurance premium. If the combined cost effectiveness rate total is greater than the cost of the premium, it is approved as cost effective;

(c) If the monthly premium exceeds the allowable amount on the MSC, the Authority or Department may elect to review the current and probable future health status of the Medicaid client based upon their existing medical conditions, previous medical history, age, number of dependents, and other relevant health status indicators. The Authority or Department may apply a special conditions rate in addition to the cost-effectiveness rate on the MSC to determine if their premium is cost effective.

(6) The Authority or Department may purchase documents or records necessary to establish or maintain the client's eligibility for other insurance coverage.

(7) The Authority or Department may not make payments for any benefits covered under the private health insurance plan except as follows:

(a) The Authority or Department shall calculate the allowable payment for a service. The amount paid by the other insurer shall be deducted from the allowable. If the allowable exceeds the third party payment, the Authority or Department shall pay the provider of service the difference;

(b) The payment may not exceed any co-insurance, copayment, or deductible due;

(c) The Authority or Department shall make payment of co-insurance, copayments, or deductibles due only for covered services provided to Medicaid eligible clients.

(8) Any change of insurance coverage shall be reported to the Authority or Department within ten days of the change. If the Authority or Department determines reimbursement of premiums was made on behalf of the client for a policy no longer in effect, the payee shall be liable for repayment to the Authority or Department for the full amount of any overpayment established. To minimize any overpayment made on the client's behalf, changes that must be reported include but are not limited to:

(a) Private or employer-sponsored insurance no longer active;

(b) Family member added or dropped from health insurance plan;

(c) Change in health insurance plan or health plan coverage;

(d) Change in employer resulting in change in health insurance plan;

(e) Change in health plan premium cost;

(f) Change in employment status (lay off or termination, short-term disability);

(g) Address changes.

(9) As a condition of eligibility, clients must pursue assets (OAR 461-120-0330) and obtain medical coverage (OAR 461-120-0345). Failure to notify the Authority or Department of insurance coverage or changes in coverage and failure to provide periodic required documentation for PHI/HIPP may impact continued eligibility.

(10) If it is determined that reimbursement of premiums is cost-effective, payments shall begin in the next new month following the determination; however, the Authority or Department may approve a retroactive payment when appropriate.

(11) Cancellation of premium payment shall result when:

(a) A client is no longer eligible for a medical program approved by the Authority or Department;

(b) A client is no longer covered by the employer-sponsored or private health insurance plan;

(c) A health insurance premium is no longer cost effective for the Authority or Department;

(d) Failure to submit or complete redetermination forms or provide documentation required by the Authority or Department to complete redetermination;

(e) A client or eligible applicant fails to use the Authority or Department's premium payment reimbursement to pay for their private insurance, if they are required to pay the insurance directly;

(f) The policy-type changes (primary policy changes to a supplemental policy) or the client's eligibility changes to a category that does not meet the requirements in section (2).

(12) The Authority or Department shall determine where approved premium payments shall be sent to: the policy holder (or authorized representative), the employer, insurance carrier, or some other entity.

(13) The client or eligible applicant's receipt of payment under this rule is intended for the express purpose of insurance premium payment or reimbursement of client-paid insurance premium. If insurance is canceled because payment was used for purposes other than premium payment, an overpayment may occur.

(14) Redetermination for HIPP/PHI reimbursement shall occur:

(a) Annually for continued cost effectiveness and may also be reviewed more frequently to ensure insurance is active;

(b) When changes with medical program, insurance eligibility, or employment have been reported or identified;

(c) Other reasons determined by the Authority or Department.

(15) Payment of premiums is a reimbursement and not a medical benefit; therefore, clients do not have hearing rights for a denial of private insurance premium payment. The Authority or Department's decision to place a client in the PHI/HIPP program is a reimbursement and not an eligibility determination nor denial of a medical program benefit.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.025, 414.065, 414.115, 414.125, 414.135 & 414.145
Hist.: AFS 47-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 38-1984, f. 8-30-84, ef. 9-1-84; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90, Renumbered from 461-013-0170; HR 32-1993, f. & cert. ef. 11-1-93, Renumbered from 410-120-0500 & 410-120-0520; OMAP 67-2004, f. 9-14-04, cert. ef. 10-1-04; OMAP 39-2005, f. 9-2-05, cert. ef. 10-1-05; OMAP 15-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 45-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 36-2011, f. 12-13-11, cert. ef. 1-1-12; DMAP 40-2015, f. & cert. ef. 7-1-15

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

**Rule Caption:** Board of Athletic Trainers lowers fees for registrations, renewals and delinquent renewals.
**Adm. Order No.:** HLO 1-2015
**Filed with Sec. of State:** 6-29-2015
**Certified to be Effective:** 7-1-15
**Notice Publication Date:** 6-1-2015
**Rules Amended:** 331-105-0030
**Subject:** Board of Athletic Trainers lowers fees for registrations, renewals and delinquent renewals.
**Rules Coordinator:** Samantha Patnode—(503) 373-1917

**331-105-0030**
**Fees**

(1) Applicants and registrants are subject to the provisions of OAR 331-010-0010 and 331-010-0020 regarding the payment of fees, penalties and charges.

(2) Fees established by the Health Licensing Office are as follows:

(a) Application:

(A) Registration: $100.

(B) Registration by reciprocity: $150.

(b) Examination — Oregon laws & rules: $50.

(c) Original issuance of registration (including by reciprocity): $125 for one year.

(d) Permits and waivers: $150.

(e) Renewal of registration: $125 for one year.

(f) Delinquent (late) renewal of registration: $40 per year, up to three years.

(g) Reinstatement: $150.

(h) Replacement of registration, including name change: $25.

(i) Duplicate registration document: $25 per copy with maximum of three.

(j) Affidavit of licensure: $50.

(k) An additional $25 administrative processing fee will be assessed if a NSF or non-negotiable instrument is received for payment of fees, penalties and charges. Refer to OAR 331-010-0010.

Stat. Auth.: 1999 OL Ch. 736, Sec. 5(3) & (4) & Sec. 10
Stats. Implemented: 1999 OL Ch. 736, Sec. 5(3) & (4) & Sec. 10
Hist.: HDLB 2-1996, f. 12-13-96, cert. ef. 1-1-97; HDLP 1-2000(Temp), f. 2-14-00, cert. ef. 2-15-00 thru 8-11-00; Administrative correction 3-16-00; HDLP 3-2000, f. 7-26-00, cert. ef. 8-1-00; HLO 3-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 2-2006, f. 11-30-06, cert. ef. 12-1-06; HLA 3-2008, f. 9-15-08, cert. ef. 10-1-08; HLA 5-2011(Temp), f. & cert. ef. 8-1-11 thru 1-28-12; HLA 11-2011, f. 10-14-11, cert. ef. 10-15-11; HLO 1-2015, f. 6-29-15, cert. ef. 7-1-15

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**Rule Caption:** Advisory Council on Hearing Aids is reducing late fee for a delinquent renewal of registration.
**Adm. Order No.:** HLO 2-2015
**Filed with Sec. of State:** 6-29-2015
**Certified to be Effective:** 7-1-15
**Notice Publication Date:** 6-1-2015
**Rules Amended:** 331-601-0010
**Subject:** Advisory Council on Hearing Aids is reducing late fee for a delinquent renewal of registration.
**Rules Coordinator:** Samantha Patnode—(503) 373-1917

**331-601-0010**
**Fees**

(1) Applicants and licensees are subject to the provisions of OAR 331-010-0010 and 331-010-0020 regarding the payment of fees, penalties and charges.

(2) Fees established by the Health Licensing Office are as follows:

(a) Application:

(A) License: $125.

(B) Temporary license: $150.

(C) Trainee registration: $100.

(b) Examination:

(A) Oregon laws & rules: $50.

(B) Written: $150.

(C) Practical: $175.

(D) Audiologist: $50.

(c) Original issuance of license:

(A) License: $125 for one year.

(B) Temporary license: $100.

(d) Renewal of license: $125 for one year.

(e) Delinquent (late) renewal of license: $40 per year, up to three years.

(f) Replacement of license, including name change: $25.

(g) Duplicate license document: $25 per copy with maximum of three.

(h) Affidavit of licensure: $50.

(i) An additional $25 administrative processing fee will be assessed if a NSF or non-negotiable instrument is received for payment of fees, penalties and charges. Refer to OAR 331-010-0010.

Stat. Auth.: ORS 676.605, 676.615, 694.155 & 694.185
Stats. Implemented: ORS 676.605, 676.615, 694.155 & 694.185
Hist.: HD 24-1985(Temp), f. & ef. 10-17-85; HD 33-1985, f. & ef. 12-13-85; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 14-1990, f. 6-1-90, cert. ef. 7-1-90; HD 17-1990(Temp), f. 6-15-90, cert. ef. 7-1-90; HD 21-1990(Temp), f. & cert. ef. 7-3-90; HD 22-1990, f. & cert. ef. 8-15-90; HD 14-1991(Temp), f. 9-30-91, cert. ef. 10-1-91; HD 21-1991, f. & cert. ef. 12-31-91; HD 18-1997, f. 12-12-97, cert. ef. 12-15-97; OHD 9-1999, f. & cert. ef. 11-15-99; OHD 10-2000, f. & cert. ef. 11-15-00; Renumbered from 333-025-0005, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 6-2008, f. 9-15-08, cert. ef. 10-1-08; HLA 6-2011(Temp), f. & cert. ef. 8-1-11 thru 1-28-12; HLA 12-2011, f. 10-14-11, cert. ef. 10-15-11; HLO 2-2015, f. 6-29-15, cert. ef. 7-1-15

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**Rule Caption:** Align delinquency fees for the Board of Denture Technology with other Health Licensing Office programs.
**Adm. Order No.:** HLO 3-2015
**Filed with Sec. of State:** 6-30-2015
**Certified to be Effective:** 7-8-15
**Notice Publication Date:** 6-1-2015
**Rules Amended:** 331-440-0000
**Subject:** The amendment completes the standardization of current delinquent (late) fees for all Health Licensing Office (HLO) programs. HLO has submitted multiple requests in recent biennia to convert boards from a sliding scale fee for delinquent license renewals ($25 for the first month in delinquency, and $10 per month thereafter up to three years) to a fixed rate per year up to three years. The reduc-

tions completes this process, bringing the Board of Denture Technology into alignment with the rest of the programs administered by HLO.

Delinquency fees reflect only a small fraction of revenues charged to applicants and licensees, and are optional by nature since they can be avoided by the licensee if they renew licenses in a timely manner, but there are a number of reasons why this shift in fee structure remains important. Specifically, shifting from the sliding scale to a fixed rate notably reduces the complexity of administering the fee, and the proposed fixed rate avoids unusually large fees charged to licensees who are unable to renew their license for an extended period of time (e.g., if a licensee did not renew for three years, the resulting total late fee based on the current sliding scale would be $375, or $120 based on the proposed fixed rate) which is a $255 reduction in delinquency fees.

**Rules Coordinator:** Samantha Patnode—(503) 373-1917

**331-440-0000**
**Fees**

(1) Applicants and licensees are subject to the provisions of OAR 331-010-0010 and 331-010-0020 regarding the payment of fees, penalties and charges.

(2) Fees established by the Oregon Health Licensing Agency are as follows:

(a) Application:
(A) License: $350.
(B) License by reciprocity: $450.
(C) Temporary license: $50
(b) Examination:
(A) Oregon laws & rules: $50.
(B) Written: $350.
(C) Practical: $650.
(c) Original issuance:
(A) License: $350
(B) Temporary license: $50
(d) Renewal:
(A) License: $350
(B) Temporary license: $50
(e) Delinquency fee: $40 for each year in an expired status, for up to three years.
(f) Replacement of license, including name change: $25.
(g) Duplicate license document: $25 per copy with maximum of three.
(h) Affidavit of licensure: $50.
(i) An additional $25 Administrative Processing fee will be assessed if a NSF or non-negotiable instrument is received for payment of fees, penalties and charges. Refer to OAR 331-010-0010.

Stat. Auth.: ORS 676.605, 676.615 & 680.525
Stats. Implemented: ORS 676.605, 676.615 & 680.525
Hist.: HD 11-1979(Temp), f. & ef. 8-23-79; HD 2-1980, f. & ef. 2-14-80; HD 11-1981(Temp), f. & ef. 7-15-81; HD 9-1985(Temp), f. & ef. 5-24-85; HD 15-1985, f. & ef. 9-4-85; HD 25-1988(Temp), f. & cert. ef. 11-1-88; HD 4-1989, f. & cert. ef. 6-1-89; HD 13-1991(Temp), f. & cert. ef. 9-30-91; HD 3-1992, f. & cert. ef. 3-25-92; HD 22-1993, f. 12-30-93, cert. ef. 1-1-94; HDLP 3-1998, f. 6-26-98, cert. ef. 7-1-98, Renumbered from 333-020-0035; HDLP 1-2001, f. 3-21-01, cert. ef. 4-1-01; HLO 3-2003, f. 5-6-03, cert. ef. 5-15-03; HLO 2-2004, f. 6-29-04, cert. ef. 7-1-04; HLO 2-2005, f. 12-15-05, cert. ef. 1-1-06; HLA 5-2008, f. 9-15-08, cert. ef. 10-1-08; Renumbered from 331-405-0030, HLA 9-2013, f. & cert. ef. 7-1-13; HLA 13-2013(Temp), f. 8-21-13, cert. ef. 8-23-13 thru 2-19-14; HLA 14-2013, f. 12-30-13, cert. ef. 2-1-14; HLO 3-2015, f. 6-30-15, cert. ef. 7-8-15

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## Oregon Health Authority, Health Licensing Office, Board of Cosmetology
## Chapter 817

**Rule Caption:** Provide a discount to facility license holders and independent contractors if they renew online.
**Adm. Order No.:** BOC 1-2015
**Filed with Sec. of State:** 6-30-2015
**Certified to be Effective:** 7-8-15
**Notice Publication Date:** 6-1-2015
**Rules Amended:** 817-040-0003
**Subject:** Health Licensing Office (HLO) is applying a discount for facility license holders and independent contractor's who renew online from $100 to $90. Since this is a high volume licensure group, it is less costly to administer than in-person renewals, and is more convenient for both the licensee and for HLO.

**Rules Coordinator:** Samantha Patnode—(503) 373-1917

**817-040-0003**
**Fees**

(1) Applicants and authorization holders are subject to provisions of OAR 331-010-0010 and 331-010-0020 regarding payment of fees, penalties and charges.

(2) Fees established by the Oregon Health Licensing Agency, in consultation with the Board, are as follows:

(a) Application:
(A) Practitioner certificate: $20 per field of practice.
(B) Practitioner certificate by reciprocity: $100 per field of practice.
(C) Independent contractor registration: $50.
(D) Freelance authorization: $25.
(E) Facility license: $100.
(F) Temporary facility permit: $50.
(G) Demonstration permit: $25.
(b) Examination:
(A) Oregon laws & rules: $35.
(B) Barbering: $35.
(C) Hair design: $35.
(D) Esthetics: $35.
(E) Nail technology: $35.
(F) Freelance authorization: $25
(c) Original issuance of authorization to practice:
(A) Practitioner certificate: $25 for two years.
(B) Practitioner certificate by reciprocity: $45 for two years.
(C) Independent contractor registration: $100 for one year.
(D) Freelance authorization: $100 for one year.
(E) Facility license: $110 for one year.
(d) Permits:
(A) Temporary facility: $100.
(B) Demonstration: $50.
(e) Renewal of authorization to practice:
(A) Practitioner certificate: $45 for two years.
(B) Practitioner certificate: on-line payment: $40 for two years.
(C) Independent contractor registration: $100 for one year or on-line payment: $90 for one year.
(D) Freelance authorization: $100 for one year.
(E) Facility license: $110 for one year or on-line payment: $100 for one year.
(f) Other administrative fees:
(A) Delinquency fee: $30 for each year in expired status up to three years.
(B) Replacement of freelance authorization, certificate, license or registration, including name change: $25.
(C) Duplicate freelance authorization, certificate, license or registration document: $25 per copy with maximum of three.
(D) Affidavit of licensure: $50.
(E) An additional $25 administrative processing fee will be assessed if a NSF or non-negotiable instrument is received for payment of fees, penalties and charges. Refer to OAR 331-010-0010.
(F) Information packets: $10.

Stat. Auth.: ORS 676.605, 676.606, 676.615 & 690.235
Stats. Implemented: ORS 676.605, 676.615, 690.235 & 30.701
Hist.: BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 1-1990(Temp), f. 4-20-90 & cert. ef. 6-1-90; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2005, f. 6-17-05, cert. ef. 7-1-05; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2008, f. 9-15-08 cert. ef. 10-1-08; BOC 2-2009(Temp), f. 6-30-09, cert. ef. 7-1-09 thru 12-25-09; BOC 3-2009(Temp), f. 12-21-09, cert. ef. 12-26-09 thru 5-31-10; BOC 1-2010, f. 3-31-10, cert. ef. 4-1-10; BOC 2-2010, f. & cert. ef. 10-1-10; BOC 1-2011(Temp), f. & cert. ef. 3-1-11 thru 8-10-11; BOC 2-2011, f. & cert. ef. 5-5-11; BOC 3-2011, f. 5-19-11, cert. ef. 6-1-11; BOC 1-2015, f. 6-30-15, cert. ef. 7-8-15

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## Oregon Health Authority, Health Licensing Office, Board of Direct Entry Midwifery
## Chapter 332

**Rule Caption:** Reduce original and renewal license fees and apply certain discounts if certain qualifications are met.
**Adm. Order No.:** DEM 1-2015
**Filed with Sec. of State:** 6-30-2015
**Certified to be Effective:** 7-8-15

**Notice Publication Date:** 6-1-2015
**Rules Amended:** 332-040-0000
**Subject:** Currently licensed direct entry midwives (LDM) pay a $1200 annual renewal fee due to high litigation costs in 2009-11 biennium which continued through the 2013-15 biennium.

The Board of Direct Entry Midwifery (Board) continues in a deficit despite the high license fee. In an effort to reduce barriers to licensure the Health Licensing Office (HLO) has been granting a $1200 discount for individuals seeking original licensure.

As litigation costs have decreased HLO, the Board and stakeholders began a dialogue on how to best reduce fees for LDM's despite the negative cash balance.

As of July 1, 2015 the rules will allow an applicant applying for an original license totaling $800 to be be granted a $350 license fee discount for a total cost for the license $450 until July 1, 2019. An application fee of $150 must be paid in order to grant the $350 license fee discount. The license fee discount is available to individuals who meet all application requirements for direct entry midwifery licensure under OAR 332-015-0030 and reside in Oregon. Only applicants who have not held a direct entry midwifery license in Oregon qualify for the discount.

As of January 1, 2015, the rules will allow an applicant applying to renew a license totaling $800 to be granted a $200 discount for a total cost for the license $600 until July 1, 2019. The license fee discount is available to individuals who meet all renewal requirements for direct entry midwifery licensure under OAR 332-020-0000 and reside in Oregon.
**Rules Coordinator:** Samantha Patnode—(503) 373-1917

**332-040-0000**
**Fees**

(1) An applicant and licensee are subject to the provisions of OAR 331-010-0010 and 331-010-0020 regarding payment of fees, penalties and charges.

(2) Fees established by the Oregon Health Licensing Agency pursuant to ORS 676.607 are as follows:

(a) Application:

(A) License: $150.

(B) License by reciprocity: $750.

(b) Examination — Oregon laws & rules: $50.

(c) Original issuance of license: $800 for one year.

(d) Renewal — License: $800 for one year;

(e) Reactivation of license: $150.

(f) Other administrative fees:

(A) Delinquency fee: $50 for each year in expired status up to three years.

(B) Replacement of license, including name change: $25.

(C) Duplicate license document: $25 per copy, with a maximum of three.

(D) Affidavit of licensure for reciprocity: $50.

(E) An additional $25 administrative processing fee will be assessed if a non-sufficient funds or non-negotiable instrument is received for payment of fees, penalties and charges. Refer to OAR 331-010-0010.

(4) As of July 1, 2015 an applicant applying for an original license totaling $800 may be granted a $350 license fee discount for a total cost for the license $450 until July 1, 2019. An application fee of $150 must be paid in order to grant the $350 license fee discount. The license fee discount is available to individuals who meet all application requirements for direct entry midwifery licensure under OAR 332-015-0030 and reside in Oregon. Only applicants who have not held a direct entry midwifery license in Oregon qualify for the discount.

(5) As of January 1, 2015, an applicant applying to renew a license totaling $800 may be granted a $200 discount for a total cost for the license $600 until July 1, 2019. The license fee discount is available to individuals who meet all renewal requirements for direct entry midwifery licensure under OAR 332-020-0000 and reside in Oregon.

Stat. Auth.: ORS 676.607, 676.615 & 687.435
Stats. Implemented: ORS 676.607 & 687.435
Hist.: DEM 4-2011, f. & cert. ef. 9-26-11; DEM 7-2011(Temp), f. 12-20-11, cert. ef. 1-1-12 thru 6-29-12; DEM 2-2012(Temp), f. & cert. ef. 3-9-12 thru 9-5-12; DEM 4-2012, f. & cert. ef. 7-25-12; DEM 1-2015, f. 6-30-15, cert. ef. 7-8-15

**Rule Caption:** Add continuing education requirements for purchasing/administering antibiotics for Group B Streptococcal prophylaxis including patient disclosure.
**Adm. Order No.:** DEM 2-2015
**Filed with Sec. of State:** 7-1-2015
**Certified to be Effective:** 7-1-15
**Notice Publication Date:** 4-1-2015
**Rules Amended:** 332-015-0030, 332-020-0010, 332-025-0020, 332-025-0110, 332-026-0000, 332-026-0010
**Subject:** During the 2013 Legislative Session HB 2997 was enacted allowing licensed direct entry midwives (LDM) to purchase and administer intravenous antibiotics for Group B Streptococcal prophylaxis. The rule requires that each LDM licensed prior to January 1, 2016 successfully complete eight hours of continuing education including two hours in pharmacology and six hours in intravenous administration of antibiotics for Group B Streptococcal prophylaxis. The LDM is required to have this specific continuing education by their license renewal in 2016.

Individuals licensed after January 1, 2016 must successfully complete the initial legend drugs and devices continuing education totaling 48 hours which including administration of intravenous antibiotics for Group B Streptococcal prophylaxis.

The amendment also lists the antibiotics approved for purchase and administration by an LDM.

The amendment specifies that each LDM must disclose to each patient whether or not they have obtained the required legend drugs and devices training as well as document the disclosure in the patient record.
**Rules Coordinator:** Samantha Patnode—(503) 373-1917

**332-015-0030**
**Application Requirements Direct Entry Midwifery License**

An individual applying for licensure to practice direct entry midwifery must:

(1) Meet the requirements of OAR 331 division 30.

(2) Submit a completed application form prescribed by the agency, which must contain the information listed in OAR 331-030-0000 and be accompanied by payment of the required application and license fees.

(3) Submit current certification in cardiopulmonary resuscitation for adults, neonates and infants.

(4) Submit a written plan for emergency transport for mother or newborn pursuant to OAR 332-025-0020.

(5) Submit satisfactory evidence of having current CPM credential from NARM; and

(6) Pursuant to ORS 687.420, participation as an assistant at 25 deliveries, 25 deliveries for which the applicant was the primary birth attendant, participation in 100 prenatal care visits, 25 newborn examinations, and 40 postnatal examinations. The applicant must have provided continuity care for at least 10 of the primary birth attendant deliveries, including four prenatal visits, one newborn examination and one postpartum exam. Of these 50 births, at least 25 deliveries must have taken place in an out-of-hospital setting and 10 births must have occurred within the two years or 24 months preceding the date of application.

(7) If there is more than one birth attendant present at the same birth, the birth attendants must designate which birth attendant is primary.

(8) If the applicant received the Initial Renewal Legend Drugs and Devices continuing education prior to applying for licensure the applicant my provide the documentation of successful completion during the time of application. If applicant receives the continuing education within 12 months of applying for licensure the applicant must attest to having received the continuing education at the time of next renewal on a form prescribed by the agency.

(9) If the applicant has not received the Initial Renewal Legend Drugs and Devices continuing education listed under OAR 332-020-0010(2) or (3) at the time of application this information must be disclosed to each patient on the patient disclosure form required under OAR 332-025-0020.

Stat. Auth.: ORS 687.420 & 687.485
Stats. Implemented: ORS 687.420 & 687.485
Hist.: DEM 1-1994, f. & cert. ef. 6-15-94; DEM 1-1998, f. 2-27-98, cert. ef. 3-1-98; DEM 1-2002, f. 2-25-02 cert. ef. 3-1-02; DEM 1-2004, f. 6-29-04, cert. ef. 7-1-04; DEM 4-2010, f. 12-30-10, cert. ef. 1-1-11; DEM 1-2014(Temp), f. 12-31-14, cert. ef. 1-2-15 thru 6-27-15; DEM 2-2014, f. 12-31-14, cert. ef. 1-1-15; DEM 2-2015, f. & cert. ef. 7-1-15

**332-020-0010**
**Continuing Education**

(1) Standard Continuing Education Renewal Requirements: To maintain licensure an LDM must complete 35 hours of continuing education related to services listed in ORS 687.405, cultural competency, patient charting, ethics, communication, or professional development every two years from the date of initial licensure and every two years thereafter.

(2) In addition to the requirements listed in subsection (1) of this rule and in accordance with ORS 687.425 an LDM who has attended less than five births in the previous renewal year must obtain an additional 10 hours of continuing education separate from all other continuing education requirements. The additional 10 hours of continuing education must be obtained during the next renewal cycle. Subject matter for the additional 10 hours of continuing education must be related to subjects listed in subsection (1) of this rule.

(3) Initial Legend Drugs and Devices Continuing Education Renewal Requirements for individuals licensed before January 1, 2016: An applicant must successfully complete 40 hours of continuing education in a program approved by the Board. This continuing education must be completed prior to purchasing and administering legend drugs and devices and attested to upon the first renewal following initial licensure. Additionally the requirements in subsection (6) must be met upon renewal in 2016. The program is composed of theory, hands-on practice, and skills testing for competency which must include the following:

(a) Eight hours in Pharmacology covering drugs listed in ORS 687.493, OAR 332-026-0010 and 332-026-0020;

(b) Four hours of administration of medications through injection;

(c) Four hours in advanced treatment of shock;

(d) 10 hours in intravenous therapy;

(e) Four hours in neonatal resuscitation; and

(f) 10 hours in suturing.

(4) Initial Legend Drugs and Devices Continuing Education Renewal Requirements including continuing education in Group B Streptococcal: An individual licensed after January 1, 2016 must successfully complete 48 hours of instruction in an approved curriculum prior to purchasing or administering legend drugs and devices listed in division 26 of these rules or by the date of first renewal following initial licensing as an LDM. The initial renewal continuing education is comprised of theory, hands-on practice, and skills testing for competency which must include the following:

(a) 10 hours in Pharmacology covering drugs listed in ORS 687.493, OAR 332-026-0010 and 332-026-0020 including intravenous antibiotics Group B Streptococcal prophylaxis;

(b) Four hours of administration of medications through injection;

(c) Four hours in advanced treatment of shock;

(d) 16 hours in intravenous therapy including intravenous antibiotics Group B Streptococcal prophylaxis;

(e) Four hours in neonatal resuscitation; and

(f) 10 hours in suturing.

(5) Subsequent Renewal Legend Drugs and Devices Continuing Education Requirements: To maintain licensure an LDM must complete eight and a half hours of legend drugs and devices continuing education, every two-years and attest to this on the renewal application. The 8.5 hours of legend drugs and devices continuing education is in addition to continuing education required under subsection (1), (2), (3) or (4) of this rule with exception of neonatal resuscitation. Each LDM is required to show evidence of current certification in neonatal resuscitation upon renewal each year. Continuing education components for subsequent renewals must include the following:

(a) Two hours in pharmacology as of January 1, 2017 all subsequent renewal programs must include continuing education in intravenous antibiotics for Group B Streptococcal prophylaxis;

(b) One half hour in administration of medications through injection;

(c) One hour in advanced treatment of shock;

(d) Three hours in intravenous therapy as of January 1, 2017 all subsequent renewal programs must include continuing education in intravenous antibiotics for Group B Streptococcal prophylaxis; and

(e) Three hours in suturing.

(6) Initial Legend Drugs and Devices Continuing Education Renewal Requirements for individuals licensed before January 1, 2016: An individual who has already completed the requirements listed in subsection (3) of this rule, must successfully complete approved continuing education in Intravenous antibiotics for Group B Streptococcal prophylaxis consisting of eight hours of instruction including two hours in pharmacology and six hours in intravenous administration. If applicable individuals licensed before January 1, 2016 must still complete the requirements in subsection (1), (2) and (3) of this rule. The requirements must be met:

(a) Prior to purchasing or administering intravenous antibiotics for Group B Streptococcal prophylaxis; or

(b) By the date of renewal in 2016.

(7) Continuing Education may be obtained through online courses, attendance at lectures, sessions, courses, workshops, symposiums seminars or other presentations offered by:

(a) Institutions or programs accredited by a federally recognized accrediting agency;

(b) Institutions or programs approved by an agency within the Oregon Higher Education Coordinating Commission;

(c) An organization offering continuing medical education opportunities, including but not limited to, Accreditation Council for Continuing Medical Education, MEAC accredited or pre-accredited schools and the Oregon Midwifery Council.

(d) Any additional board approved professional organization, or association, hospital, or health care clinic offering continuing education related to subject matter listed above.

(8) Continuing education relating to subject matter listed in subsection (1) of this rule may also be obtained through research, authorship or teaching, provided that no more than half the required hours be in research, authorship or teaching.

(9) Up to nine hours of continuing education relating to subject matter listed in subsection (1) of this rule may be completed through self-study. Documentation substantiating the completion of continuing education through self-study must be submitted on forms provided by the agency and must include the following:

(a) Name of sponsor or source, type of study, description of content, date of completion, and duration in hours in accordance with subsection (8) of this rule;

(b) Name of approved correspondence courses or national home study issues;

(c) Name of publications, textbooks, printed material or audiocassette's, including date of publication, publisher, and ISBN identifier; and

(d) Name of films, videos, or slides, including date of production, name of sponsor or producer and catalog number.

(10) Obtaining and maintaining proof of participation in continuing education is the responsibility of the licensee. The licensee must ensure that adequate proof of attainment of required continuing education is available for audit or investigation or when otherwise requested by the agency. Adequate proof of participation is listed under OAR 332-020-0015(3).

(11) Documentation of participation in continuing education requirements must be maintained for a period of two years following renewal, and must be available to the agency upon request.

(12) Hours of continuing education that are obtained in excess of the minimum requirements listed in this rule will not be carried forward as credit for the subsequent license renewal reporting cycle.

(13) For the purpose of this rule continuing education must include periods of continuous instruction and education, not to include breaks, rest periods, travel registration or meals.

(14) A copy of Board-approved curriculum objectives for LDD program is available at the Health Licensing Office or on the office website at http://www.oregon.gov/ohla/Pages/index.aspx. Payment of administrative fees may be required. Refer to OAR 331-010-0030 for applicable public record request fees.

(15) Continuing education hours obtained for legend drugs and devices, neonatal resuscitation or cardiopulmonary resuscitation for adults and infants cannot be used towards the 35 Standard Continuing Education Renewal Requirements listed under subsection (1) of this rule.

Stat. Auth.: ORS 676.615, 687.425 & 687.485
Stats. Implemented: ORS 676.615, 687.425 & 687.485
Hist.: DEM 1-1993(Temp), f. & cert. ef. 12-22-93; DEM 1-1994, f. & cert. ef. 6-15-94; DEM 1-2001(Temp), f. & cert. ef. 10-1-01 thru 3-29-02; DEM 1-2002, f. 2-25-02 cert. ef. 3-1-02; DEM 1-2004, f. 6-29-04, cert. ef. 7-1-04; DEM 2-2008(Temp), f. 9-15-08 cert. ef. 10-1-08 thru 3-30-09; DEM 1-2009, f. 3-31-09, cert. ef. 4-1-09; DEM 5-2010, f. 12-30-10, cert. ef. 1-1-11; DEM 1-2013(Temp), f. 7-10-13, cert. ef. 7-12-13 thru 1-8-14; DEM 2-2013, f. 12-30-13, cert. ef. 1-1-14; DEM 2-2014, f. 12-31-14, cert. ef. 1-1-15; DEM 2-2015, f. & cert. ef. 7-1-15

**332-025-0020**
**General Practice Standards**

Pursuant to ORS 687.480, licensees must comply with the following practice standards when, advising the mother and in rendering antepartum, intrapartum and postpartum care.

(1) A licensee must include the designation LDM after the licensee's name when completing birth certificates; and

(2) As a condition of license renewal, licensees must participate in peer review meetings in their regions or in conjunction with professional organization meeting(s), which must include, but are not limited to, the discussion of cases and obtaining feedback and suggestions regarding care. Documentation must be made on forms approved by the board. Licensees must participate in peer review according to the following schedule:

(a) Once per year if the licensee served as the primary birth attendant at 40 or fewer births during the license year; or

(b) Twice per year if the licensee served as the primary birth attendant at more than 40 births during the license year.

(c) For the purpose of reporting peer review, if there is more than one birth attendant present at the same birth, the birth attendants must designate which birth attendant is primary.

(d) If a licensee has not attended any births, participation in peer review is not required. Licensee must attest to not having attended any births on a form prescribed by the agency.

(3) In accordance with ORS 687.480 and 687.493 a licensee must maintain equipment necessary to: assess maternal, fetal and newborn well being; maintain aseptic technique; respond to emergencies requiring immediate attention; and to resuscitate mother and newborn when attending an out-of-hospital birth.

(4) A licensee must dispose of pathological waste resulting from the birth process in accordance with the Department of Human Services Public Health Division under OAR 333 division 056. Provisions include:

(a) Incineration, provided the waste is properly containerized at the point of generation and transported without compaction to the site of incineration; or

(b) Burial on private property if burial of human remains on such property is not prohibited or regulated by a local government unit at the designated site.

(5) Licensees must dispose of biological waste materials that come into contact with blood and/or body fluids in a sealable plastic bag (separate from sealable trash or garbage liners) or in a manner that protects the licensee, mother, baby, and others who may come into contact with the material during disposal. Biological wastes may also be incinerated or autoclaved in equipment dedicated to treatment of infectious wastes.

(6) Licensees must dispose of sharps that come into contact with blood or bodily fluids in a sealable, (puncture proof) container that is strong enough to protect the licensee, mother, baby and others from accidental cuts or puncture wounds during the disposal process.

(7) Sharps must be placed into appropriate containers at the point of generation and may be transported without compaction to a landfill having an area designed for sharps burial or transported to an appropriate health care facility equipped to handle sharps disposal, provided the lid of the container is tightly closed or taped to prevent the loss of content and the container is appropriately labeled.

(8) Licensees must maintain a "patient disclosure form" providing current and accurate information to prospective clients. Licensees must provide the mother with this information. This statement must include, but is not limited to:

(a) Philosophy of care;

(b) Midwifery training and education;

(c) Clinical experience;

(d) Services provided to mother and baby;

(e) Types of emergency medications and equipment used if appropriate;

(f) Responsibilities of the mother and her family;

(g) Fees for services including financial arrangements;

(h) Malpractice coverage;

(i) Risk assessment criteria as listed in OAR 332-025-0021;

(j) Whether the licensee has obtained the 40 hours of Initial renewal Legend Drugs and Devices continuing education required under OAR 332-020-0010 or the additional eight hours continuing education in intravenous antibiotics for Group B Streptococcal prophylaxis; and

(k) Signature of mother and date of signature documenting discussion and receipt of patient disclosure form.

(9) A licensee must maintain a plan for emergency transport and must discuss the plan with the mother. The plan must include, but is not limited to:

(a) Place of transport;

(b) Mode of transport;

(c) Provisions for hospital and physician support including location and telephone numbers; and

(d) Availability of private vehicle or ambulance including emergency delivery equipment carried in the vehicle.

(10) Signature of mother and date of signature documenting discussion of emergency transport plan must be placed in the mother's record.

(11) A licensee must maintain complete and accurate written records documenting the course of midwifery care as listed under OAR 332-025-0110.

(12) A licensee must maintain current certification in cardiopulmonary resuscitation for adults and infants and current certification in neonatal resuscitation.

(13) All births must be registered with the Department of Human Services Vital Records Section, as provided in ORS Chapter 432.

Stat. Auth.: ORS 676.605, 676.615, 687.480 & 687.485

Stats. Implemented: ORS 676.605, 676.615, 687.480 & 687.485

Hist.: DEM 1-1993(Temp), f. & cert. ef. 12-22-93; DEM 1-1994, f. & cert. ef. 6-15-94; DEM 2-1998, f. 4-14-98, cert. ef. 4-15-98; DEM 1-1999(Temp), f. 9-1-99, cert. ef. 9-9-99 thru 2-29-00; DEM 2-1999, f. 12-17-99, cert. ef. 12-20-99; DEM 2-2000(Temp), f. 8-22-00, cert. ef. 8-22-00 thru 2-17-00; DEM 2-2000(Temp), f. 8-22-00, cert. ef. 8-22-00 thru 2-17-01; DEM 3-2000, f. 9-29-00, cert. ef. 10-1-00; DEM 1-2001(Temp), f. & cert. ef. 10-1-01 thru 3-29-02; Administrative correction 11-7-01; DEM 1-2002, f. 2-25-02 cert. ef. 3-1-02; DEM 1-2004, f. 6-29-04, cert. ef. 7-1-04; DEM 6-2010, f. 12-30-10, cert. ef. 1-1-11; DEM 1-2011(Temp), f. & cert. ef. 4-4-11 thru 9-27-11; DEM 5-2011, f. & cert. ef. 9-26-11; DEM 1-2014(Temp), f. 12-31-14, cert. ef. 1-2-15 thru 6-27-15; DEM 2-2015, f. & cert. ef. 7-1-15

**332-025-0110**
**Records of Care Practice Standards**

(1) The LDM must maintain complete and accurate records of each mother and baby.

(2) Records mean written documentation, including but not limited to:

(a) Midwifery care provided to mother and baby;

(b) Demographic information;

(c) Medical history;

(d) Diagnostic studies and laboratory findings;

(e) Emergency transport plan defined under OAR 332-025-0020;

(f) Informed consent and risk information documentation under OAR 332-025-0120;

(g) Health Insurance Portability and Accountability Act (HIPAA) releases;

(h) Description of the reasoning for transfer of care defined under OAR 332-025-0021 of the mother and baby;

(i) Documentation of all consultations and recommendations from health care providers as defined under OAR 332-015-0000;

(j) Documentation of all consultations and recommendations regarding non-absolute risk factors from Oregon licensed health care providers as defined under OAR 332-025-0021;

(k) Documentation of any declined procedures under OAR 332-025-0022;

(l) Documentation of termination of care under OAR 332-025-0130; and

(m) Documentation that the patient disclosure form has been received by the mother under OAR 332-025-0020, including information regarding completion of the 40 hours of Initial Renewal Legend Drugs and Devices Training or the additional eight hours of Subsequent Renewal Continuing Education related to training in intravenous antibiotics for Group B Streptococcal prophylaxis.

(3) Records must be maintained for no less than seven years. All records are subject to review by the agency.

(4) All records must be legibly written or typed, dated and signed.

(5) All records must include a signature or initial of the LDM.

Stat. Auth.: ORS 487.485 & 676.615

Stats. Implemented: ORS 687.425, 687.480, 687.485, 676.606 & 676.607

Hist.: DEM 6-2010, f. 12-30-10, cert. ef. 1-1-11; Renumbered from 332-025-0070 by DEM 5-2011, f. & cert. ef. 9-26-11; DEM 1-2014(Temp), f. 12-31-14, cert. ef. 1-2-15 thru 6-27-15; DEM 2-2015, f. & cert. ef. 7-1-15

**332-026-0000**
**Access to and Administration of Legend Drugs and Devices**

(1) An LDM is prohibited from purchasing or administering legend drugs and devices, including intravenous antibiotics for Group B Streptococcal prophylaxis until the continuing education listed in OAR 332-020-0010 has been completed and documentation submitted to the office upon renewal in 2016.

(2) Pursuant to ORS 687.493, an LDM who satisfactorily completes the continuing education OAR 332-020-0010 is authorized access to and administration of specific legend drugs and devices listed in OAR 332-026-0010, 332-026-0020, 332-026-0030.

(3) An LDM must comply with all local, state and federal laws and regulations regarding the administration, distribution, storage, transportation and disposal of approved legend drugs and devices listed in OAR 332-026-0010, 332-026-0020, 332-026-0030.

(4) Approved legend drugs must be inventoried and securely stored by the LDM at all times the product is not in use, including samples or any remaining portion of a drug.

(5) Records regarding approved legend drugs and devices must be maintained for a period of three years. Records must be kept on the business premises and available for inspection upon request by the Health Licensing Office. Upon request by the board or office, an LDM must provide a copy of records. Records must include, but are not limited, to the following:

(a) Name of drug, amount received, date of receipt, and drug expiration date;

(b) Name of drug and to whom it was administered; date and amount of drug administered to client;

(c) Name of drug, date and place or means of disposal.

(4) Expired, deteriorated or unused legend drugs must be disposed of in a manner that protects the licensee, client and others who may come into contact with the material during disposal.

(5) An LDM is required to obtain the continuing education for intravenous antibiotics for Group B Streptococcal prophylaxis, however an LDM is not required to administer the antibiotic.

Stat. Auth.: ORS 676.605, 676.615, 687.485, 687.493
Stats. Implemented: ORS 676.605, 676.615, 687.485, 687.493
Hist.: DEM 1-2001(Temp), f. & cert. ef. 10-1-01 thru 3-29-02; DEM 1-2002, f. 2-25-02 cert. ef. 3-1-02; DEM 1-2004, f. 6-29-04, cert. ef. 7-1-04; DEM 6-2010, f. 12-30-10, cert. ef. 1-1-11; Renumbered from 332-025-0030 by DEM 5-2011, f. & cert. ef. 9-26-11; DEM 2-2015, f. & cert. ef. 7-1-15

**332-026-0010**
**Approved Legend Drugs For Maternal Use**

Licensees may administer the following legend drugs as approved by the board for maternal use:

(1) Anti-Hemorrhagics for use by intramuscular injection includes:

(a) Synthetic Oxytocin (Pitocin, Syntocin and generic);

(b) Methylergonovine (Methergine);

(c) Ergonovine (Ergotrate); or

(2) Anti-Hemorrhagics by intravenous infusion is limited to Synthetic Oxytocin (Pitocin, Syntocin, and generic).

(3) Anti-Hemorrhagics for oral administration is limited to:

(a) Methylergonovine (Methergine);

(b) Misoprostol (Cytotec).

(4) Anti-Hemorrhagics for rectal administration is limited to Misoprostol (Cytotec).

(5) Resuscitation is limited to medical oxygen and intravenous fluid replacement.

(6) Intravenous fluid replacement includes:

(a) Lactated Ringers Solution;

(b) 0.9% Saline Solution;

(c) D5LR (5% Dextrose in Lactated Ringers); or

(d) D5W (5% Dextrose in water).

(7) Anaphylactic treatment by subcutaneous injection is limited to Epinephrine.

(8) Local anesthetic includes:

(a) Lidocaine HCl (1% and 2%) (Xylocaine and generic);

(b) Topical anesthetic;

(c) Procaine HCl (Novocain, benzocaine, cetacane and generic); and

(d) Sterile water papules.

(9) Rhesus Sensitivity Prophylaxis is limited to Rho(d) Immune Globulin (RhoGAM, Gamulin Rh, Bay Rho-D and others).

(10) Tissue adhesive (Dermabond or generic).

(11) Intravenous antibiotics for Group B Streptococcal prophylaxis is limited to the following and is only to be used solely for the purpose of Group B Streptococcal prophylaxis:

(a) Penicillin;

(b) Ampicillin;

(c) Cefazolin; or

(d) Clindamycin.

Stat. Auth.: ORS 676.605, 676.615, 687.485 & 687.493
Stats. Implemented: ORS 676.605, 676.615, 687.485 & 687.493
Hist.: DEM 1-2001(Temp), f. & cert. ef. 10-1-01 thru 3-29-02; DEM 1-2002, f. 2-25-02 cert. ef. 3-1-02; DEM 1-2004, f. 6-29-04, cert. ef. 7-1-04; DEM 6-2010, f. 12-30-10, cert. ef. 1-1-11; DEM 1-2011(Temp), f. & cert. ef. 4-4-11 thru 9-27-11; Renumbered from 332-025-0040 by DEM 5-2011, f. & cert. ef. 9-26-11; DEM 2-2015, f. & cert. ef. 7-1-15

## Oregon Health Authority, Health Licensing Office, Board of Licensed Dietitians
## Chapter 834

**Rule Caption:** The Board of Licensed Dietitians are lowering fees for license and renewal.
**Adm. Order No.:** BELD 1-2015
**Filed with Sec. of State:** 6-29-2015
**Certified to be Effective:** 6-29-15
**Notice Publication Date:** 6-1-2015
**Rules Amended:** 834-040-0000
**Subject:** The Board of Licensed Dietitians are lowering fees for license and renewal.
**Rules Coordinator:** Samantha Patnode—(503) 373-1917

**834-040-0000**
**Fees**

(1) Applicants and registrants are subject to the provisions of OAR 331-010-0010 and 331-010-0020 regarding the payment of fees, penalties and charges.

(2) Fees established by the Health Licensing Office are as follows:

(a) Application: $50;

(b) Original license: $60 for one year;

(c) Renewal of license: $60 for one year;

(d) Other administrative fees:

(A) Delinquency fee: $25 for each year in inactive status up to three years;

(B) Replacement of license, including name change: $25;

(C) An additional $25 administrative processing fee will be assessed if a NSF or non-negotiable instrument is received for payment of fees, penalties and charges. Refer to OAR 331-010-0010.

Stats. Auth.: ORS 676.605, 676.606, 676.607, 676.608, 676.615, 691.435, 691.445, 691.465
Stats. Implemented: ORS 691.435, 691.445, 691.465, 676.605, 676.606, 676.607, 676.608, 676.615, OL 2011 Ch. 630
Hist.: BELD 1-2012, f. & cert. ef. 3-28-12; BELD 1-2015, f. & cert. ef. 6-29-15

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## Oregon Health Authority, Health Licensing Office, Environmental Health Registration Board
## Chapter 338

**Rule Caption:** Environmental Health Registration Board adds qualified work experience option to wastewater specialist trainee registration requirements.
**Adm. Order No.:** EHRB 1-2015
**Filed with Sec. of State:** 6-26-2015
**Certified to be Effective:** 7-1-15
**Notice Publication Date:** 5-1-2015
**Rules Amended:** 338-010-0016
**Subject:** Environmental Health Registration Board adds qualified work experience option to wastewater specialist trainee registration requirements.
**Rules Coordinator:** Samantha Patnode—(503) 373-1917

**338-010-0016**
**Waste Water Specialist Application Requirements**

An individual applying for a waste water specialist registration must:

(1) Meet the requirements of OAR 331 division 30;

(2) Submit a completed application form prescribed by the agency, which must contain the information listed in OAR 331-030-0000 and be accompanied by payment of the required application fees;

(3) Provide documentation of one of the following qualification pathways:

(a) Registration Pathway 1 — Qualification through Waste Water Specialist Trainee Program.

(A) Trainee with Qualifying Bachelor's Degree: if applicant has obtained a waste water specialist trainee registration issued by the agency, applicant must submit:

(i) An official transcript as defined in OAR 338-005-0020 demonstrating attainment of a qualifying bachelor's degree with 45 quarter hours or equivalent semester hours in soil science courses, pursuant to ORS 700.053(3)(a);

(ii) Proof of 3,840 hours qualifying work experience under ORS 700.053(3)(a) or qualifying work experience approved by the Board as a registered waste water specialist trainee, under a supervisor specified in

ORS 700.053 or equivalent supervisor as approved by the board pursuant to OAR 338-010-0065(3);

(iii) Examination fees;

(iv) Proof of having completed and passed a board approved examination within three years preceding the date of registration application. See ORS 700.059 and OAR 338-010-0030(2); and

(v) Upon passage of all required examinations and before issuance of registration, applicant must pay all registration fees.

(B) Trainee with Graduate Degree: if applicant has obtained a waste water trainee registration issued by the agency, applicant must submit:

(i) Official transcript as defined in OAR 338-005-0020, demonstrating attainment of qualifying graduate degree in soil science pursuant to ORS 700.053(3)(b);

(ii) Proof of 1,920 hours of qualifying work experience under ORS 700.053(3)(b) as a registered waste water specialist trainee, under a supervisor specified in ORS 700.053 or equivalent supervisor as approved by the board;

(iii) Examination fees;

(iv) Proof of having completed and passed a board approved examination within three years preceding the date of registration application. See ORS 700.059 and OAR 338-010-0030(2); and

(v) Upon passage of all required examinations and before issuance of registration, applicant must pay all registration fees.

(b) Registration Pathway 2 — Reciprocity. Applicant must submit:

(i) An official transcript as defined in OAR 338-005-0020 demonstrating attainment of a qualifying bachelor's degree with 45 quarter hours or equivalent semester hours in soil science courses, pursuant to ORS 700.053(3)(a); or

(B) Official transcript as defined in OAR 338-005-0020, demonstrating attainment of qualifying graduate degree in soil science pursuant to ORS 700.053(3)(b);

(C) Affidavit of licensure pursuant to OAR 331-030-0040, demonstrating proof of current registration as a waste water specialist, which is active with no current or pending disciplinary action. The registration must have been issued by a regulatory body of another state or a national association recognized by the board; and

(D) Pay all registration fees.

(c) Registration Pathway 3 — Graduate Degree and Certification. Applicant must submit:

(i) Official transcript as defined in OAR 338-005-0020, demonstrating attainment of qualifying graduate degree in soil science pursuant to ORS 700.053(3)(c);

(ii) Proof of current certification as a professional soil scientist pursuant to ORS 700.053(3)(c);

(iii) Examination fees;

(iv) Proof of having completed and passed a board approved examination within three years preceding the date of registration application. See ORS 700.059 and OAR 338-010-0030(2); and

(v) Upon passage of all required examinations and before issuance of registration, applicant must pay all registration fees.

Stat. Auth.: ORS 676.605, 700.035, 700.062 & 700.240
Stats. Implemented: ORS 676.605, 700.035, 700.062 & 700.240
Hist.: EHRB 3-2011, f. & cert. ef. 8-1-11; EHRB 1-2015, f. 6-26-15, cert. ef. 7-1-15

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**Rule Caption:** The Environmental Health Registration Board is reducing the fee for a delinquent renewal of registration.
**Adm. Order No.:** EHRB 2-2015
**Filed with Sec. of State:** 6-29-2015
**Certified to be Effective:** 7-1-15
**Notice Publication Date:** 6-1-2015
**Rules Amended:** 338-005-0030
**Subject:** The Environmental Health Registration Board is reducing the fee for a delinquent renewal of registration.
**Rules Coordinator:** Samantha Patnode—(503) 373-1917

**338-005-0030**
**Fees**

(1) Applicants and registrants are subject to the provisions of OAR 331-010-0010 and 331-010-0020 regarding the payment of fees, penalties and charges.

(2) Fees established by the Health Licensing Office are as follows:

(a) Application:

(A) Registration — environmental health specialist: $150.

(B) Registration — waste water specialist: $150.

(C) Registration by reciprocity: $200.

(D) Trainee registration — environmental health specialist: $150.

(E) Trainee registration — waste water specialist: $150.

(b) Examination:

(A) Oregon laws & rules: $50.

(B) Written — environmental health specialist: $250.

(C) Written — waste water specialist: $250.

(c) Original issuance of registration (including by reciprocity):

(A) Environmental health specialist: $150 for one year.

(B) Waste water specialist: $150 for one year.

(C) Trainee registration — environmental health specialist: $300 for two years.

(D) Trainee registration — waste water specialist: $300 for two years.

(d) Renewal of registration:

(A) Environmental health specialist: $150 for one year.

(B) Waste water specialist: $150 for one year.

(C) Trainee extension (six month increments):

(i) Environmental health specialist: $100.

(ii) Waste water specialist: $100.

(e) Other administrative fees:

(A) Delinquent (late) renewal of registration: $40 per year, up to three years.

(B) Reactivation: $150.

(C) Replacement of registration, including name change: $25.

(D) Duplicate registration document: $25 per copy with maximum of three.

(E) Affidavit of licensure: $50.

(F) An additional $25 administrative processing fee will be assessed if a NSF or non-negotiable instrument is received for payment of fees, penalties and charges. Refer to OAR 331-010-0010.

Stat. Auth.: ORS 676.605, 700.080 & 700.240
Stats. Implemented: ORS 676.605, 700.080 & 700.240
Hist.: SRB 2, f. 4-7-72, ef. 5-1-72; SRB 4(Temp), f. & ef. 7-1-75 thru 10-28-75; SRB 5, f. 10-14-75, ef. 11-11-75; SRB 1-1981, f. & ef. 4-8-81; SRB 1-1984, f. & ef. 10-26-84; SRB 1-1985, f. & ef. 11-1-85; SRB 1-1993(Temp), f. & cert. ef. 10-22-92; SRB 1-1993, f. & cert. ef. 3-18-93; SRB 1-1996(Temp), f. 5-15-96, cert. ef. 6-1-96; SRB 3-1996, f. 6-28-96, cert. ef. 7-1-96, Renumbered from 338-010-0020; SRB 1-1997(Temp), f. & cert. ef. 7-23-97; SRB 1-1998, f. 4-29-98, cert. ef. 5-1-98; SRB 1-1999(Temp), f. 3-30-99, cert. ef. 4-1-99 thru 9-27-99; Administrative correction 11/17/99; SRB 1-2000, f. 1-28-00, cert. ef. 2-1-00; SRB 2-2000, f. 9-29-00, cert. ef. 10-1-00; SRB 2-2004, f. 6-29-04, cert. ef. 7-1-04; SRB 1-2008, f. 9-15-08 cert. ef. 10-1-08; EHRB 1-2011(Temp), f. & cert. ef. 3-1-11 thru 8-28-11; ERHB 2-2011(Temp), f. 3-3-11, cert. ef. 3-4-11 thru 8-28-11; EHRB 3-2011, f. & cert. ef. 8-1-11; EHRB 2-2015, f. 6-29-15, cert. ef. 7-1-15

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## Oregon Health Authority, Office for Oregon Health Policy and Research
## Chapter 409

**Rule Caption:** Amendment of Ambulatory Surgical Reporting and repeal relating to fee collection
**Adm. Order No.:** OHP 3-2015
**Filed with Sec. of State:** 6-30-2015
**Certified to be Effective:** 7-1-15
**Notice Publication Date:** 6-1-2015
**Rules Amended:** 409-022-0010, 409-022-0020, 409-022-0060, 409-022-0070
**Rules Repealed:** 409-022-0030, 409-022-0040, 409-022-0050, 409-022-0080
**Subject:** The Oregon Health Authority is proposing to fulfill its statutory requirements for collecting ambulatory surgical discharge abstracts using the Oregon All-Payer All-Claims Database, thus eliminating the need to collect fees from ambulatory surgical centers (ASCs). The ASCs will no longer need to submit data relating to surgical discharge abstracts. Sections of 409-022 relating to fees will be repealed.
**Rules Coordinator:** Zarie Haverkate—(503) 931-6420

**409-022-0010**
**Definitions**

Pursuant to ORS 442.120, the Oregon Health Authority has established an ambulatory surgical data reporting program. These definitions apply to OAR 409-022-0010 to 409-022-0070.

(1) "Ambulatory surgery data" means the consolidation of complete billing, medical, and personal information describing a patient, the services received, and charges billed for a surgical or diagnostic procedure treatment in a hospital outpatient setting or an ambulatory surgical facility setting into a data record.

(2) "APAC" means the Oregon All-Payer All-Claims Reporting Program as defined in ORS 442.466 and OAR 409-025-0100 to 409-025-0170.

(3) "Authority" means the Oregon Health Authority.

(4) "Hospital" means a facility with an organized medical staff, with permanent facilities that include inpatient beds and with medical services, including physician services and continuous nursing services under the supervision of registered nurses, to provide diagnosis and medical or surgical treatment that is licensed under ORS 441.015.

Stat. Auth.: ORS 442.120
Stats. Implemented: ORS 442.120
Hist.: OHP 3-2006, f. 12-14-06, cert. ef. 1-1-07; OHP 3-2015, f. 6-30-15, cert. ef. 7-1-15

**409-022-0020**
**Reporting Source of Ambulatory Surgical Data**

(1) The reporting sources for ambulatory surgery data are the mandatory reporters of the Oregon All-Payer All-Claims Reporting Program (APAC).

(2) The Oregon Health Authority may source discharge abstracts for surgical procedures from the APAC database as authorized by ORS 442.120.

Stat. Auth.: ORS 442.120
Stats. Implemented: ORS 442.120
Hist.: OHP 3-2006, f. 12-14-06, cert. ef. 1-1-07; OHP 3-2015, f. 6-30-15, cert. ef. 7-1-15

**409-022-0060**
**Access to Health Data**

(1) An inspection or examination of a Limited Data Set derived from the health data that are filed at the Oregon Health Authority shall be allowed during the normal working days and business hours of the office.

(2) The inspection or examination shall take place at the Authority or other reasonable locations designated by the Authority.

(3) Health data reported to the Authority from hospitals and facilities may include information that is protected health information when it is maintained at the hospital or facility. The Authority obtains such information because it is required by law, and because the Authority acts in the capacity of a health oversight agency. The Authority is not a covered entity or a business associate of a covered entity. The terms used in this rule have the same meaning as those terms in the HIPAA Privacy Rules, 45 CFR Parts 160 and 164.

(4) Except under rules outlined in OAR 409-22-0070 for access to a Limited Data Set, access to health data reported to the Authority will be limited to health data that does not identify any individual patient, or permit the identification of any patient when used alone or in combination with other information, or individual licensed health care professionals.

Stat. Auth.: ORS 442.120
Stats. Implemented: ORS 442.120
Hist.: OHP 3-2006, f. 12-14-06, cert. ef. 1-1-07; OHP 3-2015, f. 6-30-15, cert. ef. 7-1-15

**409-022-0070**
**Limited Data Sets with a Data Use Agreement**

(1) The Authority may authorize the disclosure of health data in accordance with a data use agreement entered into by both the Authority and a researcher, pursuant to which the Authority may disclose a limited data set to a researcher for research, public health, or health care operations. The intent of this rule is to generally apply the legal standard established in the HIPAA Privacy Rule applicable to limited data sets, 45 CFR 164.514(e).

(2) A limited data set excludes specified direct identifiers of the individual or of relatives, employers, or household members of the individual. The data use agreement must:

(a) Establish the permitted uses and disclosures of the limited data set by the recipient, consistent with the purposes of the research, and which may not include any use or disclosure that would violate the data use agreement;

(b) Limit who can use or receive the data; and

(c) Require the recipient to agree to the following:

(A) Not to use or disclose the information other than as permitted by the data use agreement or as otherwise required by law;

(B) Use appropriate safeguards to prevent the use or disclosure of the information other than as provided for in the data use agreement;

(C) Report to the covered entity any use or disclosure of the information not provided for by the data use agreement of which the recipient becomes aware;

(D) Ensure that any agents, including a subcontractor, to whom the recipient provides the limited data set agrees to the same restrictions and conditions that apply to the recipient with respect to the limited data set; and

(E) Not to identify the information or contact the individual.

Stat. Auth.: ORS 442.120
Stats. Implemented: ORS 442.120
Hist.: OHP 3-2006, f. 12-14-06, cert. ef. 1-1-07; OHP 3-2015, f. 6-30-15, cert. ef. 7-1-15

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**Rule Caption:** Amendment of Administrative Standards for Health Professional Student Clinical Training
**Adm. Order No.:** OHP 4-2015
**Filed with Sec. of State:** 7-1-2015
**Certified to be Effective:** 7-1-15
**Notice Publication Date:** 6-1-2015
**Rules Amended:** 409-030-0110, 409-030-0140, 409-030-0150, 409-030-0160, 409-030-0170, 409-030-0180, 409-030-0190, 409-030-0210, 409-030-0220, 409-030-0230
**Subject:** The Administrative Standards for Health Professional Student Clinical Training rules are being amended to address issues that were brought up by the advisory committee during the first year of implementation. Issues include adding a time frame for drug testing and criminal background checks, adding specificity to the training standards for CPR/BLS and removing the option for non-medical exemptions from immunizations.
**Rules Coordinator:** Zarie Haverkate—(503) 931-6420

**409-030-0110**
**Definitions**

The following definitions apply to OAR 409-030-0100 to 409-030-0250:

(1) "Administrative requirements" means those requirements that must be documented and verified before health professions program students may begin clinical placements, and includes criminal background checks, drug testing for substance abuse, health screenings, immunizations, and basic training standards.

(2) "Advanced practice nurse" means nursing practice areas inclusive of nurse practitioners, nurse midwives, clinical nurse specialists, and nurse anesthetists.

(3) "Authority" means the Oregon Health Authority.

(4) "CDC" means the federal Centers for Disease Control and Prevention.

(5) "Clinical placement" means any clinical rotations, internships, and any other clinical training experience that a student undergoes as part of their health professions program.

(6) "Clinical setting" or "clinical site" means the clinical facility at which a student undergoes training during a clinical placement.

(7) "Direct contact with patients" means clinical or therapeutic interaction with a patient, in a one-on-one or group setting at the clinical placement setting or an associated location, including but not limited to meetings, examinations, or procedures.

(8) "Evidence of Immunization" means a statement signed and dated by a licensed practitioner who has within the scope of the practitioner's license the authority to administer immunizations or a representative of the local health department certifying the immunizations the student has received.

(9) "For cause" means that the behavior of a student or instructor gives the health profession program or clinical site reason to believe that the individual is not complying with established standards set forth in these rules.

(10) "Health profession program" means a post-secondary course of study that concentrates on a health profession discipline as described in OAR 409-030-0130 and offers students instruction and training for becoming a health care professional.

(11) "Immunization" means receipt of any vaccine licensed by the United States Food and Drug Administration or the foreign equivalent for the prevention of a disease; proof of immunity to the disease via titer; or confirmed history of the disease.

(12) "Individually identifiable health information" has the meaning given that term in ORS 433.443.

(13) "Instructor" means a teacher, trainer, or advisor who is overseeing a student onsite during clinical training on behalf of the training program which the student attends. The degree of involvement of instructors in a student's clinical training experience may vary between programs, and may include but is not limited to observation, demonstration of technique, modeling of behavior, and regular feedback.

(14) "Licensed independent practitioner" means an individual permitted by Oregon law to independently provide care and services, without direction or supervision, within the scope of the individual's license.

(15) "Matriculated" means to be enrolled or registered for classes, as a student.

(16) "Patient" means an individual who is seeking care, guidance or treatment options at a clinical location.

(17) "School" or "educational institution" means the post-secondary college, university or other training program in which the student is matriculated for a health professions program.

(18) "Student" means an individual enrolled as a student or registered for a post-secondary school or training programs required minimum credit hours in an accredited health professions program of study.

(19) "Supervisor" means a staff member at a clinical facility who is delegated to provide supervision, to monitor student performance and to provide feedback to the student and the clinical educator and other educational training program faculty.

Stat. Auth.: ORS 413.435
Stats. Implemented: ORS 413.435
Hist.: OHP 8-2013, f. 9-30-13, cert. ef. 7-1-14; OHP 4-2015, f. & cert. ef. 7-1-15

**409-030-0140**
**Clinical Settings**

(1) Except as provided in OAR 409-030-0140 section (2) and 409-030-0150, these rules apply to the following clinical facilities hosting health professions students in the disciplines described in OAR 409-030-0130:

(a) Ambulatory care settings, including but not limited to clinics, private practices, Federally Qualified Health Centers, and primary care homes;

(b) Ambulatory surgical centers, as defined in ORS 442.015;

(c) Hospice, as defined in ORS 443.860;

(d) Hospitals and emergency departments, as defined in ORS 442.015;

(e) Long term care facilities, as defined in ORS 442.015;

(f) Residential care facilities, as defined in ORS 443.400; and

(g) Skilled nursing facilities, as defined in ORS 442.015.

(2) In addition to the exceptions provided in OAR 409-030-0150, these rules do not apply to the following clinical facilities hosting health professions students in the disciplines described in OAR 409-030-0130 for a clinical placement:

(a) Chiropractic, acupuncture, and massage therapy clinics that are independent and not associated with a clinical placement setting listed in OAR 409-030-0140(1).

(b) Federal facilities, including Department of Veterans' Affairs facilities, Indian Health Service facilities, and federal prisons. Standards for clinical placement in federal facilities are set at the federal level.

(c) Health management or administration departments.

(d) Public elementary and secondary schools (grades K-12).

(e) Radiosurgery clinical placements. The Nuclear Regulatory Commission sets requirements for students involved in radiosurgery.

(f) State prisons and correctional facilities.

(g) Oregon State Hospital.

(3) Completion of the administrative requirements in these rules only ensures administrative clearance for students. Clinical placement settings shall make all final clearance and placement decisions.

Stat. Auth.: ORS 413.435
Stats. Implemented: ORS 413.435
Hist.: OHP 8-2013, f. 9-30-13, cert. ef. 7-1-14; OHP 4-2015, f. & cert. ef. 7-1-15

**409-030-0150**
**Exceptions**

(1) In addition to the exceptions listed in OAR 409-030-0130(2) and 409-030-0140(2), the standards in these rules do not apply to:

(a) Students who will not have direct patient contact as part of their clinical placement.

(b) Students who are undergoing training overseen by their employer, academic institution, or training program at facilities that are located on the premises of or operated solely by the employer, academic institution or training program, or are otherwise considered "in-house" clinics.

(2) Clinical placement sites that have fewer or less stringent administrative requirements for newly hired non-student employees may request exemption from specific provisions of OAR 409-030-0170 through 409-030-0240 for students performing clinical placements at that site. For example, a clinical placement site that does not require regular employees to take a drug screen prior to being hired may request exemption from the section of these rules that require students to take a drug screen prior to being placed at that clinical site. However:

(a) All exemptions must be documented with the Authority prior to implementation of the exemption; and

(b) Clinical placement sites may only request exemptions from the specific category or section of these rules in which their requirements for newly-hired non student employees are less (such as immunizations, screenings, trainings or other listed in Table 1). Clinical placement sites with an exemption to a specific category of the administrative requirements must still comply with all other sections of these rules.

(3) Exemption requests may be submitted by:

(a) Clinical placement sites; or

(b) Educational institutions, on behalf of and in consultation with the clinical placement sites with which they contract and place students for clinical training.

(4) A request for exemption must include:

(a) The name and mailing address of the clinical placement setting.

(b) The supervisor or manager of student clinical placements on site, and email address and a phone number.

(c) A request for exemption from a specific section of the rules, that includes a description of the clinical placement setting's requirements for newly hired non-student employees, and how they differ from the requirements set forth in these rules.

(5) Clinical placement settings may temporarily institute a site-specific variation or change to a requirement listed in OAR 409-030-0170 through 409-030-0240 in extenuating circumstances including but not limited to a public health emergency situation, such as an outbreak that requires new or different vaccination or a safety breach that requires immediate action, provided that the clinical placement setting clearly notifies all affected parties and the Authority in advance of the changes.

(6) Once instituted, a change or variation of these rule requirements may remain in place at the clinical training placement setting until the next annual review of the rules, at which point the Authority shall decide if:

(a) The change or variation is one mandated by a federal or state regulatory agency and will therefore be incorporated into these rules for all affected clinical placement settings and health profession students; or

(b) The change or variation would improve student and patient safety significantly and should be applied widely to clinical placement settings and health profession students in the state of Oregon, through an amendment to these rules; or

(c) The change or variation is not appropriate for widespread application to clinical placement settings and health professions students in the state of Oregon. In this case, the change or variation may not be re-instated by the clinical placement site after the annual review of the rules.

[ED. NOTE: Tables referenced can be obtained from the agency]
Stat. Auth.: ORS 413.435
Stats. Implemented: ORS 413.435
Hist.: OHP 8-2013, f. 9-30-13, cert. ef. 7-1-14; OHP 4-2015, f. & cert. ef. 7-1-15

**409-030-0160**
**Regular Review of Clinical Placement Standards**

(1) The Authority shall convene an advisory group that may include representatives of affected students, health profession programs, clinical settings, and healthcare boards that regulate health profession programs. The Authority and the advisory group shall review the standards set forth in sections OAR 409-030-0170 through 409-030-0240 of these rules annually. Affected parties may bring proposed changes to the annual review process.

(2) Standards for immunizations are based on the CDC Advisory Committee on Immunization Practices guidance and other state and federal regulatory bodies overseeing immunization and vaccinations. Rules shall be updated as needed to remain in compliance with suggested vaccination schedules and other recommendations from these regulatory bodies related to the applicable immunizations and screenings listed in Table 1.

(3) State and nationwide criminal background check standards are based on rules determined by authorized state and federal regulatory bodies, including but not limited to the Joint Commission.

[ED. NOTE: Tables referenced can be obtained from the agency]
Stat. Auth.: ORS 413.435
Stats. Implemented: ORS 413.435
Hist.: OHP 8-2013, f. 9-30-13, cert. ef. 7-1-14; OHP 4-2015, f. & cert. ef. 7-1-15

**409-030-0170**
**Administrative Requirements for Clinical Placement**

(1) To qualify for a clinical placement at a covered site within the state of Oregon, covered students must satisfy requirements for each of the fol-

lowing categories prior to the start of the intended placement period. See Table 1 for an expanded list relating to:

(a) Immunizations;

(b) Screenings;

(c) Trainings; and

(d) Evidence of coverage for professional liability and general liability.

(2) Health profession programs and clinical placement settings are not required to pay for or otherwise administer any screenings or tests listed in these rules.

(3) Health profession programs must verify and retain evidence demonstrating that a student has completed all requirements listed in these rules prior to starting a placement for the student at a clinical setting. The health profession program shall provide evidence of completed requirements to clinical sites, as requested.

[ED. NOTE: Tables referenced can be obtained from the agency]

Stat. Auth.: ORS 413.435

Stats. Implemented: ORS 413.435

Hist.: OHP 8-2013, f. 9-30-13, cert. ef. 7-1-14; OHP 4-2015, f. & cert. ef. 7-1-15

**409-030-0180**

**Immunization Standards**

(1) Table 1 lists the diseases and the corresponding required immunizations that students must have in order to receive a clinical placement or the immunizations that students are recommended to have but that are not required in order to receive a clinical placement.

(2) Evidence of immunization may be demonstrated through the following:

(a) A document appropriately signed or officially stamped and dated by a qualified medical professional or an authorized representative of the local health department, which must include the following:

(A) The month and year of each dose of each vaccine received; or

(B) Documentation of proof of immunity to the disease via titer; or

(C) Written documentation by a qualified medical professional indicating the month and year the diagnosis of the disease was confirmed.

(b) An official record from the Oregon ALERT Immunization Information System.

(3) Individual student medical exemptions from specific immunizations must be maintained by health profession programs as part of the overall record of the student. Documentation for exemption requires a written statement of exemption signed by a qualified medical professional. Nonmedical exemptions from immunizations are not allowed.

[ED. NOTE: Tables referenced can be obtained from the agency]

Stat. Auth.: ORS 413.435

Stats. Implemented: ORS 413.435

Hist.: OHP 8-2013, f. 9-30-13, cert. ef. 7-1-14; OHP 4-2015, f. & cert. ef. 7-1-15

**409-030-0190**

**Screening Standards**

Table 1 provides detailed information related to required screenings for students' clinical placements. Required screenings consist of:

(1) Tuberculosis (OAR 409-030-0200);

(2) Substance abuse or misuse (OAR 409-030-0210); and

(3) State and nationwide criminal background check (OAR 409-030-0220).

[ED. NOTE: Tables referenced can be obtained from the agency]

Stat. Auth.: ORS 413.435

Stats. Implemented: ORS 413.435

Hist.: OHP 8-2013, f. 9-30-13, cert. ef. 7-1-14; OHP 4-2015, f. & cert. ef. 7-1-15

**409-030-0210**

**Drug Testing for Substance Abuse and Misuse**

(1) A student must undergo a drug test prior to the start date of initial placement at a covered clinical setting. Drug testing must take place prior to initial placement, but no more than three months before entry into the health profession training program requiring clinical training experience. A drug test is considered current while the student is enrolled and progressing in the health profession training program. Subsequent drug tests may not be required except for cause, or at re-entry into a program from which the student has taken leave or fallen out of progression. These rules do not aim to define an "acceptable" result to a drug screen. These rules ensure completion of the administrative requirements necessary for administrative clearance for students. Clinical placement settings shall make all final clearance and placement decisions.

(2) At a minimum, a covered student seeking a clinical placement at a covered clinical site must undergo a standard 10-panel drug test and must sign any necessary authorizations. Screens for the following eight substances must be included in the 10-panel drug screen:

(a) Amphetamines (including methamphetamines);

(b) Barbiturates;

(c) Benzodiazepines;

(d) Cocaine;

(e) Marijuana;

(f) Methadone;

(g) Opiates; and

(h) Phencyclidine.

(3) All drug testing must be conducted by a laboratory licensed and operated in accordance with ORS 438.010 and OAR 333-024-0305 through 333-024-0350. The health profession program must verify that screening is performed by a reputable vendor.

Stat. Auth.: ORS 413.435

Stats. Implemented: ORS 413.435

Hist.: OHP 8-2013, f. 9-30-13, cert. ef. 7-1-14; OHP 4-2015, f. & cert. ef. 7-1-15

**409-030-0220**

**State and Nationwide Criminal Background Checks**

(1) Students must undergo a state and nationwide criminal background check in advance of the start of their initial clinical placements, but no more than three months before entry into the health profession training program requiring clinical training experience. A criminal background check is considered current while the student is enrolled and progressing in the health profession training program. Subsequent criminal background checks may not be required except for cause, or at re-entry into a program from which the student has taken leave or fallen out of progression.

(2) These rules do not aim to establish or define the composition of an "acceptable" result to a state and nationwide criminal background check. These rules ensure completion of the administrative requirements necessary for administrative clearance for students. Clinical placement settings shall make all final clearance and placement.

(3) State and nationwide criminal background checks must be:

(a) Performed by a vendor that is accredited by the National Association of Professional Background Screeners (NAPBS); or

(b) Performed by a vendor that meets the following criteria:

(A) Has been in the business of criminal background checks for at least two years;

(B) Has a current business license and private investigator license, if required in the company's home state; and

(C) Maintains an errors and omissions insurance policy in an amount not less than $1 million; or

(c) Conducted through an Oregon health professional licensing board, if required for students by such Board. (For example students of pharmacy are required by the Oregon Board of Pharmacy to obtain an intern license prior to engaging in clinical training and must undergo a national fingerprint-based background check.)

(4) A criminal records check must include the following:

(a) Name and address history trace;

(b) Verification that the students' records have been correctly identified, using date of birth and a Social Security number trace;

(c) A local criminal records check, including city and county records for the student's places of residence for the last seven years;

(d) A nationwide multijurisdictional criminal database search, including state and federal records;

(e) A nationwide sex offender registry search;

(f) A query with the Office of the Inspector General's List of Excluded Individuals/Entities (LEIE);

(g) The name and contact information of the vendor who completed the records check;

(h) Arrest, warrant and conviction data, including but not limited to:

(A) Charges;

(B) Jurisdictions; and

(C) Date.

(i) Sources for data included in the report.

Stat. Auth.: ORS 413.435

Stats. Implemented: ORS 413.435

Hist.: OHP 8-2013, f. 9-30-13, cert. ef. 7-1-14; OHP 4-2015, f. & cert. ef. 7-1-15

**409-030-0230**

**Training Standards**

(1) Students must complete all listed trainings in advance of the start date of the students' initial clinical placement. See Table 1 for additional descriptions and recommended training resources.

(2) Students must complete the following steps for trainings that require certification:

(a) Complete an in-person training program in cardiopulmonary resuscitation (CPR), also known as Basic Life Support (BLS), at the health-

care provider level. On-line training will not meet this requirement. Training programs for CPR/BLS must include the following components:

(A) 1-Rescuer CPR and AED for adult, child and infant;

(B) 2-Rescuer CPR and AED for adult, child and infant;

(C) Differences between adult, child and infant rescue techniques;

(D) Bag-mask techniques for adult, child and infant;

(E) Rescue breathing for adult, child and infant;

(F) Relief of choking for adult, child and infant;

(G) CPR with an advanced airway; and

(H) Skills testing.

(b) Provide verified documentation as to the successful completion of CPR/BLS training, and

(c) Maintain current certification for CPR/BLS during the clinical placement.

(3) Health profession programs must provide documentation or a signed statement that the student has received prior training, taken educational courses, or is otherwise familiar with the following:

(a) The Health Insurance Portability and Accountability Act (HIPAA)

(b) Bloodborne Pathogen training that is compliant with the federal Occupational Safety and Health Administration (OSHA) requirements.

(c) Federal OSHA recommended safety guidelines, including:

(A) Fire and electrical safety;

(B) Personal protective equipment;

(C) Hazard communications; and

(D) Infection prevention practices.

(4) Health profession programs shall provide documentation of completed trainings, as requested by clinical sites.

(5) Clinical sites may require students to complete additional site-specific trainings or on-boarding procedures, including:

(a) Site-specific privacy and confidentiality trainings.

(b) Site-specific orientation trainings and on-boarding procedures, such as facility-specific protocols for safety, security, documentation systems, and standards of behavior or signing a non-disclosure statement.

[ED. NOTE: Tables referenced can be obtained from the agency]

Stat. Auth.: ORS 413.435

Stats. Implemented: ORS 413.435

Hist.: OHP 8-2013, f. 9-30-13, cert. ef. 7-1-14; OHP 4-2015, f. & cert. ef. 7-1-15

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## Oregon Health Authority, Oregon Educators Benefit Board Chapter 111

**Rule Caption:** Clarifying participation requirements for the OEBB benefits program

**Adm. Order No.:** OEBB 3-2015

**Filed with Sec. of State:** 7-10-2015

**Certified to be Effective:** 7-10-15

**Notice Publication Date:** 4-1-2015

**Rules Amended:** 111-020-0010

**Rules Repealed:** 111-020-0010(T)

**Subject:** OAR 111-020-0010 is amended to clarify participation requirements for the OEBB benefits program and limits Local Governments electing to participate in the OEBB benefits program on or after April 1, 2015 to using the tiered rate structure.

**Rules Coordinator:** April Kelly—(503) 378-6588

**111-020-0010**

**Entities Electing to Join OEBB**

(1) Effective January 1, 2014 an Entity can elect to participate in benefit plans provided by the Board subject to the following conditions:

(a) The Entity completes and submits a Notice of Intent to join OEBB at least 90 days prior to the date OEBB coverage is to go into effect;

(b) OEBB will not transfer any deductibles or annual out-of-pocket maximums met with the prior carrier;

(c) For those members with an existing life insurance policy through the Entity, OEBB will transfer the life insurance amount in force on the last day the prior group coverage was in effect, rounded to the next highest $10,000 increment, if requested and documented by the Entity.

(d) Early retiree participation in the OEBB plans will be limited to those individuals and eligible dependents currently enrolled in the Entity's medical, dental and/or vision plans and those Early Retirees who retire on or after the effective date of OEBB coverage and their eligible dependents.

(2) Entities electing to participate in benefit plans provided by the Board are limited to offering the coverages and plans provided by OEBB for medical, dental, vision, life, AD&D, disability plans, Employee Assistance Program (EAP) and Long Term Care (LTC). Entities cannot choose to offer some coverages or plans through OEBB and other coverages or plans outside of the OEBB benefits program.

(3) A Local Government must provide OEBB with medical plan premium rates and loss ratios for the two most-recent years, if available, with its Notice of Intent to join OEBB to allow OEBB's Consultant to perform an actuarial plan comparison. For self-funded groups, two years of claims experience data should be submitted in lieu of premium rates or loss ratios. The results of the actuarial analysis shall be used as follows:

(a) If the actuarial plan comparison for a Local Government demonstrates that costs are less than 10 percent over OEBB's costs during the same two-year period, the Local Government may participate in the OEBB plan(s) at current OEBB rates.

(b) If an actuarial plan comparison for a Local Government demonstrates that costs are equal to or greater than 10 percent higher than OEBB's costs during the same two year period, the Local Government may participate in the OEBB plan(s) subject to a special rate category, or surcharge, for up to three years.

(4) The Local Government must submit a final Letter of Participation to OEBB at least 30 days prior to the effective date of participation.

(5) Local Governments providing a cash incentive to a member for opting-out of medical coverage that exceeds 75 percent of the cost of employee only coverage of the lowest cost OEBB medical plan may be assessed a surcharge of up to $100 per month per opt-out election.

(6) Local Governments who elect to participate in benefit plans provided by the Board and then subsequently elect to leave OEBB and offer a plan or plans available through the health insurance exchange may re-elect to participate in benefit plans provided by the Board under the rate category the Local Government was in just prior to leaving OEBB on a one-time basis provided the Local Government completes and submits a Letter of Participation to OEBB at least 60 days prior to the date OEBB coverage is to go into effect.

(7) Once a Local Government re-elects to participate in benefit plans provided by the Board after leaving, they are not eligible to offer alternative plans through any other source or sponsor.

(8) Local Governments electing to join OEBB on or after April 1, 2015, are limited to using the tiered rate structure for medical, dental and vision plans.

Stat. Auth.: ORS 243.860 – 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 11-2013(Temp), f. & cert. ef. 10-11-13 thru 4-8-13; OEBB 22-2013, f. & cert. ef. 12-27-13; OEBB 3-2014, f. & cert. ef. 7-22-14; OEBB 1-2015(Temp), f. & cert. ef. 3-13-15 thru 9-8-15: OEBB 3-2015, f. & cert. ef. 7-10-15

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**Rule Caption:** Housekeeping amendments to align rule language with Qualified Status Change Matrix

**Adm. Order No.:** OEBB 4-2015

**Filed with Sec. of State:** 7-10-2015

**Certified to be Effective:** 7-10-15

**Notice Publication Date:** 4-1-2015

**Rules Amended:** 111-040-0040

**Subject:** Housekeeping amendments to OAR 111-040-0040 align rule language with revisions made to the Qualified Status Change (QSC) Matrix.

**Rules Coordinator:** April Kelly—(503) 378-6588

**111-040-0040**

**Qualified Status Changes (QSCs)**

(1) An Eligible Employee experiencing a change in family or work status as noted below after an annual open enrollment, or anytime during the plan year, has 31 calendar days beginning on the date of the event to make allowable changes. If the event is gaining a child, as defined by 111-040-0040(4)(c), or results in a loss of eligibility, the Eligible Employee has 60 calendar days after the event to make allowable changes.

(2) An Eligible Employee can only make changes that are consistent with the event for them self and/or dependents.

(3) An Eligible Employee must report the Qualified Status Change (QSC) to the employee's Entity within the specified timeframe. Failure to report a QSC that will result in removal of a spouse, domestic partner, or child within the timeframe stated in 111-040-0040(1) may be considered intentional misrepresentation, and OEBB may rescind the individual's coverage back to the last day of the month in which the individual lost eligibility. Please refer to the QSC matrix for details on what changes can occur with each event.

(4) Qualified Status Changes which allow an employee to make changes to his or her coverage are:

(a) Gaining a spouse by marriage or domestic partner by meeting domestic partner eligibility;

(b) Loss of spouse or domestic partner by divorce, annulment, death or termination of domestic partnership,

(c) Gaining a child by birth, placement for/or adoption, or Domestic Partner's children (by affidavit of domestic partnership),

(d) Change in employee group which affects plan option availability;

(e) Spouse, domestic partner or child starts new employment or other change in employment status which affects eligibility for benefits;

(f) Spouse, domestic partner's or child's employment ends or other change in employment status resulting in a loss of eligibility for benefits under their employer's plan;

(g) Event by which a child satisfies eligibility requirements under OEBB plans;

(h) Event by which a child ceases to satisfy eligibility requirements under OEBB plans;

(i) Changes in the residence of the active eligible employee, spouse, domestic partner, or child (i.e., moving out of the service area of an HMO or limited network service area plan);

(j) Significant changes in cost of the Eligible Employee's or Early Retiree's current plan and tier level that result in a negative impact of 10 percent or more to:

(A) The amount an active Eligible Employee or Early Retiree must contribute toward benefits.

(B) The amount a spouse or domestic partner must contribute toward his or her group health insurance plan cost.

(k) Different Open Enrollment/Plan Year under a spouse/domestic partner's employer plan.

(l) Related laws or court orders. For example: Qualified Medical Child Support Order (QMSCO), Entitlement to Medicare or Medicaid, HIPAA, or Children's Health Insurance Program (CHIP) Changes are determined by the applicable law or court order.

(5) Changes in coverage, or contribution amounts that result in a reduced amount that an employee or eligible dependent must contribute toward benefits, do not constitute a Qualified Status Change.

(6) The following applies to the Long Term Care benefit plans only:

(a) Cancel the plan at any time without a QSC event.

(b) Plan additions or changes require a QSC event as defined 111-040-0040(2). The addition of a plan or change in plans with a QSC is subject to a medical evidence review by the LTC carrier.

Stat. Auth.: ORS 243.860 - 243.886
Stats. Implemented: ORS 243.864(1)(a)
Hist.: OEBB 14-2008, f. & cert. ef. 8-15-08; OEBB 10-2009(Temp), f. 5-4-09, cert. ef. 5-5-09 thru 10-31-09; OEBB 11-2009, f. & cert. ef. 7-31-09; OEBB 17-2009(Temp), f. & cert. ef. 10-7-09 thru 4-4-10; OEBB 22-2009, f. & cert. ef. 12-17-09; OEBB 2-2010(Temp), f. & cert. ef. 3-3-10 thru 8-29-10; OEBB 6-2010, f. & cert. ef. 8-3-10; OEBB 9-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 12-2010(Temp), f. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 3-2011, f. & cert. ef. 2-11-11; OEBB 7-2011(Temp), f. & cert. ef. 2-15-11 thru 8-13-11; OEBB 11-2011, f. & cert. ef. 6-22-11; OEBB 17-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; OEBB 23-2011, f. & cert. ef. 12-14-11; OEBB 4-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12; OEBB 9-2012, f. & cert. ef. 10-9-12; OEBB 23-2013(Temp), f. & cert. ef. 12-27-13 thru 6-25-14; OEBB 2-2014, f. & cert. ef. 3-7-14; OEBB 4-2015, f. & cert. ef. 7-10-15

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**Rule Caption:** Adopting language for a new medical benefit plan offering
**Adm. Order No.:** OEBB 5-2015(Temp)
**Filed with Sec. of State:** 7-10-2015
**Certified to be Effective:** 7-10-15 thru 10-24-15
**Notice Publication Date:**
**Rules Adopted:** 111-030-0011
**Rules Suspended:** 111-030-0011(T)
**Subject:** In order to assist OEBB participating entities with meeting the Shared Responsibility provision of the Affordable Care Act (ACA), the OEBB Board has approved the offering of a bronze level medical plan to certain individuals that meet strict requirements. The temporary rule language defines who is eligible and what the limitations are.
**Rules Coordinator:** April Kelly—(503) 378-6588

**111-030-0011**
**Bronze Medical Plan Offering**

(1) Effective October 1, 2015, a bronze medical plan option or options will be available for entities to offer employees who:

(a) Meet the definition of a full-time employee under the Affordable Care Act (ACA);

(b) Are not employed in a benefit-eligible position or eligible for benefits under a collective bargaining agreement; and

(c) Do not receive any form of benefit contribution from the entity.

(2) The bronze medical plan option(s) will be limited to;

(a) Employee only and employee plus child(ren) coverage using the tiered rate structure; and

(b) Active employees as described in section (1) and COBRA participants eligible due to loss of coverage as an active employee, or dependent of an active employee, as described in section (1).

(3) The bronze medical plan availability, enrollments and application of criteria set forth in sections (1) and (2) are subject to ongoing monitoring and review by OEBB to confirm compliance.

(4) Employees eligible for coverage on the bronze medical plan option(s) may not be offered or enroll in any the following OEBB benefits as an eligible subscriber: dental, vision, life, AD&D, disability, or long term care or any other medical plan offered through OEBB.

(5) Employees eligible for coverage on the bronze medical plan option(s) may be included in an entity's Employee Assistance Program (EAP), if available, and at the entity's discretion.

(6) Use of the bronze medical plan option or options for any other purpose or by any unauthorized employee or employee group is prohibited and misuse of the options will result in loss of access to the bronze medical plan option(s).

Stat. Auth.: ORS 243.860 – 243.886
Stats. Implemented: ORS 243.864(1)(a)
Hist.: OEBB 2-2015(Temp), f. & cert. ef. 4-28-15 thru 10-24-15; OEBB 5-2015(Temp), f. & cert. ef. 7-10-15 thru 10-24-15

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## Oregon Health Authority, Public Health Division Chapter 333

**Rule Caption:** New definitions and new disease reporting requirements
**Adm. Order No.:** PH 10-2015
**Filed with Sec. of State:** 7-2-2015
**Certified to be Effective:** 7-3-15
**Notice Publication Date:** 6-1-2015
**Rules Amended:** 333-017-0000, 333-018-0010, 333-018-0015, 333-018-0018, 333-019-0000, 333-019-0010, 333-019-0014, 333-056-0020
**Rules Repealed:** 333-019-0010(T)
**Subject:** The Oregon Health Authority, Public Health Division, Acute and Communicable Disease Prevention section is permanently amending rules in chapter 333, divisions 17, 18, 19 & 56 pertaining to new or modified definitions and to new disease reporting requirements. The new and modified definitions assure that Oregon's definitions are harmonized with national definitions for lead poisoning and carbapenem antibiotic resistance, standardized in terms of laboratory specimen descriptors, and clarified with regard to defining syringes and excluding susceptible individuals in outbreak settings. The new disease reporting requirements include the addition of amebic infections of the central nervous system, coccidioidomycosis, and isolate-submission requirements for Coccidioides spp and novel influenza.
**Rules Coordinator:** Brittany Sande—(971) 673-1291

**333-017-0000**
**Definitions**

For purposes of OAR chapter 333, divisions 17, 18 and 19, unless the context requires otherwise or a rule contains a more specific definition, the following definitions shall apply.

(1) "AIDS": AIDS is an acronym for acquired immunodeficiency syndrome. An individual is considered to have AIDS when their illness meets criteria published in Morbidity and Mortality Weekly Report, Volume 41, Number RR-17, pages 1–4, December 18, 1992.

(2) "Animal Suspected of Having Rabies": An animal is suspected of having rabies when:

(a) It is a dog, cat, or ferret not known to be satisfactorily vaccinated against rabies (as defined in OAR 333-019-0017), or it is any other mammal; and

(b) It exhibits one or more of the following aberrant behaviors or clinical signs: unprovoked biting of persons or other animals, paralysis or partial paralysis of limbs, marked excitation, muscle spasms, difficulty swallowing, apprehensiveness, delirium, or convulsions; and it has no other diagnosed illness that could explain the neurological signs.

(3) "Approved Fecal Specimen" means a specimen of feces from a person who has not taken any antibiotic orally or parenterally for at least 48 hours prior to the collection of the specimen. Improper storage or transportation of a specimen, or inadequate growth of the culture suggestive of recent antibiotic usage can, at the discretion of public health microbiologists, result in specimen rejection.

(4) "Authority" means the Oregon Health Authority.

(5) "Bite, Biting, Bitten": The words bite, biting, and bitten refer to breaking of the skin by the teeth of an animal, or mouthing a fresh abrasion of the skin by an animal.

(6) "Case" means a person who has been diagnosed by a health care provider as having a particular disease, infection, or condition, or whose illness meets defining criteria published in the Authority's Investigative Guidelines.

(7) "Children's facility" means:

(a) A certified child care facility as described in ORS 329A.030 and 329A.250 to 329A.450, except an "exempted children's facility" as defined in OAR 333-050-0010;

(b) A program operated by, or sharing the premises with, a certified child care facility, school or post-secondary institution where care is provided to children, six weeks of age to kindergarten entry, except an "exempted children's facility" as defined in OAR 333-050-0010; or

(c) A program providing child care or educational services to children, six weeks of age to kindergarten entry, in a residential or nonresidential setting, except an "exempted children's facility" as defined in OAR 333-050-0010.

(8) "Control" has the meaning given that term in ORS 433.001.

(9) "Disease outbreak" has the meaning given that term in ORS 431.260.

(10) "Enterobacteriaceae family" means the family of bacteria that includes but is not limited to the following genera and taxonomic groups:

(a) Budvicia;
(b) Buttiauxella;
(c) Cedecea;
(d) Citrobacter;
(e) Edwardsiella;
(f) Enteric Group 58;
(g) Enteric Group 59;
(h) Enteric Group 60;
(i) Enteric Group 63;
(j) Enteric Group 64;
(k) Enteric Group 68;
(l) Enteric Group 69;
(m) Enteric Group 137;
(n) Enterobacter;
(o) Escherichia;
(p) Ewingella;
(q) Hafnia;
(r) Klebsiella;
(s) Kluyvera;
(t) Leclercia;
(u) Leminorella;
(v) Moellerella;
(w) Morganella;
(x) Obesumbacterium;
(y) Pantoea;
(z) Photorhabdus;
(aa) Plesiomonas;
(bb) Pragia;
(cc) Proteus;
(dd) Providencia;
(ee) Rahnella;
(ff) Salmonella;
(gg) Serratia;
(hh) Shigella;
(ii) Tatumella;
(jj) Trabulsiella;
(kk) Xenorhabdus;
(ll) Yersinia;
(mm) Yokenella.

(11) "Food Handler" means any business owner or employee who handles food utensils or who prepares, processes, handles or serves food for people other than members of their immediate household, for example restaurant, delicatessen, and cafeteria workers, caterers, and concession stand operators.

(12) "Food Service Facility" means an establishment that processes or serves food for sale.

(13) "Health Care Facility" has the meaning given that term in ORS 442.015.

(14) "Health Care Provider" has the meaning given that term in ORS 433.443.

(15) "HIV" means the human immunodeficiency virus, the causative agent of AIDS.

(16) "HIV Test" means a Food and Drug Administration (FDA)-approved test for the presence of HIV (including RNA testing), or for antibodies or antigens that result from HIV infection, or for any other substance specifically associated with HIV infection and not with other diseases or conditions.

(17) "HIV Positive Test" means a positive result on the most definitive HIV test procedure used to test a particular individual. In the absence of the recommended confirmation tests, this means the results of the initial test done.

(18) "Lead Poisoning" means:

(a) A confirmed blood lead level of at least 5 micrograms per deciliter for children under 18 years of age; or

(b) A confirmed blood lead level of at least 10 micrograms per deciliter for people 18 years of age and older.

(19) "Licensed Laboratory" means a medical diagnostic laboratory that is inspected and licensed by the Authority or otherwise licensed according to the provisions of the federal Clinical Laboratory Improvement Amendments of 1988 (42 U.S.C. § 263a). Any laboratory operated by the U.S. Centers for Disease Control and Prevention shall also be considered a Licensed Laboratory.

(20) "Licensed Physician" means any physician who is licensed by the Oregon Medical Board or the Board of Naturopathic Medicine.

(21) "Licensed Veterinarian" means a veterinarian licensed by the Oregon Veterinary Medical Examining Board.

(22) "Local Public Health Administrator" has the meaning given that term in ORS 431.260.

(23) "Local Public Health Authority" has the meaning given that term in ORS 431.260.

(24) "Non-Susceptible to any Carbapenem Antibiotic" means the finding of any of the following:

(a) Gene sequence specific for carbapenemase;

(b) Phenotypic test (for example, Carba NP) positive for production of carbapenemase; or

(c) Resistance to any carbapenem antibiotic with elevated minimum inhibitory concentration (MIC):

(A) MIC for imipenem greater than or equal to 4 mcg/ml; or

(B) MIC for meropenem greater than or equal to 4 mcg/ml; or

(C) MIC for ertapenem greater than or equal to 2 mcg/ml.

(25) "Novel Influenza" means influenza A virus that cannot be subtyped by commercially distributed assays.

(26) "Onset": Unless otherwise qualified, onset refers to the earliest time of appearance of signs or symptoms of an illness.

(27) "Pesticide Poisoning" means illness in a human that is caused by acute or chronic exposure to:

(a) Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; or

(b) Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant as defined in ORS 634.006.

(28) "Public Health Division (Division)" means the Public Health Division within the Oregon Health Authority.

(29) "School" means a public, private, parochial, charter or alternative educational program offering kindergarten through grade 12 or any part thereof.

(30) "School Administrator" means the principal or other person having general control and supervision of a school or children's facility and has the same meaning as "administrator" in ORS 433.235.

(31) "Specimen Source Site" means the source from which the specimen was obtained.

(a) For environmental samples, "specimen source site" means the location of the source of the specimen.

(b) For biological samples, "specimen source site" means the anatomical site from which the specimen was collected.

(32) "Specimen Type" means the description of the source material of the specimen.

(33) "Suspected Case" means a person whose illness is thought by a health care provider to have a significant likelihood of being due to a reportable disease, infection, or condition, based on facts such as but not limited to the patient's signs and symptoms, possible exposure to a reportable disease, laboratory findings, or the presence or absence of an alternate explanation for the illness.

(34) "Uncommon Illness of Potential Public Health Significance": These illnesses include:

(a) Any infectious disease with potentially life-threatening consequences that is exotic to or uncommon in Oregon, for example, variola (smallpox) or viral hemorrhagic disease;

(b) Any illness related to a contaminated medical device or product; or

(c) Any acute illness suspected to be related to environmental exposure to any infectious or toxic agent or to any household product.

(35) "Veterinary Laboratory" means a laboratory whose primary function is handling and testing diagnostic specimens of animal origin.

[Publications: Publications referenced are available from the Agency.]

Stat. Auth.: ORS 413.042, 433.004, 437.010, 616.745 & 624.080

Stats. Implemented: ORS 433.004, 433.360, 437.030, 616.745 & 624.380

Hist.: HD 15-1981, f. 8-13-81, ef. 8-15-81; HD 12-1983, f. & ef. 8-1-83; HD 4-1987, f. 6-12-87, ef. 6-19-87; HD 13-1990(Temp), f. 3-25-90, cert. ef. 8-1-90; HD 5-1991, f. 5-29-91, cert. ef. 4-1-91; HD 10-1991, f. & cert. ef. 7-23-91; HD 9-1992, f. & cert. ef. 8-14-92; HD 29-1994, f. & cert. ef. 12-2-94; OHD 2-2002, f. & cert. ef. 3-4-02; PH 11-2005, f. 6-30-05, cert. ef. 7-5-05; PH 5-2010, f. & cert. ef. 3-11-10; PH 7-2011, f. & cert. ef. 8-19-11; PH 16-2013, f. 12-26-13, cert. ef. 1-1-14; PH 10-2015, f. 7-2-15, cert. ef. 7-3-15

**333-018-0010**
**Form of the Report**

(1) A health care provider required to report reportable diseases under ORS 433.004 and these rules shall submit to the local public health administrator a report that includes but is not limited to:

(a) The identity, address, and telephone number of the person reporting;

(b) The identity, address, and telephone number of the attending health care provider, or other treating health care provider if any;

(c) The name of the person affected or ill, that person's current address, telephone number, and date of birth;

(d) The diagnosed or suspected disease, infection, or condition; and

(e) The date of illness onset.

(2) A licensed laboratory required to report reportable diseases under ORS 433.004 and these rules shall submit to the local public health administrator a report that includes but is not limited to:

(a) The name and telephone number of the reporting laboratory;

(b) The name, gender, age or date of birth, the address and county of residence of the person from whom the laboratory specimen was obtained, if known;

(c) The date the specimen was obtained;

(d) The specimen source site and the specimen type; for example, the specimen source site | specimen type pairings could be (knee | fluid, synovial) (cervix | tissue), (venous | blood).

(e) The name, address and telephone number of the health care provider of the person from whom the laboratory specimen was obtained;

(f) The name or description of the test;

(g) The test result; and

(h) Information required by the Authority's Manual for Mandatory Electronic Laboratory Reporting, if electronic reporting is required under OAR 333-018-0013.

(3) Reportable disease reports shall be made in the following manner:

(a) Reports for diseases or suspected diseases that are immediately reportable under OAR 333-018-0015 shall be submitted orally, by telephone, with a follow-up written report via facsimile.

(b) Reports for diseases or suspected diseases that are required to be reported within one to seven days under OAR 333-018-0013 shall be submitted in writing via facsimile or by other means approved by the local public health administrator, consistent with the need for timely reporting as provided in OAR 333-018-0015.

(c) Electronically, if required by OAR 333-018-0013.

(4) If requested by a local public health administrator or the Oregon Public Health Division, health care providers and licensed laboratories shall provide additional information of relevance to the investigation or control of reportable diseases or conditions (for example, reported signs and symptoms, laboratory test results (including negative results), potential exposures, contacts, and clinical outcomes).

Stat. Auth.: ORS 413.042 & 433.004

Stats. Implemented: ORS 433.004

Hist.: HD 15-1981, f. 8-13-81, ef. 8-15-81; HD 4-1987, f. 6-12-87, ef. 6-19-87; HD 13-1990(Temp), f. 5-25-90, cert. ef. 8-1-90; HD 5-1991, f. 3-29-91, cert. ef. 4-1-91; HD 10-1991, f. & cert. ef. 7-23-91; HD 29-1994, f. & cert. ef. 12-2-94; OHD 3-2002, f. & cert. ef. 3-4-02; PH 11-2005, f. 6-30-05, cert. ef. 7-5-05; PH 5-2010, f. & cert. ef. 3-11-10; PH 7-2011, f. & cert. ef. 8-19-11; PH 16-2013, f. 12-26-13, cert. ef. 1-1-14; PH 10-2015, f. 7-2-15, cert. ef. 7-3-15

**333-018-0015**
**What Is to Be Reported and When**

(1) Health care providers shall report all human cases or suspected human cases of the diseases, infections, microorganisms, and conditions specified below. The timing of health care provider reports is specified to reflect the severity of the illness or condition and the potential value of rapid intervention by public health agencies.

(2) When local public health administrators cannot be reached within the specified time limits, reports shall be made directly to the Authority, which shall maintain an around-the-clock public health consultation service.

(3) Licensed laboratories shall report all test results indicative of and specific for the diseases, infections, microorganisms, and conditions specified below for humans. Such tests include but are not limited to: microbiological culture, isolation, or identification; assays for specific antibodies; and identification of specific antigens, toxins, or nucleic acid sequences.

(4) Human reportable diseases, infections, microorganisms, and conditions, and the time frames within which they must be reported are as follows:

(a) Immediately, day or night: Bacillus anthracis (anthrax); Clostridium botulinum (botulism); Corynebacterium diphtheriae (diphtheria); novel influenza; Yersinia pestis (plague); poliomyelitis; rabies (human); measles (rubeola); Severe Acute Respiratory Syndrome (SARS) and infection by SARS coronavirus; rubella; variola major (smallpox); Francisella tularensis (tularemia); Vibrio cholerae O1, O139, or toxigenic; hemorrhagic fever caused by viruses of the filovirus (e.g., Ebola, Marburg) or arenavirus (e.g., Lassa, Machupo) families; yellow fever; intoxication caused by marine microorganisms or their byproducts (for example, paralytic shellfish poisoning, domoic acid intoxication, ciguatera, scombroid); any known or suspected common-source outbreaks; any uncommon illness of potential public health significance.

(b) Within 24 hours (including weekends and holidays): Haemophilus influenzae (any invasive disease; for laboratories, any isolation or identification from a normally sterile site); Neisseria meningitidis (any invasive disease; for laboratories, any isolation or identification from a normally sterile site); pesticide poisoning.

(c) Within one local public health authority working day: amebic infection of the central nervous system (for example, by Naegleria or Balamuthia spp.), Bordetella pertussis (pertussis); Borrelia (relapsing fever, Lyme disease); Brucella (brucellosis); Campylobacter (campylobacteriosis); Chlamydophila (Chlamydia) psittaci (psittacosis); Chlamydia trachomatis (chlamydiosis; lymphogranuloma venereum); Clostridium tetani (tetanus); Coccidioides (coccidioidomycosis), Coxiella burnetii (Q fever); Creutzfeldt-Jakob disease and other transmissible spongiform encephalopathies; Cryptococcus (cryptococcosis), Cryptosporidium (cryptosporidiosis); Cyclospora cayetanensis (cyclosporosis); bacteria of the Enterobacteriaceae family found to be resistant to carbapenem antibiotics; Escherichia coli (Shiga-toxigenic, including E. coli O157 and other serogroups); Giardia (giardiasis); Grimontia spp.; Haemophilus ducreyi (chancroid); hantavirus; hepatitis A; hepatitis B (acute or chronic infection); hepatitis C; hepatitis D (delta); hepatitis E; HIV infection (does not apply to anonymous testing) and AIDS; death of a person <18 years of age with laboratory-confirmed influenza; lead poisoning; Legionella (legionellosis); Leptospira (leptospirosis); Listeria monocytogenes (listeriosis); mumps; Mycobacterium tuberculosis and M. bovis (tuberculosis); nonrespiratory infection with nontuberculous mycobacteria; Neisseria gonorrhoeae (gonococcal infections); pelvic inflammatory disease (acute, nongonococcal); Plasmodium (malaria); Rickettsia (all species: Rocky Mountain spotted fever, typhus, others); Salmonella (salmonellosis, including typhoid); Shigella (shigellosis); Taenia solium (including cysticercosis and undifferentiated Taenia infections); Treponema pallidum (syphilis); Trichinella (trichinosis); Vibrio spp.; Yersinia (other than pestis); any infection that is typically arthropod vector-borne (for example: babesiosis, California encephalitis, Colorado tick fever, dengue, Eastern equine encephalitis, ehrlichiosis, Heartland virus infection, Kyasanur Forest disease, St. Louis encephalitis, West Nile fever, Western equine encephalitis, etc.); a human bitten by any other mammal; and hemolytic uremic syndrome.

(d) Within seven days: Any blood lead level tests including the result.

(5) Licensed laboratories shall report, within seven days, the results of all tests of CD4+ T-lymphocyte absolute counts and the percent of total lymphocytes that are CD4 positive, and HIV nucleic acid (viral load) tests.

Stat. Auth.: ORS 413.042, 433.004 & 433.006
Stats. Implemented: ORS 433.004 & 437.010
Hist.: HD 15-1981, f. 8-13-81, ef. 8-15-81; HD 20-1985(Temp), f. & ef. 9-30-85; HD 4-1987, f. 6-12-87, ef. 6-19-87; HD 15-1988, f. 7-11-88, cert. ef. 9-1-88; HD 13-1990(Temp), f. 5-25-90, cert. ef. 8-1-90; HD 5-1991, f. 3-29-91, cert. ef. 4-1-91; HD 10-1991, f. & cert. ef. 7-23-91; HD 9-1992, f. & cert. ef. 8-14-92; HD 29-1994, f. & cert. ef. 12-2-94; OHD 22-2001, f. & cert. ef. 10-19-01; OHD 3-2002, f. & cert. ef. 3-4-02; PH 11-2005, f. 6-30-05, cert. ef. 7-5-05; PH 7-2006, f. & cert. ef. 4-17-06; PH 13-2006(Temp), f. 6-27-06, cert. ef. 7-1-06 thru 12-27-06; PH 19-2006, f. & cert. ef. 9-13-06; PH 11-2007(Temp), f. & cert. ef. 8-22-07 thru 2-18-08; PH 13-2007, f. & cert. ef. 11-7-07; PH 8-2009(Temp), f. & cert. ef. 9-1-09 thru 2-26-10; PH 5-2010, f. & cert. ef. 3-11-10; PH 7-2011, f. & cert. ef. 8-19-11; PH 16-2013, f. 12-26-13, cert. ef. 1-1-14; PH 10-2015, f. 7-2-15, cert. ef. 7-3-15

**333-018-0018**
**Submission of Isolates to the Public Health Laboratory**

Licensed laboratories are required to forward aliquots or subcultures of the following to the Oregon State Public Health Laboratory:

(1) Suspected Neisseria meningitidis and Haemophilus influenzae from normally sterile sites.

(2) Suspected Shiga-toxigenic Escherichia coli (STEC), including E. coli O157; Salmonella spp., Shigella spp., Vibrio spp., Grimontia spp., Listeria spp., Yersinia spp.; Mycobacterium tuberculosis and M. bovis from any source.

(3) All Coccidioides spp. isolates.

(4) All cryptococcal isolates.

(5) All isolates of the Enterobacteriaceae family resistant to any carbapenem antibiotic.

(6) For persons under the age of 18 who died with laboratory-confirmed influenza: respiratory specimens or viral isolates, any Staphylococcus aureus isolates, and, after consulting with the Oregon Public Health Division, autopsy specimens.

(7) All novel influenza isolates.

Stat. Auth.: ORS 413.042, 433.004 & 438.450
Stats. Implemented: ORS 433.004 & 438.310
Hist.: HB 248, f. 6-30-70, ef. 7-25-70; HD 28-1988, f. & cert. ef. 12-7-88; HD 20-1994, f. & cert. ef. 7-20-94; HD 6-1995, f. & cert. ef. 9-13-95; OHD 11-2001, f. & cert. ef. 5-16-01, Renumbered from 333-024-0050(5); OHD 3-2002, f. & cert. ef. 3-4-02; PH 11-2005, f. 6-30-05, cert. ef. 7-5-05; PH 28-2006, f. 11-30-06, cert. ef 12-18-06; PH 5-2010, f. & cert. ef. 3-11-10; PH 7-2011, f. & cert. ef. 8-19-11; PH 16-2013, f. 12-26-13, cert. ef. 1-1-14; PH 10-2015, f. 7-2-15, cert. ef. 7-3-15

**333-019-0000**
**Responsibility of Public Health Authorities to Investigate Reportable Diseases**

(1) The local public health administrator shall use all reasonable means to investigate in a timely manner all reports of reportable diseases, infections, or conditions. To identify possible sources of infection and to carry out appropriate control measures, the local public health administrator shall investigate each report following procedures outlined in the Authority's Investigative Guidelines or other procedures approved by the Authority. The Authority may provide assistance in these investigations.

(2) Investigations of outbreaks involving residents of multiple states or counties or exposures in multiple states of counties may be supervised by the Authority.

(3) Investigations by the Authority or local public health administrator shall be conducted in accordance with ORS 433.004 and these rules.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 413.042, 431.110, 433.004, 437.010, 616.010 & 624.005
Stats. Implemented: ORS 433.004 & 437.030
Hist.: HD 15-1981, f. 8-13-81, ef. 8-15-81; HD 4-1987, f. 6-12-87, ef. 6-19-87; HD 29-1994, f. & cert. ef. 12-2-94; OHD 4-2002, f. & cert. ef. 3-4-02; PH 7-2011, f. & cert. ef. 8-19-11; PH 10-2015, f. 7-2-15, cert. ef. 7-3-15

**333-019-0010**
**Imposition of Restrictions**

(1) For purposes of this rule:

(a) "Restrictable disease":

(A) As applied to food service facilities includes but is not limited to diphtheria, hepatitis A, measles, Salmonella enterica serotype Typhi infection, Shiga-toxigenic Escherichia coli (STEC) infection, shigellosis, tuberculosis disease, open or draining skin lesions infected with Staphylococcus aureus or Streptococcus pyogenes, and any illness accompanied by diarrhea or vomiting.

(B) As applied to schools, children's facilities, and health care facilities, includes but is not limited to chickenpox, diphtheria, hepatitis A, measles, mumps, pertussis, rubella, Salmonella enterica serotype Typhi infection, scabies, Shiga-toxigenic Escherichia coli (STEC) infection, shigellosis, and tuberculosis disease and may include a communicable stage of hepatitis B infection if, in the opinion of the local health officer, the child poses an unusually high risk to other children (for example, exhibits uncontrollable biting or spitting).

(C) Includes any other communicable disease identified in an order issued by the Authority or a local public health administrator as posing a danger to the public's health.

(b) "Susceptible" means being at risk of contracting a restrictable disease by virtue of being in one or more of the following categories:

(A) Not being complete on the immunizations required by OAR chapter 333, division 50;

(B) Possessing a medical exemption from any of the vaccines required by OAR chapter 333, division 50 due to a specific medical diagnosis based on a specific medical contraindication; or

(C) Possessing a nonmedical exemption for any of the vaccines required by OAR chapter 333, division 50.

(c) "Reportable disease" means a human reportable disease, infection, microorganism, or condition specified by OAR chapter 333, division 18.

(2) To protect the public health, an individual who attends or works at a school or child care facility, or who works at a health care facility or food service facility may not attend or work at a school or facility while in a communicable stage of a restrictable disease, unless otherwise authorized to do so under these rules.

(3) At the discretion of local school authorities or the local public health authority, pediculosis may be considered a school-restrictable condition.

(4) A susceptible child or employee in a school or children's facility who has been exposed to a restrictable disease that is also a reportable disease for which an immunization is required under OAR 333-050-0050 must be excluded by the school administrator, unless the local health officer determines, in accordance with section (5) of this rule, that exclusion is not necessary to protect the public's health.

(5) A school administrator may request that the local health officer determine whether an exclusion under section (4) of this rule is necessary. In making such a determination the local health officer may, in consultation as needed with the Authority, consider factors including but not limited to the following:

(a) The severity of the disease;

(b) The means of transmission of the disease;

(c) The intensity of the child's or employee's exposure; and

(d) The exposed child's or employee's susceptibility to the disease, as indicated by:

(A) A previous occurrence of the disease;

(B) Vaccination records;

(C) Evidence of immunity as indicated by laboratory testing;

(D) Year of birth; or

(E) History of geographic residence and the prevalence of the disease in those areas.

(6) The length of exclusion under section (4) of this rule is one incubation period following the child or employee's most recent exposure to the disease.

(7) A susceptible child or employee may be excluded under this rule notwithstanding any claim of exemption under ORS 433.267(1).

(8) Nothing in these rules prohibits a school or children's facility from adopting more stringent exclusion standards under ORS 433.284.

(9) The infection control committee at all health care facilities shall adopt policies to restrict the work of employees with restrictable diseases in accordance with recognized principles of infection control. Nothing in these rules prohibits health care facilities or the local public health authority from adopting additional or more stringent rules for exclusion from these facilities.

Stat. Auth.: ORS 413.042, 431.110, 433.004, 433.255, 433.260, 433.284, 433.329, 433.332, 616.750 & 624.005
Stats. Implemented: ORS 433.255, 433.260, 433.407, 433.411 & 433.419
Hist.: HD 15-1981, f. 8-13-81, ef. 8-15-81; OHD 4-2002, f. & cert. ef. 3-4-02; PH 11-2005, f. 6-30-05, cert. ef. 7-5-05; PH 7-2011, f. & cert. ef. 8-19-11; PH 16-2013, f. 12-26-13, cert. ef. 1-1-14; PH 1-2015(Temp), f. & cert. ef. 1-7-15 thru 7-5-15; PH 10-2015, f. 7-2-15, cert. ef. 7-3-15

**333-019-0014**
**Removal of Restrictions**

(1) Worksite, child care, and school restrictions can be removed by statement of the local public health administrator that the disease is no longer communicable to others or that adequate precautions have been taken to minimize the risk of transmission.

(2) School or child care restrictions for chickenpox, scabies, staphylococcal skin infections, streptococcal infections, diarrhea, or vomiting may also be removed by a school nurse or health care provider.

(3) Restrictions at health care facilities for chickenpox, scabies, staphylococcal skin infections, streptococcal infections, diarrhea, or vomiting may also be removed by the facility's infection control committee when sufficient measures have been taken to prevent or minimize the transmission of disease, in accordance with written procedures approved by the committee.

(4) In general, restrictions on persons diagnosed with shigellosis or Shiga-toxigenic Escherichia coli (STEC) infection, including E. coli O157 infection, shall not be lifted until no pathogens are identified by a licensed laboratory in two consecutive approved fecal specimens collected not less than 24 hours apart. Such restrictions may be waived or modified at the discretion of the local public health administrator.

(5) Individuals infected with Salmonella enterica serotype Typhi (with or without symptoms), hereinafter referred to as "typhoid cases," must, before having a restriction removed, submit fecal specimens and one urine specimen to a licensed laboratory for testing on a schedule specified by the local public health administrator.

(6) A restriction on a typhoid case who is not a chronic carrier must be lifted by the local public health administrator when Salmonella enterica serotype Typhi is not identified by a licensed laboratory in any of four successive approved fecal specimens, collected at least 24 hours apart and not earlier than one month after illness onset, and one urine specimen.

(7) A "chronic carrier" is an individual who has fecal specimens test positive for Salmonella enterica serotype Typhi more than one year after onset or first diagnosis or on two occasions at least one year apart. A restriction on a chronic carrier may only be removed when Salmonella enterica serotype Typhi is not identified by a licensed laboratory in any of six successive approved fecal specimens, collected at least 72 hours apart, and one urine specimen.

Stat. Auth.: ORS 413.042, 431.110, 433.004, 616.010 & 624.005
Stats. Implemented: ORS 433.004, 433.260 & 433.273
Hist.: OHD 4-2002, f. & cert. ef. 3-4-02; PH 7-2011, f. & cert. ef. 8-19-11; PH 16-2013, f. 12-26-13, cert. ef. 1-1-14; PH 10-2015, f. 7-2-15, cert. ef. 7-3-15

**333-056-0020**
**Definitions Relating to Infectious Waste**

As used in OAR 333-056-0010 through 333-056-0050, unless the context requires otherwise, the following definitions apply:

(1) "Act" means chapter 763, Oregon Laws, 1989, codified as ORS 459.386 to 459.405.

(2) "Disposal" means the final placement of treated infectious waste in a disposal site operating under a permit issued by a state or federal agency.

(3) "Disposal site" means land and facilities used for the disposal, handling or transfer of, or resource recovery from solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, transfer stations, resource recovery facilities, incinerators for solid waste delivered by the public or by a solid waste collection service, composting plants and land and facilities previously used for solid waste disposal at a land disposal site. "Disposal site" does not include:

(a) A facility subject to the permit requirements of ORS 468.740;

(b) A landfill site which is used by the owner or person in control of the premises to dispose of soil, rock, concrete or other similar non-decomposable materials, unless the site is used by the public either directly or through a solid waste collection service; or

(c) A site operated by a wrecker issued a certificate under ORS 822.110.

(4) "Division" means the Oregon Health Authority, Public Health Division.

(5) "Incineration" means the reduction in volume and weight of waste by combustion.

(6) "Infectious waste" means:

(a) "Biological waste", which includes blood and blood products, excretions, exudates, secretions, suctionings and other body fluids that cannot be directly discarded into the municipal sewer system, and waste materials saturated with blood or body fluids, but does not include diapers soiled with urine or feces. In addition, biological waste does not include articles contaminated with fully absorbed or dried blood, such as gauze, paper towels, and sanitary napkins;

(b) "Cultures and stocks", which includes etiologic agents and associated biologicals, including specimen cultures and dishes and devices used to transfer, inoculate and mix cultures, wastes from production of biologicals, and serums and discarded live and attenuated vaccines. "Cultures" does not include throat and urine cultures;

(c) "Pathological waste", which includes biopsy materials and all human tissues, anatomical parts that emanate from surgery, obstetrical procedures, autopsy and laboratory procedures and animal carcasses exposed to pathogens in research and the bedding and other waste from such animals. "Pathological waste" does not include teeth or formaldehyde or other preservative agents;

(d) "Sharps", which includes needles, IV tubing with needles attached, scalpel blades, lancets, glass tubes that could be broken during handling and syringes that have been removed from their original sterile containers;

(e) "Syringe" means an instrument for the injection of medicine or the withdrawal of body fluids that consists of a hollow barrel fitted with a plunger and a hollow needle.

(7) "Landfill" means a facility for the disposal of solid waste involving the placement of solid waste on or beneath the land surface.

(8) "Noninfectious" means a state in which a disease causing agent is not capable of causing an infection to occur.

(9) "Saturated Waste" means waste that contains enough body fluid that it would cause dripping of the body fluid from the waste container, with or without compaction.

(10) "Sterilization" means, for purposes of these rules, any process which changes infectious waste so that disease causing agents contained within it are rendered non-infectious at the time the process is completed.

(11) "Storage" means the temporary containment of infectious waste in a manner that does not constitute treatment or disposal of such waste.

(12) "Transportation" means the movement of infectious waste from the point of generation over a public highway to any intermediate point, to the point of final treatment, and to the point of final disposal.

(13) "Treatment" means incineration, sterilization or other method, technique or process approved by the Oregon Health Authority, Public Health Division that changes the character or composition of any infectious waste so as to render the waste noninfectious. Treatment also includes methods of rendering waste noninfectious, which are approved by the Environmental Quality Commission.

Stat. Auth.: ORS 431.110, 433.004 & 459.395
Stats. Implemented: ORS 431.110, 433.004 & 459.395
Hist.: HD 15-1990, f. 6-5-90, cert. ef. 7-1-90; OHD 15-2001, f. & cert. ef. 7-12-01, Renumbered from 333-018-0050; PH 16-2013, f. 12-26-13, cert. ef. 1-1-14; PH 10-2015, f. 7-2-15, cert. ef. 7-3-15

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## Oregon Housing and Community Services Department
## Chapter 813

**Rule Caption:** Requires a permanent certificate of occupancy after an application has been submitted to the department
**Adm. Order No.:** OHCS 4-2015
**Filed with Sec. of State:** 7-9-2015
**Certified to be Effective:** 7-9-15
**Notice Publication Date:** 6-1-2015
**Rules Amended:** 813-013-0035
**Subject:** The Vertical Housing Program encourages the construction or rehabilitation of properties in targeted areas of communities in order to augment the availability of appropriate housing and to revitalize such communities. These rules set forth relevant aspects of the program, including processes and criteria for the designation of Vertical Housing Development Zones (VHDZs), for the application and approval of certified projects, for the calculation of any applicable partial property tax exemptions, and for the monitoring and maintenance of properties as qualifying certified projects. The amendment would require a permanent certificate of occupancy once an application has been delivered to the department for any new construction projects.
**Rules Coordinator:** Sandy McDonnell—(503) 986-2012

**813-013-0035**
**Project Certification Applications**

(1) A Project Applicant may file an application for certification of a Project by completing the Vertical Housing Project application form, as prescribed by and available from the Department, and by delivering it during normal business hours or by mail to: Oregon Housing and Community Services Vertical Housing, Housing Division 725 Summer Street NE, Suite B PO Box 14508 Salem, Oregon 97309-0409.

(2) Projects must be described in terms of entire tax lots. Projects may not include partial tax lots.

(3) The Project Applicant must provide both a legible and scaled site plan and a legal description of the land for the proposed Project.

(4) To be for 'Residential Use' or for 'Non-Residential use' does not mean that a building floor is actually being occupied accordingly, but rather that it is at least intended and ready for such use and is not converted or occupied for a contrary use.

(5) Low-Income Residential Housing floors or units must be set-aside as such for the entire tax year and occupied only by people who are income eligible in order for the Project to qualify for the low income vertical housing exemptions on land.

(6) The Non-Residential use of a particular floor or floors may be satisfied even if the entire floor is not devoted to that use.

(7) The Department will review applications upon their appropriate delivery subject to, but not limited to:

(a) Applications being complete and consistent with Department requirements; and

(b) Delivery to the Department of an application processing charge, monitoring charge and any other related charges. In determining charges for each Project Applicant, the Department may consider factors including, but not limited to, known and expected costs in processing the application, effecting appropriate monitoring of the Project and otherwise administering the Program with respect to the Project. Payment of charges may be made by check or money order payable to the Department and must be submitted along with the Project Application or as otherwise required by the Department.

(8) For new Construction Projects to qualify for certification, the application must be delivered to the Department before:

(a) The relevant permitting authority has issued a permanent certificate of occupancy; or

(b) If no certificate of occupancy is required, then occupancy otherwise is effectively prevented because the proposed Certified Project has not yet been completed.

(9) For Rehabilitation Projects to qualify for certification, the application must be delivered to the Department at any stage of the Rehabilitation, but not after Rehabilitation work on the Project is complete. The Department may provide a preliminary certification of the Project pending completion of the Rehabilitation of the Project. Notification of the Project's completion, together with appropriate documentation of the actual costs of the Rehabilitation and the real market value of the pre-rehabilitated Project must be forwarded by the Project Applicant to the Department within 90 days of Project completion. The Department may certify all or part of a rehabilitated Project or of a Project where the Rehabilitation is still in progress as a Certified Project.

(10) Project Applicants must provide the following information in a manner satisfactory to the Department:

(a) The address and boundaries of the proposed Project including the tax lot numbers, a legible and scaled site plan of the proposed Project, and a legal description of the land involved in the Project for which a partial tax exemption is sought by the Project Applicant;

(b) A description of the existing condition of the proposed Project property;

(c) A description of the proposed Project including, but not limited to current architectural plans that include verifiable square footage measurements, verified statements of Rehabilitation costs; and designation of the number of Project floors;

(d) A description of all Non-Residential Areas with related and total square footages, and identification of all non-residential uses;

(e) A description of all Residential Uses and residential areas with related and total residential square footages;

(f) A description of the number and nature of Low-Income Residential Housing units with related and total Low-Income Residential Housing square footages;

(g) Confirmation that the Project is entirely located in an established VHDZ;

(h) A commitment from the Project Applicant, acceptable to the Department, that the Project will be maintained and operated in a manner consistent with the Project application and the Program for a time period acceptable to the Department and not less than the term of any related property tax exemption;

(i) A calculation quantifying the various uses of the Project in total and by each Equalized Floor including allocations to Residential Uses, the allocations to Low-Income Residential Housing uses, and the allocations to Non-Residential Areas; and;

(j) Such other information as the Department, in its discretion, may require.

(11) The Project application must be submitted and received by the Department on or before the new Construction residential units are ready for occupancy or the Project Rehabilitation is complete;

(12) The Department may request such other information from a Project Applicant and undertake any investigation that it deems appropriate in processing any Project application or in the monitoring of a Certified Project. By filing an application, a Project Applicant irrevocably agrees to allow the Department reasonable access to the Project and to Project-related documents, including the right to enter onto and inspect the Project property and to copy any Project-related documents.

(13) To qualify to be a Certified Project, the Rehabilitation of any existing improvement must substantially alter and enhance the utility, condition, design or nature of the structure. In its application, the Project Applicant must verify such substantial alteration and enhancement. The following actions, by themselves, are not sufficient to satisfy this substantial alteration and enhancement requirement irrespective of cost or implementation throughout a Project:

(a) Ordinary maintenance and repairs;

(b) Refurbishment or redecoration that merely replaces, updates or restores certain fixtures, surfaces or components; or

(c) Similar such work of a superficial, obligatory or routine nature

(14) Unless an exception is granted by the Department, Projects "in progress" at the time of application may include only costs incurred within six (6) months of the application date. Factors that the Department may consider in determining whether or not to grant an exception to the six (6)-month limitation on costs include, but are not limited to the following:

(a) Delay due to terrorism or acts of God;

(b) Delay occasioned by requirements of the Department;

(c) Resultant undue hardship to the Project Applicant;

(d) The complexity of the Project; and

(e) The benefit of the Project to the Community.

(15) For applications filed before Project completion, the Department may provide a conditional letter of prospective certification of the Project pending its completion. To obtain a final certification of the Project, the Project Applicant must provide timely notification to the Department of the Project's completion, together with a copy of the certificate of occupancy and other information as the Department may require. A Project Applicant must provide the notice and required documentation to the Department within 90 days of Project completion which is typically the date of the certificate of occupancy unless the Department determines that another date is more appropriate.

(16) If an application is rejected for failure to meet Department review requirements, then:

(a) The Department will notify the Project Applicant that the application has been rejected; and

(b) The Department, at its own discretion, may allow the resubmission of a rejected application for Project certification ("as is" or with appropriate corrections or supplementations) or may reconsider a determination by it to reject an application. Factors that the Department may consider in allowing a resubmission of a rejected application or the reconsideration of a determination by it to reject an application include, but are not limited to the following:

(A) Whether or not rejection results in undue hardship to the Project Applicant;

(B) The best interests of the Community;

(C) The level of cooperation from the Project Applicant;

(D) The level and materiality of initial non-compliance by the Project Applicant, and;

(E) Mitigation of any initial non-compliance by the Project Applicant.

(c) If the Department accepts for review a previously rejected application, it may do so, at its sole discretion, on a prospective basis or based upon the original date of filing. Factors that the Department may consider in determining the date to apply to a previously rejected application include, but are not limited to the following:

(A) Whether or not occupancy or readiness to occupy residential units in the Project has occurred since the original application;

(B) Whether or not undue hardship would result to the Project Applicant;

(C) The best interests of the Community; and

(D) The level and materiality of non-compliance in the initial application.

(17) The Department will evaluate each accepted application to determine whether or not to certify the proposed Project.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 307.844 & 307.857

Hist.: OHCS 1-2006(Temp), f. & cert. ef. 1-5-06 thru 7-4-06; OHCS 8-2006, f. & cert. ef. 6-28-06; OHCS 1-2015(Temp), f. & cert. ef 2-26-15 thru 8-24-15; OHCS 4-2015, f. & cert. ef. 7-9-15

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**Rule Caption:** Establishes purpose for Homeownership Assistance program funding and includes down-payment and other assistance to veterans.
**Adm. Order No.:** OHCS 5-2015
**Filed with Sec. of State:** 7-9-2015
**Certified to be Effective:** 7-9-15
**Notice Publication Date:** 6-1-2015
**Rules Adopted:** 813-044-0045
**Rules Amended:** 813-044-0040
**Subject:** The rules are amended to incorporate language to provide veterans, as defined in ORS 408.225, with down-payment and other funding assistance. 813-044-0045 has been adopted to establish how funds may be used within the Homeownership Assistance program.
**Rules Coordinator:** Sandy McDonnell—(503) 986-2012

**813-044-0040**
**Application Procedure and Requirements**

(1) An organization may apply for a grant from the Home Ownership Assistance Account under ORS 458.655 if the organization:

(a) Is a nonprofit corporation established under ORS Chapter 65, a housing authority established under ORS 456.055 to 456.235 or a local government as defined in ORS 197.015 and sponsors and manages low income homeownership programs as required in ORS 458.655; or

(b) Is an organization affiliated with the Oregon Department of Veterans' Affairs (ODVA) and authorized by ODVA to provide down-payment assistance funding or other funding to veterans consistent with the following section 0045. For the purposes of this section, the term "veterans" has the meaning provided in ORS 408.225.

(2) An organization applies for a grant under this rule by submitting to the department all of the following:

(a) An application, on a form established by the department;

(b) A nonrefundable application charge established by the department; and

(c) All project information required by the department, including, but not limited to:

(A) A written description of the purposes for which the grant will be used, including but not limited to the proposed services to prospective homeowners, criteria for selecting prospective homeowners and any other pertinent information ;

(B) A description of the housing type and target home owners to be housed, the manner in which the project may expand the percentage of home ownership for Oregonians and how the project will provide home ownership opportunities for low or very low income households, persons with disabilities, minorities and farm workers;

(C) A proforma of project expenses, financing and, if applicable, income;

(D) The grant amount requested and total project development costs, including a description of all additional project funding and funding sources;

(E) A description of the experience of the sponsor or manager in developing, managing and operating home ownership programs;

(F) A description of the organization's program management responsibilities; and

(G) Any other documentation required by the department

(3) An organization that requests additional resources on a project funded by the Home Ownership Assistance Account shall pay all supplemental application charges imposed by the department for the resources.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.620 & 458.655
Hist.: HSG 2-1996, f. & cert. ef. 4-15-96; OHCS 4-2009, f. & cert. ef. 12-22-09; OHCS 9-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12; OHCS 2-2012, f. & cert. ef. 3-27-12; OHCS 2-2015(Temp), f. & cert. ef. 3-11-15 thru 9-5-15; OHCS 5-2015, f. & cert. ef. 7-9-15

**813-044-0045**
**Purposes for Funding**

Funds within the Home Ownership Assistance Program may be used for the following purposes: down-payment assistance, housing centers, innovation funding and training and other uses suitable to the department to mitigate the lack of home ownership.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.620 & 458.655
Hist.: OHCS 2-2015(Temp), f. & cert. ef. 3-11-15 thru 9-5-15; OHCS 5-2015, f. & cert. ef. 7-9-15

**Rule Caption:** Amends the definition of 'Cap" for the Oregon Affordable Housing Tax Credit program
**Adm. Order No.:** OHCS 6-2015
**Filed with Sec. of State:** 7-9-2015
**Certified to be Effective:** 7-9-15
**Notice Publication Date:** 6-1-2015
**Rules Amended:** 813-110-0010
**Subject:** The Oregon Affordable Housing Tax Credit program certifies affordable multifamily rental housing development projects sponsored by government entities, nonprofit corporations and certain persons ("sponsoring entities" or "sponsors") to enable a lending institution to claim tax credits for loans during the construction, acquisition or rehabilitation of projects. The rules amend the definition of 'Cap" to clarify that the department calculates tax credit availability based on the actual number of tax credits allocated at any time.
**Rules Coordinator:** Sandy McDonnell—(503) 986-2012

**813-110-0010**
**Definitions**

Certain terms used in this division are defined in ORS chapter 317, the Act, OAR 813-005-0005, and herein. Other terms may be identified in the text of this division (including by incorporation), otherwise in chapter 813, or applicable law.

(1) "Cap" means the maximum amount of tax credits as set by the Legislature in ORS 317.097(6). The department will calculate tax credit availability based on the actual number of tax credits allocated at any given time.

(2) "Certification" means the written verification by the department to a lender that a project is a qualified project for which the lending institution may claim a tax credit under the provisions of the Act.

(3) "Firm commitment of financing" means an agreement by a lending institution to make a loan to a specific borrower on a specific property and which will contain all of the terms and conditions that the borrower has to satisfy before said loan can be funded. Payment of a commitment charge by the borrower to the lending institution may be required as a condition precedent to issuance of such an agreement.

(4) "Lending institution" means any insured institution, as defined in ORS 706.008, any mortgage company that maintains an office in this state, or any community development corporation that is organized under the Oregon Nonprofit Corporation Law.

(5) "Preservation project" means housing that was previously developed as affordable housing with a contract for rental assistance from the United States Department of Housing and Urban Development or the United States Department of Agriculture and that is being acquired by a sponsoring entity. The contract for project-based rental assistance must cover at least 25 percent of all units in the project.

(6) "Project," except as defined under "manufactured dwelling park" or "preservation project," means one or more units of housing, that has been acquired, constructed, developed, or rehabilitated, including refinanced housing, which will be rented to or owned by households whose incomes are less than 80 percent of area median income. The use of a project for eligible occupants shall be maintained for the term of the credit, in accordance with the Act, unless terminated at the discretion of the department. If there is a foreclosure, deed-in-lieu, or an involuntary transfer where title transfers to the lending institution, that lending institution may dispose of the property at its sole discretion.

(7) "Rent reduction" means the amount rents are reduced from the rents charged at the market interest rate as a result of the Oregon Affordable Housing Tax Credit (OAHTC) subsidy.

(8) "Rent pass through" means the amount of rent reduction made available to the tenants because of the reduced interest rate attributable to the OAHTC subsidy.

Stat. Auth.: ORS 317.097 & 456.555
Stats. Implemented: ORS 317.097 & 456.625
Hist.: HSG 1-1990(Temp), f. & cert. ef. 1-5-90; HSG 3-1990(Temp), f. & cert. ef. 3-1-90; HSG 9-1990, f. & cert. ef. 5-11-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 2-1994(Temp), f. & cert. ef. 3-25-94; HSG 7-1994, f. & cert. ef. 9-9-94; HSG 2-1995, f. & cert. ef. 9-25-95; OHCS 7-2006, f. & cert. ef. 5-17-06; OHCS 11-2006(Temp), f. & cert. ef. 8-4-06 thru 1-30-07; OHCS 9-2007, f. & cert. ef. 1-11-07; OHCS 14-2007(Temp), f. & cert. ef. 10-16-07 thru 4-12-08; OHCS 5-2008, f. & cert. ef. 4-11-08; OHCS 1-2009(Temp), f. & cert. ef. 2-9-09 thru 8-7-09; OHCS 2-2009, f. & cert. ef. 8-5-09; OHCS 9-2013(Temp), f. & cert. ef. 6-21-13 thru 12-18-13; OHCS 22-2013, f. & cert. ef. 12-18-13; OHCS 3-2015(Temp) f. & cert. ef. 3-18-15 thru 9-13-15; OHCS 6-2015, f. & cert. ef. 7-9-15

## Oregon Medical Board
## Chapter 847

**Rule Caption:** Fines for fraud or misrepresentation on an application, affidavit or registration
**Adm. Order No.:** OMB 7-2015(Temp)
**Filed with Sec. of State:** 7-14-2015
**Certified to be Effective:** 7-14-15 thru 1-9-16
**Notice Publication Date:**
**Rules Amended:** 847-008-0058
**Subject:** The temporary rule amendment clarifies that the Board will not grant or renew a license until an applicant or licensee has paid the civil penalty or is proceeding to a contested case hearing under ORS 183.745.
**Rules Coordinator:** Nicole Krishnaswami—(971) 673-2667

**847-008-0058**
**Fraud or Misrepresentation**

(1) Omissions or false, misleading or deceptive statements or information on any Board application, affidavit or registration is a violation of ORS 677.190(8) and is grounds for a $195 fine for the first violation, a $250 fine for the second violation, and a $500 fine for the third or subsequent violation. The applicant or licensee may be subject to further disciplinary action by the Board.

(2) If a fine is issued under section (1) of this rule, the Board will not approve an application, affidavit or registration until the applicant or licensee has paid the fine or is proceeding to a hearing as provided by ORS 183.745.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.190, 677.205 & 677.265
OMB 12-2014, f. & cert. ef. 10-8-14; OMB 7-2015(Temp), f. & cert. ef. 7-14-15 thru 1-9-16

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## Oregon Patient Safety Commission
## Chapter 325

**Rule Caption:** Updates agency rules for clarification including fee structure revisions. Establishes the Commission's 2015–2017 biennial budget.
**Adm. Order No.:** PSC 2-2015
**Filed with Sec. of State:** 7-10-2015
**Certified to be Effective:** 7-10-15
**Notice Publication Date:** 6-1-2015
**Rules Amended:** 325-001-0001, 325-001-0005, 325-005-0015, 325-010-0001, 325-010-0005, 325-010-0010, 325-010-0015, 325-010-0020, 325-010-0030, 325-010-0035, 325-010-0040, 325-010-0045, 325-010-0050, 325-010-0055, 325-010-0060, 325-015-0001, 325-015-0005, 325-015-0010, 325-015-0015, 325-015-0020, 325-015-0025, 325-015-0030, 325-015-0035, 325-015-0040, 325-015-0045, 325-015-0050, 325-015-0055, 325-015-0060, 325-020-0001, 325-020-0005, 325-020-0010, 325-020-0015, 325-020-0020, 325-020-0025, 325-020-0026, 325-020-0030, 325-020-0035, 325-020-0040, 325-020-0045, 325-020-0050, 325-020-0055, 325-025-0001, 325-025-0005, 325-025-0010, 325-025-0015, 325-025-0020, 325-025-0025, 325-025-0030, 325-025-0035, 325-025-0040, 325-025-0045, 325-025-0050, 325-025-0055, 325-025-0060, 325-030-0001, 325-030-0005, 325-030-0010, 325-030-0015, 325-030-0020, 325-030-0025, 325-030-0030, 325-030-0035, 325-030-0040, 325-030-0045, 325-030-0050, 325-030-0055, 325-030-0060
**Subject:** In accordance with the rules governing semi-independent state agencies, this action establishes the Oregon Patient Safety Commission 2015-2017 biennial budget of $4,434,280 by amending OAR 325-005-015.
**Rules Coordinator:** Bethany A. Walmsley—(503) 224-9226

**325-001-0001**
**Notice To Interested Persons**

Before adopting, amending, or repealing any permanent rule, the Patient Safety Commission will give notice of its intended action:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days before the effective date of the rule;

(2) By providing a copy of the notice to persons on the Patient Safety Commission's distribution list established pursuant to ORS 183.335(8) at least 28 days before the effective date of the rule;

(3) By providing a copy of the notice to legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule; and

(4) By providing a copy of the notice to:

(a) The Oregon Association of Hospitals and Health Systems;
(b) The Oregon Health Care Association;
(c) Oregon State Pharmacy Association;
(d) Oregon Medical Association;
(e) The Oregon Board of Pharmacy;
(f) Oregon Nurses Association;
(g) Affected health care facilities and pharmacies;
(h) Capitol Press Room; and

(5) By putting a copy of proposed rules on the Commission website

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 183.341(4)
Hist.: PSC 3-2005, f. & cert. ef. 9-26-05; PSC 5-2007(Temp), f. & cert. ef. 10-19-07 thru 4-11-08; PSC 1-2008, f. & cert. ef. 4-14-08; PSC 2-2015, f. & cert. ef. 7-10-15

**325-001-0005**
**Model Rules of Procedure**

The Patient Safety Commission adopts, in their entirety, the current Attorney General's Uniform and Model Rules of Procedure under the Administrative Procedures Act.

Stat. Auth.: ORS 442.820, 442.831
Stats. Implemented: ORS 183.341
Hist.: PSC 1-2005, f. & cert. ef. 6-8-05; PSC 2-2015, f. & cert. ef. 7-10-15

**325-005-0015**
**Biennial Budget**

The Commission hereby adopts by reference the Oregon Patient Safety Commission's 2013-2015 Biennial Budget of $3,242,464 covering the period July 1, 2013, through June 30, 2015. The Commission's Executive Director will amend budgeted accounts as necessary, within the approved budget of $3,242,464 for the effective operation of the Commission. The Commission will not exceed the approved 2013-2015 Biennium Budget without amending this rule, notifying interested parties, and holding a public hearing as required by ORS Chapter 182.462. Copies of the budget are available from the Commission's office and are posted on the Commission's website.

Stat. Auth.: ORS 442.820, 442.831
Stats. Implemented: ORS 182.462, 442.831
Hist.: PSC 1-2006, f. & cert. ef. 2-6-06; PSC 4-2007, f. & cert. ef. 7-2-07; PSC 1-2009, f. & cert. ef. 6-26-09; PSC 1-2011, f. & cert. ef. 7-1-11; PSC 1-2012, f. 3-27-12, cert. ef. 4-1-12; PSC 1-2013, f. & cert. ef. 4-25-13; PSC 2-2013, f. & cert. ef. 7-3-13; DMAP 13-2014(Temp), f. 3-20-14, cert. ef. 4-1-14 thru 9-28-14; PSC 1-2014, f. 3-18-14, cert. ef. 3-21-14; PSC 1-2015, f. & cert. ef. 3-17-15; PSC 2-2015, f. & cert. ef. 7-10-15

**325-010-0001**
**Definitions**

As used in OAR 325-010-0001 to 325-010-0060:

(1) "Commission" means the Oregon Patient Safety Commission.

(2) "Event Report" means the form designated by the Commission to be used by Hospital Participants for the reporting of Reportable Hospital Serious Adverse Events.

(3) "Hospital Participant" means a hospital, as defined in ORS 442.015(15) that has volunteered to participate in the Oregon Patient Safety Reporting Program. A hospital pharmacy is considered to be part of the hospital.

(4) "Oregon Patient Safety Reporting Program" means the Patient Safety Reporting Program, as defined in ORS 442.837, and operated by the Commission.

(5) "Participant" means an entity that reports Patient Safety Data to a Patient Safety Reporting Program, and any agent, employee, consultant, representative, volunteer or medical staff member of the entity.

(6) "Patient Safety Activities" include but are not limited to:

(a) The collection and analysis of Patient Safety Data by a Participant;

(b) The collection and analysis of Patient Safety Data by the Oregon Patient Safety Commission established in ORS 442.820;

(c) The utilization of Patient Safety Data by Participants;

(d) The utilization of Patient Safety Data by the Oregon Patient Safety Commission to improve the quality of care with respect to patient safety and to provide assistance to health care providers to minimize patient risk; and

(e) Oral and written communication regarding Patient Safety Data among two or more Participants with the intent of making a disclosure to or preparing a report to be submitted to a Patient Safety Reporting Program.

(7) "Patient Safety Data" means oral communication or written reports, data, records, memoranda, analyses, deliberative work, statements, root cause analyses or action plans that are collected or developed to improve patient safety or health care quality that:

(a) Are prepared by a Participant for the purpose of reporting Patient Safety Data voluntarily to a Patient Safety Reporting Program, or that are communicated among two or more Participants with the intent of making a disclosure to or preparing a report to be submitted to a Patient Safety Reporting Program; or

(b) Are created by or at the direction of the Patient Safety Reporting Program, including communication, reports, notes or records created in the course of an investigation undertaken at the direction of the Oregon Patient Safety Commission.

(8) "Reportable Serious Adverse Event" for the purposes of OAR 325-010-0001 to 325-010-0060 means any unanticipated, usually preventable consequence of patient care that results in patient death or serious physical injury, including the events described in **Appendix A** incorporated by reference.

[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819 - 442.851
Hist.: PSC 2-2006, f. & cert. ef. 2-6-06; PSC 3-2006(Temp), f. & cert. ef. 10-25-06 thru 4-22-07; PSC 2-2007, f. & cert. ef. 4-10-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-010-0005**
**Enrollment in the Oregon Patient Safety Reporting Program**

(1) Participation in the Oregon Patient Safety Reporting Program is voluntary. Hospital Participants are entitled to the benefits and subject to the obligations set forth in these administrative rules.

(2) Interested hospitals may apply for participation in the Oregon Patient Safety Reporting Program by completing the Commission's participation agreement. The participation agreement must include the name of a designated contact person.

(3) In agreeing to participate a hospital must affirm that it is willing to fully share requested Patient Safety Data with the Commission. This statement must be co-signed by the hospital's Chief Executive Officer, Chairperson of the Board of Directors, and the Director of Quality Management, or their equivalents.

(4) Upon enrolling in the Oregon Patient Safety Reporting Program, a Hospital Participant must have adopted policies and procedures describing patient safety activities, including how it triages adverse events; how it investigates adverse events, including root cause analysis protocols; and how it provides notice of adverse events to a patient and/or family member. The Hospital Participant must provide copies to the Commission upon request.

(5) Within 30 calendar days of receipt and acceptance of the participation agreement the Commission will issue a certificate establishing a Hospital Participant's enrollment in the Oregon Patient Safety Reporting Program. The Hospital Participant should conspicuously post the certificate in an area where patients are admitted.

(6) The Commission will maintain and update a website that lists all Hospital Participants.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 2-2006, f. & cert. ef. 2-6-06; PSC 3-2006(Temp), f. & cert. ef. 10-25-06 thru 4-22-07; PSC 2-2007, f. & cert. ef. 4-10-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-010-0010**
**Annual Hospital Participant Fee**

(1) All hospitals licensed under ORS 441.015 must pay an annual fee. Per ORS 442.850 these fees will be assessed independent of participation status in the Oregon Patient Safety Reporting Program. Fees for hospitals are as follows:

(a) $1,150 for a hospital with 3,000 or fewer patient discharges per year.

(b) $4,000 for a hospital with 3,001 to 10,000 patient discharges per year.

(c) $9,750 for a hospital with more than 10,000 patient discharges per year.

(2) Initial fees will be due by December 31 of the year a hospital becomes licensed by the state of Oregon. Annual fees will be due by December 31 each year. Any uncollected fees are turned over to the Department of Revenue for collection on or after April 1 following the date of invoice.

(3) No participation fees will be refunded due to withdrawal or termination from the Oregon Patient Safety Reporting Program.

(4) Fees shall be annually adjusted by the Commission Board, at a rate equal to the annual average Consumer Price Index for All Urban Consumers of the Portland, Oregon, Metropolitan Statistical Area, as compiled by the United States Department of Labor, Bureau of Labor Statistics, for every fiscal year beginning on or after July 1, 2008.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.850, 442.851.
Hist.: PSC 2-2006, f. & cert. ef. 2-6-06; PSC 3-2006(Temp), f. & cert. ef. 10-25-06 thru 4-22-07; PSC 2-2007, f. & cert. ef. 4-10-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-010-0015**
**Termination of Participation**

(1) The Commission's reporting program relies on voluntary reporting. However, the Commission is responsible for ensuring that those who choose to participate also comply with the standards established by the Commission.

(2) Participation requirements include the reporting of all Reportable Serious Adverse Events; fully completing Event Reports; creating and implementing acceptable action plans; and providing written disclosure to patients or families following a Reportable Serious Adverse Event.

(3) If the Commission believes a Hospital Participant is not meeting its participation requirements, the Commission must provide the Hospital Participant with a written notice explaining why. The Hospital Participant will have 30 calendar days to respond and come into compliance.

(4) The Commission may deny, suspend or revoke a Hospital Participant's status when the Commission finds that there has been a substantial failure to comply with the provisions of participation.

(5) Upon written notification by the Commission of revocation, suspension, or denial of a Hospital Participant enrollment in the Oregon Patient Safety Reporting Program, a Hospital Participant may request a hearing. Hearings will be held in accordance with ORS 183.310 to 183.470.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442. 819- 442.851
Hist.: PSC 2-2006, f. & cert. ef. 2-6-06; PSC 3-2006(Temp), f. & cert. ef. 10-25-06 thru 4-22-07; PSC 2-2007, f. & cert. ef. 4-10-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-010-0020**
**Re-Issue of Suspended or Revoked Participation Certificate**

The Commission may re-issue a participation certificate that has been suspended or revoked if the Commission determines that the Hospital applying for re-enrollment meets the provisions of participation.

Stat. Auth.: ORS 441.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 2-2006, f. & cert. ef. 2-6-06; PSC 3-2006(Temp), f. & cert. ef. 10-25-06 thru 4-22-07; PSC 2-2007, f. & cert. ef. 4-10-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-010-0030**
**Hospital Reporting of Less Serious Adverse Events or Close Calls**

(1) In addition to Reportable Serious Adverse Events, Participating Hospitals are also encouraged to report less serious adverse events or close calls. Participating Hospitals should do so when they believe other organizations will benefit from the information.

(2) To report such events, Hospital Participants should use the appropriate sections of the Event Report form. (3) Hospital Participants are not required by the Commission to provide written disclosure of less serious adverse events or close calls to patients or their personal representatives.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 2-2006, f. & cert. ef. 2-6-06; PSC 3-2006(Temp), f. & cert. ef. 10-25-06 thru 4-22-07; PSC 2-2007, f. & cert. ef. 4-10-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-010-0035**
**Commission Review of Reports**

(1) When the Commission receives an Event Report from a Hospital Participant, the Commission will determine whether that Event Report is complete, thorough, credible and acceptable. The definitions for the terms complete, thorough, credible and acceptable are:

(a) A report is complete if it contains all the information requested in the Event Report, or explains, to the Commission's satisfaction, why that information is not available or not necessary to provide;

(b) A report is thorough if the root cause analysis includes an analysis of all relevant systems issues and shows evidence of an inquiry into all appropriate areas;

(c) A report is credible if it shows evidence that the investigation of the Reportable Hospital Serious Adverse Event included participation by leadership within the organization and was internally consistent; and

(d) A report is acceptable if all the above standards are met and the action plans clearly describe meaningful improvement strategies designed to minimize risk.

(2) If the Commission believes that an Event Report received from a Hospital Participant is incomplete or unacceptable in some manner, it will inform the Hospital Participant's contact person within 10 business days of receipt of the Event Report.

Stat. Auth: ORS 686, 182.456 - 182.472, OL 2003 Sec. 4,6,9
Stats. Implemented: ORS 442.820 - 442.835

Hist.: PSC 2-2006, f. & cert. ef. 2-6-06; PSC 3-2006(Temp), f. & cert. ef. 10-25-06 thru 4-22-07; PSC 2-2007, f. & cert. ef. 4-10-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-010-0040**
**Public Health Officer Certification**

(1) At least annually, the Commission will request that the Public Health Officer certify the completeness, credibility, and thoroughness of each Hospital Participant's reporting during the applicable period.

(2) The Commission will request that the Public Health Officer develop independent and objective standards to evaluate the overall integrity of the Patient Safety Reporting Program. On an annual basis the Commission will request that the Public Health Officer use those standards to certify the Oregon Patient Safety Reporting Program.

(3) The Commission will provide information to the Public Health Officer to assist the Public Health Officer in completing the certification processes listed in (1) and (2) of this rule, consistent with OAR 325-010-0055.

Stat. Auth.: ORS: 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 2-2006, f. & cert. ef. 2-6-06; PSC 3-2006(Temp), f. & cert. ef. 10-25-06 thru 4-22-07; PSC 2-2007, f. & cert. ef. 4-10-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-010-0045**
**Patient Notification Of Reportable Serious Adverse Events**

(1) After a Reportable Serious Adverse Event occurs, a Hospital Participant must provide written notification to each affected patient, or, if necessary, to the patient's personal representative. Notification must be timely and should be consistent with the Hospital Participant's internal communication and disclosure policies.

(2) As provided in ORS 442.837(4), notice provided under this subsection may not be construed as an admission of liability in a civil action.

Stat. Auth.: ORS442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 2-2006, f. & cert. ef. 2-6-06; PSC 3-2006(Temp), f. & cert. ef. 10-25-06 thru 4-22-07; PSC 2-2007, f. & cert. ef. 4-10-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-010-0050**
**Extensions And Waivers**

(1) The Commission may grant an extension of any time requirement stipulated in these rules if the Hospital Participant provides justification that the delay is due to factors beyond its control or that the delay will not adversely affect the purposes of the Commission. A Hospital Participant requesting a waiver must submit a written request to the Commission prior to the deadline for the required action.

(2) The Commission may grant a waiver of any other provision of these rules if the Hospital Participant provides justification that granting the waiver will not adversely affect the purposes of the Commission.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 2-2006, f. & cert. ef. 2-6-06; PSC 3-2006(Temp), f. & cert. ef. 10-25-06 thru 4-22-07; PSC 2-2007, f. & cert. ef. 4-10-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-010-0055**
**Protection Of Patient Safety Data**

(1) The Commission is subject to all the confidentiality provisions set forth in ORS 442.820, 442.831, 442.837, and 442.846.

(2) The Commission will maintain the confidentiality of all Patient Safety Data that identifies or could be reasonably used to identify a Hospital Participant or an individual who is receiving or has received health care from the Hospital Participant.

(3) Before it takes receipt of any confidential Patient Safety Data, the Commission will have in place appropriate safeguards and security measures to ensure the technical integrity and physical safety of such data.

(4) Pursuant to ORS 442.820(4), meetings or portions of meetings where the Oregon Patient Safety Commission Board of Directors, or subcommittees or advisory committees consider information that identifies a participant or patient are not subject to the Oregon Public Meetings Law, 192.610 to 192.690.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 2-2006, f. & cert. ef. 2-6-06; PSC 3-2006(Temp), f. & cert. ef. 10-25-06 thru 4-22-07; PSC 2-2007, f. & cert. ef. 4-10-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-010-0060**
**Commission's Use Of Patient Safety Data**

(1) The Commission will create an ad hoc committee on best practices in patient safety. This committee will advise the Commission on effective methods for making use of and sharing information gathered from the Commission's review of Event Reports.

(2) At least quarterly, the Commission will provide Hospital Participants with patient safety quality improvement information derived from Patient Safety Data.

(3) During the second quarter of each year, the Commission will publish a report to the public summarizing Patient Safety Data for the preceding calendar year. This report will use aggregate, de-identified data from the program and will describe statewide adverse event patterns and best practices to avoid the occurrence or minimize the effects of adverse events.

(4) The Commission will maintain an easily accessible and well-publicized website to share patient safety information directly with consumers.

(5) The Commission, within its resource limitations, will provide technical assistance to Hospital Participants, including but not limited to recommendations and advice regarding methodology, communication, dissemination of information, data collection, security and confidentiality.

(6) The Commission will work with representatives of organizations participating in the Oregon Patient Safety Reporting Program and with other interested parties to develop recommendations for continued improvements in the collection and utilization of Patient Safety Data.

Stat. Auth: ORS 686, 182.456 - 182.472, OL 2003 Sec. 4,6,9
Stats. Implemented: ORS 442.820 - 442.835
Hist.: PSC 2-2006, f. & cert. ef. 2-6-06; PSC 3-2006(Temp), f. & cert. ef. 10-25-06 thru 4-22-07; PSC 2-2007, f. & cert. ef. 4-10-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-015-0001**
**Definitions**

As used in OAR 325-015-0001 to 325-015-0060:

(1) "Commission" means the Oregon Patient Safety Commission.

(2) "Event Report" means the form designated by the Commission to be used by Pharmacy Participants for the reporting of Reportable Pharmacy Adverse Events.

(3) "Pharmacy Participant" means a pharmacy licensed under ORS chapter 689 that has volunteered to participate in the Oregon Patient Safety Reporting Program.

(4) "Oregon Patient Safety Reporting Program" means the Patient Safety Reporting Program, as defined in ORS 442.837, and operated by the Commission.

(5) "Participant" means an entity that reports Patient Safety Data to a Patient Safety Reporting Program, and any agent, employee, consultant, representative, volunteer or medical staff member of the entity.

(6) "Patient Safety Activities" include but are not limited to:

(a) The collection and analysis of Patient Safety Data by a Participant;

(b) The collection and analysis of Patient Safety Data by the Oregon Patient Safety Commission established in ORS 442.820, 442.837;

(c) The utilization of Patient Safety Data by Participants;

(d) The utilization of Patient Safety Data by the Oregon Patient Safety Commission to improve the quality of care with respect to patient safety and to provide assistance to health care providers to minimize patient risk; and

(e) Oral and written communication regarding Patient Safety Data among two or more Participants with the intent of making a disclosure to or preparing a report to be submitted to a Patient Safety Reporting Program.

(7) "Patient Safety Data" means oral communication or written reports, data, records, memoranda, analyses, deliberative work, statements, root cause analyses or action plans that are collected or developed to improve patient safety or health care quality that:

(a) Are prepared by a Participant for the purpose of reporting Patient Safety Data voluntarily to a Patient Safety Reporting Program, or that are communicated among two or more Participants with the intent of making a disclosure to or preparing a report to be submitted to a Patient Safety Reporting Program; or

(b) Are created by or at the direction of the Patient Safety Reporting Program, including communication, reports, notes, or records created in the course of an investigation undertaken at the direction of the Oregon Patient Safety Commission.

(8) "Reportable Adverse Event" for the purposes of OAR 325-015-0001 to 325-015-0060 means any unanticipated, usually preventable consequences of patient care that result in patient harm or the risk of harm. This includes events that:

(a) Are not related to the natural course of the patient's illness or underlying condition; and

(b) Resulted in temporary and/or permanent physical harm, or

(c) Posed a risk for temporary or permanent physical harm. "Reportable Adverse Event" includes only those events where a patient receives or has control of the medication.

(9) "Serious Adverse Event" for the purposes of OAR 325-015-0001 to 325-015-0060 means any unanticipated, usually preventable conse-

quence of patient care that results in patient death or serious physical injury, either temporary or permanent.

Stat. Auth.: ORS ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 4-2006, f. 12-18-06, cert. ef. 1-1-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-015-0005**
**Enrollment in the Oregon Patient Safety Reporting Program**

(1) Participation in the Oregon Patient Safety Reporting Program is voluntary. Pharmacy Participants are entitled to the benefits and subject to the obligations set forth in these administrative rules.

(2) Interested pharmacies may apply for participation in the Oregon Patient Safety Reporting Program by completing the Commission's participation agreement. The participation agreement must include the name of the Pharmacist-in-Charge and a designated contact person. Changes to any information on the participation agreement must be reported to the Commission with 30 days of the effective change.

(3) In agreeing to participate, a pharmacy must affirm that it is willing to share fully all requested Patient Safety Data with the Commission. This statement must be signed by the pharmacy's Owner, responsible executive, and Quality manager, or their equivalents.

(4) Upon enrolling in the Oregon Patient Safety Reporting Program, a Pharmacy Participant must have adopted policies and procedures describing patient safety activities, including how it triages adverse events; how it investigates adverse events, and how it provides notice of serious adverse events to a patient and/or family member. The Pharmacy Participant must provide copies to the Commission upon request.

(5) Within 30 calendar days of receipt and acceptance of the participation agreement the Commission will issue a certificate establishing a Pharmacy Participant's enrollment in the Oregon Patient Safety Reporting Program. The Pharmacy Participant should conspicuously post the certificate in public view.

(6) The Commission will maintain and update a website that lists all Pharmacy Participants.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 4-2006, f. 12-18-06, cert. ef. 1-1-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-015-0010**
**Annual Pharmacy Participant Fee**

(1) All community retail pharmacies licensed under ORS Chapter 689 must pay an annual fee. Per ORS 442.850 these fees will be assessed independent of participation status in the Oregon Patient Safety Reporting Program. Pharmacies with less than 20 locations will pay an annual fee of $200 per pharmacy. Pharmacies with 20 locations or more will pay an annual fee of $475 per pharmacy.

(2) Initial fees will be due by December 31 of the year a pharmacy becomes licensed by the state of Oregon. Annual fees will be due by December 31 each year. Any uncollected fees are turned over to the Department of Revenue for collection on or after April 1 following the date of invoice.

(3) No participation fees will be refunded due to withdrawal or termination from the Oregon Patient Safety Reporting Program.

(4) Fees shall be annually adjusted by the Commission Board, at a rate equal to the annual average Consumer Price Index for All Urban Consumers of the Portland, Oregon, Metropolitan Statistical Area, as compiled by the United States Department of Labor, Bureau of Labor Statistics, for every fiscal year beginning on or after July 1, 2008.

Stat. Auth.: ORS 442.820.
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 4-2006, f. 12-18-06, cert. ef. 1-1-07; PSC 2-2015, f. & cert. ef. 7-10-15; PSC 2-2015, f. & cert. ef. 7-10-15

**325-015-0015**
**Termination of Participation**

(1) The Commission's reporting program relies on voluntary reporting. However, the Commission is responsible for ensuring that those who choose to participate also comply with the standards established by the Commission.

(2) Participation requirements include the reporting of all Reportable Adverse Events; fully completing Event Reports; creating and implementing acceptable action plans; and providing written disclosure to patients or families following a Reportable Serious Adverse Event.

(3) If the Commission believes a Pharmacy Participant is not meeting its participation requirements, the Commission must provide the Pharmacy Participant with a written notice explaining why. The Pharmacy Participant will have 30 calendar days to respond and come into compliance.

(4) The Commission may deny, suspend, or revoke a Pharmacy Participant's status when the Commission finds that there has been a substantial failure to comply with the provisions of participation. Upon written notification by the Commission of revocation, suspension, or denial of a Pharmacy Participant enrollment in the Oregon Patient Safety Reporting Program, a Pharmacy Participant may request a hearing. Hearings will be held in accordance with ORS 183.310 to 183.470.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 4-2006, f. 12-18-06, cert. ef. 1-1-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-015-0020**
**Re-Issue of Suspended or Revoked Participation Certificate**

The Commission may re-issue a participation certificate that has been suspended or revoked if the Commission determines that the Pharmacy applying for re-enrollment meets the provisions of participation.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 4-2006, f. 12-18-06, cert. ef. 1-1-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-015-0025**
**Reporting Adverse Events**

(1) The Commission will provide an Event Report form to be used by Pharmacy Participants for reporting Adverse Events. The Event Report will include a summary description of the event; a description of the Pharmacy Participant's complete, thorough, and credible analysis for that event; information about plans to implement improvements to reduce risk. The meaning of terms "complete," "thorough," and "credible" are explained in OAR 325-015-0035.

(2) Pharmacy Participants must use the Event Report form when reporting Adverse Events to the Commission.

(3) Pharmacy Participants must submit a completed Event Report to the Commission within 45 calendar days of discovery of a Reportable Adverse Event.

(4) If a Pharmacy Participant believes the Commission should immediately issue an alert to all Oregon pharmacies based on a specific Reportable Adverse Event, the Pharmacy Participant should provide an initial report to the Commission within 3 business days of discovery of the event, or sooner. The Pharmacy Participant and Commission will work together to identify information to include in the alert.

Stat. Auth.: ORS442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 4-2006, f. 12-18-06, cert. ef. 1-1-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-015-0030**
**Pharmacy Reporting of Less Serious Adverse Events or Close Calls**

(1) In addition to Reportable Adverse Events, Participating Pharmacies are also encouraged to report less serious events or close calls. Participating Pharmacies should do so when they believe such events present the potential for significant harm.

(2) To report such events, Pharmacy Participants should use the appropriate sections of the Event Report form. Pharmacy Participants will not be required to complete detailed root cause analysis for these close calls.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 4-2006, f. 12-18-06, cert. ef. 1-1-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-015-0035**
**Commission Review of Reports**

(1) When the Commission receives an Event Report from a Pharmacy Participant, the Commission will determine whether that Event Report is complete, thorough, credible, and acceptable. The definitions for the terms complete, thorough, credible and acceptable are:

(a) A report is complete if it contains all the information requested in the Event Report, or explains, to the Commission's satisfaction, why that information is not available or not necessary to provide;

(b) A report is thorough if the investigation (e.g., root cause analysis) of the event includes an analysis of all relevant systems issues and shows evidence of an inquiry into all appropriate areas;

(c) A report is credible if it shows evidence that the investigation of the Reportable Pharmacy Adverse Event included participation by leadership within the organization and was internally consistent; and

(d) A report is acceptable if all the above standards are met and the action plans clearly describe meaningful improvement strategies designed to minimize risk.

(2) If the Commission believes that an Event Report received from a Pharmacy Participant is incomplete or unacceptable in some manner, it will

inform the Pharmacy Participant's contact person within 10 business days of receipt of the Event Report.

Stat. Auth.: ORS 442.820.
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 4-2006, f. 12-18-06, cert. ef. 1-1-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-015-0040**
**Public Health Officer Certification**

(1) At least annually, the Commission will request that the Public Health Officer certify the completeness, credibility, and thoroughness of each Pharmacy Participant's reporting during the applicable period.

(2) The Commission will request that the Public Health Officer develop independent and objective standards to evaluate the overall integrity of the Patient Safety Reporting Program. On an annual basis, the Commission will request that the Public Health Officer use those standards to certify the Oregon Patient Safety Reporting Program.

(3) The Commission will provide information to the Public Health Officer to assist the Public Health Officer in completing the certification processes listed in (1) and (2) of this rule, consistent with OAR 325-015-0055.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 4-2006, f. 12-18-06, cert. ef. 1-1-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-015-0045**
**Patient Notification of "Serious Adverse Events"**

(1) After a Serious Adverse Event occurs, a Pharmacy Participant must provide written notification to each affected patient, or, if necessary, to the patient's personal representative. Notification must be timely and should be consistent with the Pharmacy Participant's internal communication and disclosure policies.

(2) As provided in ORS 442.837(4), notice provided under this subsection may not be construed as an admission of liability in a civil action.

Stat. Auth.: ORS 442.820.
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 4-2006, f. 12-18-06, cert. ef. 1-1-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-015-0050**
**Extensions and Waivers**

(1) The Commission may grant an extension of any time requirement stipulated in these rules if the Pharmacy Participant provides justification that the delay is due to factors beyond its control or that the delay will not adversely affect the purposes of the Commission. A Pharmacy Participant requesting a waiver must submit a written request to the Commission prior to the deadline for the required action.

(2) The Commission may grant a waiver of any other provision of these rules if the Pharmacy Participant provides justification that granting the waiver will not adversely affect the purposes of the Commission.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 4-2006, f. 12-18-06, cert. ef. 1-1-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-015-0055**
**Protection of Patient Safety Data**

(1) The Commission is subject to all the confidentiality provisions set forth in ORS 442.820, 442.831, 442.837, and 442.846.

(2) The Commission will maintain the confidentiality of all Patient Safety Data that identifies or could be reasonably used to identify a Pharmacy Participant or an individual who is receiving or has received health care from the Pharmacy Participant.

(3) Before it takes receipt of any confidential Patient Safety Data, the Commission will have in place appropriate safeguards and security measures to ensure the technical integrity and physical safety of such data.

(4) Pursuant to ORS 442.820(4), meetings or portions of meetings where the Oregon Patient Safety Commission Board of Directors, or subcommittees or advisory committees consider information that identifies a participant or patient are not subject to the Oregon Public Meetings Law, 192.610 to 192.690

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 4-2006, f. 12-18-06, cert. ef. 1-1-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-015-0060**
**Commission's Use of Patient Safety Data**

(1) The Commission will create an ad hoc committee on best practices in patient safety. This committee will advise the Commission on effective methods for making use of and sharing information gathered from the Commission's review of Event Reports.

(2) At least quarterly, the Commission will provide Pharmacy Participants with patient safety quality improvement information derived from Patient Safety Data.

(3) During the second quarter of each year, the Commission will publish a report to the public summarizing Patient Safety Data for the preceding calendar year. This report will use aggregate, de-identified data from the program and will describe statewide adverse event patterns and best practices to avoid the occurrence or minimize the effects of adverse events.

(4) The Commission will maintain an easily accessible and well-publicized website to share patient safety information directly with consumers.

(5) The Commission, within its resource limitations, will provide technical assistance to Pharmacy Participants, including but not limited to recommendations and advice regarding methodology, communication, dissemination of information, data collection, security and confidentiality.

(6) The Commission will work with representatives of organizations participating in the Oregon Patient Safety Reporting Program and with other interested parties to develop recommendations for continued improvements in the collection and utilization of Patient Safety Data.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 4-2006, f. 12-18-06, cert. ef. 1-1-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-020-0001**
**Definitions**

As used in OAR 325-020-0001 to 325-020-0055:

(1) "Commission" means the Oregon Patient Safety Commission.

(2) "Event Report" means the form designated by the Commission to be used by Long Term Care Facility Participants for the reporting of Reportable Long Term Care Facility Serious Adverse Events.

(3) "Long Term Care Facility Participant" means a long term care facility as defined in ORS 442.015(18) and licensed under OAR 411, division 085, that has volunteered to participate in the Oregon Patient Safety Reporting Program.

(4) "Oregon Patient Safety Reporting Program" means the Patient Safety Reporting Program as defined in ORS 442.837, and operated by the Commission.

(5) "Participant" means an entity that reports Patient Safety Data to a Patient Safety Reporting Program, and any agent, employee, consultant, representative, volunteer or medical staff member of the entity.

(6) "Patient Safety Activities" include but are not limited to:

(a) The collection and analysis of Patient Safety Data by a Participant;

(b) The collection and analysis of Patient Safety Data by the Oregon Patient Safety Commission established in ORS 442.837 and 442.820;

(c) The utilization of Patient Safety Data by Participants;

(d) The utilization of Patient Safety Data by the Oregon Patient Safety Commission to improve the quality of care with respect to patient safety and to provide assistance to health care providers to minimize patient risk; and

(e) Oral and written communication regarding Patient Safety Data among two or more Participants with the intent of making a disclosure to or preparing a report to be submitted to a Patient Safety Reporting Program.

(7) "Patient Safety Data" means oral communication or written reports, data, records, memoranda, analyses, deliberative work, statements, root cause analyses or action plans that are collected or developed to improve patient safety or health care quality that:

(a) Are prepared by a Participant for the purpose of reporting Patient Safety Data voluntarily to a Patient Safety Reporting Program, or that are communicated among two or more Participants with the intent of making a disclosure to or preparing a report to be submitted to a Patient Safety Reporting Program; or

(b) Are created by or at the direction of the Patient Safety Reporting Program, including communication, reports, notes or records created in the course of an investigation undertaken at the direction of the Oregon Patient Safety Commission.

(8) "Reportable Serious Adverse Event" for the purposes of OAR 325-020-0001 to 325-020-0055 means any unanticipated, usually preventable consequence of patient care that results in patient death or serious physical injury, including the events described in Appendix A, incorporated by reference.

[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 1-2007, f. & cert. ef. 3-9-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-020-0005**
**Enrollment in the Oregon Patient Safety Reporting Program**

(1) Participation in the Oregon Patient Safety Reporting Program is voluntary. Long Term Care Facility Participants are entitled to the benefits and subject to the obligations set forth in these administrative rules.

(2) Interested long term care facilities may apply for participation in the Oregon Patient Safety Reporting Program by completing the Commission's participation agreement. The participation agreement must include the name of a designated contact person.

(3) In agreeing to participate a long term care facility must affirm that it is willing to fully share requested Patient Safety Data with the Commission. This statement must be co-signed by the nursing home administrator, Director of Nursing Services, and the principal owner or Chairperson of the Board of Directors, or their equivalents.

(4) Upon enrolling in the Oregon Patient Safety Reporting Program, a Long Term Care Facility Participant must have adopted policies and procedures describing patient safety activities, including how it triages adverse events; how it investigates adverse events; and how it provides notice of adverse events to a patient and/or family member. The Long Term Care Facility Participant must provide copies to the Commission upon request.

(5) Within 30 calendar days of receipt and acceptance of the participation agreement the Commission will issue a certificate establishing a Long Term Care Facility Participant's enrollment in the Oregon Patient Safety Reporting Program. The Long Term Care Facility Participant should post the certificate in public view.

(6) The Commission will maintain and update a website that lists all Long Term Care Facility Participants.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 1-2007, f. & cert. ef. 3-9-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-020-0010**
**Annual Long Term Care Facility Participant Fee**

(1) All long term care facilities licensed under OAR 411, division 085 must pay an annual fee. Per ORS 442.850 these fees will be assessed independent of participation status in the Oregon Patient Safety Reporting Program. Long term care facilities with six beds or less will pay an annual fee of $150 per long term care facility. Long term care facilities with greater than six beds will pay an annual fee of $800 per long term care facility.

(2) Initial fees will be due by December 31 of the year a long term care facility becomes licensed by the state of Oregon. Annual fees will be due by December 31 each year. Any uncollected fees are turned over to the Department of Revenue for collection on or after April 1 following the date of invoice.

(3) No participation fees will be refunded due to withdrawal or termination from the Oregon Patient Safety Reporting Program.

(4) Fees shall be annually adjusted by the Commission Board, at a rate equal to the annual average Consumer Price Index for All Urban Consumers of the Portland, Oregon, Metropolitan Statistical Area, as compiled by the United States Department of Labor, Bureau of Labor Statistics, for every fiscal year beginning on or after July 1, 2008.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 1-2007, f. & cert. ef. 3-9-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-020-0015**
**Termination of Participation**

(1) The Commission's reporting program relies on voluntary reporting. However, the Commission is responsible for ensuring that those who choose to participate also comply with the standards established by the Commission.

(2) Participation requirements include the reporting of all Reportable Serious Adverse Events; fully completing Event Reports; creating and implementing acceptable action plans; and providing written disclosure to patients or families following a Reportable Serious Adverse Event.

(3) If the Commission believes a Long Term Care Facility Participant is not meeting its participation requirements, the Commission must provide the Long Term Care Facility Participant with a written notice explaining why. The Long Term Care Facility Participant will have 30 calendar days to respond and come into compliance.

(4) The Commission may deny, suspend or revoke a Long Term Care Facility Participant's status when the Commission finds that there has been a substantial failure to comply with the provisions of participation.

(5) Upon written notification by the Commission of revocation, suspension, or denial of a Long Term Care Facility Participant enrollment in the Oregon Patient Safety Reporting Program, a Long Term Care Facility Participant may request a hearing. Hearings will be held in accordance with ORS 183.310 to 183.470.

Stat. Auth.: ORS 442.820
Stats. Implemented: 442.819-442.851
Hist.: PSC 1-2007, f. & cert. ef. 3-9-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-020-0020**
**Re-Issue of Suspended or Revoked Participation Certificate**

The Commission may re-issue a participation certificate that has been suspended or revoked if the Commission determines that the long term care facility applying for re-enrollment meets the provisions of participation.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 1-2007, f. & cert. ef. 3-9-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-020-0025**
**Reporting Serious Adverse Events**

(1) The Commission will provide an Event Report form to be used by Long Term Care Facility Participants for reporting Reportable Serious Adverse Events. The Event Report will include: a summary description of the event; an overview of the Long Term Care Facility Participant's complete, thorough and credible investigation of that event; and information about improvement strategies designed to minimize risk of future events. The meaning of terms "complete," "thorough," and "credible" are explained in OAR 325-020-0030.

(2) Long Term Care Facility Participants must use the Event Report form when reporting Serious Adverse Events to the Commission.

(3) Long Term Care Facility Participants must submit a completed Event Report to the Commission within 45 calendar days of discovery of a Reportable Serious Adverse Event.

(4) Subject to a separate written agreement between the Commission and Long Term Care Facility Participant, Participant will share additional resident assessment data with the Commission, to the extent permitted by state and federal law.

(5) If a Long Term Care Facility Participant believes the Commission should immediately issue an alert to all Oregon Long Term Care Facilities or other types of Participants based on a specific Reportable Serious Adverse Event, the Long Term Care Facility Participant should provide an initial report to the Commission within 3 business days of discovery of the event, or sooner. The Long Term Care Facility Participant and Commission will work together to identify information to include in the alert.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 1-2007, f. & cert. ef. 3-9-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-020-0026**
**Long Term Care Reporting of Less Serious Adverse Events or Close Calls**

(1) In addition to Reportable Serious Adverse Events, Long Term Care Facility Participants are also encouraged to report less serious adverse events or close calls. Long Term Care Facility Participants should do so when they believe other organizations will benefit from the information.

(2) To report such events, Long Term Care Facility Participants should use the appropriate sections of the Event Report form.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 1-2007, f. & cert. ef. 3-9-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-020-0030**
**Commission Review of Reports**

(1) When the Commission receives an Event Report from a Long Term Care Facility Participant, the Commission will determine whether that Event Report is complete, thorough, credible and acceptable. The definitions for the terms complete, thorough, credible and acceptable are:

(a) A report is complete if it contains all the information requested in the Event Report, or explains, to the Commission's satisfaction, why that information is not available or not necessary to provide;

(b) A report is thorough if the root cause analysis includes an analysis of all relevant systems issues and shows evidence of an inquiry into all appropriate areas;

(c) A report is credible if it shows evidence that the investigation of the Reportable Long Term Care Facility Serious Adverse Event included participation by leadership within the organization and was internally consistent; and

(d) A report is acceptable if all the above standards are met and the action plans clearly describe meaningful improvement strategies designed to minimize risk.

(2) If the Commission believes that an Event Report received from a Long Term Care Facility Participant is incomplete or unacceptable in some

manner, it will inform the Long Term Care Facility Participant's contact person within 10 business days of receipt of the Event Report.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 1-2007, f. & cert. ef. 3-9-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-020-0035**
**Public Health Officer Certification**

(1) At least annually, the Commission will request that the Public Health Officer certify the completeness, credibility, and thoroughness of each Long Term Care Facility Participant's reporting to the Commission during the applicable period.

(2) The Commission will request that the Public Health Officer develop independent and objective standards to evaluate the overall integrity of the Patient Safety Reporting Program. On an annual basis the Commission will request that the Public Health Officer use those standards to certify the Oregon Patient Safety Reporting Program.

(3) The Commission will provide information to the Public Health Officer to assist the Public Health Officer in completing the certification processes listed in (1) and (2) of this rule, consistent with OAR 325-010-0050.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 1-2007, f. & cert. ef. 3-9-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-020-0040**
**Patient Notification Of Reportable Serious Adverse Events**

(1) After a Reportable Serious Adverse Event occurs, a Long Term Care Facility Participant must provide written notification to each affected patient, or, if necessary, to the patient's personal representative. Notification must be timely and should be consistent with the Long Term Care Facility Participant's internal communication and disclosure policies.

(2) As provided in ORS 837(4), notice provided under this subsection may not be construed as an admission of liability in a civil action.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 1-2007, f. & cert. ef. 3-9-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-020-0045**
**Extensions And Waivers**

(1) The Commission may grant an extension of any time requirement stipulated in these rules if the Long Term Care Facility Participant provides justification that the delay is due to factors beyond its control or that the delay will not adversely affect the purposes of the Commission. A Long Term Care Facility Participant requesting a waiver must submit a written request to the Commission prior to the deadline for the required action.

(2) The Commission may grant a waiver of any other provision of these rules if the Long Term Care Facility Participant provides justification that granting the waiver will not adversely affect the purposes of the Commission.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 1-2007, f. & cert. ef. 3-9-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-020-0050**
**Protection Of Patient Safety Data**

(1) The Commission is subject to all the confidentiality provisions set forth in ORS 442.820, 442.831, 442.837, and 442.846.

(2) The Commission will maintain the confidentiality of all Patient Safety Data that identifies or could be reasonably used to identify a Long Term Care Facility Participant or an individual who is receiving or has received health care from the Long Term Care Facility Participant.

(3) Before it takes receipt of any confidential Patient Safety Data, the Commission will have in place appropriate safeguards and security measures to ensure the technical integrity and physical safety of such data.

(4) Pursuant to ORS 442.820(4), meetings or portions of meetings where the Oregon Patient Safety Commission Board of Directors, or subcommittees or advisory committees consider information that identifies a participant or patient are not subject to the Oregon Public Meetings Law, 192.610 to 192.690.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 1-2007, f. & cert. ef. 3-9-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-020-0055**
**Commission's Use Of Patient Safety Data**

(1) The Commission will create an ad hoc committee on best practices in patient safety. This committee will advise the Commission on effective methods for making use of and sharing information gathered from the Commission's review of Event Reports.

(2) At least quarterly, the Commission will provide Long Term Care Facility Participants with aggregate patient safety quality improvement information derived from Patient Safety Data.

(3) During the second quarter of each year, the Commission will publish a report to the public summarizing Patient Safety Data for the preceding calendar year. This report will use aggregate, de-identified data from the program and will describe statewide adverse event patterns and best practices to avoid the occurrence or minimize the effects of adverse events.

(4) The Commission will maintain an easily accessible and well-publicized website to share patient safety information directly with consumers.

(5) The Commission, within its resource limitations, will provide technical assistance to Long Term Care Facility Participants, including but not limited to recommendations and advice regarding methodology, communication, dissemination of information, data collection, security and confidentiality.

(6) The Commission will work with representatives of organizations participating in the Oregon Patient Safety Reporting Program and with other interested parties to develop recommendations for continued improvements in the collection and utilization of Patient Safety Data. The Commission will revise its reporting form as necessary based on feedback from Participants.

(7) The Commission may initiate other projects using patient safety data when consistent with its mission and in accordance with existing confidentiality protections.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 1-2007, f. & cert. ef. 3-9-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-025-0001**
**Definitions**

As used in OAR 325-025-0001 to 325-025-0060:

(1) "Commission" means the Oregon Patient Safety Commission.

(2) "Event Report" means the form designated by the Commission to be used by Ambulatory Surgery Center Participants for the reporting of Reportable Ambulatory Surgery Center Adverse Events.

(3) "Ambulatory Surgery Center Participant" means an ambulatory surgery center as defined in ORS 442.015, that has volunteered to participate in the Oregon Patient Safety Reporting Program.

(4) "Oregon Patient Safety Reporting Program" means the Patient Safety Reporting Program, as defined in ORS 442.837, and operated by the Commission.

(5) "Participant" means an entity that reports Patient Safety Data to a Patient Safety Reporting Program, and any agent, employee, consultant, representative, volunteer or medical staff member of the entity.

(6) "Patient Safety Activities" include but are not limited to:

(a) The collection and analysis of Patient Safety Data by a Participant;

(b) The collection and analysis of Patient Safety Data by the Oregon Patient Safety Commission established in ORS 442.820;

(c) The utilization of Patient Safety Data by Participants;

(d) The utilization of Patient Safety Data by the Oregon Patient Safety Commission to improve the quality of care with respect to patient safety and to provide assistance to health care providers to minimize patient risk; and

(e) Oral and written communication regarding Patient Safety Data among two or more Participants with the intent of making a disclosure to or preparing a report to be submitted to a Patient Safety Reporting Program.

(7) "Patient Safety Data" means oral communication or written reports, data, records, memoranda, analyses, deliberative work, statements, root cause analyses or action plans that are collected or developed to improve patient safety or health care quality that:

(a) Are prepared by a Participant for the purpose of reporting Patient Safety Data voluntarily to a Patient Safety Reporting Program, or that are communicated among two or more Participants with the intent of making a disclosure to or preparing a report to be submitted to a Patient Safety Reporting Program; or

(b) Are created by or at the direction of the Patient Safety Reporting Program, including communication, reports, notes or records created in the course of an investigation undertaken at the direction of the Oregon Patient Safety Commission.

(8) "Serious Adverse Event" for the purposes of OAR 325-025-0001 to 325-025-0060 means any unanticipated, usually preventable consequence of patient care that results in patient death or serious physical injury, either temporary or permanent.

(9) "Reportable Adverse Event" for the purposes of OAR 325-025-0001 to 325-025-0060 means any unanticipated, usually preventable consequence of patient care that results in patient harm, including the events described in **Appendix A** and any Serious Adverse Events. **Appendix A** is incorporated by reference.

[ED. NOTE: Appendices referenced are available from the agency.]

Stat. Auth.: ORS 442.820

Stats. Implemented: ORS 442.819-442.851

Hist.: PSC 3-2007, f. & cert. ef. 5-4-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-025-0005**

**Enrollment in the Oregon Patient Safety Reporting Program**

(1) Participation in the Oregon Patient Safety Reporting Program is voluntary. Ambulatory Surgery Center Participants are entitled to the benefits and subject to the obligations set forth in these administrative rules.

(2) Interested ambulatory surgery centers may apply for participation in the Oregon Patient Safety Reporting Program by completing the Commission's participation agreement. The participation agreement must include the name of a designated contact person.

(3) In agreeing to participate an ambulatory surgery center must affirm that it is willing to fully share requested Patient Safety Data with the Commission. This statement must be co-signed by the ambulatory surgery center's Chief Executive Officer, Chairperson of the Governing Body, and the Director of Quality Management, or their equivalents.

(4) Upon enrolling in the Oregon Patient Safety Reporting Program, an Ambulatory Surgery Center Participant must have adopted policies and procedures describing patient safety activities, including how it triages adverse events; how it investigates adverse events; and how it provides notice of adverse events to a patient and/or patient's personal representative. The Ambulatory Surgery Center Participant must provide copies to the Commission upon request.

(5) Within 30 calendar days of receipt and acceptance of the participation agreement the Commission will issue a certificate establishing an Ambulatory surgery center Participant's enrollment in the Oregon Patient Safety Reporting Program. The Ambulatory surgery center Participant should conspicuously post the certificate in an area where patients are admitted.

(6) The Commission will maintain and update a website that lists all Ambulatory Surgery Center Participants.

Stat. Auth.: ORS 442.820

Stats. Implemented: ORS 442.819-442.851

Hist.: PSC 3-2007, f. & cert. ef. 5-4-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-025-0010**

**Annual Ambulatory surgery center Participant Fee**

(1) All ambulatory surgery centers licensed under ORS 441.015 must pay an annual fee of $975 for each facility. Per ORS 442.850 these fees will be assessed independent of participation status in the Oregon Patient Safety Reporting Program.

(2) Initial fees will be due by December 31 of the year an ambulatory surgery center becomes licensed by the state of Oregon. Annual fees will be due by December 31 each year. Any uncollected fees are turned over to the Department of Revenue for collection on or after April 1 following the date of invoice.

(3) No participation fees will be refunded due to withdrawal or termination from the Oregon Patient Safety Reporting Program.

(4) Fees shall be annually adjusted by the Commission Board, at a rate equal to the annual average Consumer Price Index for All Urban Consumers of the Portland, Oregon, Metropolitan Statistical Area, as compiled by the United States Department of Labor, Bureau of Labor Statistics, for every fiscal year beginning on or after July 1, 2008.

Stat. Auth.: ORS 442.820

Stats. Implemented: ORS 442.819-442.851

Hist.: PSC 3-2007, f. & cert. ef. 5-4-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-025-0015**

**Termination of Participation**

(1) The Commission's reporting program relies on voluntary reporting. However, the Commission is responsible for ensuring that those who choose to participate also comply with the standards established by the Commission.

(2) Participation requirements include the reporting of all Reportable Adverse Events; fully completing Event Reports; creating and implementing acceptable action plans; and providing written disclosure to patients or their personal representatives following a Serious Adverse Event.

(3) If the Commission believes an Ambulatory Surgery Center Participant is not meeting its participation requirements, the Commission must provide the Ambulatory Surgery Center Participant with a written notice explaining why. The Ambulatory Surgery Center Participant will have 30 calendar days to respond and come into compliance.

(4) The Commission may deny, suspend or revoke an Ambulatory Surgery Center Participant's status when the Commission finds that there has been a substantial failure to comply with the provisions of participation. Upon written notification by the Commission of revocation, suspension, or denial of an Ambulatory Surgery Center Participant enrollment in the Oregon Patient Safety Reporting Program, an Ambulatory Surgery Center Participant may request a hearing. Hearings will be held in accordance with ORS 183.310 to 183.470.

Stat. Auth.: ORS 442.820

Stats. Implemented: ORS 442.819-442.851

Hist.: PSC 3-2007, f. & cert. ef. 5-4-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-025-0020**

**Re-Issue of Suspended or Revoked Participation Certificate**

The Commission may re-issue a participation certificate that has been suspended or revoked if the Commission determines that the ambulatory surgery center applying for re-enrollment meets the provisions of participation.

Stat. Auth.: ORS 442.820

Stats. Implemented: ORS 442.819-442.851

Hist.: PSC 3-2007, f. & cert. ef. 5-4-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-025-0025**

**Reporting Adverse Events**

(1) The Commission will provide an Event Report form to be used by Ambulatory Surgery Center Participants for reporting Reportable Adverse Events. The Event Report will include: a summary description of the event; an overview of the Ambulatory Surgery Center Participant's complete, thorough and credible investigation for that event; information about plans to implement improvements to reduce risk. The meaning of terms "complete," "thorough," and "credible" are explained in OAR 325-025-0035.

(2) Ambulatory Surgery Center Participants must use the Event Report form when reporting Reportable Adverse Events to the Commission.

(3) Ambulatory Surgery Center Participants must submit a completed Event Report to the Commission within 45 calendar days of discovery of a Reportable Adverse Event.

(4) Ambulatory Surgery Center Participants must make a good faith effort to report events that occur or are discovered following discharge from the ambulatory surgery center.

(5) If an Ambulatory Surgery Center Participant believes the Commission should immediately issue an alert to all Oregon ambulatory surgery centers based on a specific Reportable Adverse Event, the Ambulatory Surgery Center Participant should provide an initial report to the Commission within three business days of discovery of the event, or sooner. The Ambulatory Surgery Center Participant and Commission will work together to identify information to include in the alert.

Stat. Auth.: ORS 442.820

Stats. Implemented: ORS 442.819-442.851

Hist.: PSC 3-2007, f. & cert. ef. 5-4-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-025-0030**

**Ambulatory Surgery Center Reporting of Less Serious Adverse Events and Close Calls**

(1) In addition to the list of Reportable Adverse Events, Participating Ambulatory Surgery Centers are also encouraged to report less serious adverse events and close calls. Participating Ambulatory Surgery Centers should do so when they believe other organizations will benefit from the information.

(2) To report such events, Ambulatory Surgery Center Participants should use the appropriate sections of the Event Report form.

(3) Ambulatory Surgery Center Participants are not required by the Commission to provide written disclosure of less serious adverse events or close calls to patients or their personal representatives.

Stat. Auth.: ORS 442.820

Stats. Implemented: ORS 442.819-442.851

Hist.: PSC 3-2007, f. & cert. ef. 5-4-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-025-0035**

**Commission Review of Reports**

(1) When the Commission receives an Event Report from an Ambulatory Surgery Center Participant, the Commission will determine whether that Event Report is complete, thorough, credible and acceptable. The definitions for the terms complete, thorough, credible and acceptable are:

(a) A report is complete if it contains all the information requested in the Event Report, or explains to the Commission's satisfaction, why that information is not available or not necessary to provide;

(b) A report is thorough if the root cause analysis includes an analysis of all relevant systems issues and shows evidence of an inquiry into all appropriate areas;

(c) A report is credible if it shows evidence that the investigation of the Reportable Ambulatory Surgery Center Adverse Event included participation by leadership within the organization and was internally consistent; and

(d) A report is acceptable if all the above standards are met and the action plans clearly describe meaningful improvement strategies designed to minimize risk.

(2) If the Commission believes that an Event Report received from an Ambulatory Surgery Center Participant is incomplete or unacceptable in some manner, it will inform the Ambulatory Surgery Center Participant's contact person within 10 business days of receipt of the Event Report.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 3-2007, f. & cert. ef. 5-4-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-025-0040**
**Public Health Officer Certification**

(1) At least annually, the Commission will request that the Public Health Officer certify the completeness, credibility, and thoroughness of each Ambulatory Surgery Center Participant's reporting during the applicable period.

(2) The Commission will request that the Public Health Officer develop independent and objective standards to evaluate the overall integrity of the Patient Safety Reporting Program. On an annual basis the Commission will request that the Public Health Officer use those standards to certify the Oregon Patient Safety Reporting Program.

(3) The Commission will provide information to the Public Health Officer to assist the Public Health Officer in completing the certification processes listed in (1) and (2) of this rule, consistent with OAR 325-025-0055.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 3-2007, f. & cert. ef. 5-4-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-025-0045**
**Patient Notification Of Serious Adverse Events**

(1) After a Serious Adverse Event occurs, an Ambulatory Surgery Center Participant must provide written notification to each affected patient, or, if necessary, to the patient's personal representative. Notification must be timely and should be consistent with the Ambulatory Surgery Center Participant's internal communication and disclosure policies.

(2) As provided in ORS 442.837(4), notice provided under this subsection may not be construed as an admission of liability in a civil action.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 3-2007, f. & cert. ef. 5-4-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-025-0050**
**Extensions And Waivers**

(1) The Commission may grant an extension of any time requirement stipulated in these rules if the Ambulatory Surgery Center Participant provides justification that the delay is due to factors beyond its control or that the delay will not adversely affect the purposes of the Commission. An Ambulatory Surgery Center Participant requesting a waiver must submit a written request to the Commission prior to the deadline for the required action.

(2) The Commission may grant a waiver of any other provision of these rules if the Ambulatory Surgery Center Participant provides justification that granting the waiver will not adversely affect the purposes of the Commission.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 3-2007, f. & cert. ef. 5-4-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-025-0055**
**Protection Of Patient Safety Data**

(1) The Commission is subject to all the confidentiality provisions set forth in ORS 442.820, 442.831, 442.837, and 442.846.

(2) The Commission will maintain the confidentiality of all Patient Safety Data that identifies or could be reasonably used to identify an Ambulatory Surgery Center Participant or an individual who is receiving or has received health care from the Ambulatory Surgery Center Participant.

(3) Before it takes receipt of any confidential Patient Safety Data, the Commission will have in place appropriate safeguards and security measures to ensure the technical integrity and physical safety of such data.

(4) Pursuant to ORS 442.820(4), meetings or portions of meetings where the Oregon Patient Safety Commission Board of Directors, or subcommittees or advisory committees, consider information that identifies a participant or patient are not subject to the Oregon Public Meetings Law, 192.610 to 192.690.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 3-2007, f. & cert. ef. 5-4-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-025-0060**
**Commission's Use Of Patient Safety Data**

(1) The Commission will create an ad hoc advisory group on best practices in patient safety. This committee will advise the Commission on effective methods for making use of and sharing information gathered from the Commission's review of Event Reports.

(2) At least quarterly, the Commission will provide Ambulatory Surgery Center Participants with patient safety quality improvement information derived from Patient Safety Data.

(3) During the second quarter of each year, the Commission will publish a report to the public summarizing Patient Safety Data for the preceding calendar year. This report will use aggregate, de-identified data from the program and will describe statewide adverse event patterns and best practices to avoid the occurrence or minimize the effects of adverse events.

(4) The Commission will maintain an easily accessible and well-publicized website to share patient safety information directly with consumers.

(5) The Commission, within its resource limitations, will provide technical assistance to Ambulatory Surgery Center Participants, including but not limited to recommendations and advice regarding methodology, communication, dissemination of information, data collection, security and confidentiality.

(6) The Commission will work with representatives of organizations participating in the Oregon Patient Safety Reporting Program and with other interested parties to develop recommendations for continued improvements in the collection and utilization of Patient Safety Data. The Commission will revise its reporting form as necessary based on feedback from Participants.

(7) The Commission may initiate other projects using patient safety data when consistent with its mission and in accordance with existing confidentiality protections.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819-442.851
Hist.: PSC 3-2007, f. & cert. ef. 5-4-07; PSC 2-2015, f. & cert. ef. 7-10-15

**325-030-0001**
**Definitions**

As used in OAR 325-030-0001 to 325-030-0060:

(1) "Commission" means the Oregon Patient Safety Commission.

(2) "Event Report" means the form designated by the Commission to be used by Renal Dialysis Participants for the reporting of Reportable Renal Dialysis Adverse Events.

(3) "Renal Dialysis Participant" means an outpatient renal dialysis facility as defined in ORS 442.015, that has volunteered to participate in the Oregon Patient Safety Reporting Program.

(4) "Oregon Patient Safety Reporting Program" means the Patient Safety Reporting Program, as defined in ORS 442.837, and operated by the Commission.

(5) "Participant" means an entity that reports Patient Safety Data to the Oregon Patient Safety Reporting Program, and any agent, employee, consultant, representative, volunteer or medical staff member of the entity.

(6) "Patient Safety Activities" include but are not limited to:

(a) The collection and analysis of Patient Safety Data by a Participant;

(b) The collection and analysis of Patient Safety Data by the Oregon Patient Safety Commission established in ORS 442.820;

(c) The utilization of Patient Safety Data by Participants;

(d) The utilization of Patient Safety Data by the Oregon Patient Safety Commission to improve the quality of care with respect to patient safety and to provide assistance to health care providers to minimize patient risk; and

(e) Oral and written communication regarding Patient Safety Data among two or more Participants with the intent of making a disclosure to or preparing a report to be submitted to the Oregon Patient Safety Reporting Program.

(7) "Patient Safety Data" means oral communication or written reports, data, records, memoranda, analyses, deliberative work, statements,

root cause analyses or action plans that are collected or developed to improve patient safety or health care quality that:

(a) Are prepared by a Participant for the purpose of reporting Patient Safety Data voluntarily to the Oregon Patient Safety Reporting Program, or that are communicated among two or more Participants with the intent of making a disclosure to or preparing a report to be submitted to the Oregon Patient Safety Reporting Program; or

(b) Are created by or at the direction of the Patient Safety Reporting Program, including communication, reports, notes, or records created in the course of an investigation undertaken at the direction of the Oregon Patient Safety Commission.

(8) "Reportable Adverse Event" for the purposes of OAR 325-030-0001 to 325-030-0060 means any unanticipated, usually preventable consequences of patient care that result in patient death or serious physical injury. This includes events that:

(a) Are not related to the natural course of the patient's illness or underlying condition; and

(b) Resulted in temporary and/or permanent physical harm.

**NOTE**: In addition, Reportable Adverse Events include those described in Appendix A. Appendix A is incorporated by reference.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819 - 442.851 & 442.837(2)(e)
Hist.: PSC 1-2010, f. & cert. ef. 4-26-10; PSC 2-2015, f. & cert. ef. 7-10-15

**325-030-0005**
**Enrollment in the Oregon Patient Safety Reporting Program**

(1) Participation in the Oregon Patient Safety Reporting Program is voluntary. Renal Dialysis Participants are entitled to the benefits and subject to the obligations set forth in these administrative rules.

(2) Interested Renal Dialysis Facilities may apply for participation in the Oregon Patient Safety Reporting Program by completing the Commission's participation agreement. The participation agreement must include the name of a designated contact person. Changes to any information on the participation agreement must be reported to the Commission with 30 days of the effective change.

(3) In agreeing to participate, a Renal Dialysis Facility must affirm that it is willing to share fully all requested Patient Safety Data with the Commission. This statement must be signed by the Renal Dialysis Facility's regional chief executive and Quality Director, or their equivalents.

(4) Upon enrolling in the Oregon Patient Safety Reporting Program, a Renal Dialysis Participant must have adopted policies and procedures describing patient safety activities, including how it triages adverse events; how it investigates adverse events, and how it provides notice of serious adverse events to a patient and/or family member. The Renal Dialysis Participant must provide copies to the Commission upon request.

(5) Within 30 calendar days of receipt and acceptance of the participation agreement the Commission will issue a certificate establishing a Renal Dialysis Participant's enrollment in the Oregon Patient Safety Reporting Program. The Renal Dialysis Participant should conspicuously post the certificate in public view.

(6) The Commission will maintain and update a website that lists all Renal Dialysis Participants.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819 - 442.851 & 442.837(2)(e)
Hist.: PSC 1-2010, f. & cert. ef. 4-26-10; PSC 2-2015, f. & cert. ef. 7-10-15

**325-030-0010**
**Annual Renal Dialysis Fee**

(1) All renal dialysis facilities, as defined in ORS 442.015, must pay an annual fee of $750. Per ORS 442.850 these fees will be assessed independent of participation status in the Oregon Patient Safety Reporting Program.

(2) Initial fees will be due by December 31 of the year a renal dialysis facility becomes licensed by the state of Oregon. Annual fees will be due by December 31 each year. Any uncollected fees are turned over to the Department of Revenue for collection on or after April 1 following the date of invoice.

(3) Fees shall be annually adjusted by the Commission Board, at a rate equal to the annual average Consumer Price Index for All Urban Consumers of the Portland, Oregon, Metropolitan Statistical Area, as compiled by the United States Department of Labor, Bureau of Labor Statistics, for every fiscal year beginning on or after July 1, 2008.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819 - 442.851 & 442.837(2)(e)
Hist.: PSC 1-2010, f. & cert. ef. 4-26-10; PSC 2-2015, f. & cert. ef. 7-10-15

**325-030-0015**
**Termination of Participation**

(1) The Commission's reporting program relies on voluntary reporting. However, the Commission is responsible for ensuring that those who choose to participate also comply with the standards established by the Commission.

(2) Participation requirements include the reporting of all Reportable Adverse Events; fully completing Event Reports; creating and implementing acceptable action plans; and providing written disclosure to patients or families following a Reportable Adverse Event.

(3) If the Commission believes a Renal Dialysis Participant is not meeting its participation requirements, the Commission must provide the Renal Dialysis Participant with a written notice explaining why. The Renal Dialysis Participant will have 30 calendar days to respond and come into compliance.

(4) The Commission may deny, suspend, or revoke a Renal Dialysis Participant's status when the Commission finds that there has been a substantial failure to comply with the provisions of participation. Upon written notification by the Commission of revocation, suspension, or denial of a Renal Dialysis Participant enrollment in the Oregon Patient Safety Reporting Program, a Renal Dialysis Participant may request a hearing. Hearings will be held in accordance with ORS 183.310 to 183.470.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819 - 442.851 & 442.837(2)(e)
Hist.: PSC 1-2010, f. & cert. ef. 4-26-10; PSC 2-2015, f. & cert. ef. 7-10-15

**325-030-0020**
**Re-Issue of Suspended or Revoked Participation Certificate**

The Commission may re-issue a participation certificate that has been suspended or revoked if the Commission determines that the Renal Dialysis applying for re-enrollment meets the provisions of participation.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819 - 442.851 & 442.837(2)(e)
Hist.: PSC 1-2010, f. & cert. ef. 4-26-10; PSC 2-2015, f. & cert. ef. 7-10-15

**325-030-0025**
**Reporting Adverse Events**

(1) The Commission will provide an Event Report form to be used by Renal Dialysis Participants for reporting Reportable Adverse Events. The Event Report will include a summary description of the event; a description of the Renal Dialysis Participant's complete, thorough, and credible analysis for that event; information about plans to implement improvements to reduce risk. The meaning of terms "complete," "thorough," and "credible" are explained in OAR 325-030-0035.

(2) Renal Dialysis Participants must use the Event Report form when reporting Adverse Events to the Commission.

(3) Renal Dialysis Participants must submit a completed Event Report to the Commission within 45 calendar days of discovery of a Reportable Adverse Event.

(4) If a Renal Dialysis Participant believes the Commission should immediately issue an alert to all Oregon Renal Dialysis Facilities based on a specific Reportable Adverse Event, the Renal Dialysis Participant should provide an initial report to the Commission within 3 business days of discovery of the event, or sooner. The Renal Dialysis Participant and Commission will work together to identify information to include in the alert.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819 - 442.851 & 442.837(2)(e)
Hist.: PSC 1-2010, f. & cert. ef. 4-26-10; PSC 2-2015, f. & cert. ef. 7-10-15

**325-030-0030**
**Renal Dialysis Reporting of Close Calls and Less Serious Events**

(1) In addition to Reportable Adverse Events, Participating Renal Dialysis Facilities are also encouraged to report less serious events and close calls/near misses. Participating Renal Dialysis Facilities should do so when they believe such events present the potential for significant harm.

(2) To report such events, Renal Dialysis Participants should use the appropriate sections of the Event Report form.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819 - 442.851 & 442.837(2)(e)
Hist.: PSC 1-2010, f. & cert. ef. 4-26-10; PSC 2-2015, f. & cert. ef. 7-10-15

**325-030-0035**
**Commission Review of Reports**

(1) When the Commission receives an Event Report from a Renal Dialysis Participant, the Commission will determine whether that Event Report is complete, thorough, credible, and acceptable. The definitions for the terms complete, thorough, credible and acceptable are:

(a) A report is complete if it contains all the information requested in the Event Report, or explains, to the Commission's satisfaction, why that information is not available or not necessary to provide;

(b) A report is thorough if the root cause analysis includes an analysis of all relevant systems issues and shows evidence of an inquiry into all appropriate areas;

(c) A report is credible if it shows evidence that the investigation of the Reportable Renal Dialysis Adverse Event included participation by leadership within the organization and was internally consistent; and

(d) A report is acceptable if all the above standards are met and the action plans clearly describe meaningful improvement strategies designed to minimize risk.

(2) If the Commission believes that an Event Report received from a Renal Dialysis Participant is incomplete or unacceptable in some manner, it will inform the Renal Dialysis Participant's contact person within 10 business days of receipt of the Event Report.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819 - 442.851 & 442.837(2)(e)
Hist.: PSC 1-2010, f. & cert. ef. 4-26-10; PSC 2-2015, f. & cert. ef. 7-10-15

**325-030-0040**
**Public Health Officer Certification**

(1) At least annually, the Commission will request that the Public Health Officer certify the completeness, credibility, and thoroughness of each Renal Dialysis Participant's reporting during the applicable period.

(2) The Commission will request that the Public Health Officer develop independent and objective standards to evaluate the overall integrity of the Patient Safety Reporting Program. On an annual basis, the Commission will request that the Public Health Officer use those standards to certify the Oregon Patient Safety Reporting Program.

(3) The Commission will provide information to the Public Health Officer to assist the Public Health Officer in completing the certification processes listed in (1) and (2) of this rule, consistent with OAR 325-030-0055.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819 - 442.851 & 442.837(2)(e)
Hist.: PSC 1-2010, f. & cert. ef. 4-26-10; PSC 2-2015, f. & cert. ef. 7-10-15

**325-030-0045**
**Patient Notification**

(1) After a Reportable Adverse Event that results in death or serious physical injury, a Renal Dialysis Participant must provide written notification to each affected patient, or, if necessary, to the patient's personal representative. Notification must be timely and should be consistent with the Renal Dialysis Participant's internal communication and disclosure policies.

(2) As provided in ORS 442.837(4), notice provided under this subsection may not be construed as an admission of liability in a civil action.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819 - 442.851 & 442.837(2)(e)
Hist.: PSC 1-2010, f. & cert. ef. 4-26-10; PSC 2-2015, f. & cert. ef. 7-10-15

**325-030-0050**
**Extensions and Waivers**

(1) The Commission may grant an extension of any time requirement stipulated in these rules if the Renal Dialysis Participant provides justification that the delay is due to factors beyond its control or that the delay will not adversely affect the purposes of the Commission. A Renal Dialysis Participant requesting a waiver must submit a written request to the Commission prior to the deadline for the required action.

(2) The Commission may grant a waiver of any other provision of these rules if the Renal Dialysis Participant provides justification that granting the waiver will not adversely affect the purposes of the Commission.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819 - 442.851 & 442.837(2)(e)
Hist.: PSC 1-2010, f. & cert. ef. 4-26-10; PSC 2-2015, f. & cert. ef. 7-10-15

**325-030-0055**
**Protection of Patient Safety Data**

(1) The Commission is subject to all the confidentiality provisions set forth in ORS 442.820, 442.831, 442.837, and 442.846.

(2) The Commission will maintain the confidentiality of all Patient Safety Data that identifies or could be reasonably used to identify a Renal Dialysis Participant or an individual who is receiving or has received health care from the Renal Dialysis Participant.

(3) Before it takes receipt of any confidential Patient Safety Data, the Commission will have in place appropriate safeguards and security measures to ensure the technical integrity and physical safety of such data.

(4) Pursuant to ORS 442.820(4), meetings or portions of meetings where the Oregon Patient Safety Commission Board of Directors, or subcommittees or advisory committees consider information that identifies a participant or patient are not subject to the Oregon Public Meetings Law, ORS 192.610 to 192.690.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819 - 442.851 & 442.837(2)(e)
Hist.: PSC 1-2010, f. & cert. ef. 4-26-10; PSC 2-2015, f. & cert. ef. 7-10-15

**325-030-0060**
**Commission's Use of Patient Safety Data**

(1) The Commission will create an ad hoc committee on best practices in patient safety. This committee will advise the Commission on effective methods for making use of and sharing information gathered from the Commission's review of Event Reports.

(2) At least quarterly, the Commission will provide Renal Dialysis Participants with patient safety quality improvement information derived from Patient Safety Data.

(3) During the second quarter of each year, the Commission will publish a report to the public summarizing Patient Safety Data for the preceding calendar year. This report will use aggregate, de-identified data from the program and will describe statewide adverse event patterns and best practices to avoid the occurrence or minimize the effects of adverse events.

(4) The Commission will maintain an easily accessible and well-publicized website to share patient safety information directly with consumers.

(5) The Commission, within its resource limitations, will provide technical assistance to Renal Dialysis Participants, including but not limited to recommendations and advice regarding methodology, communication, dissemination of information, data collection, security and confidentiality.

(6) The Commission will work with representatives of organizations participating in the Oregon Patient Safety Reporting Program and with other interested parties to develop recommendations for continued improvements in the collection and utilization of Patient Safety Data.

Stat. Auth.: ORS 442.820
Stats. Implemented: ORS 442.819 - 442.851 & 442.837(2)(e)
Hist.: PSC 1-2010, f. & cert. ef. 4-26-10; PSC 2-2015, f. & cert. ef. 7-10-15

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## Oregon State Marine Board
## Chapter 250

**Rule Caption:** Adopt, amend and consolidate rules regulating right-of-way, lights and shapes, sound signals and Inland Navigation
**Adm. Order No.:** OSMB 5-2015
**Filed with Sec. of State:** 6-26-2015
**Certified to be Effective:** 7-1-15
**Notice Publication Date:** 6-1-2015
**Rules Adopted:** 250-011-0020, 250-011-0030, 250-011-0040
**Rules Repealed:** 250-012-0001, 250-013-0001
**Rules Renumbered:** 250-012-0045 to 250-011-0170, 250-012-0050 to 250-011-0180
**Rules Ren. & Amend:** 250-011-0005 to 250-011-0050, 250-011-0010 to 250-011-0060, 250-011-0015 to 250-011-0070, 250-012-0005 to 250-011-0080, 250-012-0003 to 250-011-0090, 250-012-0010 to 250-011-0100, 250-012-0015 to 250-011-0110, 250-012-0020 to 250-011-0120, 250-012-0025 to 250-011-0130, 250-012-0030 to 250-011-0140, 250-012-0035 to 250-011-0150, 250-012-0040 to 250-011-0160, 250-013-0005 to 250-011-0190, 250-013-0010 to 250-011-0200, 250-013-0015 to 250-011-0220, 250-013-0020 to 250-011-0230
**Subject:** The rules will adopt and amend to conform with the US Coast Guard Inland Navigation Rules and consolidate the Rules of Right-of-Way, Lights and Shapes, Sounds and Light Signals into one rule division.
**Rules Coordinator:** June LeTarte—(503) 378-2617

**250-011-0020**
**Division Application**

(1) This division applies to all vessels upon waters of this state shoreward of the navigational demarcation lines dividing the high seas from harbors, rivers, and other inland waters.

(2) All vessels operating on the high seas seaward of the navigational demarcation lines fall under the authority of the International Rules, 72 COLREGS, as amended November 19, 1989.

Stat. Auth.: ORS 830.110 & ORS 830.175
Stats. Implemented: ORS 830.335 & ORS 830.340
Hist.: OSMB 5-2015, f. 6-26-15, cert. ef. 7-1-15

**250-011-0030**
**Division Responsibility**

(1) Nothing in this division shall exonerate any vessel, or the owner, master, or crew thereof, from the consequences of any neglect to comply with this division or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstance of the case.

(2) In construing and complying with this division, due regard shall be had to all dangers of navigation and collision and to any special circumstances, including the limitation of the vessels involved, which may make a departure from this division necessary to avoid immediate danger.

Stat. Auth.: ORS 830.110 & ORS 830.175
Stats. Implemented: ORS 830.335 & ORS 830.340
Hist.: OSMB 5-2015, f. 6-26-15, cert. ef. 7-1-15

**250-011-0040**
**Division Definitions**

(1) "All-Round Light is a light showing an unbroken light over an arc of the horizon of 360 degrees.

(2) "Flashing Light" is a light flashing at regular intervals at a frequency of 120 flashes or more per minute.

(3) "In sight" is when one vessel can be observed visually by the other.

(4) "Masthead Light" is a white light placed over the fore and aft centerline of the vessel showing an unbroken light over an arc of the horizon of 225 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on either side of the vessel, except that on a vessel of less than 12 meters in length the masthead light shall be placed as nearly as practicable to the fore and aft centerline of the vessel.

(5) "Power-driven vessel" is any vessel propelled by machinery.

(6) "Prolonged blast" is a blast of from four to six second's duration.

(7) "Restricted visibility" is any condition in which visibility is restricted by fog, mist, falling snow, heavy rainstorms, sandstorms, or any other similar causes.

(8) "Sailing vessel" is any vessel under sail provided that propelling machinery, if fitted, is not being used.

(9) "Seaplane" includes any aircraft designed to maneuver on the water.

(10) "Short blast" is a blast of about one second's duration.

(11) "Sidelights" is a green light on the starboard side and a red light on the port side each showing an unbroken light over an arc of the horizon of 112.5 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on its respective side. On a vessel of less than 20 meters in length the sidelights may be combined in one lantern carried on the fore and aft centerline of the vessel, except that on a vessel of less than 12 meters in length the sidelights when combined in one lantern shall be placed as nearly as practicable to the fore and aft centerline of the vessel.

(12) "Special Flashing Light" is a yellow light flashing at regular intervals at a frequency of 50 to 70 flashes per minute, placed as far forward and as nearly as practicable on the fore and aft centerline of the tow and showing on unbroken light over an arc of the horizon of not less than 180 degrees nor more than 225 degrees and so fixed as to show the light from right ahead to abeam and no more than 22.5 degrees abaft the beam on either side of the vessel.

(13) "Sternlight" is a white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon of 135 degrees and so fixed as to show the light 67.5 degrees from right aft on each side of the vessel.

(14) "Towing Light" is a yellow light having the same characteristics as the "sternlight" defined in of this rule.

(15) "Vessel" includes every description of water craft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on the water.

(16) "Vessel not under command" is a vessel which through some exceptional circumstances is unable to maneuver as required by this section and is therefore unable to keep out of the way of another vessel.

(17) "Vessel restricted in its ability to maneuver" is a vessel which from the nature of its work is restricted in its ability to maneuver as required by this section and is therefore unable to keep out of the way of another vessel; vessels restricted in their ability to maneuver include, but are not limited to:

(a) a vessel engaged in laying, servicing, or picking up a navigation mark, submarine cable, or pipeline;

(b) a vessel engaged in dredging, surveying, or underwater operations;

(c) a vessel engaged in replenishment or transferring persons, provisions, or cargo while underway;

(d) a vessel engaged in the launching of recovery of aircraft;

(e) a vessel engaged in mine clearance operations; and

(f) a vessel engaged in towing operations such as severely restricts the towing vessel and its tow in their ability to deviate from their course.

(18) "Whistle" is any sound signaling appliance capable of producing the prescribed blasts and which complies with current U.S. Coast Guard specifications.

(19) "Wing-In-Ground (WIG) craft" is a multimodal craft which, in its main operational mode, flies in close proximity to the surface by utilizing surface-effect action.

Stat. Auth.: ORS 830
Stats. Implemented: ORS 830.225
Hist.: OSMB 5-2015, f. 6-26-15, cert. ef. 7-1-15

**250-011-0050**
**Conduct of Vessels in Any Condition of Visibility**

(1) Every vessel shall at all times maintain a proper lookout by sight and hearing as well as by all available means appropriate in the prevailing circumstances and conditions so as to make a full appraisal of the situation and of the risk of collision.

(2) Every vessel shall at all times proceed at a safe speed so that it can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances and conditions. In determining a safe speed the following factors shall be among those taken into account by all vessels:

(a) The state of visibility;

(b) The traffic density including concentration of fishing vessels or any other vessels;

(c) The maneuverability of the vessel with special reference to stopping distance and turning ability in the prevailing conditions;

(d) At night the presence of background light such as from shore lights or from back scatter of its own lights;

(e) The state of wind, sea, and current, and the proximity of navigational hazards;

(f) The draft in relation to the available depth of water;

(g) The characteristics, efficiency and limitations of the radar equipment;

(h) Any constraints imposed by the radar range scale in use;

(i) The effect on radar detection of the sea state, weather, and other sources of interference;

(j) The possibility that small vessels, ice and other floating objects may not be detected by radar at an adequate range;

(k) The number, location, and movement of vessels detected by radar; and

(l) The more exact assessment of the visibility that may be possible when radar is used to determine the range of vessels or other objects in the vicinity.

(3) Every vessel shall use all available means appropriate to the prevailing circumstances and conditions to determine if risk of collision exists. If there is any doubt such risk shall be deemed to exist. Proper use shall be made of radar equipment if fitted and operational, including long-range scanning to obtain early warning of risk of collision and radar plotting or equivalent systematic observation of detected objects. Assumptions shall not be made on the basis of scanty information, especially scanty radar information. In determining if risk of collision exists the following considerations shall be among those taken into account:

(a) Such risk shall be deemed to exist if the compass bearing of an approaching vessel does not appreciably change; and

(b) Such risk may sometimes exist even when an appreciable bearing change is evident, particularly when approaching a very large vessel or a tow or when approaching a vessel at close range.

(4) Any action taken to avoid collision shall be taken in accordance with OAR 250-011-0050, 250-011-0060, 250-011-0070 and shall, if the circumstances of the case admit, be positive, made in ample time and with due regard to the observance of good seamanship.

(a) Any alteration of course or speed to avoid collision shall, if the circumstances of the case admit, be large enough to be readily apparent to another vessel observing visually or by radar; a succession of small alterations of course or speed should be avoided.

(b) If there is sufficient sea room, alteration of course alone may be the most effective action to avoid a close-quarters situation provided that it

is made in good time, is substantial and does not result in another close-quarters situation.

(c) Action taken to avoid collision with another vessel shall be such as to result in passing at a safe distance. The effectiveness of the action shall be carefully checked until the other vessel is finally past and clear.

(d) If necessary to avoid collision or allow more time to assess the situation, a vessel shall slacken its [speed or take all way off by stopping or reversing its means of propulsion.

(e) A vessel, which, by any of these rules is required not to impede the passage or safe passage of another vessel shall, when required by the circumstances of the case, take early action to allow sufficient sea room for the safe passage of the other vessel.

(A) A vessel required not to impede the passage or safe passage of another vessel is not relieved of this obligation if approaching the other vessel so as to involve risk of collision and shall, when taking action, have full regard to the action which may be required by OAR 250-011-0050, 250-011-0060, and 250-011-0070.

(B) A vessel the passage of which is not to be impeded remains fully obliged to comply with OAR 250-011-050, 250-011-0060, and 250-011-0070 when the two vessels are approaching one another so as to involve risk of collision.

(5) A vessel proceeding along the course of a narrow channel or fairway shall keep as near to the outer limit of the channel or fairway which lies on its starboard side as is safe and practicable:

(a) Notwithstanding section (5) of this rule and OAR 250-011-0060(3), a power-driven vessel operating in narrow channels or fairways on waters of this state, and proceeding downbound with a following current shall have the right-of-way over an upbound vessel, shall propose the manner and place of passage, and shall initiate the maneuvering signals prescribed by OAR 250-011-0200(1)(a), as appropriate. The vessel proceeding upbound against the current shall hold as necessary to permit safe passing;

(b) A vessel of less than 20 meters in length or a sailing vessel shall not impede the passage of a vessel that can safely navigate only within a narrow channel or fairway;

(c) A vessel engaged in fishing shall not impede the passage of any other vessel navigating within a narrow channel or fairway;

(d) A vessel shall not cross a narrow channel or fairway if such crossing impedes the passage of a vessel which can safely navigate only within that channel or fairway. The latter vessel shall use the danger signal prescribed in OAR 250-011-0200(4) if in doubt as to the intention of the crossing vessel;

(e) In a narrow channel or fairway when overtaking, the vessel intending to overtake shall indicate its intention by sounding the appropriate signal prescribed in OAR 250-011-0200(3)(a) and(b), and take steps to permit safe passing. The overtaken vessel, if in agreement, shall sound the same signal. If in doubt it shall sound the danger signal prescribed in OAR 250-011-0200(4). This does not relieve the overtaking vessel of its obligation under OAR 250-011-0060(2);

(f) A vessel nearing a bend or an area of a narrow channel or fairway where other vessel may be obscured by an intervening obstruction shall navigate with particular alertness and caution and shall sound the appropriate signal prescribed in OAR 250-011-0200(5);

(g) Every vessel shall, if the circumstances of the case admit, avoid anchoring in a narrow channel.

(6) Any vessel approaching, overtaking, being approached, or being overtaken by a moving law enforcement vessel operating with a siren or an illuminated flashing blue light, or any vessel approaching a stationary law enforcement vessel displaying an illuminated blue light, shall:

(a) Immediately slow to a speed sufficient to maintain steerage only, shall alter its course, within its ability, so as not to inhibit or interfere with the operation of the law enforcement vessel, and shall proceed, unless otherwise directed by the operator of the law enforcement vessel, at the reduced speed until beyond the area of operation of the law enforcement vessel;

(b) Notwithstanding the operational requirements of section 6 (a) of this rule, vessels shall not be required to operate in a manner that would endanger or be likely to endanger that craft, other nearby watercraft, or other persons or property.

Stat. Auth.: ORS 830.110 & 830.175

Stats. Implemented: ORS 830.335 & 830.340

Hist.: MB 14-1983, f. 11-29-83, ef. 12-1-83; MB 4-1993, f. & cert. ef. 3-16-93; Renumbered from 250-011-0005, OSMB 5-2015, f. 6-26-15, cert. ef. 7-1-15

**250-011-0060**

**Conduct of Vessels in Sight of One Another**

(1) When two sailing vessels are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other as follows:

(a) When each has the wind on a different side, the vessel which has the wind on the port side shall keep out of the way of the other;

(b) When both have the wind on the same side, the vessel which is to windward shall keep out of the way of the vessel which is to leeward; and

(c) If a vessel with the wind on the port side sees a vessel to windward and cannot determine with certainty whether the other vessel has the wind on the port or on the starboard side, it shall keep out of the way of the other;

(d) For the purpose of this section the windward side shall be deemed to be the side opposite to that on which the mainsail is carried or, in the case of a square-rigged vessel, the side opposite to that on which the largest fore-and-aft sail is carried.

(2) Notwithstanding anything contained in OAR 250-011-0050 through 250-011-0060 any vessel overtaking any other shall keep out of the way of the vessel being overtaken. A vessel shall be deemed to be overtaking when coming up with another vessel from a direction more than 22.5 degrees abaft its beam; that is, in such a position with reference to the vessel it is overtaking, that at night it would be able to see only the sternlight of that vessel but neither of its sidelights. When a vessel is in any doubt as to whether it is overtaking another, it shall assume that this is the case and act accordingly. Any subsequent alteration of the bearing between the two vessels shall not make the overtaking vessel a crossing vessel within the meaning of these rules or relieve it of the duty of keeping clear of the overtaken vessel until it is finally past and clear.

(3) Unless otherwise agreed, when two power-driven vessels are meeting on reciprocal or nearly reciprocal courses so as to involve risk of collision each shall alter its course to starboard so that each shall pass on the port side of the other. Such a situation shall be deemed to exist when a vessel sees the other ahead or nearly ahead and by night it could see the masthead lights of the other in a line or nearly in a line or both sidelights and by day it observes the corresponding aspect of the other vessel. When a vessel is in any doubt as to whether such a situation exists it shall assume that it does exist and act accordingly.

(4) Notwithstanding section (3) of this rule, a power-driven vessel operating on waters of this state, and proceeding down-bound with a following current shall have the right-of-way over an up-bound vessel, shall propose the manner of passage, and shall initiate the maneuvering signals prescribed by OAR 250-011-0200(1)(a) as appropriate.

(5) When two power-driven vessels are crossing so as to involve risk of collision, the vessel which has the other on its starboard side shall keep out of the way and shall, if the circumstances of the case admit, avoid crossing ahead of the other vessel. Notwithstanding this section on the waters of this state, a vessel crossing a river shall keep out of the way of a power-driven vessel ascending or descending the river.

(6) Every vessel which is directed to keep out of the way of another vessel shall, so far as possible, take early and substantial action to keep well clear.

(7) Where one of two vessels is to keep out of the way, the other shall keep its course and speed:

(a) The latter vessel may, however, take action to avoid collision by its maneuver alone, as soon as it becomes apparent to it that the vessel required to keep out of the way is not taking appropriate action in compliance with these rules;

(b) When, from any cause, the vessel required to keep its course and speed finds itself so close that collision cannot be avoided by the action of the give-way vessel alone, it shall take such action as will best aid to avoid collision. A power-driven vessel which takes action in a crossing situation in accordance with section (7)(a) of this rule to avoid collision with another power-driven vessel shall, if the circumstances of the case admit, not alter course to port for a vessel on its own port side. This rule does not relieve the give-way vessel of its obligation to keep out of the way.

(8) Except where OAR 250-011-0050(5) and section (2) of this rule otherwise require:

(a) A power-driven vessel underway shall keep out of the way of:

(A) A vessel not under command;

(B) A vessel restricted in its ability to maneuver;

(C) A vessel engaged in fishing; and

(D) A sailing vessel.

(b) A sailing vessel underway shall keep out of the way of:

(A) A vessel not under command;

(B) A vessel restricted in its ability to maneuver; and

(C) A vessel engaged in fishing.

(c) A vessel engaged in fishing when underway shall, so far as possible, keep out of the way of:

(A) A vessel not under command; and

(B) A vessel restricted in its ability to maneuver.

Stat. Auth.: ORS 830
Stats. Implemented: ORS 830.110
Hist.: MB 14-1983, f. 11-29-83, ef. 12-1-83; MB 1-1985, f. & ef. 1-29-85; Renumbered from 250-011-0010, OSMB 5-2015, f. 6-26-15, cert. ef. 7-1-15

**250-011-0070**
**Conduct of Vessels in Restricted Visibility**

Every vessel shall proceed at a safe speed adapted to the prevailing circumstances and conditions of restricted visibility. A power-driven vessel shall have its engines ready for immediate maneuver:

(1) Every vessel shall have due regard to the prevailing circumstances and conditions of restricted visibility when complying with OAR 250-011-0050.

(2) A vessel which detect by radar alone the presence of another vessel shall determine if a close-quarters situation is developing or risk of collision exists. If so, it shall take avoiding action in ample time, provided that when such action consists of an alteration of course, so far as possible the following shall be avoided:

(a) An alteration of course to port for a vessel forward of the beam, other than for a vessel being overtaken; and

(b) An alteration of course toward a vessel abeam or abaft the beam.

(3) Except where it has been determined that a risk of collision does not exist, every vessel which hears, apparently forward of its beam the fog signal of another vessel, or which cannot avoid a close-quarters situation with another vessel forward of its beam, shall reduce its speed to the minimum at which it can be kept on course. The vessel shall, if necessary, take all its way off and, in any event, navigate with extreme caution until danger of collision is over.

Stat. Auth.: ORS 830
Stats. Implemented: ORS 830.110
Hist.: MB 14-1983, f. 11-29-83, ef. 12-1-83; MB 1-1985, f. & ef. 1-29-85; Renumbered from 250-011-0015, OSMB 5-2015, f. 6-26-15, cert. ef. 7-1-15

**250-011-0080**
**Application**

(1) The rules in this section shall be complied with in all weathers.

(2) Light requirements apply from sunset to sunrise, during which time, no other lights shall be exhibited, except for such lights which cannot be mistaken for the lights described in this division, do not impair their visibility, distinctive character, or interfere with the keeping of a proper lookout.

(3) The prescribed lights, shall, if carried, also be exhibited from sunrise to sunset in restricted visibility and may be exhibited in all other circumstances when it is deemed necessary.

(4) The rules concerning shapes shall be complied with by day.

(5) A vessel's navigation lights and shapes may be lowered if necessary to pass under a bridge.

Stat. Auth.: ORS 830.110 & ORS 830.250
Stats. Implemented: ORS 830.225
Hist.: MB 15-1983, f. 11-29-83, ef. 12-1-83; MB 16-1992, f. & cert. ef. 11-24-92; Renumbered from 250-012-0005, OSMB 5-2015, f. 6-26-15, cert. ef. 7-1-15

**250-011-0090**
**Visibility of Lights**

(1) Vessel lights as prescribed herein shall have visible intensity.

(2) In a vessel of 50 meters or more in length:

(a) A masthead light, six miles;

(b) A sidelight, three miles;

(c) A sternlight, three miles;

(d) A towing light, three miles;

(e) A white, red, green or yellow all-round light, three miles; and a special flashing light, two miles.

(3) In a vessel of 12 meters or more in length but less that 50 meters in length:

(a) A masthead light, five miles; except that where the length of the vessel is less than 20 meters, three miles;

(b) A sidelight, two miles;

(c) A sternlight, two miles;

(d) A towing light, two miles;

(e) A white, red, green or yellow all-round light, two miles; and a special flashing light, two miles.

(4) In a vessel of less than 12 meters in length:

(a) A masthead light, two miles;

(b) A sidelight, one mile;

(c) A sternlight, two miles;

(d) A towing light, two miles;

(e) A white, red, green or yellow all-round light, two miles; and a special flashing light, two miles.

(5) In an inconspicuous, partly submerged vessel or object being towed, a white all-round light, three miles.

Stat. Auth.: ORS 830
Stats. Implemented: ORS 830.225
Hist.: MB 15-1983, f. 11-29-83, ef. 12-1-83; Renumbered from 250-012-0003, OSMB 5-2015, f. 6-26-15, cert. ef. 7-1-15

**250-011-0100**
**Power-driven Vessels Underway**

(1) A power-driven vessel underway shall exhibit:

(a) A masthead light forward; except that a vessel of less than 20 meters in length need not exhibit this light forward of amidships but shall exhibit it as far forward as is practicable;

(b) A second masthead light abaft of and higher than the forward one; except that a vessel of less than 50 meters in length shall not be obliged to exhibit such light but may do so;

(c) Sidelights; and

(d) A sternlight.

(2) An air-cushion vessel when operating in the non-displacement mode shall, in addition to the lights prescribed in section (1) of this rule, exhibit an all-round flashing yellow light where it can best be seen.

(3) A WIG craft only when taking off, landing and in flight near the surface shall, in addition to the lights prescribed in section (1) of this rule, exhibit a high intensity all-round flashing red light.

(4) A power-driven vessel of less than 12 meters in length may, in lieu of the lights prescribed in section (1) of this rule, exhibit an all-round white light and sidelights.

Stat. Auth.: ORS 830
Stats. Implemented: ORS 830.225 & ORS 830.250
Hist.: MB 15-1983, f. 11-29-83, ef. 12-1-83; Renumbered from 250-012-0010, OSMB 5-2015, f. 6-26-15, cert. ef. 7-1-15

**250-011-0110**
**Towing and Pushing**

(1) A power-driven vessel when towing astern shall exhibit:

(a) Instead of the light prescribed either in OAR 250-011-0100(1)(a) or (b) two masthead lights in a vertical line. When the length of the tow, measuring from the stern of the towing vessel to the after end of the tow exceeds 200 meters, three such lights in a vertical line;

(b) Sidelights;

(c) A sternlight;

(d) A towing light in a vertical line above the sternlight; and

(e) When the length of the tow exceeds 200 meters, a diamond shape where it can best be seen.

(2) When a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit they shall be regarded as a power-driven vessel and exhibit the lights prescribed in OAR 250-011-0100.

(3) A power-driven vessel when pushing ahead or towing alongside, except as required by sections (2) and (9) of this rule, shall exhibit:

(a) Instead of the light prescribed either in OAR 250-011-0100(1)(a) or (b), two masthead lights in a vertical line;

(b) Sidelights; and

(c) Two towing lights in a vertical line.

(4) A power-driven vessel to which sections (1) and (3) of this rule apply shall also comply with OAR 250-011-0100(1)(a) or (b).

(5) A vessel or object other than those referred to in section (7) of this rule being towed shall exhibit:

(a) Sidelights;

(b) A sternlight; and

(c) When the length of the tow exceeds 200 meters, a diamond shape where it can best be seen.

(6) Provided that any number of vessels being towed alongside or pushed in a group shall be lighted as one vessel, except as provided in section 6(c) of this rule:

(a) A vessel being pushed ahead, not being part of a composite unit, shall exhibit at the forward end sidelights, and a special flashing light; and

(b) A vessel being towed alongside shall exhibit a sternlight and at the forward end sidelights

(c) When vessels are towed alongside on both sides of the towing vessel, a sternlight shall be exhibited on the stern of the outboard vessel on each side of the towing vessel, and a single set of sidelights as far forward and as far outboard as is practicable, and a single special flashing light.

(7) An inconspicuous, partly, submerged vessel or object being towed shall exhibit:

(a) If it is less than 25 meters in breadth, one all-round white light at or near each end;

(b) If it is 25 meters or more in breadth, four all-round white lights to mark its length and breadth;

(c) If it exceeds 100 meters in length, additional all-round white lights between the lights prescribed in sections (7)(a) and (b) of this rule so that the distance between the lights shall not exceed 100 meters: Provided, that any vessels or objects being towed alongside each other shall be lighted as one vessel or object;

(d) A diamond shape at or near the aftermost extremity of the last vessel or object being towed; and

(e) The towing vessel may direct a searchlight in the direction of the tow to indicate its presence to an approaching vessel.

(8) Where from any sufficient cause it is impracticable for a vessel or object being towed to exhibit the lights prescribed in sections (5) and (7) of this rule, all possible measures shall be taken to light the vessel or object towed or at least to indicate the presence of the unlighted vessel or object.

(9) Notwithstanding section (3) of this rule, on the Western Rivers and on waters specified by the U.S. Secretary of Transportation, a power-driven vessel when pushing ahead or towing alongside, except as section (2) of this rule applies, shall exhibit:

(a) Sidelights; and

(b) Two towing lights in a vertical line.

(10) Where from any sufficient cause it is impracticable for a vessel not normally engaged in towing operations to display the lights prescribed by sections (1), (3) and (9) of this rule, such vessel shall not be required to exhibit those lights when engaged in towing another vessel in distress or otherwise in need of assistance. All possible measures shall be taken to indicate the nature of the relationship between the towing vessel and the vessel being assisted. The searchlight authorized in OAR 250-011-0230 may be used to illuminate the tow.

Stat. Auth.: ORS 830.110 & ORS 830.250
Stats. Implemented: ORS 830.250
Hist.: MB 15-1983, f. 11-29-83, ef. 12-1-83; MB 16-1992, f. & cert. ef. 11-24-92; Renumbered from 250-012-0015, OSMB 5-2015, f. 6-26-15, cert. ef. 7-1-15

**250-011-0120**
**Sailing Vessels Underway and Vessels Manually Propelled**

(1) A sailing vessel underway shall exhibit:

(a) Sidelights; and

(b) A sternlight.

(2) In a sailing vessel of less than 20 meters in length the lights prescribed in section (1) of this rule may be combined in one lantern carried at or near the top of the mast where it can best be seen.

(3) A sailing vessel underway may, in addition to the lights prescribed in section (1) of this rule, exhibit at or near the top of the mast, where they can best be seen, two all-round lights in a vertical line, the upper being red and the lower green, but these lights shall not be exhibited in conjunction with the combined lantern permitted by section (2) of this rule.

(4)(a) A sailing vessel of less than seven meters in length shall, if practicable, exhibit the lights prescribed in section (1) or (2) of this rule, but if it does not, the vessel shall exhibit an all-round white light or have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent collision;

(b) A vessel under oars may exhibit the lights prescribed in this rule for sailing vessels, but if it does not, the vessel shall exhibit an all-round white light or have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent collision.

(5) A vessel proceeding under sail when also being propelled by machinery shall exhibit forward where it can best be seen a conical shape, apex downward. A vessel of less than 12 meters in length is not required to exhibit this shape, but may do so.

Stat. Auth.: ORS 830
Stats. Implemented: ORS 830.250
Hist.: MB 15-1983, f. 11-29-83, ef. 12-1-83; Renumbered from 250-012-0020, OSMB 5-2015, f. 6-26-15, cert. ef. 7-1-15

**250-011-0130**
**Fishing Vessels**

(1) A vessel engaged in fishing, whether underway or at anchor, shall exhibit only the lights and shapes prescribed in this rule.

(2) A vessel when engaged in trawling, by which is meant the dragging through the water of a dredge net or other apparatus used as a fishing appliance, shall exhibit:

(a) Two all-round lights in a vertical line, the upper being green and the lower white, or a shape consisting of two cones with their apexes together in a vertical line one above the other; a vessel of less than 20 meters in length may instead of this shape exhibit a basket;

(b) A masthead light abaft of and higher than the all-round green light; a vessel of less than 50 meters in length shall not be obliged to exhibit such a light but may do so; and

(c) When making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.

(3) A vessel engaged in fishing, other than trawling, shall exhibit:

(a) Two all-round lights in a vertical line, the upper being red and the lower white, or a shape consisting of two cones with apexes together in a vertical line one above the other; a vessel of less than 20 meters in length may instead of this shape exhibit a basket;

(b) When there is outlying gear extending more than 150 meters horizontally from the vessel, an all-round white light or a cone apex upward in the direction of the gear; and

(c) When making way through the water, in addition to the lights prescribed in this section, sidelights and a sternlight.

(4) A trawler or purse seiner engaged in fishing in close proximity to other vessels engaged in fishing may exhibit such additional signals as may be promulgated by the U.S. Secretary of Transportation.

(5) A vessel when not engaged in fishing shall not exhibit the lights or shapes prescribed in this rule, but only those prescribed for a vessel of its length.

Stat. Auth.: ORS 830
Stats. Implemented: ORS 830.250
Hist.: MB 15-1983, f. 11-29-83, ef. 12-1-83; Renumbered from 250-012-0025, OSMB 5-2015, f. 6-26-15, cert. ef. 7-1-15

**250-011-0140**
**Vessels Not Under Command or Restricted in Their Ability to Maneuver**

(1) A vessel not under command shall exhibit:

(a) Two all-round red lights in a vertical line where they can best be seen;

(b) Two balls or similar shapes in a vertical line where they can best be seen; and

(c) When making way through the water, in addition to the lights prescribed in this section, sidelights and a sternlight.

(2) A vessel restricted in its ability to maneuver, except a vessel engaged in mine-sweeping operations, shall exhibit:

(a) Three all-round lights in a vertical line where they can best be seen. The highest and lowest of these lights shall be red and the middle light shall be white;

(b) Three shapes in a vertical line where they can best be seen. The highest and lowest of these shapes shall be balls and the middle one a diamond;

(c) When making way through the water, masthead lights, sidelights and a sternlight, in addition to the lights prescribed in section, (2)(a) of this rule; and

(d) When at anchor, in addition to the lights or shapes prescribed in sections, (2)(a) and (b) of this rule, the light, lights or shapes prescribed in OAR 250-011-0160.

(3) A vessel engaged in a towing operation which severely restricts the towing vessel and its tow in their ability to deviate from their course shall, in addition to the lights or shapes prescribed in in sections, (2)(a) and (b) of this rule, exhibit the lights or shape prescribed in OAR 250-011-0110.

(4) A vessel engaged in dredging or underwater operations, when restricted in its ability to maneuver, shall exhibit the lights and shapes prescribed in sections, (2)(a), (b), and (c) of this rule and shall in addition, when an obstruction exists, exhibit:

(a) Two all-round red lights or two balls in a vertical line to indicate the side on which the obstruction exists;

(b) Two all-round green lights or two diamonds in a vertical line to indicate the side on which another vessel may pass; and

(c) When at anchor, the lights or shape prescribed by this section, instead of the lights or shapes prescribed in OAR 250-011-0160 for anchored vessels.

(d) Dredge pipelines that are floating or supported on trestles shall display the following lights at night and in periods of restricted visibility:

(A) One row of yellow lights. The lights must be: Flashing 50 to 70 times per minute, visible all around the horizon, visible for at least 2 miles, not less than 1 and not more than 3.5 meters above the water, approximately equally spaced, and not more than 10 meters apart where the pipeline crosses a navigable channel. Where the pipeline does not cross a navigable

channel the lights must be sufficient in number to clearly show the pipeline's length and course.

(B) Two red lights on each end of the pipeline, including the ends in a channel where the pipeline is separated to allow vessels to pass (whether open or closed). The lights must be: Visible for all around the horizon, visible for at least 2 miles, and one meter apart in a vertical line with the lower light at the same height above the water as the flashing yellow light.

(5) Whenever the size of a vessel engaged in diving operations makes it impracticable to exhibit all lights and shapes prescribed in section (4) of this rule, the following shall instead be exhibited:

(a) Three all-round lights in a vertical line where they can best be seen. The highest and lowest of these lights shall be red and the middle light shall be white;

(b) A rigid replica of the international code flag "A" not less than one meter in height. Measures shall be taken to insure its all-round visibility.

(6) A vessel engaged in minesweeping operations shall, in addition to the lights prescribed for a power-driven vessel in OAR 250-011-0100, exhibit three all-round green lights or three balls. One of these lights or shapes shall be exhibited near the foremast head and one at each end of the fore yard. These lights or shapes indicate that it is dangerous for another vessel to approach closer than 1,000 meters a stern or 500 meters on either side of the minesweeper.

(7) A vessel of less than 12 meters in length, except when engaged in diving operations, is not required to exhibit the lights or shapes prescribed in this rule.

(8) The signals prescribed in this rule are not signals of vessels in distress and requiring assistance.

Stat. Auth.: ORS 830
Stats. Implemented: ORS 830.250
Hist.: MB 15-1983, f. 11-29-83, ef. 12-1-83; Renumbered from 250-012-0030, OSMB 5-2015, f. 6-26-15, cert. ef. 7-1-15

**250-011-0150**
**Pilot Vessels**

(1) A vessel engaged on pilotage duty shall exhibit:

(a) At or near the masthead, two all-round lights in a vertical line, the upper being white and the lower red;

(b) When underway, in addition, sidelights and a sternlight; and

(c) When at anchor, in addition to the lights prescribed in section (1)(a) of this rule, the anchor light, lights, or shape prescribed in OAR 250-011-0160 for anchored vessels.

(2) A pilot vessel when not engaged on pilotage duty shall exhibit the lights or shapes prescribed for a vessel of its length.

Stat. Auth.: ORS 830
Stats. Implemented: ORS 830.250
Hist.: MB 15-1983, f. 11-29-83, ef. 12-1-83; Renumbered from 250-012-0035, OSMB 5-2015, f. 6-26-15, cert. ef. 7-1-15

**250-011-0160**
**Anchored Vessels and Vessels Aground**

(1) A vessel at anchor shall exhibit where it can best be seen:

(a) In the fore part, an all-round white light or one ball; and

(b) At or near the stern and at a lower level than the light prescribed in section (1)(a) of this rule, an all-round white light.

(2) A vessel of less than 50 meters in length may exhibit an all-round white light where it can best be seen instead of the lights prescribed in section (1) of this rule.

(3) A vessel at anchor may, and a vessel of 100 meters or more in length shall, also use the available working or equivalent lights to illuminate its [decks.

(4) A vessel aground shall exhibit the lights prescribed in section (1) or (2) of this rule and in addition, if practicable, where they can best be seen:

(a) Two all-round red lights in a vertical line; and

(b) Three balls in a vertical line.

(5) A vessel of less than seven meters in length, when at anchor, not in or near a narrow channel, fairway, anchorage, or where other vessels normally navigate, shall not be required to exhibit the lights or shape prescribed in sections (1) and (2) of this rule.

(6) A vessel of less than 12 meters in length when aground shall not be required to exhibit the lights or shapes prescribed in sections (4)(a) and (b) of this rule.

(7) A vessel of less than 20 meters in length, when at anchor in a special anchorage area designated by the United States Secretary of Transportation, shall not be required to exhibit the anchor lights and shapes required by this rule.

Stat. Auth.: ORS 830
Stats. Implemented: ORS 830.250
Hist.: MB 15-1983, f. 11-29-83, ef. 12-1-83; Renumbered from 250-012-0040, OSMB 5-2015, f. 6-26-15, cert. ef. 7-1-15

**250-011-0170**
**Law Enforcement Vessels**

(1) Law enforcement vessels may display a flashing blue light when engaged in direct law enforcement or public safety activities. This light must be located so that it does not interfere with the visibility of the vessel's navigation lights.

(2) The blue light described in this section may be displayed only by law enforcement vessels of the United States, Oregon and its political subdivisions.

Stat. Auth.: ORS 830.110 & ORS 830.250
Stats. Implemented: ORS 830.035
Hist.: MB 16-1992, f. & cert. ef. 11-24-92; Renumbered from 250-012-0045, OSMB 5-2015, f. 6-26-15, cert. ef. 7-1-15

**250-011-0180**
**Public Safety Activities**

(1) Vessels engaged in government sanctioned public safety activities, and commercial vessels performing similar functions, may display an alternately flashing red and yellow light signal. This identification light signal must be located so that it does not interfere with the visibility of the vessel's navigation lights. The identification light signal may be used only as an identification signal and conveys no special privilege. Vessels using the identification light signal during public safety activities must abide by the Inland Navigation Rules and OAR Chapter 250, Division 11, and must not presume that the light or the exigency gives them precedence or right of way.

(2) Public safety activities include but are not limited to patrolling marine parades, regattas, or special water celebrations; traffic control; salvage; firefighting; medical assistance; assisting disabled vessels; and search and rescue.

Stat. Auth.: ORS 830.110 & ORS 830.250
Stats. Implemented: ORS 830.035
Hist.: MB 16-1992, f. & cert. ef. 11-24-92; Renumbered from 250-012-0050, OSMB 5-2015, f. 6-26-15, cert. ef. 7-1-15

**250-011-0190**
**Equipment for Sound Signals**

(1) A vessel of 12 meters or more in length shall be provided with a whistle, a vessel of 20 meters or more in length shall be provided with a bell in addition to a whistle, and a vessel of 100 meters or more in length shall, in addition, be provided with a gong, the tone and sound of which cannot be confused with that of the bell. The whistle, bell and gong shall comply with current U.S. Coast Guard specifications. The bell or gong or both may be replaced by other equipment having the same respective sound characteristics, provided that manual sounding of the prescribed signals shall always be possible.

(2) A vessel of less than 12 meters in length shall not be obliged to carry the sound signaling appliances prescribed in section (1) of this rule but if it does not, the vessel shall be provided with some other means of making an efficient sound signal.

Stat. Auth: ORS 830
Stats. Implemented: ORS 830.230
Hist.: MB 15-1983, f. 11-29-83, ef. 12-1-83; Renumbered from 250-013-0005, OSMB 5-2015, f. 6-26-15, cert. ef. 7-1-15

**250-011-0200**
**Maneuvering and Warning Signals**

(1) When power-driven vessels are in sight of one another and meeting or crossing at a distance within half a mile of each other, each vessel underway, when maneuvering as authorized or required by these rules:

(a) Shall indicate that maneuver by the following signals on its whistle: one short blast to mean "I intend to leave you on my port side"; two short blasts to mean "I intend to leave you on my starboard side"; and three short blasts to mean "I am operating astern propulsion";

(b) Upon hearing the one or two blast signal the other shall, if in agreement, sound the same whistle signal and take the steps necessary to effect a safe passing. If, however, from any cause, the vessel doubts the safety of the proposed maneuver, it shall sound the danger signal specified in section (4) of this rule and each vessel shall take appropriate precautionary action until a safe passing agreement is made.

(2) A vessel may supplement the whistle signals prescribed in section (1) of this rule by light signals:

(a) These signals shall have the following significance: one flash to mean "I intend to leave you on my port side"; two flashes to mean "I intend to leave you on my starboard side"; three flashes to mean "I am operating astern propulsion";

(b) The duration of each flash shall be about one second; and

(c) The light used for this signal shall, if fitted, be one all-round white or yellow light, visible at a minimum range of two miles, synchronized with the whistle, and shall comply with current U.S. Coast Guard specifications.

(3) When in sight of one another:

(a) A power-driven vessel intending to overtake another power-driven vessel shall indicate its intention by the following signals on its whistle: one short blast to mean "I intend to overtake you on your starboard side"; two short blasts to mean "I intend to overtake you on your port side"; and

(b) The power-driven vessel about to be overtaken shall, if in agreement, sound a similar sound signal. If in doubt it shall sound the danger signal prescribed in section (4) of this rule.

(4) When vessels in sight of one another are approaching each other and from any cause either vessel fails to understand the intentions or actions of the other, or is in doubt whether sufficient action is being taken by the other to avoid collision, the vessel in doubt shall immediately indicate such doubt by giving at least five short and rapid blasts on the whistle. This signal may be supplemented by a light signal of at least five short and rapid flashes.

(5) A vessel nearing a bend or an area of a channel or fairway where other vessels may be obscured by an intervening obstruction shall sound one prolonged blast. This signal shall be answered with a prolonged blast by an approaching vessel that may be within hearing around the bend or behind the intervening obstruction.

(6) If whistles are fitted on a vessel at a distance apart of more than 100 meters, one whistle only shall be used for giving maneuvering and warning signals.

(7) When a power-driven vessel is leaving a dock or berth, it shall sound one prolonged blast

(8) A vessel that reaches agreement with another vessel in a meeting, crossing, or overtaking situation by using the radiotelephone as prescribed by the Federal Bridge-to-Bridge Radio-Telephone Act (85 Stat. 165; 33 U.S.C. 1207), is not obliged to sound the whistle signals prescribed by this rule, but may do so. If agreement is not reached, then whistle signals shall be exchanged in a timely manner and shall prevail.

Stat. Auth: ORS 830
Stats. Implemented: ORS 830.230 & ORS 830.250
Hist.: MB 15-1983, f. 11-29-83, ef. 12-1-83; Renumbered from 250-013-0010, OSMB 5-2015, f. 6-26-15, cert. ef. 7-1-15

**250-011-0220**
**Sound Signals in Restricted Visibility**

In or near an area of restricted visibility, whether by day or night, the signals prescribed in this rule shall be used as follows:

(1) A power-driven vessel making way through the water shall sound at intervals of not more than two minutes one prolonged blast.

(2) A power-driven vessel underway but stopped and making no way through the water shall sound at intervals of not more than two minutes two prolonged blasts in succession with an interval of about two seconds between them.

(3) A vessel not under command; a vessel restricted in its ability to maneuver, whether underway or at anchor; a sailing vessel; a vessel engaged in fishing, whether underway or at anchor; and a vessel engaged in towing or pushing another vessel shall, instead of the signals prescribed in section (1) or (2) of this rule, sound at intervals of not more than two minutes, three blasts in succession; namely, one prolonged followed by two short blasts.

(4) A vessel towed or if more than one vessel is towed the last vessel of the tow, if manned, shall at intervals of not more than two minutes sound four blasts in succession; namely, one prolonged followed by three short blasts. When practicable, this signal shall be made immediately after the signal made by the towing vessel.

(5) When a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit they shall be regarded as a power-driven vessel and shall give the signals prescribed in section (1) or (2) of this rule.

(6) A vessel at anchor shall at intervals of not more than one minute ring the bell rapidly for about five seconds. In a vessel of 100 meters or more in length the bell shall be sounded in the forepart of the vessel and immediately after the ringing of the bell the gong shall be sounded rapidly for about five seconds in the after part of the vessel. A vessel at anchor may in addition sound three blasts in succession; namely, one short, one prolonged and one short blast, to give warning of its position and of the possibility of collision to an approaching vessel.

(7) A vessel aground shall give the bell signal and if required the gong signal prescribed in section (6) of this rule and shall, in addition, give three separate and distinct strokes on the bell immediately before and after the rapid ringing of the bell. A vessel aground may in addition sound an appropriate whistle signal.

(8) A vessel of less than 12 meters in length shall not be obliged to give the above-mentioned signals but, if it does not, shall make some other efficient sound signals at intervals of not more than two minutes.

(9) A pilot vessel when engaged on pilotage duty may in addition to the signals prescribed in section (1), (2) or (6) of this rule sound an identity signal consisting of four short blasts.

(10) The following vessels shall not be required to sound signals as prescribed in section (6) of this rule when anchored in a special anchorage area designated by the United States Secretary of Transportation:

(a) A vessel of less than 20 meters in length; and

(b) A barge, canal boat, scow, or other nondescript craft.

Stat. Auth: ORS 830
Stats. Implemented: ORS 830.230
Hist.: MB 15-1983, f. 11-29-83, ef. 12-1-83; Renumbered from 250-013-0015, OSMB 5-2015, f. 6-26-15, cert. ef. 7-1-15

**250-011-0230**
**Signals to Attract Attention**

If necessary to attract the attention of another vessel, any vessel may make light or sound signals that cannot be mistaken for any signal authorized elsewhere in this division, or may direct the beam of its searchlight in the direction of the danger, in such a way as not to embarrass any vessel.

Stat. Auth: ORS 830
Stats. Implemented: ORS 830.225, ORS 830.230 & ORS 830.250
Hist.: MB 15-1983, f. 11-29-83, ef. 12-1-83; Renumbered from 250-013-0020, OSMB 5-2015, f. 6-26-15, cert. ef. 7-1-15

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**Rule Caption:** Remove reference to "5 MPH" and improve rule language readability.
**Adm. Order No.:** OSMB 6-2015
**Filed with Sec. of State:** 6-26-2015
**Certified to be Effective:** 7-1-15
**Notice Publication Date:** 6-1-2015
**Rules Amended:** 250-021-0030, 250-021-0040, 250-021-0100
**Subject:** Rule action removed the words "maximum 5 MPH" for consistency with other Chapter rules and improved the readability of the rules in Division 021. The amendments did not change the scope or intent of the rules.
**Rules Coordinator:** June LeTarte—(503) 378-2617

**250-021-0030**
**Operating Rules**

(1) A person must not operate a personal watercraft unless each person operating or riding on such vessel is wearing an inherently buoyant Coast Guard approved Type I, II, or III personal flotation device (PFD) as defined by OAR 250-010-0154.

(2) A person operating a personal watercraft equipped by the manufacturer with a lanyard type engine cutoff switch must attach such lanyard to their person, clothing, or personal flotation device.

(3) A person must not operate a personal watercraft unless it is effectively muffled in accordance with OAR 250-010-0121.

(4) A person must not operate a personal watercraft at any time between sunset and sunrise unless equipped with lights as prescribed in OAR Chapter 250, Division 011.

(5) Every personal watercraft shall at all times be operated in a reasonable and prudent manner. Maneuvers which unreasonably or unnecessarily endanger life, limb or property, including but not limited to weaving through congested vessel traffic, jumping the wake of another vessel unreasonably or unnecessarily close to said vessel or when visibility around said vessel is obstructed, and swerving at the last possible moment to avoid collision shall constitute unsafe or reckless operation of a vessel, as provided in ORS 830.305 or 830.315.

(6) The provisions of section (5) of this rule do not apply to a performer engaged in a professional exhibition or a person preparing to participate or participating in an officially sanctioned regatta, race, marine parade, tournament, or exhibition.

(7) A person must not operate a personal watercraft in excess of a slow-no wake speed:

(a) Within 200 feet of a boat launch ramp, dock, swim float, pier, marina or moorage, floating home or boathouse, or locations where persons are working at water levels on floats, logs or waterway construction;

(b) Within 200 feet of a swimmer, surfer, diving flag, bank or wading angler;

(c) Within 100 feet of any anchored or non-motorized vessel;

(d) Except on safe take-offs and landings, a person must not operate a personal watercraft in excess of a slow-no wake speed within 200 feet of shoreline on all lakes, bays and reservoirs. A safe take-off or landing will not be considered "safe" unless it can be accomplished without risk to any swimmer or craft within 200 feet from shoreline.

(8) A person must not operate a personal watercraft in excess of 10 MPH when approaching within 100' of another motorized or sail vessel underway.

(9) A person must not operate a personal watercraft within 200 feet directly behind a water skier being towed.

(10) A person must not tow a water skier or any floating device with a personal watercraft unless:

(a) Another person on the personal watercraft is continuously observing the person being towed; and

(b) The personal watercraft is large enough to carry operator, observer and the person being towed; and

(c) The personal watercraft is equipped with a "skier-down" flag to be held aloft when the skier or person being towed is down in the water; and

(d) The personal watercraft is being operated between sunrise and sunset.

(11) Personal watercraft may be used to tow another vessel when rendering assistance.

(12) A person under the age of 16 must not operate a personal watercraft on the waters of this state, unless accompanied by a person 18 years of age or older on board.

(13) A person who owns a personal watercraft or who has charge over or control of a personal watercraft must not authorize or knowingly permit that personal watercraft to be operated by a person under 16 years of age, unless accompanied by a person 18 years of age or older.

(14) A person must not rent a personal watercraft to a person under the age of 18.

(15) A person must not chase, harass, molest, worry or disturb any wildlife with a personal watercraft except while engaged in lawfully angling for, hunting or trapping such wildlife (ORS 498.006).

Stat. Auth.: ORS 830.110, 830.175, 830.195 & 830.250
Stats. Implemented: ORS 830.110
Hist.: MB 3-1990, f. 5-18-90, cert. ef. 6-1-90; MB 9-1990, f. & cert. ef. 11-16-90; MB 6-1994, f. & cert. ef. 4-28-94; MB 8-1996, f. 4-12-96, cert. ef. 7-1-96; MB 9-1997, f. & cert. ef. 10-8-97; OSMB 1-1999, f. & cert. ef. 1-26-99; OSMB 6-2015, f. 6-26-15, cert. ef. 7-1-15

**250-021-0040**
**Special Local Restrictions — Personal Watercraft Applicability**

(1) Lakes and reservoirs (impoundments) are open to the operation of personal watercraft subject to local operating rules found in OAR chapter 250, division 20.

(2) All rivers of this state including any tributary streams or rivers entering the Willamette River are closed to the operation of personal watercraft, except as noted:

(a) Columbia River is open.

(b) Clackamas River is open only between the Willamette River and the lagoon (RM 0.7). The lagoon is open.

(c) Willamette River is closed only in the area above the Beltline Road overpass at RM 178.

(d) Chetco is closed only in the area above the head of tide.

(e) Rogue is closed only in the area between mouth of Snout Creek and the Applegate River and the area above the former location of Gold Ray Dam.

(f) Yaquina River is closed only in the area upstream of the Toledo Airport boat ramp at RM 9.5.

(q) John Day River (Sherman/Gilliam County) is closed only in the area above Tumwater Falls (RM 10).

(h) Deschutes River is closed only in the area above Heritage Landing boat ramp (RM 0.5).

(i) Coos is closed only in the area above its confluence with the Millicoma River.

(j) Coquille is closed only in the area above the Highway 42S bridge in the City of Coquille.

(k) Umpqua is closed only in the area above Scottsburg Park.

(l) Siuslaw is closed only in the area above Highway 126 bridge at Mapleton.

(m) Pistol, Sixes, Elk Rivers as per OAR 250-020-0082.

(n) East and West Fork Millicoma as per OAR 250-020-0064.

(o) Alsea, Salmon and Siletz Rivers as per OAR 250-20-0231.

(p) Kilchis, Miami, Wilson, Tillamook, Trask Rivers as per OAR 250-020-0308.

(q) Nehalem as per OAR 250-020-0300.

(r) Necanicum as per OAR 250-020-0043.

(s) Snake River above Brownlee Reservoir is open.

Stat. Auth.: ORS 830.110, 830.175 & 830.195
Stats. Implemented: ORS 830.110, 830.175 & 830.195
Hist.: MB 3-1990, f. 5-18-90, cert. ef. 6-1-90; MB 9-1990, f. & cert. ef. 11-16-90; MB 6-1992, f. & cert. ef. 4-30-92; OSMB 1-2011(Temp), f. & cert. ef. 1-3-11 thru 6-30-11; OSMB 6-2011, f. 4-25-11, cert. ef. 5-2-11; OSMB 6-2015, f. 6-26-15, cert. ef. 7-1-15

**250-021-0100**
**Personal Watercraft Livery Operations**

A person must not rent, lease or charter a personal watercraft unless the following equipment is provided:

(1) All of the equipment required by ORS 830.210, 830.410 and 830.420.

(2) An inherently buoyant Type I or III personal flotation device (PFD) must be provided for each person that will ride the personal watercraft to comply with ORS 830.215. The PFD must be worn to meet OAR 250-021-0030(1). A Type I PFD may be substituted for the Type III for rental operations. Fully inflatable PFDs are not acceptable for personal watercraft rentals.

(3) A decal explaining safe operation of personal watercraft must be affixed to every rental personal watercraft and displayed so it is clearly visible to the operator while at the controls. The decal must, at a minimum, contain information regarding proper use of controls, steering, speed and distance rules, rules of the road and required PFD wearing.

(4) A written copy of the state personal watercraft rules must be provided to the renter, and any person who will operate the personal watercraft while rented, leased or chartered. Personal watercraft form PWC-01 shall be reviewed by the livery operator with the rental customer and signed by both parties. Part I of form PWC-01, signed by the livery operator and renter, must be carried on the personal watercraft as required equipment. Part II of form PWC-01 must be retained by the livery operator with the record of the rental required by ORS 830.415.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 830.110, 830.195 & 830.250
Stats. Implemented: ORS 830.110
Hist.: MB 10-1997, f. & cert. ef. 10-8-97; OSMB 13-1998, f. & cert. ef. 7-24-98; OSMB 6-2015, f. 6-26-15, cert. ef. 7-1-15

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**Rule Caption:** Defined serious and repeated; amended application requirements and revocation notification process.
**Adm. Order No.:** OSMB 7-2015
**Filed with Sec. of State:** 6-26-2015
**Certified to be Effective:** 7-1-15
**Notice Publication Date:** 2-1-2015
**Rules Amended:** 250-016-0020, 250-016-0035, 250-016-0050
**Subject:** Included "repeated" and "serious" in regards to certain violations for which the agency has discretion to suspend, revoke, deny or restrict licensing of an outfitter and guide. Modified the definition of "drop camp" to include fishing activities, and allowing non-boating guide registrations to be valid from date of issue, not just calendar year. Added ORS 163 and ORS 165 to list of statutes for which the Marine Board may sanction outfitters and guides.
**Rules Coordinator:** June LeTarte—(503) 378-2617

**250-016-0020**
**Definitions**

(1) "Deposit" is a collection of fees prior to providing outdoor recreational activities.

(2) "Drop Camp" is a site whose location is chosen either by the Outfitter and Guide or the client but where no guided hunt or fishing services are provided to the client.

(3) "Guide Boatsman Trainee" is an individual who is an Outfitter and Guide or an employee of an Outfitter and Guide who is receiving experience on whitewater as required in ORS 704.070.

(4) "Outfitter and Guide Hunt" is an outdoor recreational activity in which the client is physically accompanied in the field by the registered Outfitter and Guide or the employee(s) of the registered Outfitter and Guide during the hunt.

(5) "Owned or Controlled" land means any lands owned or under a formal leasing giving the individual as a sole-proprietor, partnership, or other corporation exclusive control of the use of the lands.

(6) "Packing" is the act by the registered Outfitter and Guide or the employee(s) of the registered Outfitter and Guide to lead clients in overland outdoor recreational activities including but not limited to the transportation of client, equipment and supplies, harvested game, by machine, boat, animal or guide.

(7) "Person" means an individual, partnership, corporation or non-profit organization.

(8) "Resident" is a person who permanently or continuously resides in Oregon.

(9) "Serious" violation is:

(a) A Felony or Class A, B or C misdemeanor conviction for a violation of any requirements listed in ORS 704.040(5) or any rules adopted pursuant to those Chapters; or

(b) An action that results in a fishing or hunting license or permit to be suspended, revoked, canceled or denied by the courts or by a state or federal agency with appropriate jurisdiction; or

(c) Any violation of the requirements in ORS 704.040(5)(b), or any rules adopted pursuant to those Chapters, while the guide was operating with a conditional registration.

(10) "Repeated" violation is:

(a) Any combination of three Class A,B, C or D infractions, or violations of ethical or professional standards in OAR 250-016-0060, during a five year period; or

(b) Any two felony or Class A, B or C misdemeanor convictions within a period of ten (10) years.

Stat. Auth.: ORS 830.110 & 830.435
Stats. Implemented: ORS 704 & 705
Hist.: OSMB 15-2011, f. & cert. ef. 11-1-11; OSMB 7-2015, f. 6-26-15, cert. ef. 7-1-15

**250-016-0035**
**Registration Requirement**

(1) The completed and signed application, with all required attachments, original first aid card if applicable, certificate of insurance, proof of surety bond or letter of credit if applicable, copy of US Coast Guard Operator's license if applicable and the fee required by ORS 704.020 must be submitted to the Marine Board. The required fee is non-refundable. Where an application is submitted for a partnership, one partner must sign the application and provide their proof of first aid. For a corporation or non-profit organization, the application must be signed by an authorized officer of the corporation or organization. The authorized officer of the corporation or organization must sign a statement certifying that all their employees possess in their name a current standard first aid card or a medical equivalent. The certificate of insurance shall be:

(a) Provided by fax, e-mail or US Mail to the Marine Board;

(b) Be issued in the applicant's name;

(c) Reflect all insured business names;

(d) Reflect the lawfully required insurance minimum amounts.

(2) Proof of first aid training and CPR shall consist of one of the following:

(a) The original card or certificate issued by the American Red Cross showing completion of a standard or multimedia first aid course or equivalent including CPR (original card will be returned to the applicant);

(b) Proof of training and certification as an Emergency Medical Technician I, II, or III (original card will be returned to applicant), or licensed or registered nurse or medical doctor (copy of license is acceptable).

(c) Should an Outfitter and Guide's first aid card, CPR, or the equivalent expire, the Outfitter and Guide is responsible for submitting the original updated card to the Marine Board. If there is a lapse of time between expiration and renewal, the Outfitter and Guide's registration is automatically suspended during that period of time.

(3) An incomplete application will not be processed. An incomplete application will be deemed inactive following twelve (12) months from date of receipt and lacking any action on the applicant's part to complete.

(4) Applications for non-boating related outfitter and guide licenses issued between July 1 and December 31 of each year will expire on June 30 of the following year.

Stat. Auth.: ORS 830.110 & 830.435
Stats. Implemented: ORS 704 & 705
Hist.: OSMB 15-2011, f. & cert. ef. 11-1-11; OSMB 7-2015, f. 6-26-15, cert. ef. 7-1-15

**250-016-0050**
**Process to Reprimand an Outfitter and Guide or Suspend, Revoke, or Deny a Registration**

(1) The Marine Board, with input from the Guide Advisory Committee, will monitor application of statute and rule and modify, as recommended, to encourage high standards of ethical conduct, customer service, safety and natural resource protection.

(2) The Marine Board Director will notify the outfitter and guide by registered letter of the agency's decision to reprimand, suspend, revoke or deny for a period of up to 24 months the registration of an outfitter and guide for conduct noted in ORS 704.040(5).

(3) For the purpose of ORS 704.040(5)(a), convictions related to the provisions of services regulated by this chapter would be criminal offenses under ORS 163, 166, or 475.

(4) For the purpose of ORS 704.040(5)(b)and(5)(c), serious and repeated violation shall be defined by OAR 250-016-0020.

(5) The Marine Board may issue conditional registrations contingent on the Outfitter and Guide not having any violations or convictions as defined in this section for a period of twenty-four (24) months from issue.

(6) The Marine Board may seek advice from the Guide Advisory Committee prior to taking action under 250-016-0050(2), and will provide an annually summary report to the Guide Advisory Committee of all said action.

(7) Any actions taken under 250-016-0050(2) that are not reversed through a contested case hearing shall be made a part of the public record.

Stat. Auth.: ORS 830.110 & 830.435
Stats. Implemented: ORS 704 & 705
Hist.: OSMB 15-2011, f. & cert. ef. 11-1-11; OSMB 7-2015, f. 6-26-15, cert. ef. 7-1-15

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## Oregon State Treasury
## Chapter 170

**Rule Caption:** Modifies advance and current forward refunding rule, streamlines processes, reduces costs to local governments.
**Adm. Order No.:** OST 2-2015
**Filed with Sec. of State:** 7-10-2015
**Certified to be Effective:** 7-10-15
**Notice Publication Date:** 6-1-2015
**Rules Amended:** 170-062-0000
**Subject:** The capital markets have evolved and increased in size such that the issuance of advance refunding bonds do not hinder the issuance or increase the costs of new money bond issues. Additionally, the federal government limits the number of advance refundings that are allowed to one, thus reducing a local government's chance of making uneconomic refunding bond issuances. The MSRB encourages local governments retain a registered municipal advisor in order to issue bonds. The municipal advisor should provide any necessary capital markets expertise the local government may not have when issuing advance refunding bonds. Due to the changes mentioned above, there has been a reduction of Oregon State Treasury staff time needed to review and approve proposed advance refunding plans.
**Rules Coordinator:** Dan McNally—(503) 373-1028

**170-062-0000**
**Procedure for Submission, Review and Approval of an Advance Refunding Plan or Forward Current Refunding Plan**

(1) Plan Contents and Filing. Every public body (as defined in ORS 287A.001(14) must submit its plans for an advance refunding or forward current refunding (the "Refunding Plan") and a request for approval of the Refunding Plan to the Office of the State Treasurer ("OST") as provided in this rule and ORS287A.365. The request should include the name, phone number, U.S. mailing and e-mail address for the public body and for the public body's bond counsel, Municipal Advisor ("MA"), and underwriter. The Refunding Plan must contain:

(a) A statement of purpose of the Refunding Plan;

(b) A description of the bonds to be refunded, including: date and premium, if any, when each is first callable; par amount originally issued, current amount outstanding, proposed amount and maturities to be refunded; and the their dated date;

(c) A preliminary estimate of the Net Present Value Savings (NPVS): Present value savings is defined as the present value of the difference in debt service between the proposed refunded debt service and the proposed refunding debt service, discounted at the arbitrage yield of the refunding debt service. Any issuance expenses paid from sources other than bond proceeds and any other cash contributed to the escrow other than from bond proceeds must also be subtracted from proceeds to determine NPVS;

(d) A copy of the contract between the public body and its MA;

(e) Completed MDAC Form 1;

(f) Estimated costs of issuance for the MA, bond counsel and underwriting costs;

(g) Final Official Statement, if the bonds have been publicly offered;

(h) Final Net Present Value Savings as described in subsection (c) of this section;

(i) Copy of the letter from MA to the public body as described in section (2) of this rule;

(j) Completed MDAC Form 2; and

(k) Completed MDAC Form 3, if using a synthetic fixed rate refunding issue.

(2) Municipal Advisor required. A public body must employ an independent registered MA whose function is to advocate for the public body and advise them on the refinancing transaction that is the subject of the Refunding Plan. The MA must be registered with the Securities and Exchange Commission as required under 17 CFR § 240.15Ba1-1 through 240.15Ba1-8, or its successor permanent rule. The MA may not also serve as the underwriter in the same negotiated bond sale as required in Rule G23 of the Municipal Securities Rulemaking Board. Prior to closing, the public body and the OST must receive from the MA a letter stating that the MA (i) has not within the past two years been associated with OST or the public body within the meaning of 15 U.S.C. § 78o-4(e)(7); (ii) has reviewed the assumptions included in the Refunding Plan and (iii) a recommendation on the desirability or undesirability of completing the Refunding Plan and the reasons therefor. Forward current Refunding Plans must also include a description of the suitability of the public body for conducting a forward current refunding and an estimate in basis points of the premium paid to execute the forward refunding.

(3) OST Approval Procedure.

(a) Preliminary Approval. If the items in subsections (1)(a) through (1)(e) of this rule are completed and submitted to OST, then OST will notify the public body of OST's preliminary approval and state its intention to issue a final approval conditioned upon receipt and approval of items in subsections (1)(f) through (1)(j) of this rule;

(b) Preliminary Refunding Plans should be submitted to OST sufficiently in advance to allow 10 working days for review. The 10-day review period begins the working day after all items (1)(a) through (1)(e) of this rule and the application fee identified in OAR 170-061-0015 have been received;

(c) Preliminary approval is valid for a period of one year from the date of the preliminary approval letter. After the one year period expires a new application fee and Refunding Plan are required;

(d) Final Approval. If the items in subsections (1)(f) through (1)(j) of this rule are received and approved by OST, then OST will issue its final approval for the Refunding Plan within five working days prior to final approval. The five-day period begins after receipt of all items required for final approval; and

(e) At the discretion of OST, drafts of preliminary and final components of Refunding Plans may be accepted and reviewed in lieu of finalized documents with the understanding that finalized documents will be provided within five working days of the bond closing.

(4) Administrative Expenses. To reimburse OST for the services, duties and activities of OST in connection with reviewing the plan, fees and expenses will be charged to public bodies as identified in OAR 170-061-0015.

(5) Ongoing Evaluation. OST evaluates the statewide impact of Refunding Plans. Adverse trends associated with a Refunding Plan may result in a review and revision of the savings tests, thereby diminishing any undesirable impact upon the higher priority "new money" bond issues.

(6) Waiver of Certain Provisions. OST may waive certain provisions of this rule to accommodate unusual circumstances.

(7) Noncompliance. If OST finds that the PreliminaryRefunding Plan is not in substantial compliance with ORS 287A and this rule, the plan may not be approved. Notice that the plan does not comply, and the reasons for this finding will be sent to the public body and its bond counsel within 10 business days after receipt of the plan.

(8) Address. Submit Refunding Plans as provided in OAR 170-055-0001(4).

(9) Through its review and approval or disapproval of a Refunding Plan, OST is not acting as a fiduciary or municipal advisor to a public body, is not providing advice with respect to the structure, timing, terms or other similar matters concerning the Refunding Plan and expects the public body to rely on the advice of its MA with respect to such matters.

[Publications: Publications referenced are available from the Agency.]

Stat. Auth.: ORS 287A.365

Stats. Implemented: ORS 287A.360 - 287A.380

Hist.: TD 2-1986, f. & ef. 6-16-86; TD 2-1990, f. 9-18-90, cert. ef. 9-19-90; TD 2-1994, f. & cert. ef. 9-9-94; OST 5-2004, f. & cert. ef. 6-23-04; OST 2-2006, f. & cert. ef. 8-4-06; OST 7-2008, f. & cert. ef. 12-29-08; OST 5-2010(Temp), f. 11-29-10, cert. ef. 12-1-10 thru 5-29-11; OST 2-2011, f. & cert. ef. 4-1-11; OST 2-2012(Temp), f. & cert. ef. 11-19-12 thru 5-15-13; Administrative correction, 6-27-13; OST 2-2015, f. & cert. ef. 7-10-15

**Rule Caption:** Reducing fees for advance refunding plan application and review.

**Adm. Order No.:** OST 3-2015

**Filed with Sec. of State:** 7-10-2015

**Certified to be Effective:** 7-10-15

**Notice Publication Date:** 6-1-2015

**Rules Amended:** 170-061-0015

**Subject:** Because of the following changes, there has been a reduction of Oregon State Treasury staff time needed to review and approve proposed advance refunding plans.

The capital markets have evolved and increased in size such that the issuance of advance refunding bonds do not hinder the issuance or increase the costs of new money bond issues. Additionally, the federal government limits the number of advance refundings that are allowed to one, thus reducing a local government's chance of making uneconomic refunding bond issuances. The MSRB encourages local governments retain a registered municipal advisor in order to issue bonds. The municipal advisor should provide any necessary capital markets expertise the local government may not have when issuing advance refunding bonds.

**Rules Coordinator:** Dan McNally—(503) 373-1028

**170-061-0015**

**Fees Charged by the Debt Management Divisions**

(1) State agencies. The OST shall charge the following fees in connection with the services, duties and activities of the OST related to bonds issued for state agencies by the State Treasurer:

(a) Agency Bond Issues of $15 million or less. For a single series bond sale of $15 million or less, a state agency will be charged $18,000 per sale. For a bond sale of $15 million or less by a single state agency with multiple series, the state agency will be charged the greater of (i) $18,000 or (ii) $7,500 per series. For a bond sale of $15 million or less by two or more state agencies, each agency will be charged the greater of (i) $9,000 or (ii) $7,500 for each series sold for the agency. This subsection applies to initial offerings, refundings and restructurings. This subsection does not apply if the bond sale is a private placement conduit as described below in subsection (c).

(b) Agency Bond Issues of more than $15 million. For a single series bond sale of more than $15 million, a state agency will be charged $25,000. For a bond sale of more than $15 million by a single state agency with multiple series, the state agency will be charged the greater of (i) $25,000 or (ii) $8,500 per series. For a bond sale of more than $15 million by two or more state agencies, each agency will be charged the greater of (i) $12,500 or (ii) $8,500 for each series sold for the state agency. This subsection applies to initial offerings, refundings and restructurings. This subsection does not apply if the bond sale is a private placement conduit sale described below in subsection (c).

(c) Privately Placed Conduit Bonds are bonds that are payable solely from moneys owed by a party other than the State of Oregon, with no recourse for payment to the State of Oregon, do not have a publicly disseminated official statement or other offering circular, and are sold only to one or more sophisticated investors, accredited investors or qualified institutional buyers. A state agency that privately places conduit bonds will be charged: (i) $6,000 for sales that in aggregate total $5 million or less, (ii) $12,000 for sales that in aggregate total more than $5 million but less than $10 million, or (iii) $18,000 for sales that in aggregate total $10 million or more. Should conduit bonds be sold publicly or use a publicly disseminated official statement then subsection (a) or subsection (b) above applies. This subsection applies to initial offerings, refundings and restructurings.

(d) Tax Anticipation Notes. A state agency shall be charged $35,000 for each sale of tax anticipation notes.

(e) Interest Rate Exchange Agreements. In addition to any other fee, $25,000 will be charged for the review and approval of a state agency's first executed interest rate exchange agreement for a specific bond program of the agency. After the first agreement, a fee of $12,000 will be charged for each executed interest rate exchange agreement subsequently entered into by the agency for the same bond program or indenture. These charges do not include costs such as interest rate exchange advisor fees, rating agency charges or printing costs which are payable by the agency or authority for whom the cost is incurred.

(f) Replacement of Liquidity Providers or SWAP Counter Party Providers. A state agency will be charged $12,000 for activities related to each replacement of a liquidity provider or SWAP counter party provider.

These charges do not include costs such as rating agency charges or printing costs which are payable by the agency or authority for whom the cost is incurred.

(2) Public Bodies. OST shall charge the fees set forth below in connection with the services, duties and activities of the OST related to bonds issued by public bodies in Oregon; expenses incurred in reviewing refunding and defeasance plans may be charged against the bond proceeds or may be paid by the public body from such other funds as may be available:

(a) Advance refunding plan application and review. The application fee for submission of an advance-refunding plan is $200. The fee for review and approval of an advance refunding plan is $2,400 per sale of refunding bonds. If the plan is not approved or the refunding not completed the review and approval fee will not be charged.

(b) Oregon School Bond Guarantee Program. School Districts that submit an application for participation in the Oregon School Bond Guarantee Program shall submit an application fee of $200 to OST at the time their application is submitted. School Districts whose bonds are guaranteed by the state shall submit to OST, within 10 business days of closing of any guaranteed bonds, a fee equal to .03% (.0003) of the total principal and interest due, assuming the bonds are paid on their regularly scheduled maturity or redemption dates. If bonds are issued as "Qualified Bonds" under OAR 170-063-000 that may be converted to an interest bearing format over and above interest payments that may be due and payable under the original terms of bonds, the fee for such Qualified Bonds shall be equal to .045% (.00045) of the total principal and interest due, assuming the bonds are paid on their regularly scheduled maturity or redemption dates and that there is no conversion to a different interest bearing format than the original terms of the bonds.

(3) Municipal Debt Advisory Commission. OST shall charge the following fees in connection with the services, duties and activities of the OST as staff to the Municipal Debt Advisory Commission.

(a) Administrative Tracking and Reporting fee. Local Government entities shall submit, at the time of closing, a fee equal to:

(A) $800 for bond sales of greater than or equal to $1 million, but less than $8 million,

(B) 0.01% (0.0001) of the principal amount for bond sales of greater than $8 million but, less than $50 million, or

(C) $5,000 for bond sales of $50 million or greater. No fee is charged for a bond sale of less than $1 million.

(b) Overlapping Debt Report fee. Overlapping Debt Reports requested for any date within one year of the request are provided free of charge. For Overlapping Debt Reports requested for any date greater than one year prior to the request date, subsection (c) applies.

(c) Other fees and charges. Fees for specialized reports and services shall be determined by the number of hours spent producing such specialized report or service times the rate of $115 per hour.

(4) Private Activity Bonds.

(a) Current Year Allocation. State agencies or public bodies that submit an application for allocation of the state's private activity bond volume limit ("CAP") for the current year to the Private Activity Bond Committee under OAR 170-071-0005 shall submit an application fee of $200 to OST when their application is submitted. State agencies or public bodies who receive CAP shall pay to OST:

(A) For a bond sale of $10 million or less, a fee equal to $3,000, payable within 10 business days of the closing bond sale,

(B) For a bond sale of more than $10 million, a fee equal to $10,000 payable within 10 business days of the closing bond sale, or

(C) For a Mortgage Credit Certificate program, a fee equal to $2,000, payable within 10 business days of the date of the notice of allocation by OST.

(b) Carry Forward Allocation. State agencies or public bodies that submit an application for carry forward CAP allocation under OAR 170-071-0005(10) shall submit an application fee of $200 to OST when their application is submitted. State agencies or public bodies who receive carry forward CAP shall pay to OST:

(A) For a bond sale of $10 million or less, a fee equal to $3,000 of which the first $500 is payable within 10 days of the date of the notice of allocation by OST, with the balance payable within 30 days of the closing of the first bond sale associated with the allocation,

(B) For a bond sale of more than $10 million, a fee equal to $10,000 of which the first $2,000 is payable within 10 days of the date of the notice of allocation by OST, with the balance payable within 30 days of the closing of the first bond sale associated with the allocation, or

(C) For a Mortgage Credit Certificate program, a fee equal to $2,000, payable within 10 business days of the date of the notice of allocation by OST.

(D) For an agricultural bond issued through the Oregon Business Development Department's Beginning and Expanding Farmer Loan Program and sold to a single insured institution under ORS 706.008, a fee equal to $200 is payable within 10 business days of the closing of the bond sale. For agricultural bonds that will be sold to one or more accredited or sophisticated investors or institutional buyers, or more than one insured institution under ORS 706.008, OST may, at its discretion, charge up to a maximum of $2,000 depending on the complexity of the transaction.

(5) OST may, at its discretion, waive or reduce any fee outlined in sections (1) to (4) based on compelling financial reasons.

Stat. Auth.: ORS 286A.014, 287A.370 & 287A.634
Stats. Implemented: ORS 287A & 286A
Hist.: TD 3-1990, f. & cert. ef. 12-21-90; TD 2-1994, f. & cert. ef. 9-9-94; OST 1-1999, f. & cert. ef. 2-1-99; OST 1-2005, f. & cert. ef. 4-22-05; OST 5-2006, f. & cert. ef. 10-25-06; OST 7-2008, f. & cert. ef. 12-29-08; OST 2-2009, f. & cert. ef. 4-22-09; OST 3-2009, f. & cert. ef. 7-21-09; OST 5-2009(Temp), f. & cert. ef. 10-30-09 thru 4-27-10; OST 1-2010, f. & cert. ef. 1-15-10; OST 2-2010(Temp), f. & cert. ef 1-26-10 thru 7-24-10; OST 4-2010(Temp), f. 6-3-10, cert. ef. 7-1-10 thru 12-27-10; Administrative correction 1-25-11; OST 1-2011, f. & cert. ef. 2-28-11; OST 1-2012(Temp), f. & cert. ef. 1-26-12 thru 7-1-12; Administrative correction 8-1-12; OST 3-2012(Temp), f. & cert. ef. 12-14-12 thru 5-29-13; OST 2-2013, f. & cert. ef. 4-24-13; OST 3-2014(Temp), f. 8-13-14, cert. ef. 8-15-14 thru 2-11-15; OST 1-2015, f. & cert. ef. 1-22-15; OST 3-2015, f. & cert. ef. 7-10-15

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## Oregon University System, Oregon Institute of Technology
## Chapter 578

**Rule Caption:** Repeal all of Chapter 578 Oregon Administrative Rules.
**Adm. Order No.:** OIT 2-2015
**Filed with Sec. of State:** 6-23-2015
**Certified to be Effective:** 6-30-15
**Notice Publication Date:** 6-1-2015
**Rules Repealed:** 578-001-0000, 578-001-0015, 578-001-0020, 578-001-0060, 578-001-0080, 578-001-0090, 578-001-0100, 578-012-0010, 578-015-0010, 578-015-0020, 578-033-0210, 578-033-0220, 578-033-0230, 578-033-0240, 578-033-0241, 578-033-0242, 578-033-0243, 578-033-0244, 578-033-0245, 578-033-0246, 578-033-0252, 578-033-0260, 578-034-0010, 578-034-0020, 578-034-0025, 578-034-0030, 578-034-0035, 578-034-0040, 578-034-0045, 578-034-0050, 578-034-0055, 578-034-0060, 578-034-0065, 578-034-0070, 578-034-0075, 578-041-0010, 578-041-0030, 578-041-0040, 578-041-0050, 578-042-0050, 578-042-0710, 578-042-0720, 578-042-0730, 578-042-0740, 578-042-0750, 578-042-0760, 578-045-0005, 578-045-0010, 578-045-0015, 578-045-0020, 578-045-0025, 578-050-0005, 578-050-0010, 578-050-0020, 578-050-0050, 578-072-0010, 578-072-0020, 578-072-0030, 578-072-0040, 578-072-0050, 578-072-0055, 578-072-0060, 578-072-0070, 578-072-0080, 578-072-0090, 578-072-0091
**Subject:** The Oregon Institute of Technology is repealing all of the Chapter 578 Oregon Administrative Rules. These rules will be adopted as University Policies as of July 1, 2015.
**Rules Coordinator:** Denise Reid—(541) 885-1227

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## Teacher Standards and Practices Commission
## Chapter 584

**Rule Caption:** Suspends, amends and adopts rules related to licensure of teachers.
**Adm. Order No.:** TSPC 6-2015(Temp)
**Filed with Sec. of State:** 7-1-2015
**Certified to be Effective:** 7-1-15 thru 12-27-15
**Notice Publication Date:**
**Rules Adopted:** 584-060-0700, 584-060-0710, 584-060-0715, 584-060-0720, 584-060-0725, 584-300-0170
**Rules Amended:** 584-017-1028, 584-036-0080, 584-038-0003, 584-042-0031, 584-042-0081, 584-060-0014, 584-060-0200, 584-060-0220, 584-060-0250, 584-060-0682, 584-070-0012, 584-070-0310, 584-090-0100, 584-090-0115

**Rules Suspended:** 584-038-0325, 584-060-0006, 584-060-0012, 584-060-0013, 584-060-0051, 584-060-0052, 584-060-0181, 584-060-0525, 584-060-0530, 584-060-0600

**Subject:** Adopts, amends and suspends rules related to teacher licensure, including licensure redesign, elimination of basic skills test requirement and elimination of continuing professional development for substitutes.

**Rules Coordinator:** Victoria Chamberlain—(503) 378-6813

**584-017-1028**

**Selection, Recruitment, Admission and Retention of Candidates**

The unit attracts and admits qualified candidates to licensure programs, giving special attention to the current personnel needs of schools and actively recruits from under-represented groups.

(1) The unit admits into all initial and advanced programs only those who meet the following entry standards and requirements.

(2) Each candidate must demonstrated aptitude and interest in working with school-aged children.

(3) Each candidate attests to possessing moral character, a commitment to the profession, vow not to harm children, and commit to educational excellence. This attestation must be filed with the Commission upon application for first licensure in a format approved by the Commission.

(4) All teacher candidates for first application for licensure must:

(a) Pass the Protecting Student and Civil Rights in the Educational Environment test prior to placement into any clinical, student teaching or internship experiences where work samples are required; and

(b) Receive full clearance from the Commission on fingerprints and character questions prior to placement into student teaching or internship experiences.

(5) Educational Leadership Licensure: Candidates for admission into an initial educational leadership licensure program (formerly administration) must document:

(a) Licensure as either a teacher or personnel service specialist in any state;

(b) Three years of experience in the schools as a licensed educator or the legal equivalent;

(c) Evidence of educational leadership potential based on the following or the equivalent: assessments in instructional leadership, administrative experience in an educational environment, human relations, and cultural inclusion;

(d) Passing score on Protecting Student and Civil Rights in the Educational Environment; and

(e) Receive full clearance from the Commission on fingerprints and character questions prior to placement into clinical or internship experiences.

(6) Personnel Service Licensure (School Counseling, School Psychology, School Social Work). All candidates for admission into a personnel service licensure program must document:

(a) Experience working with youth in educational or social agencies;

(b) Preparation in human behavior to include: psychological, sociological, and psychological development, learning theory, and motivation;

(c) Full clearance from the Commission on fingerprints and character questions prior to placement into clinical or internship experiences;

(d) School Counseling candidates must document prior to licensure, either:

(A) Two years teaching experience in schools; or

(B) Alternative practicum experiences in lieu of teaching.

(e) School Social Worker candidates must document a master's degree in social work prior to licensure.

Stat. Auth.: ORS 342

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

Hist.: TSPC 4-2012, f. & cert. ef. 5-18-12; TSPC 2-2013, f. & cert. ef. 4-30-13; TSPC 8-2014(Temp), f. & cert. ef. 11-10-14 thru 5-8-15; TSPC 1-2015, f. & cert. ef. 2-10-15; TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-036-0080**

**Licensure Tests**

(1) Licensure tests are required to demonstrate subject-matter competency in most endorsement areas established by the Commission.

(2) Out-of-State Applicants: Subject-Matter Endorsement: Out-of-state applicants may present proof of passage of another state's subject-matter competency test for full subject-matter endorsement on an Oregon license under the following conditions:

(a)(A) A passing score on an out-of-state licensure test for subject-matter endorsement on the license results in waiver of a comparable Oregon adopted beginning-teacher licensure test if the subject-matter area covered by the out-of-state test is more similar than not to the Oregon test;

(B) The burden is on the applicant to provide alternate proof the test was taken and the score was a passing score in another state if the applicant is unable to produce an original score report. TSPC reserves the right to reject the alternate verification if the source of the score verification is not a higher education institution or another public educator licensure agency; and

(b) Any subject-matter test may be waived if the applicant demonstrates special academic preparation satisfactory to the Commission together with five years of half-time or more experience teaching the specific subject matter on a license valid for the assignment in a public school or regionally accredited private school in a U.S. jurisdiction before holding any Oregon license. The five years of half-time or more experience must be acquired entirely outside of the State of Oregon and must be obtained while holding an unrestricted out-of-state license valid for the assignment. Teaching experience without a valid license does not count toward test waiver.

(3) An electronic score report submitted by the testing company administering the test at the applicant's request will be treated as an "original" score report. In all other cases, only the original score report, or an authentic facsimile will be accepted as validation of passing the required test. TSPC reserves the right to require the applicant to produce authentic evidence of passage of the test the applicant wishes to submit for consideration for test waiver.

(4) Other evidence documenting passage of a required test for licensure may be accepted at the executive director's discretion when exigent circumstances prohibit the educator from presenting an original score report. The executive director may submit the evidence and the decision to the Commission at the next meeting at the director's discretion in cases the director believes may need Commission review.

(5) Applicants seeking endorsement in areas where the Commission has not adopted an approved test must complete coursework as required by the Commission. In the alternative, applicants may submit evidence of a passing score from another state's licensure test and evidence they held the endorsement on an out-of-state license in lieu of satisfying the Commission's required coursework.

(6) For situations not covered by these rules, the Commission grants the executive director the discretion to determine whether test scores or licenses submitted pursuant to this section meet the Commission's intent with regard to preventing unnecessary redundancy in completing licensure testing requirements.

Stat. Auth.: ORS 342

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

Hist.: TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 2-2009, f. & cert. ef. 3-12-09; TSPC 6-2010, f. & cert. ef. 8-31-10; TSPC 9-2012, f. & cert. ef. 9-14-12; TSPC 6-2013, f. & cert. ef. 11-14-13; TSPC 5-2014, f. & cert. ef. 8-5-14; TSPC 1-2015, f. & cert. ef. 2-10-15; TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-038-0003**

**Basic Teaching Licensure Under Superseded Standards**

Upon filing a correct and complete application in form and manner prescribed by the Commission, a qualified applicant may be granted a Basic Teaching License, issued for three years plus time to the applicant's next birth date and is renewable under OAR 584, division 38. Such an applicant must have enrolled in a basic teacher education program under standards superseded by 21st century licensure and be found in the judgment of the Commission subject to hardship if issued an initial license instead of a basic license. If the initial license is judged preferable, the applicant will not be required to add course work to the basic program, although institutions may make appropriate substitutions for partial updating. The recipient of a basic license may pursue either a standard license (see OAR 584, division 40) or a Professional license (see OAR 584, division 60).

(1) General requirements for the Basic Teaching License include:

(a) A bachelor's degree from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the Commission.

(b) Completion in Oregon or another U.S. jurisdiction of a basic teacher education program approved by the Commission, or completion of a U.S. or foreign program evaluated as satisfactory by an Oregon institution approved to offer the corresponding program.

(c) A passing score as currently specified by the Commission on each of one or more tests of subject mastery for license endorsement, except for tests waived due to special academic preparation satisfactory to the Commission together with five years of experience teaching the specialty in a public school or regionally accredited private school in a U.S. jurisdiction.

(d) A passing score on a test of knowledge of U.S. and Oregon civil rights laws at the conclusion of a course or workshop approved by the Commission.

(2) To be eligible for a Basic Teaching License, an applicant must satisfy a recent experience requirement in one of the following ways during the three-year period immediately preceding application:

(a) Completion of an approved teacher education program; or

(b) Beginning and completion in a public school or regionally accredited private school in a U.S. jurisdiction of at least one academic year as a full-time licensed educator or two consecutive years as a half-time licensed educator on any license appropriate for the assignment, or equivalent experience as in a state or federal school; or

(c) Receipt of 6 semester hours or 9 quarter hours of academic credit, germane to teaching licensure, from a regionally accredited college or university.

(3) To be eligible for a Basic Teaching License, an applicant must furnish fingerprints in the manner prescribed by the Commission.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.200
Hist.: TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 2-2000, f. & cert. ef. 5-15-00; TSPC 1-2015, f. & cert. ef. 2-10-15; TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-038-0325**
**Renewal of Basic Licenses — Special Provisions**

(1) The Basic Teaching License with a subject matter endorsement(s) may be renewed for a period of three years for use in grades five through twelve when the applicant has completed additional preparation applicable to a Standard Teaching License.

(2) Basic Teaching Licenses with endorsements in art, foreign language, health, home economics, technology education, library media, music, physical education or reading may also be renewed for use in preprimary through grade twelve under this rule.

(3) To retain authorization for teaching in a high school, holders of subject matter endorsements must complete 24 quarter or 16 semester hours toward standard licensure for renewal of the first Basic Teaching License and must qualify for a Standard Teaching License upon expiration of the second Basic Teaching License.

(4) Subject matter endorsements are valid only for teaching the subject in elementary, middle, or junior high schools through grade nine, if requirements leading to standard licensure are not met.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.200 & 342.400
Hist.: TS 1-1982, f. & ef 1-5-82; TS 1-1988, f. 1-14-88, ef. 1-15-88; TS 3-1988, f. & cert. 4-7-88; TS 6-1989, f. & cert. ef. 10-6-89; TS 1-1992, f. & cert. ef. 1-15-92; TSPC 13-2006, f. & cert. ef. 11-22-06; Renumbered from 584-048-0032, TSPC 5-2009, f. & cert. ef. 10-5-09; Suspended by TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-042-0031**
**Career and Technical Education I Teaching License**

(1) Upon filing a correct and complete application in form and manner prescribed by the Commission, an applicant may be eligible for a Career and Technical Education (CTE) I Teaching License in one or more Career and Technical Education endorsement areas. The license may be issued for up to three years.

(2) The Career and Technical Education I Teaching License is valid to teach in:

(a) An ODE-approved Career and Technical Education program[s] for which the educator is specifically licensed;

(b) Any CTE teaching license is valid for assignments in diversified occupations or as work experience coordinators.

(3) The application must be a joint application from the applicant and the school district seeking to employ the applicant. The complete application must be directly submitted by the applicant. TSPC will not accept applications submitted by third parties.

(4) A complete application packet must include the following materials from both the Oregon Department of Education and TSPC:

(a) A signed and dated TSPC application and the appropriate fees;

(b) Fingerprints furnished in the manner prescribed by the commission and satisfactory responses to the character questions contained in the commission's licensure application; and

(c) Passing score on a commission-approved test of knowledge of U.S. and Oregon civil rights and professional ethics.

(d) A copy of the ODE-approved CTE I Teaching License application form, including:

(A) The Instructor Appraisal Committee's recommendation for licensure on an approved ODE form, including any course restrictions related to the recommended endorsement or endorsements unless waived by ODE pursuant to OAR 584-042-0060 Waivers and 584-042-0070 Work Experience;

(B) A copy of the signed CTE Professional Development Plan indicating the expectations for the educator over the next three years. The application for licensure is deemed incomplete if the professional development plan does not align with OAR 584-042-0051 CTE Professional Development Plan;

(C) Evidence the co-applicant school district has an ODE-approved program in the requested Career and Technical Education endorsement or endorsements area; or evidence that the district has submitted their application for approval of the CTE program to the ODE. The district must indicate the approximate date they expect to obtain ODE approval of their program;

(D) The name and credentials of the identified CTE mentor;

(E) Transcripts of an associate's degree or equivalent; or in the alternative, the ODE waiver, consistent with OAR 584-042-0060 Waivers that is signed and dated within 90 days from the date of the application to TSPC; and

(F) Work experience evidence documented in one of the following ways:

(i) Planned and coordinated or previous and documented work experience in accordance with OAR 584-042-0070 Work Experience verified by ODE and completed within the past five years; or

(ii) A copy of the industry certification or licensure.

(5) CTE I Teaching Licenses will be issued for one year at a time for a maximum of three years total subject to special renewal conditions:

(a) First Renewal: The applicant must submit:

(A) A signed and dated TSPC application and renewal fees as defined by rule;

(B) A letter of support from the co-applicant district; and

(C) Proof of significant progress toward completion of the requirements as outlined in the CTE professional development plan as defined in OAR 584-042-0020 Definitions.

(b) Second Renewal: The applicant must submit:

(A) A C-1 application and renewal fees as defined by rule;

(B) A letter of support from the co-applicant district; and

(C) Proof of significant additional progress beyond the first renewal toward completion of the requirements as outlined in the CTE professional development plan as defined in OAR 584-042-0051 Professional Development Plan.

(c) Renewal under subsections 5(a) and 5(b) above are not subject to the 120-day grace period and must be submitted sufficiently in advance of the license expiration date to ensure continuity of licensure. Failure to submit a timely application is grounds for denial of a renewal pursuant to this subsection and may be grounds for discipline under OAR 584-020-0040.

(d) Failure to show significant progress is deemed to be an incomplete application for renewal.

(e) The Executive Director may grant an Emergency Teaching License upon failure to show progress if the circumstances preventing completion of progress are exceptional and extenuating. In such cases, the Emergency Teaching License may be issued following submission of a C-1 application, C-3 from the district, the appropriate full fee, and a complete description of the circumstances creating the emergency for an Emergency Teaching License. If issued, the Emergency Teaching License may be issued for the minimum period of time it takes to cure the renewal deficit. Any time extensions under this subsection will be deducted from the next renewal cycle.

(6) The Career and Technical Education I Teaching License is not renewable beyond three years. Holders of this license must finish their requirements for the CTE II Teaching License within three years from when the license is first issued, no exceptions. If the employment opportunity associated with first acquiring the license ceases, the license holder is encouraged to continue working toward completion of the CTE II Teaching License requirements.

(7) If the application and fee for the Career and Technical Education II Teaching License is received prior to the expiration of the Career and Technical Education I Teaching License, the license will remain valid for another 120 days following the expiration of the license.

(a) The applicant and co-applicant district must provide documentation that the requirements for the Career and Technical Education II Teaching License have been met prior to the expiration of the 120 days after the Career and Technical Education I Teaching License has expired to remain continuously licensed in this area.

(b) In the event the co-applicant district is unable to provide the documentation required in subsection (a) above, the ODE may certify that the applicant is qualified for the CTE II Teaching License.

(c) Applicants are encouraged to submit complete applications for the CTE II Teaching License at least 90 days prior to the expiration of the final CTE I Teaching License.

(8) In addition to the requirements for the CTE Professional Development Plan, the CTE licensee must meet all of the requirements for the CTE II Teaching License at the end of three years following the issuance of the CTE I.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 – 342.430; 342.455 – 342.495, 342.553
Hist.: TSPC 2-2010(Temp), f. & cert. ef. 3-5-10 thru 8-31-10; TSPC 6-2010, f. & cert. ef. 8-31-10; TSPC 2-2012, f. & cert. ef. 2-15-12; TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-042-0081**
**Career and Technical Education Restricted Substitute Teaching License**

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant may be granted a Career and Technical Education Restricted Substitute Teaching License.

(a) This license, issued for three years and renewable, is valid to substitute teach for a total of 60 days a school year (September through June) in any Career and Technical Education endorsement area to replace a licensed CTE teacher in an ODE-approved Career and Technical Education program who is temporarily unable to work.

(b) The 60 days a year limit applies regardless if the holder of the license substitutes in multiple districts (which must co-apply with the applicant for the license).

(c) Districts who did not co-apply with the applicant may request permission to add the substitute to their district upon filing an additional application and fee.

(d) An assignment on this license may not exceed ten (10) days consecutively under any circumstances.

(e) This license is not eligible for substitute teaching in classrooms outside of ODE-approved CTE programs.

(2) To be eligible for a Career and Technical Education Restricted Substitute Teaching License, the applicant must:

(a) Submit evidence the applicant holds an associate's degree or higher from an accredited institution or an approved foreign equivalent, or obtain recommendation from the Oregon Department of Education for a waiver of the associate's degree (See OAR 584-042-0060 Waivers);

(b) Furnish fingerprints in the manner prescribed by the commission if the applicant has not been fingerprinted or has not held an active license issued by the commission in the past three years;

(c) Obtain a passing score on a commission-approved test of knowledge of U.S. and Oregon civil rights and professional ethics;

(d) Complete the appropriate Instructor Appraisal Committee evaluation as prescribed by ODE rule, be recommended for specific endorsements by the committee, and submit evidence of the following:

(A) Verification of a minimum of eighteen (18) quarter hours or twelve (12) semester hours of teacher preparation, in addition to three (3) quarter hours or two (2) semester hours each of math and language arts. (See required areas for preparation in OAR 584-042-0051 CTE Professional Development Plan.); and

(B) Verification of related work experience as specified by OAR 584-042-0070 Work Experience at a technical skill level within the last five years. (See required hours in OAR 584-042-0051 CTE Professional Development Plan.); and

(e) Provide a letter from the co-applicant district stating the need for the license.

(3) To be eligible for renewal of the Career and Technical Education Restricted Substitute Teaching License an applicant must file a correct and complete application in form and manner prescribed by the Commission.

(4) A district and co-applicant educator may apply for an Emergency Career and Technical Education Teaching License for the holder of a Career and Technical Education Restricted Substitute Teaching License if the district is unable to obtain a Career and Technical Education licensed teacher in any position in an ODE-approved Career and Technical Education program lasting more than three consecutive months.

(a) The Career and Technical Education Emergency Teaching License will allow the educator to teach for time beyond the allowed timelines stated in subsection (1) above.

(b) The Executive Director may approve the Career and Technical Education Emergency Teaching License upon proof of the district's emergency.

(5) A district and co-applicant educator who has held the CTE Restricted Substitute Teaching License may be eligible for and may apply for a Career and Technical Education I Teaching License for a position in an ODE-approved Career and Technical Education program related to the applicant's Career and Technical Education endorsement(s) without additional Instructor Appraisal Committee recommendations. Applicants interested in this option should contact ODE to check whether they are eligible to apply for a CTE I Teaching License through this avenue.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 – 342.430; 342.455 –342.496; 342.553
Hist.: TSPC 4-2010, f. & cert. ef. 7-15-10; TSPC 2-2012, f. & cert. ef. 2-15-12; TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-060-0014**
**Initial Teaching License for Out-of-State Candidate First Application**

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant who is applying for licensure in Oregon for the first time and has completed an out-of-state approved teacher-education program resulting in a non-provisional teaching license may be granted an Initial Teaching License for eighteen (18) months.

(2) The Initial Teaching License is valid for teaching at the prekindergarten through grade 12 authorization levels in one or more designated subject-matter endorsement areas indicated on the out-of-state non-provisional teaching license. The Initial Teaching License is also valid for substitute teaching in any teaching subject-matter endorsement area.

(3) To be eligible for an Initial Teaching License, an out-of-state applicant must:

(a) Have never held an Oregon educator license, charter school registration, or completed an Oregon educator preparation program;

(b) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possess good moral character and mental and physical health necessary for employment as an educator;

(c) Hold a bachelor's degree or higher from a regionally-accredited institution in the United States, or the foreign equivalent of such degree approved by the commission. A master's degree or a doctoral degree from a regionally accredited institution in the United States validates a non-regionally accredited bachelor's degree for licensure;

(d) Complete an initial teacher education program approved by any U.S. jurisdiction other than Oregon, or complete a foreign program evaluated as satisfactory by the Commission as evidenced by:

(A) Official transcripts; and

(B) A license valid for unrestricted full-time teaching from another state or National Association of State Directors of Teacher Education and Certification (NASDTEC) jurisdiction, including but not limited to the U.S. Department of Defense; and

(e) Furnish fingerprints in the manner prescribed by the commission and provide satisfactory responses to the character questions contained in the commission's licensure application. (See also, OAR 584-036-0062 for Criminal Records Check Requirement.)

(4) Upon expiration of the Initial Teaching License the applicant must qualify for a non-provisional Oregon Teaching License and must apply for any of the following:

(a) An Initial I Teaching License: Qualified applicants will be issued an Initial I Teaching License for three years plus time to the applicant's next birthday. The fee for the Initial I granted pursuant to this rule is $50.

(b) A Professional Teaching License: Qualified applicants will be issued a Professional Teaching License for five years plus time to the applicant's next birthday. The fee for the Professional Teaching License is $100.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 1-2007(Temp), f. & cert. ef. 3-30-07 thru 9-26-07; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 2-2008, f. & cert. ef. 4-15-08; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09; TSPC 5-2009, f. & cert. ef. 10-5-09; TSPC 1-2010, f. & cert. ef. 1-28-10; TSPC 3-2011, f. & cert. ef. 3-15-11; TSPC 2-2014, f. & cert. ef. 3-15-14; TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-060-0006**
**Provisions for Experience in Certain Federal Programs**

(1) A teaching license may be issued on the basis of two years of satisfactory service under the auspices of the Armed Forces of the United States, the Peace Corps, or Section 603 of the Economic Opportunity Act of 1964. The service must have consisted primarily of teaching in preprimary through grade twelve in subjects regularly taught in public schools. The applicant must have completed either an approved teacher education program or a teacher training program under the auspices of the federal program.

(2) The provisions of section (1) of this rule apply to issuance of an Initial Teaching License with all subject matter endorsements except early childhood and elementary multiple subject authorization levels. These provisions also apply to an early childhood or elementary level if the employing school board requests a restricted Transitional Teaching License with the early childhood or elementary levels. This rule does not apply to special education.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 143, 342.153, 342.165 & 342.223 - 232
Hist.: TSPC 5-2001, f. & cert. ef. 12-13-01; Suspended by TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-060-0012**
**Initial I Teaching License Requirements**

(1) Upon filing a correct and complete application in form and manner prescribed by the Commission, a qualified applicant may be granted an Initial I Teaching License for three years. The first license will be issued for three years plus time to the applicant's birthday.

(2) The Initial I Teaching License is valid for regular teaching at one or more designated authorization levels in one or more designated specialties and for substitute teaching at any level in any specialty.

(3) To be eligible for an Initial I Teaching License, an applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Hold a bachelor's degree or higher from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the Commission. A master's degree or a doctoral degree from a regionally accredited institution in the United States validates a non-regionally accredited bachelor's degree for licensure;

(c) Complete an initial teacher education program approved by the Commission in Oregon, or complete a state-approved teacher preparation program in any U.S. jurisdiction, or complete a foreign program evaluated as satisfactory by an Oregon institution approved to offer the corresponding program;

(d) Receive a passing score as currently specified by the Commission on each of one or more tests of subject mastery for license endorsement or authorization;

(e) Receive a passing score as currently specified by the Commission on a test of basic verbal and computational skills;

(f) Obtain a passing score on a test of knowledge of U.S. and Oregon civil rights laws and professional ethics; and

(g) Furnish fingerprints in the manner prescribed by the Commission and provide satisfactory responses to the character questions contained in the Commission's licensure application.

(4) In addition to the requirements of subsection (3) of this rule, applicants who have completed programs from states other than Oregon will be required to submit:

(a) Official transcripts, verifying completion of the teacher education program; and

(b) A non-provisional license from another state valid for unrestricted full time teaching.

(c) A teaching license issued by the U.S. Department of Defense or another National Association of State Directors of Teacher Education and Certification (NASDTEC) jurisdiction will be considered as a license from another state.

(d) Completion of alternative route teaching programs resulting in licensure through school districts or other avenues are subject to Executive Director's approval.

(5) The Initial I Teaching License may be renewed two times for three years upon showing progress toward completion of the Initial II eligibility requirements during the life of the Initial I Teaching License. The progress must meet or exceed the equivalent of 3 semester hours or 4.5 quarter hours of graduate coursework germane to the license or directly germane to public school employment at each renewal period.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.165 & 342.136
Hist.: TSPC 1-2005, f. & cert. ef. 1-21-05; TSPC 5-2005(Temp), f. & cert. ef. 7-1-05 thru 12-28-05; TSPC 7-2005, f. & cert. ef. 8-24-05; TSPC 1-2007(Temp), f. & cert. ef. 3-30-07 thru 9-26-07; Administrative correction 10-16-07; TSPC 7-2007, f. & cert. ef. 12-14-07; TSPC 2-2008, f. & cert. ef. 4-15-08; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09; TSPC 6-2009, f. & cert. ef. 11-2-09; TSPC 8-2009, f. & cert. ef. 12-15-09; TSPC 3-2013, f. & cert. ef. 8-19-13; TSPC 2-2014, f. & cert. ef. 3-15-14; TSPC 6-2014(Temp), f. 8-5-14, cert. ef 8-6-14 thru 2-2-15; TSPC 9-2014, f. & cert. ef. 11-14-14; Suspended by TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-060-0013**
**Initial II Teaching License Requirements**

(1) Upon filing a correct and complete application in form and manner prescribed by the Commission, a qualified applicant shall be granted an Initial II Teaching License for three years.

(2) To be eligible for an Initial II Teaching License, and if the first unrestricted teaching license issued by any state was granted on the basis of a completed teacher preparation program culminating in a bachelor's degree, the applicant must:

(a) Complete a master's degree or higher in the arts and sciences or an advanced degree in the professions from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the commission a master's degree or a doctoral degree from a regionally accredited institution validates a non-regionally accredited bachelor's degree; or

(b) In lieu of a master's degree, a candidate must complete graduate level coursework germane to the license or directly germane to public school employment as follows:

(A) At least ten semester hours or fifteen quarter hours in subject-matter coursework; and

(B) At least ten semester hours or fifteen quarter hours in graduate-level education-related coursework; and

(C) At least ten semester hours or fifteen quarter hours in graduate-level electives.

(3) To be eligible for an Initial II Teaching License, and if the first unrestricted teaching license issued by any state was granted on the basis of a post-baccalaureate completed teacher preparation program whether the program culminates in a master's degree, the applicant must complete one of the following (a)–(c):

(a) Six semester hours or nine quarter hours of graduate level academic credit from a regionally accredited college or university, or the graduate level credit must:

(A) Be completed after the first unrestricted teaching license issued by any state has first been issued; and

(B) Be germane to the teaching license or directly germane to public school employment; and

(C) May include pedagogy, or content related to an existing endorsement or authorization, or content related to a new endorsement or authorization. (Completion of this required coursework does not guarantee completion of commission approved endorsement requirements offered by any Oregon college or university.)

(b) A commission-approved school district program determined to be equivalent to (a) above; or

(c) Any commission-approved professional assessment.

(d) In all cases, the combination of a post-baccalaureate program and the additional hours required by this subsection must be equivalent to a master's degree or 45 quarter hours or 30 semester hours.

(4) The Initial II Teaching License may be renewed repeatedly for three years upon completion of:

(a) All the requirements in either subsections (2) or (3) above; and

(b) A professional development plan in accordance with OAR 584-090.

(5) A teacher may choose to become eligible for the Professional Teaching License in lieu of obtaining the Initial II Teaching License. (See OAR 584-060-0530.)

(6) Teachers issued Initial Teaching Licenses prior to July 1, 2005 must meet the requirements of this rule prior to the expiration of ten (10) years from the date the first Initial Teaching License was issued.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.165 & 342.136
Hist.: TSPC 1-2005, f. & cert. ef. 1-21-05; TSPC 5-2005(Temp), f. & cert. ef. 7-1-05 thru 12-28-05; TSPC 7-2005, f. & cert. ef. 8-24-05; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09; TSPC 5-2009, f. & cert. ef. 10-5-09; TSPC 8-2009, f. & cert. ef. 12-15-09; TSPC 2-2014, f. & cert. ef. 3-15-14; Suspended by TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-060-0051**
**Teaching Authorization Levels**

(1) Teachers must qualify for one or more grade authorizations at the early childhood, elementary, middle or high school developmental levels.

(2) Teaching authorization levels will apply to all teaching licenses within division 60.

(3) Early Childhood Education (ECE) Authorization: The early childhood education (ECE) authorization level requires completion of an approved program including passing the commission-approved multiple subjects examination (MSE) together with completion of a practicum experience with students in grades prekindergarten (pre-k) through four (4).

(a) The ECE authorization level is valid for any multiple subjects teaching assignment, except assignments in subsection (b) below, in prekindergarten (pre-k) through grade four (4).

(b) The ECE authorization level with a multiple subjects endorsement is not valid for assignments requiring a specialization endorsement such as art, music, ESOL, ESOL/bilingual, physical education, adaptive physical education, library media, reading or special education under OAR 584-060-0071 without the accompanying specialty endorsement on the license.

(4) Elementary ELE Authorization: The elementary ELE authorization level requires completion of an approved program including passing the commission-approved multiple subjects examination (MSE) together with completion of a practicum experience with students in one or more grades between grades three (3) through eight (8).

(a) The ELE authorization level is valid for any multiple subjects teaching assignment, except assignments in subsection (b) below, in grades three (3) through eight (8).

(b) The ELE authorization level with a multiple subjects endorsement is not valid for assignments requiring specialization endorsement such as art, music, ESOL, ESOL/bilingual, physical education, adaptive physical education, library media, reading or special education under OAR 584-060-0071 without the accompanying specialty endorsement on the license.

(5) The Middle-Level (ML) Authorization: The middle-level (ML) authorization level requires completion of an approved program together with completion of a practicum experience with students in one or more grades between grades five (5) through nine (9). The placement may only be in grade nine (9) if it is located in a middle school or junior high school. Additionally, the ML authorization requires in-depth knowledge of one subject-matter or specialty endorsement appropriate to middle-level teaching assignments.

(a) The ML authorization is valid for any teaching assignment authorized by the endorsements on the license in grades five (5) through nine (9) of a school designated as an elementary, middle, or junior high school.

(b) The ML authorization level with a multiple subjects endorsement is not valid for assignments requiring specialization endorsement such as art, music, ESOL, ESOL/bilingual, physical education, adaptive physical education, library media, reading or special education under OAR 584-060-0071 without the accompanying specialty endorsement on the license.

(6) The high school (HS) authorization level requires completion of an approved program and qualification for at least one subject-matter endorsement appropriate to secondary schools by passing the required Commission-approved test or tests of subject mastery in the endorsement area, together with completion of a practicum experience with students in one or more grades between grades nine (9) through twelve (12). The high school (HS) authorization is valid for teaching one or more integrated or departmentalized subjects, with which the license must be endorsed, in grades seven (7) through twelve (12) in a school designated as a high school.

(7)(a) The Early Childhood Education/Elementary (ECE/ELE) authorization represents the merger of two grade authorization levels and requires completion of an approved program together with completion of a practicum experience with students in one or more grades between grades prekindergarten (pre-k) through eight (8).

(b)The ECE/ELE authorization level is valid for assignments requiring a specialization endorsement such as art, music, ESOL, ESOL/bilingual, physical education, adaptive physical education, library media, reading or any special education area under OAR 584-060-0071.

(8)(a) The Elementary/Middle Level (ELE/ML) authorization represents the merger of two grade authorization levels and requires completion of an approved program together with completion of a practicum experience with students in one or more grades between grades three (3) through nine (9). The placement may only be grade nine (9) if it is located in a middle school or junior high school.

(b) The ELE/ML authorization level is valid for any assignments requiring a specialization endorsement such as art, music, ESOL, ESOL/bilingual, physical education, adaptive physical education, library media, reading or any special education area under OAR 584-060-0071.

(9)(a) The Middle Level/High School (ML/HS) authorization represents the merger of two grade authorization levels and requires completion of an approved program together with completion of a practicum experience with students in one or more grades between grades five (5) through twelve (12).

(b) The ML/HS authorization is valid for any assignments requiring specialization endorsement such as art, music, ESOL, ESOL/bilingual, physical education, adaptive physical education, library media, reading or any special education area under OAR 584-060-0071.

(10) The Prekindergarten–12 (pre-k through 12) authorization level represents qualification to teach in all four grade levels. The pre-k through grade 12 authorization level requires completion of an approved program including passing the commission-approved test or tests for specialty area endorsements (see OAR 584-060-0071) together with completion of two practica experiences with students in grades between pre-kindergarten through twelve (12).

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120–143, 342.153, 342.165 & 342.223 - 342.232

Hist.: TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 4-2002, f. & cert. ef. 5-21-02; TSPC 6-2002, f. & cert. ef. 10-23-02; TSPC 2-2005, f. & cert. ef. 4-15-05; TSPC 4-2005(Temp), f. & cert. ef 5-6-05 thru 9-30-05; TSPC 7-2005, f. & cert. ef. 8-24-05; TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 1-2008(Temp), f. & cert. ef. 2-15-08 thru 8-13-08; TSPC 6-2008, f. & cert. ef. 8-12-08; TSPC 1-2012(Temp), f. 2-7-12, cert. ef. 2-15-12 thru 8-13-12; TSPC 7-2012, f. & cert. ef. 8-7-12; TSPC 4-2013(Temp), f. & cert. ef. 11-14-13 thru 5-13-14; TSPC 2-2014, f. & cert. ef. 3-15-14; Suspended by TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-060-0052**

**Adding Authorization Levels to Existing Initial and Professional Teaching Licenses**

(1) A candidate seeking to add the next contiguous authorization level to an existing Initial or Professional Teaching License will complete the following:

(a) A program of at least six (6) quarter hours or four (4) semester hours of preparation in child or adolescent development, whichever is appropriate for the level being completed. The program will include methods of instruction in the appropriate subjects at the requested authorization level and may include taking additional subject-matter tests to qualify for the authorization level. Verification from the institution at which the program is completed is required to add the authorization; and

(b) One of the following practicum experiences, which must include preparation of one (1) work sample to document teaching effectiveness at the new authorization level:

(A) A practicum of two (2) semester hours or three (3) quarter hours, which except as specified below may or may not be part of a longer preparation that includes content or methods courses in the subject area, in an institution approved to prepare teachers for that endorsement; or

(B) Verification of one (1) year of experience teaching the new subject-area at least one (1) hour each day or the equivalent on either an optional assignment of ten (10) hours or less or on an approved License for Conditional Assignment.

(2) A candidate may add an authorization level that is not contiguous to an existing Initial or Professional Teaching License if:

(a) The candidate successfully completes an approved program at that level; and

(b) The completed program includes the required practicum experience and completion of a work sample to document teaching effectiveness at the new authorization level.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.143, 342.153, 342.165, 342.223 - 342.232

Hist.: TSPC 3-2005(Temp), f. & cert. ef. 4-15-05 thru 9-30-05; TSPC 7-2005, f. & cert. ef. 8-24-05; TSPC 9-2006, f. & cert. ef. 6-15-06; TSPC 2-2008, f. & cert. ef. 4-15-08; TSPC 4-2013(Temp), f. & cert. ef. 11-14-13 thru 5-13-14; TSPC 2-2014, f. & cert. ef. 3-15-14; Suspended by TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-060-0181**

**Substitute Teaching License**

(1) Upon filing a correct and complete application in form and manner prescribed by the Commission, a qualified applicant may be granted a Substitute Teaching License. This license, issued for three years and renewable, is valid at any level in any specialty to substitute for a teacher who is temporarily unable to work.

(2) To be eligible for a Substitute Teaching License, the applicant must:

(a) Hold a bachelor's degree or higher from a regionally-accredited institution in the United States, or the foreign equivalent of such degree approved by the Commission. A master's degree or a doctoral degree from a regionally-accredited institution in the United States validates a non-regionally accredited bachelor's degree for licensure;

(b) Hold an unrestricted license for full-time teaching in any state demonstrating completion of a state-approved teacher education program;

(c) Obtain a passing score on a Commission-adopted test of knowledge of U.S. and Oregon civil rights and professional ethics;

(d) Furnish fingerprints in the manner prescribed by the Commission if the applicant has not been fingerprinted or has not held an active license issued by the Commission in the past three years; and

(e) Provide continuing professional development if transitioning from a basic, standard, initial or continuing teaching license to a Substitute Teaching License.

(3) The holder of a Substitute Teaching License may not continuously replace an individual teacher absent for more than three consecutive months without obtaining a full-time license. Failure to observe this limitation may result in licensure sanction by the Commission for either the teacher or the assigning administrator or both.

(4) A district and co-applicant educator may apply for an Emergency Teaching License for the holder of a Substitute Teaching License if the district is unable to obtain a regularly-licensed teacher for any position lasting more than three consecutive months. The Emergency Teaching License will allow the educator to teach for time beyond the allowed timelines stated in subsection (3) above. The Executive Director may approve the Emergency Teaching License upon proof of the district's emergency and may only issue the license for the amount of time to cover the emergency. In all cases, the Emergency Teaching License may not extend beyond the end of that school year.

(5) To be eligible for renewal of the Substitute Teaching License an applicant must show:

(a) Evidence of having obtained a passing score as currently specified by the Commission on a test of basic verbal and computational skills, unless the applicant held an Oregon educator license before 1985 or meets requirements for the basic skills waiver set forth in OAR 584-036-0080 (Licensure Tests); and

(b) Completion of continuing professional development in accordance with OAR chapter 584, division 90.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.533
Hist.: TSPC 3-1999, f. & cert. ef. 7-15-99; TSPC 9-1999, f. & cert. ef. 11-22-99; TSPC 5-2004, f. & cert. ef. 8-25-04; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 2-2009, f. & cert. ef. 3-12-09; TSPC 8-2009, f. & cert. ef. 12-15-09; TSPC 5-2010(Temp), f. & cert. ef. 8-13-10 thru 12-31-10; TSPC 9-2010, f. 12-15-10, cert. ef. 1-1-11; TSPC 3-2011, f. & cert. ef. 3-15-11; TSPC 5-2013, f. & cert. ef. 11-14-13; TSPC 1-2015, f. & cert. ef. 2-10-15; TSPC 3-2015, f. & cert. ef. 4-15-15; Suspended by TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-060-0200**
**American Indian Languages Teaching License**

(1) Upon filing a correct and complete application in form and matter prescribed by the Commission, an applicant may be granted an American Indian Teaching License for one or more American Indian languages. The license shall be valid for three years and may be renewed upon application from the holder of the license. The first license will be issued for three years plus time to the applicant's birthday

(2) To be eligible for the American Indian Language Teaching License, the applicant must:

(a) Submit a joint application from the prospective teacher and the tribe whose language will be taught. The tribe must certify that the applicant is qualified to teach the language of the tribe;

(b) Obtain a passing score on a commission-approved test of knowledge of U.S. and Oregon civil rights and professional ethics; and

(c) Furnish fingerprints in the manner prescribed by the commission and provide satisfactory responses to the character questions contained in the commission's licensure application.

(3) A holder of an American Indian languages teaching license who does not also have a teaching license or registration issued under ORS 342.125 may not teach any subject other than the American Indian language they are approved to teach by the sponsoring tribe.

(4) To be eligible for renewal of the American Indian Language Teaching License an applicant must:

(a) Submit a letter from the tribe that first certified the educator verifying continued competency to teach the tribal language; and

(b) Complete professional development in accordance with OAR 584-090.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455, 342.495 & 342.553
Hist.: TSPC 5-2002, f. & cert. ef. 8-9-02; TSPC 5-2009, f. & cert. ef. 10-5-09; TSPC 5-2010(Temp), f. & cert. ef. 8-13-10 thru 12-31-10; TSPC 9-2010, f. 12-15-10, cert. ef. 1-1-11; TSPC 2-2014, f. & cert. ef. 3-15-14; TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-060-0220**
**International Visiting Teacher License**

(1) Upon filing a correct and complete application in form and manner prescribed by the Commission, a qualified and eligible applicant may be granted an International Visiting Teacher License. The intent of this license is to provide up to a three-year cultural exchange of teachers and teaching strategies between Oregon and a participating country other than the United States.

(2) This license is issued for one year and is renewable up to two times.

(3) This license is valid for substitute teaching only at the prekindergarten through grade 12 authorization levels and subject-matter endorsement areas listed on the license.

(4) The International Visiting Teacher License is restricted to use within the district that has applied for it jointly with the teacher and is valid for teaching with the requesting employer only in the subject-matter endorsement areas requested by the employer and listed on the license. If the license is endorsed in a core academic area, the licensee may be considered to be "highly qualified" pursuant to federal law.

(5) To be eligible for the International Visiting Teacher License, the applicant must have not previously held any TSPC license and must co-apply with the requesting district and submit the following materials as part of the application packet:

(a) Evidence that the teacher is not a resident of the United States and is working here under a J-1 Visa;

(b) A letter from the co-applying district specifying the grade levels and subject-matter endorsement areas in which the district would like the applicant to teach and a brief description of the plan for supervision and mentoring the district has in place including the name of the mentor assigned to the applicant once licensed;

(c) Transcript evaluation or some other convincing evidence that the applicant holds the equivalent of a U.S. baccalaureate or higher degree and proof that the applicant has completed a professional teacher preparation program in their country. The transcript and other evidence submitted will be evaluated for subject-matter competency in the subject-area in which the license is being requested;

(d) A copy of all professional teaching credentials from a country other than the United States held by the applicant;

(e)(A) Evidence that the applicant has completed the equivalent of three full years (not less than 27 months) of teaching experience in the applicant's native country; or

(B) Proof of participation in the Cultural Exchange Program in a J-1 Visa status monitored by the Oregon Department of Education. Proof of participation must include verification from the Oregon Department of Education; and

(f) Furnish fingerprints in the manner prescribed by the Commission and provide satisfactory responses to the character questions contained in the Commission's licensure application. (See also, OAR 584-036-0062 for Criminal Records Check Requirement.)

(6) To be eligible for a one-year renewal of the International Visiting Teaching License, an applicant must submit:

(a) An application packet for renewal;

(b) A PEER form verifying the applicant's assignment; and

(c) A letter from the co-applying school district attesting to the following:

(A) That the teacher's assignment will remain within the scope of the subjects on the license;

(B) The plan for supervision and mentoring remains in place and updates the name of the mentor if appropriate.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.533
Hist.: TSPC 8-2009, f. & cert. ef. 12-15-09; TSPC 5-2010(Temp), f. & cert. ef. 8-13-10 thru 12-31-10; TSPC 8-2010(Temp), f. & cert. ef. 10-4-10 thru 12-31-10; TSPC 10-2010, f. 12-30-10, cert. ef. 1-1-11; TSPC 3-2011, f. & cert. ef. 3-15-11; TSPC 9-2012, f. & cert. ef. 9-14-12; TSPC 3-2013, f. & cert. ef. 8-19-13; TSPC 4-2014(Temp), f. & cert. ef. 8-5-14 thru 2-1-15; TSPC 9-2014, f. & cert. ef. 11-14-14; TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-060-0250**
**License for Conditional Assignment**

(1) Upon filing a correct and complete application in form and manner prescribed by the Commission, a school district in Oregon may request a License for Conditional Assignment (LCA) for any educator holding an Initial, Professional, Basic, Standard or pre-1965 Five-year License.

(2) The purpose of an LCA is to allow a school district to request misassignment for an educator to teach in an out-of-field subject-matter endorsement area for which the educator is not authorized to teach, while the educator completes requirements necessary either to add the subject-matter to the underlying license or to obtain a new license type.

(3) The LCA is required when teaching out-of-field under any of the following circumstances:

(a) Teaching assignments for more than 10 hours weekly in one subject-matter area without the appropriate subject-matter endorsement;

EXAMPLE: A physical education teacher without a health endorsement teaching health three periods of the day would require a LCA for health. If only teaching two periods a day; that would fall under the 10 hours per week threshold.

(b) Teaching in more than one unendorsed subject-matter endorsement area for any amount of time; or

EXAMPLE: If the physical education teacher above was teaching one period of health and one period of math; then an LCA would be required for both areas regardless of the 10 hours per week rule. The 10 hours per week rule applies to one subject only.

(c) Moving from one license to another;

EXAMPLE: A teacher moving to administration; an administrator moving to teaching (if educator does not hold a valid teaching license); a teacher moving to school psychology.

(4) Duration of the LCA: The LCA is a provisional license that provides temporary conditional approval to teach out-of-field under the following conditions:

(a) All LCAs will expire on June 30 following the date the LCA is issued.

(b) For endorsements that require only a test, experience or nine quarter hours or less of coursework, all endorsement requirements must be completed by June 30th following the date the LCA is issued.

(c) For endorsements requiring coursework exceeding nine quarter or six semester hours of coursework, the LCA will not exceed more than three academic years in total. The LCA for these endorsements will be issued as follows:

(A) The first LCA will expire on June 30th following the date the first LCA is issued;

(B) The second LCA will be reauthorized upon application by the educator and the school district upon evidence the educator has completed some coursework toward adding the endorsement and will expire on June 30th following the date the second LCA is issued;

(C) The third LCA will be reauthorized upon application by the educator and the school district and upon evidence the educator has substantially completed the coursework needed to add the endorsement and will expire on June 30th following the date the third LCA is issued.

(5) The LCA will not be "back dated." Time spent on assignments where the district failed to request the LCA will be deducted from the allowable LCA total (either one year or three years).

(6) The LCA is not renewable and is not eligible for a 120 day grace period beyond its expiration date.

(7) The LCA is not a stand-alone or independent license. The underlying license must be kept current in order for the LCA to remain active. The LCA will not be issued for a duration that exceeds the expiration date of the underlying license. In cases where there is a lapse in the underlying license, the LCA may be re-activated for a time as determined by the Executive Director upon reinstatement of the underlying license.

(8) The district applying for an LCA is assumed to have informed the educator for which the LCA is being requested. Failure to inform the educator may result in an invalid LCA upon a finding by the Commission that the educator did not grant the district permission to add the LCA to the educator's license.

(9) Licenses not eligible for an LCA include, but are not limited to the following provisional licenses:

(a) Any Restricted License;

(b) Limited Teaching License;

(c) American Indian Language;

(d) Teaching Associate License;

(e) Career and Technical Education Teaching License;

(f) ESEA Alternative Route License;

(g) Substitute Teaching License;

(h) Restricted Substitute Teaching License;

(i) Exceptional Administrator License; or

(j) International Teaching License.

(10) Other Special LCA Limitations:

(a) An administrator, school counselor, or school psychologist who has never held a non-provisional teaching license in any state may not be issued an LCA to teach.

(b) An educator seeking conditional assignment as an administrator must hold a master's degree in education to be eligible for the LCA.

(c) Applying educators in either school counseling or school psychology must hold at least a bachelor's degree or master's degree in the respective field of counseling or psychology.

(d) Educators holding a Basic or Standard Teaching License must only seek a LCA for school counseling if the assignment exceeds .50 FTE.

(e) Applying educators must never have held any one of the following licenses or permits endorsed in the subject-matter area or authorized grade-levels in which the educator is seeking to teach out-of- field:

(A) Conditional assignment permit;

(B) Restricted Licenses;

(C) Transitional or out-of-state Initial Teaching License; or

(D) Out of state license in the out-of-field subject-area or grade-levels.

(11) The LCA is restricted to use within the district that has applied for it. A new district may request to transfer the LCA so long as there is time remaining since the date the LCA was first issued.

(12) A district must:

(a) Apply for an LCA by October 31 for the fall term or otherwise within two weeks after the assignment has begun;

(b) Agree to provide professional assistance specific to the assignment for the educator during the first year of the conditional assignment; and

(c) Ensure that federal laws related to Highly Qualified Teachers are taken into account when applying for an LCA.

(13) After an LCA has expired, the educator must have completed all requirements necessary to add the appropriate endorsement or new licensure program in order to continue working in the area in which the educator held the LCA. Continuing to work in an out-of-field position on an expired LCA is a violation of licensure law and is unauthorized. The license-holder or the assigning administrator or both may be subject to sanctions for gross neglect of duty by the Commission pursuant to OAR 584-020-0040(4).

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.143, 342.153, 342.165 & 342.223 - 342.232

Hist.: TSPC 8-2011, f. 12-15-11, cert. ef. 1-15-12; TSPC 3-2013, f. & cert. ef. 8-19-13; TSPC 5-2014, f. & cert. ef. 8-5-14; TSPC 6-2014(Temp), f. 8-5-14, cert. ef 8-6-14 thru 2-2-15; TSPC 9-2014, f. & cert. ef. 11-14-14; TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-060-0525**

**Professional Teaching License Requirements**

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant may be granted a Professional Teaching License.

(2) This license is issued for five years and is renewable repeatedly under conditions specified below.

(3) This license is valid for regular teaching at one or more designated authorization levels in one or more designated subject-matter specialties and for substitute teaching at any level in any specialty.

(4) To be eligible for a Professional Teaching License an applicant must:

(a) Have educator fitness by possessing the personal qualifications for licensure including attainment of at least eighteen (18) years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Meet or complete all requirements of the Initial I and the Initial II Teaching Licenses; and

(c) Hold a master's degree or equivalent or a higher degree in the arts and sciences or an advanced degree in the professions from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the commission. A master's degree or a doctoral degree from a regionally accredited institution in the United States validates a non-regionally accredited bachelor's degree for licensure; and

(d) Have taught five full years on any non-provisional license appropriate for the assignment; and

(e) Demonstrate minimum competencies, knowledge and skills in accordance with OAR 584-018-0110 by completing one of the following:

(A) A TSPC approved Professional Teaching License program offered by a college or university; or

(B) A doctorate degree in education from a regionally accredited institution; or the foreign equivalent of such degree approved by the commission; or

(C) Certification by the National Boards of Professional Teaching Standards; or

(D) Certificate of Clinical Competence awarded by the American Speech and Hearing Association for those holding a communication disorders endorsement; or

(E) A commission-approved school district program; or

(F) Any commission-approved professional assessment designated for that purpose; or

(G) A Professional Certificate issued by the State of Washington.

(5) The Professional Teaching License may be renewed for five years upon completion of professional development requirements in accordance with OAR 584, division 90.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.120 - 342.165, 342.125 & 342.138

Hist.: TSPC 1-2014(Temp), f. & cert. ef. 3-15-14 thru 9-10-14; TSPC 5-2014, f. & cert. ef. 8-5-14; Suspended by TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-060-0530**
**Distinguished Teaching License Requirements**

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant may be granted a Distinguished Teaching License indicating the holder is a Teacher Leader.

(2) This license is issued for two years and is renewable repeatedly under conditions specified in subsection (6) below.

(3) This license is valid for regular teaching and for teacher leader activities in one or more designated subject-matter endorsements and for substitute teaching at any level in any specialty.

(4) The Distinguished Teacher License indicates that the holder is ready to take on advanced roles including but not limited to: mentoring, curriculum development support, teacher preparation support and other educational leadership activities.

(5) To be eligible for a Distinguished Teaching License an applicant must:

(a) Educator Fitness: Possess the personal qualifications for licensure including attainment of at least eighteen (18) years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Meet or complete all requirements of the Professional Teaching License; and

(c) Have taught five full years or more; and

(d) Meet at least one of the following requirements:

(A) Demonstrate competency in any one of the Commission's designated teacher leader specialties; or

(B) Hold Certification by the National Board for Professional Teacher Standards; or

(C) Obtain an Educational Specialist (EdS) or doctorate (EdD or PhD) in any education-related area; or

(D) Demonstrate other exceptional knowledge and experience qualifying the teacher to provide mentoring, curriculum development support, teacher preparation support or other educational leadership activities.

(6) The Distinguished Teaching License may be renewed upon completion of continuing professional development requirements in accordance with OAR 584, Division 90 under the following conditions:

(a) The first two renewals may be based upon completion of professional development requirements in accordance with OAR 584, division 90;

(b) Subsequent renewals must be based upon demonstration of ongoing teacher leader activities such as: mentoring, curriculum development support, teacher preparation support and other educational leadership activities consistent with a teacher leader; and

(c) Failure to demonstrate ongoing teacher leader activities, the teacher will be eligible for the Professional Teacher License upon evidence of continuing professional development.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553
Hist.: TSPC 1-2014(Temp), f. & cert. ef. 3-15-14 thru 9-10-14; TSPC 5-2014, f. & cert. ef. 8-5-14; Suspended by TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-060-0600**
**Endorsements on a Teaching Licenses Generally**

(1) An endorsement is the subject matter or specialty education field in which the educator is licensed to teach. Endorsements on a teaching license indicate expertise in a subject matter or specialty field and mastery of the pedagogical knowledge and skills necessary to teach the subject matter or specialty field.

(2) The Commission shall establish the standards for endorsements on all Oregon teaching licenses. The rule for adding endorsements to Professional and Distinguished Teacher Leader teaching licenses is contained in OAR 584-060-0630.

(3) Except as provided in OAR 584-060-0250 License for Conditional Assignment, educators must teach within the scope of the endorsements on their licenses. The scope of the endorsement shall be determined by the National Center for Educational Statistics (NCES) course codes associated with the endorsement. Educators may only teach the endorsed subjects or fields in the grade levels authorized on their licenses. The rules for grade authorization levels are contained in OAR 584, division 60.

(4) Commission-approved endorsements for Professional and Distinguished Teacher Leader teaching licenses are:

(a) Multiple Subjects Endorsement: Multiple Subjects — Elementary.

(b) Single Subject Endorsements — General:

(A) Advanced Mathematics;

(B) Agricultural Science;

(C) Art;

(D) Biology;

(E) Business;

(F) Business: Marketing;

(G) Career Trades Generalist;

(H) Chemistry;

(I) Drama;

(J) English Language Arts;

(K) English for Speakers of Other Languages (ESOL);

(L) Family and Consumer Studies;

(M) Foundational English Language Arts (limited scope);

(N) Foundational Mathematics (limited scope);

(O) Foundational Science (limited scope);

(P) Foundational Social Science (limited scope);

(Q) Health;

(R) Integrated Science;

(S) Library Media;

(T) Music;

(U) Physical Education;

(V) Physics;

(W) Reading Intervention;

(X) Social Studies;

(Y) Speech (Forensics);

(Z) World Language: Chinese;

(AA) World Language: French;

(BB) World Language: German;

(CC) World Language: Japanese;

(DD) World Language: Latin;

(EE) World Language: Russian; and

(FF) World Language: Spanish.

(c) Single Subject Endorsements — Special Education:

(A) Special Education: Generalist;

(B) Special Education: Early Intervention;

(C) Special Education: Deaf and Hard of Hearing;

(D) Special Education: Vision Impaired;

(E) Special Education: Communications Disorders (Speech Language Pathology); and

(F) Adaptive Physical Education.

(d) Single Subject Endorsements — Career and Technical Education:

(A) Agriculture, Food and Natural Resource Systems Endorsements:

(i) Agriculture Science and Technology;

(ii) Natural Resources Management; and

(iii) Environmental Services.

(B) Arts, Information and Communications Endorsements:

(i) Publishing and Broadcasting;

(ii) Information and Communications Technology; and

(iii) Visual, Performing and Media Arts.

(C) Business and Management Endorsements:

(i) Business Management and Administration;

(ii) Finance;

(iii) Hospitality and Tourism;

(iv) Information and Communications Technology; and

(v) Marketing.

(D) Health Sciences Endorsement: Health Sciences

(E) Human Resources Endorsements:

(i) Education and Related Fields;

(ii) Hospitality and Tourism (Culinary);

(iii) Human Services; and

(iv) Public Services.

(F) Industrial and Engineering Systems Endorsements:

(i) Construction Technology;

(ii) Engineering Technology;

(iii) Information and Communications Technology;

(iv) Transportation Technology; and

(v) Manufacturing Technology.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.143, 342.153, 342.165 & 342.223 - 342.232
Hist.: TSPC 9-2014, f. & cert. ef. 11-14-14; Suspended by TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-060-0682**
**Restricted Substitute Teaching License**

(1) The Restricted Substitute Teaching License is a license that permits a qualified individual to substitute teach in Oregon prek–12 Oregon public school district, education service districts, and charter school class-

rooms with the restriction that the individual must obtain and maintain district sponsorship.

(2) The Restricted Substitute Teaching License is valid for substitute teaching assignments as follows:

(a) The Restricted Substitute Teaching License is valid for substitute teaching in any Oregon preK–12 classroom to replace a teacher who is temporarily unable to work;

(b) The Restricted Substitute Teaching License is valid for substitute assignments in any Oregon school district, including education service districts; and

(c) Any single assignment on the Restricted Substitute Teaching License may not exceed 10 days in any academic year. [See subsection (6) below for further information.]

(3) The length of the term of the Restricted Substitute Teaching License is subject to the following:

(a) First Restricted Substitute Teaching License: The applicant and co-applicant district's first Restricted Substitute Teaching License is valid through June 30 of the school year for which it is issued. For applications received after January 1, the first Restricted Substitute Teaching License may be issued through June 30 of the following school year at the request of the co-applicant district;

(b) The Restricted Substitute Teaching License may be renewed upon application from the applicant and co-applicant district. The renewed Restricted Substitute Teaching License is valid for three years. The license will expire on June 30 of the third academic year following the issuance of the license; and

(c) The Restricted Substitute Teaching License may be continuously renewed so long as the applicant maintains an active Restricted Substitute Teaching License with the original sponsoring district and meets the requirements of subsection (5) of this rule. If the renewed Restricted Substitute Teaching License expires or the applicant co-applies with a new district sponsor, the applicant will be issued a first Restricted Substitute Teaching License as provided in subsection (3)(a) of this rule.

(4) To be eligible to apply for a Restricted Substitute Teaching License, an applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Hold a bachelor's degree or higher from a regionally accredited institution or an approved foreign equivalent. Awarding of a higher degree in the arts and sciences or an advanced degree in the professions from a regionally accredited institution in the United States validates a non-regionally accredited bachelor's degree for licensure;

(c) Pass all criminal and professional background checks pursuant to OAR 584-036-0062 Criminal Records and Professional Conduct Background Check;

(d) Obtain a passing score on a Commission-approved test of knowledge of U.S. and Oregon civil rights and professional ethics;

(e) Provide a complete and correct application to the Commission. A complete and correct application for a Restricted Substitute Teaching License must include:

(A) A letter from the co-applicant district stating the reasons for the license and specifying the school year(s) requested;

(B) Fingerprints in the manner prescribed unless the applicant has been fingerprinted and cleared by the Commission or has held an active license issued by the Commission in the past three years;

(C) Evidence of a passing score on a Commission-approved test of knowledge of U.S. and Oregon civil rights and professional ethics;

(D) Transcripts evidencing a bachelor's degree or higher consistent with subsection (4)(b) of this rule; and

(E) Payment of all required fees as provided in OAR 584-036-0055.

(5) Renewal Requirements: To be eligible to apply for renewal of the Restricted Substitute Teaching License, an applicant must:

(a) Submit a letter from the district requesting renewal and affirming continued co-sponsorship of the license;

(b) Complete professional development units in accordance with OAR chapter 584, division 90; and

(c) Submit a complete and correct renewal application in the form and manner required by the Commission.

(6) Emergency Teaching License: A district and co-applicant educator may apply for an Emergency Teaching License with a substitute teaching endorsement for the holder of a Restricted Substitute Teaching License if the district is unable to obtain a regularly licensed teacher for any position lasting more than ten consecutive days or in cases in which the applicant has taken the test, but has not obtained a passing score on the Commission-approved civil rights and ethics test. The Executive Director may determine the term and approve the Emergency Teaching License if the district and co-applicant meet the requirements set forth in OAR 584-060-0210, Emergency Teaching License.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.533

Hist.: TSPC 2-2009, f. & cert. ef. 3-12-09; TSPC 5-2010(Temp), f. & cert. ef. 8-13-10 thru 12-31-10; TSPC 9-2010, f. 12-15-10, cert. ef. 1-1-11; TSPC 6-2014(Temp), f. 8-5-14, cert. ef 8-6-14 thru 2-2-15; Renumbered from 584-060-0182 by TSPC 9-2014, f. & cert. ef. 11-14-14; TSPC 4-2015(Temp), f. & cert. ef. 4-23-15 thru 10-18-15; TSPC 5-2015(Temp), f. & cert. ef. 5-15-15 thru 11-10-15; TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-060-0700**
**Substitute Teaching License**

(1) Purpose of License: The Substitute Teaching License is a license that permits a qualified individual to substitute teach in Oregon in a prek–12 Oregon public school district, education service districts, and charter school classrooms to replace a teacher who is temporarily unable to work.

(2) The Substitute Teaching License is valid for three years and may be renewed continuously as provided by subsection (6) of this rule. The date of the first expiration of the license is three years from the date of issue plus time to the applicant's birthday.

(3) Length of Assignment: The Substitute Teaching License is valid for substitute teaching assignments in any Oregon school district, including education service districts. The length of the substitute teaching assignment is limited as follows:

(a) The length of any one assignment may not exceed one academic school year;

(b) If the length of any one assignment must exceed one academic school year, one of the following must occur:

(A) If the educator holding the Substitute Teaching License previously held a non-provisional license appropriate for the assignment, the previous license must be reinstated.

(B) If the educator holding the Substitute Teaching License did not previously hold a non-provisional license appropriate for the assignment, the district and co-applicant educator may apply for an Emergency Teaching License as provided for in OAR 584-060-0210, Emergency Teaching License. The Emergency Teaching License will allow the educator to teach for time beyond the allowed timelines stated in subsection (3)(a) of this rule. The Executive Director may approve the Emergency Teaching License upon proof of the district's emergency and may only issue the license for the amount of time to cover the emergency. In all cases, the Emergency Teaching License may not extend beyond the end of that school year.

(4) Sanctions: The Commission may sanction the teacher or assigning administrator or both for failure to meet the following:

(a) The requirements for purpose of the Substitute Teaching License as provided in subsection (1) of this rule; or

(b) The requirements for length of assignment of the Substitute Teaching License as provided in subsection (3) of this rule.

(5) To be eligible to apply for a Substitute Teaching License, the applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Hold a bachelor's degree or higher from a regionally-accredited institution in the United States, or the foreign equivalent of such degree approved by the Commission. A master's degree or a doctoral degree from a regionally-accredited institution in the United States validates a non-regionally accredited bachelor's degree for licensure;

(c) Provide documentation of one of the following:

(A) An unrestricted license for full-time teaching in any state demonstrating completion of a state-approved teacher education program; or

(B) Admission to and completion of an Oregon teacher preparation program approved by the Commission and full eligibility for a non-provisional Oregon teaching license;

(d) Obtain a passing score on a Commission-adopted test of knowledge of U.S. and Oregon civil rights and professional ethics;

(e) Pass a background check by furnishing fingerprints in the manner prescribed by the Commission and providing satisfactory responses to the character questions contained in the Commission's licensure application.

(f) Provide continuing professional development if transitioning from a basic, standard, initial or continuing teaching license to a Substitute Teaching License.

(g) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-036-0055.

(6) Renewal Requirements: To be eligible for renewal of the Substitute Teaching License, an applicant must submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-036-0055.

(7) Sunset Clause: This rule is effective until July 1, 2017. Prior to this date, the Commission shall determine if the provisions of this rule related to long-term assignments continue to be necessary to address substitute supply issues in Oregon.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.533
Hist.: TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-060-0710**
**Initial I Teaching License**

(1) The Initial I Teaching License qualifies its holder to teach in a prek-12 Oregon public school district, education service districts, and charter school classrooms. The Initial I Teaching License is issued to new teachers who have successfully completed a Commission-approved teacher preparation program. The Initial I Teaching License signifies that the educator is a novice teacher who has not yet met the advanced coursework or experience requirements necessary to meet the qualifications of the Professional Teaching License. The "Initial I Teaching License" will be administratively renamed to the "Preliminary Teaching License" on January 1, 2016.

(2) Authorization: The Initial I Teaching License qualifies the teacher to:

(a) Accept any instructional assignment from prekindergarten through grade 12 within the scope of the subject-matter endorsement(s) on the Professional Teaching License; and

(b) Accept any substitute teaching assignments.

(3) The Initial I Teaching License is valid for three years and is renewable as provided by subsection (5) of this rule. The date of the first expiration of the license is three years from the date of issue plus time until the applicant's birthday.

(4) To be eligible to apply for an Initial I Teaching License, an applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Hold a bachelor's degree or higher from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the Commission. A master's degree or a doctoral degree from a regionally accredited institution in the United States validates a non-regionally accredited bachelor's degree for licensure purposes;

(c) Admission to and completion of an Oregon Initial I teacher preparation program approved by the Commission, a state-approved teacher preparation program in any U.S. jurisdiction, or a foreign teacher preparation program evaluated as satisfactory by the Commission;

(d) Receive a passing score as currently specified by the Commission on each of one or more tests of subject mastery for subject-matter endorsement or otherwise complete endorsement requirements established by the Commission;

(e) Obtain a passing score on a test of knowledge of U.S. and Oregon civil rights laws and professional ethics;

(f) Pass a background check by furnishing fingerprints in the manner prescribed by the Commission and providing satisfactory responses to the character questions contained in the Commission's licensure application; and

(g) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-036-0055.

(5) Renewal Requirements: The Initial I Teaching License is only renewable under the following conditions:

(a) Except as provided in subsection (5)(d) of this rule, the Initial I Teaching License or an equivalent initial license approved by the Commission is only renewable one time. Upon expiration of the second term of the Initial I Teaching License or an equivalent initial license approved by the Commission, the educator must apply and qualify for the Professional Teaching License as provided in OAR 584-060-0715 or OAR 584-300-0170 Transition to New Licensure System.

(b) Progress on Professional Teaching License Requirements: Upon the renewal of the first Initial I Teaching License or an equivalent initial license approved by the Commission, the applicant must show progress toward completion of the Professional Teaching License eligibility requirements. The progress must meet or exceed at least one half (50%) of the advanced coursework requirements of OAR 584-060-0715, Professional Teaching License or OAR 584-300-0170 Transition to New Licensure System.

(c) Failure to Demonstrate Progress: If the applicant fails to show the required progress, the applicant will be unable to obtain the Initial I Teaching License or an equivalent initial license approved by the Commission and will need to apply for licensure reinstatement upon completing the required progress on the advanced coursework requirements.

(d) Employment Requirement Exception: The Initial I or an equivalent initial license approved by the Commission may be renewed one time for a total of two terms. If the applicant has completed the advanced coursework requirements of the Professional Teaching License but is unable to complete the employment requirements of the Professional Teaching License for any reason, the applicant may apply for additional renewals of the Initial I Teaching License or an equivalent initial license approved by the Commission under the following conditions:

(A) The applicant must complete professional development requirements in accordance with OAR 584 Division 090 during the additional terms with Initial I Teaching License or an equivalent initial license approved by the Commission.

(B) Upon completing the employment requirements for the Professional Teaching License, the applicant may no longer renew the Initial I or an equivalent initial license approved by the Commission and must apply and qualify for the Professional Teaching License.

(C) Anyone issued an Initial I Teaching License prior to July 1, 2015, who is seeking to reinstate a lapsed Initial I Teaching License, must meet the rules in effect at the time for the application for reinstatement.

(6) Sunset Clause: This rule is effective until January 1, 2016.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.533
Hist.: TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-060-0715**
**Professional Teaching License**

(1) Purpose of the License: The Professional Teaching License is a license that qualifies its holder to teach in prek-12 Oregon public school district, education service districts, and charter school classrooms. The Professional Teaching License signifies that the educator is an experienced teacher who has successfully completed a teacher preparation program acceptable to the Commission, obtained at least four years of classroom experience and completed additional advanced "approved units of study" coursework, or other acceptable advanced work, following initial licensure, to augment her or his teaching skills.

(2) Authorization: The Professional Teaching License qualifies the teacher to:

(a) Accept any instructional assignment from prekindergarten through grade 12 within the scope of the subject-matter endorsement(s) on the Professional Teaching License; and

(b) Accept any substitute teaching assignments.

(3) The Professional Teaching License is valid for five years and is renewable in accordance with provisions contained in subsection (9) of this rule. The date of the first expiration of the license is five years from the date of issue plus time until the applicant's birthday.

(4) To qualify for the first Professional Teaching License, an applicant must:

(a) Complete teaching experience requirements as provided in subsection (5) of this rule;

(b) Compete educational advanced "approved units of study" coursework as provided in subsection (6) or (7) of this rule; and

(c) Meet the other qualifications and application requirements as provided in subsection (8) of this rule.

(5) Teaching Experience Requirements: To qualify for the Professional Teaching License, an educator must obtain four full years of teaching experience subject to the following conditions:

(a) One full year of teaching experience is equal to 135 days of at last six hours per day of classroom teaching within a public school academic (July 1 to June 30) calendar year;

(b) Substitute experience is not considered qualifying teaching experience under this subsection unless the educator is assigned to a single substitute assignment in accordance with subsection (5)(a) of this rule.

(c) The teaching experience must include direct instruction of students and must occur in one, or a combination of, the following employment settings:

(A) Public prekindergarten-12 classroom;

(B) Private, regionally-accredited, prekindergarten-12 classroom; or

(C) Alternative education, post-secondary or other similar teaching settings closely-related to prekindergarten-12 classroom work as approved by the Director of Licensure for the agency.

(6) Educational Experience Requirements (Advanced Approved Units of Study) Educators must earn advanced "approved units of study" prior to qualifying for their first Professional Teaching License. All advanced "approved units of study" must be earned post-Initial I licensure. The purpose of this requirement is to augment the educational knowledge and skills of an educator during the beginning of her or his teaching career. The Commission requires undergraduate prepared educators to complete additional advanced approved units of study in order to align with the additional coursework educators receive under a M.A.T. or Post-Baccalaureate degree route.

(a) The advanced approved units of study are subject to the following standards:

(A) All advanced approved units of study must be education-related;

(B) All advanced approved units of study must be evidenced by an official transcript from a regionally accredited college or university.

(C) Coursework earned prior to the issuance of the Initial I Teaching License (or 1st license issued in another jurisdiction) will not qualify to meet the definition of advanced approved units of study as used in this subsection.

(b) When selecting an advanced "approved unit of study", an educator should consider the following:

(A) Additional graduate content courses in the area in which the teacher is endorsed may enable the teacher to qualify to teach dual credit courses with approval from a school district's partner community college; and

(B) Undergraduate coursework may be used to acquire a second language or enhance subject-matter areas.

(c) M.A.T./Post-Baccalaureate Prepared: If the educator's initial teacher preparation program was based on a Master's in Arts in Teaching (M.A.T.), or a post-baccalaureate teacher preparation program, the applicant must complete the following advanced units of study in one or a combination of the following methods:

(A) Ten (10) semester graduate hours or fifteen (15) quarter graduate hours of education-related coursework; or

(B) Fifteen (15) semester undergraduate hours or twenty-three (23) quarter undergraduate hours of education related coursework; or

(C) Twenty (20) semester hours or thirty (30) quarter hours of college or university continuing education coursework; or

(D) A combination of "approved units of study" that equals ten (10) semester graduate hours or fifteen (15) quarter graduate hours of education-related coursework. The conversion of the approved units of study is calculated as follows: 1 graduate credit equals 1.5 undergraduate credits or 2 continuing education credits.

(E) All coursework must be fully transcripted and evidenced by an official transcript from a regionally accredited college or university.

(d) Undergraduate Prepared: If the educator's initial teacher preparation program was based on an undergraduate teacher preparation program, the applicant must complete the following "advanced approved units of study" in one or a combination of the following methods:

(A) Twenty (20) semester graduate hours or thirty (30) quarter graduate hours of education-related coursework; or

(B) Thirty (30) semester undergraduate hours or forty-five (45) quarter undergraduate hours of education related coursework; or

(C) Forty (40) semester hours or sixty (60) quarter hours of college or university continuing education coursework; or

(D) A combination of "approved units of study" that equals twenty (20) semester graduate hours or thirty (30) quarter graduate hours of education-related coursework. The conversion of the approved units of study is calculated as follows: 1 graduate credit equals 1.5 undergraduate credits or 2 continuing education credits.

(E) All coursework must be fully transcripted and evidenced by an official transcript from a regionally accredited college or university.

(7) Alternative Methods for Completing Advanced Approved Units of Study: Any one of the following may waive approved units of study required pursuant to this rule:

(a) Admission to and completion of a Commission-approved Professional Teaching License program; or

(b) An advanced degree in education beyond the master's degree from a regionally accredited institution; or the foreign equivalent of such degree approved by the Commission; or

(c) For experienced out of state applicants, certification by the National Boards of Professional Teaching Standards; or

(d) A Professional Certificate issued by the State of Washington or other equivalent out-of-state professional teaching licenses approved by the Commission.

(8) Applications for Professional License: To be eligible to apply for a Professional Teaching License, an applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Meet or complete all requirements of the Initial I, Initial II, Basic, Standard, or an equivalent teaching license issued previously by the Commission or issued by another jurisdiction;

(c) Complete the teaching experience requirements as provided in subsection (5) of this rule;

(d) Complete the educational advanced approved units of study requirements as provided in subsections (6) or (7) of this rule. [Note: The amount of advanced approved units of study differ based on how the teacher obtained her or his first teaching license.]

(e) Continue to meet or pass a background check by furnishing fingerprints, if necessary, in the manner prescribed by the Commission and providing satisfactory responses to the character questions contained in the Commission's licensure application.

(f) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-036-0055.

(9) Renewal Requirements: To renew the Professional Teaching License, the applicant must:

(a) Complete professional development requirements in accordance with OAR 584, division 90; and

(b) Submit a complete and correct renewal application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-036-0055.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.533
Hist.: TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-060-0720**
**Distinguished Teacher Leader License**

(1) Purpose of License: The Distinguished Teacher Leader is a professional teacher who contributes to the profession and larger community while consistently advancing student growth and achievement. The Distinguished Teacher Leader License designates that the licensee is qualified to hold the title of Distinguished Teacher Leader and to provide educational leadership that may include but is not limited to: mentoring, curriculum development support, teacher preparation support and other leadership activities consistent with the Distinguished Teacher Leaders Standards adopted by the Commission.

(2) Distinguished Teacher Leader Pilot Project: Effective July 1, 2015 the Commission will begin a two year pilot for implementation of this rule. The pilot is intended to gather sufficient information to ensure that future issuance of the license is based on an evaluation of evidence submitted and verified to be in alignment with the Distinguished Teacher Leaders standards adopted by the Commission and statutory provisions adopted by the Oregon State Legislature. This rule is effective until June 30, 2017. Prior to this date, the Commission will adopt a revised Distinguished Teacher Leader License rule based on the results of the pilot project.

(3) Authorization: The Distinguished Teacher Leader License qualifies the teacher to:

(a) Accept any instructional assignment from preprimary through grade 12 within the scope of the subject-matter endorsements held on the Professional Teaching License;

(b) Accept any substitute teaching assignments; and

(c) Accept Teacher leader activities as agreed upon with any employing school district in accordance with subsection (1) of this rule.

(4) The Distinguished Teacher Leader License is valid for five years and is renewable in accordance with subsection (7) of this rule. The date of the first expiration of the license is five years from the date of issue plus time until the applicant's birthday.

(5) Qualifications for Distinguished Teacher Leader License: To be eligible to qualify for a Distinguished Teacher Leader License, an applicant must:

(a) Meet the standards of effective or highly effective as provided in subsection (6) of this rule; and

(b) Meet the standards for Evidence of Current Professional Leadership Practices as provided in subsection (7) of this rule.

(6) Evidence of Effectiveness: To be eligible to qualify for a Distinguished Teacher Leader License, an applicant must be deemed to be effective or highly effective in accordance with ORS 342.856. The applicant must:

(a) Must have two consecutive (employed) years of effective to highly effective evaluations within a summative evaluation cycle/s from an employing prekindergarten through grade 12 agency while holding an Initial II, Continuing, Standard or Professional Teaching License.

(b) The evaluation evidence must include all summative evaluation rubrics completed during the four years of experience;

(c) The evaluations must have been completed within five years immediately preceding the application for the Distinguished Teacher Leader license.

(d) "Effective" to "Highly Effective" equate to the top two differentiated levels established in accordance with the Oregon Department of Education's "Oregon Matrix Model for Educator Evaluation." Similar terms may include, but are not limited to: proficient, exemplary, accomplished, or distinguished.

(7) Evidence of Current Professional Leadership Practices: To be eligible to qualify for a Distinguished Teacher Leader License, an applicant must submit evidence of current professional leadership practices in accordance with ORS 342.856.

(a) The evidence of "current professional leadership practices" must:

(A) Validate that the professional leadership practices occurred within the two years immediately preceding the application for the Distinguished Teacher Leader;

(B) Be verified as valid by at least two professional colleagues which may include coworkers, supervisors, or other professional peers; and

(C) Align with the standards adopted by the Commission as provided in subsection 7(d) of this rule.

(b) National Board for Professional Teacher Standards Certification may assist in qualifying for professional leadership practices so long as the applicant can show the national board certification occurred in the five years previous to the application and can show how board certification and subsequent professional practice by the teacher meets all the standards adopted by the Commission;

(c) Admission to and completion of a Commission-approved teacher leader preparation program may assist in qualifying for professional leadership practices so long as the applicant can show completion of the program in the five years previous to the application date and can show how the program and subsequent professional practice by the teacher meets all the standards adopted by the Commission.

(d) As used in this section "standards" means the Distinguished Teacher Leader standards adopted in OAR 584-018-0011.

(8) Application Requirements: To be eligible to apply for a Distinguished Teacher Leader License, an applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen (18) years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Hold a valid Professional, Initial II, Continuing or Standard Teaching License;

(c) Have taught five full academic school years or more within the five years preceding application; and

(d) Meet the "evidence of effectiveness" requirements provided in subsection (6) of this rule;

(e) Meet the "evidence of current professional leadership practice" requirements provided in subsection (7) of this rule.

(f) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-036-0055.

(9) Renewal Requirements: To be eligible to apply for renewal of the Distinguished Teacher Leader License, an applicant must:

(a) Provide documentation of ongoing teacher leader activities, including but not limited to, mentoring, curriculum development support, teacher preparation support and other educational leadership activities.

(b) Complete professional development units in accordance with OAR chapter 584, division 90; and

(c) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-036-0055.

(d) If an applicant does not meet the renewal requirements of this subsection or decides not to renew the Distinguished Teacher Leader License, the applicant may apply for a Professional Teaching License pursuant to OAR 584-060-0525.

(10) Sunset Clause: This rule is effective until July 1, 2017.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.533
Hist.: TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-060-0725**
**Teaching License Endorsements: General Provisions**

(1) Purpose of Teaching License Endorsements: The purpose of an endorsement on a teaching license is to indicate the subject areas for which the educator is licensed to teach. Only the Commission may establish endorsements for Oregon teaching licenses.

(2) Endorsements may be added to the following teaching licenses:

(a) Initial I Teaching License;

(b) Professional Teaching License;

(c) Distinguished Teacher Leader License;

(d) Basic;

(e) Standard;

(3) Endorsements generally may not be added to the following teaching licenses, except as noted:

(a) American Indian Languages Teacher (May add another American Indian Language);

(b) Approved ESEA Alternative Route Teaching (May add with testing);

(c) Initial Teaching License;

(d) Restricted Teaching License;

(e) Emergency Teaching License;

(f) Limited Teaching License;

(g) Career and Technical Teaching License (May add Career and Technical Education endorsements);

(h) International Visiting Teaching License;

(i) Substitute Teaching License (Already valid to teach any subject);

(j) Restricted Substitute Teaching License (Already valid to teach any subject);

(4) Scope of Endorsements: The scope of the endorsement shall be determined by the National Center for Educational Statistics (NCES) course codes associated with the endorsement. An educator may only be assigned to teach courses within the scope of the endorsements on her or his license except as provided in OAR 584-060-0250, License on Conditional Assignment.

(5) Removing an Endorsement: An educator may request to remove an endorsement from her or his license. It is the responsibility of the educator to understand all employment issues related to the removal of the endorsement. To remove an endorsement from a license, an educator must submit a correct and complete application for removal in the manner and form required by the Commission, including all required fees as provide in OAR 584-036-0055.

(6) The Commission approved general education endorsements for teaching licenses are:

(a) Adaptive Physical Education;

(b) Advanced Mathematics;

(c) Agricultural Science;

(d) Art;

(e) Biology;

(f) Business;

(g) Business: Marketing;

(h) Career Trades Generalist;

(i) Chemistry;

(j) Drama;

(k) Early Childhood Education (note: may become a specialization);

(l) Elementary — Multiple Subjects;

(m) English Language Arts;

(n) English for Speakers of Other Languages (ESOL);

(o) Family and Consumer Studies;

(p) Foundational English Language Arts (limited scope);

(q) Foundational Mathematics (limited scope);

(r) Foundational Science (limited scope);

(s) Foundational Social Science (limited scope);

(t) Health;

(u) Integrated Science;

(v) Legacy Counselor;

(w) Library Media;

(x) Music;

(y) Physical Education;

(z) Physics;

(aa) Reading Intervention;

(bb) Social Studies;

(cc) Special Education: Generalist;
(dd) Special Education: Early Intervention;
(ee) Special Education: Deaf and Hard of Hearing;
(ff) Special Education: Vision Impaired;
(gg) Special Education: Speech Language Pathology;
(hh) Speech (Forensics);
(ii) World Language: Chinese;
(jj) World Language: French;
(kk) World Language: German;
(ll) World Language: Japanese;
(mm) World Language: Latin;
(nn) World Language: Russian;
(oo) World Language: Spanish.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.533
Hist.: TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-070-0012**
**Initial I School Counselor License**

(1) Upon filing a correct and complete application in form and manner prescribed by the Commission, a qualified applicant may be granted an Initial I School Counselor License for three years plus time to the applicant's birthday.

(2) The Initial I School Counselor License is valid as designated for regular counseling at early childhood and elementary grade levels; at elementary and middle-level grade levels; or at middle and high school grade levels, or at all four levels.

(a) The license is also valid for substitute counseling at any level; and

(b) The license is also valid for substitute teaching at any level in any subject-matter area.

(3) To be eligible for an Initial I School Counselor License, an applicant must satisfy all of the following general preparation requirements:

(a) A master's or higher degree in counseling, education, or related behavioral sciences from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the Commission and a bachelor's degree. A master's degree or a doctoral degree from a regionally accredited institution in the United States validates a non-regionally accredited bachelor's degree;

(b) Admission to and completion of an Oregon or another U.S. jurisdiction, as part of the master's degree or separately, Commission-approved initial program in school counseling;

(c) Obtain a passing score on a Commission-adopted test of knowledge of U.S. and Oregon civil rights laws and professional ethics; and

(d) Furnish fingerprints in the manner prescribed by the Commission and provide satisfactory responses to the character questions contained in the Commission's licensure application. (See also, OAR 584-036-0062 for Criminal Records Check Requirement.)

(4) The Initial I School Counselor License may be renewed two times for three years upon showing progress toward completion of the renewal requirements as described in OAR 584-070-0014 during the life of the Initial I School Counselor License under the following conditions:

(a) The progress must meet or exceed the equivalent of 3 semester hours or 4.5 quarter hours of graduate coursework germane to the license or directly germane to public school employment; and

(b) The educator must qualify for an Initial II School Counselor License upon expiration of nine years following the date the first Initial School Counselor License was issued; and

(c) If the Initial I School Counselor license was issued on the basis of an out-of-state nonprovisional license rather than completion of an Oregon-approved program; the educator must have completed any incomplete requirements in subsection (3) above.

(5) School counselor licenses are authorized for grade levels as follows: early childhood and elementary (ECE/ELE); or middle-level and high school (ML/HS).

(a) Early childhood and elementary authorization is valid up through grade eight in any school.

(b) Middle level and high school authorization is valid in grades five through twelve in any school.

(c) The Initial I School Counselor License is authorized for either two or four grade authorization levels on the basis of professional education, experience, previous licensure, and specialized academic course work verified by one of the following:

(A) Evidence verified by an Oregon-approved School Counseling Program; or

(B) An out-of-state non-provisional School Counselor License valid for all grade levels;

(6) On an Initial I School Counselor License authorized for only two levels, the remaining pair of levels can be added prior to attainment of the Initial II School Counselor or the Continuing School Counselor License. The remaining levels will be added upon acquisition of practical experience in one of two ways:

(a) A school counseling practicum of four (4) semester hours or six (6) quarter hours at either or both of the paired new grade authorization levels, entailing a minimum of 200 clock hours, in an institution approved to prepare for those grade authorization levels; or

(b) One academic year at either or both of the paired new grade authorization levels as permitted in subsection (7) below.

(7) A counselor authorized for only one of the paired grade authorization levels may counsel in the remaining unauthorized grade levels for a period of not more than three years while pursuing authorization at the other paired authorization grade levels upon request for a License for Conditional Assignment pursuant to OAR 584-060-0250.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 – 342.430; 342.455-342.495; 342.553
Hist.: TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 5-2008, f. & cert. ef. 6-13-08; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09; Administrative correction 11-19-09; TSPC 8-2009, f. & cert. ef. 12-15-09; TSPC 5-2013, f. & cert. ef. 11-14-13; TSPC 1-2014(Temp), f. & cert. ef. 3-15-14 thru 9-10-14; TSPC 5-2014, f. & cert. ef. 8-5-14; TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-070-0310**
**Limited Student Service License**

(1) Upon filing a correct and complete application in form and manner prescribed by the Commission, a qualified applicant may be granted a Limited Student Service License. This license, issued for three years and renewable, is valid at any authorization level and designated for a specialized type of direct service to students for which the Commission at its discretion may not require a school counselor, school psychologist or school social worker license. It is not valid for substitute teaching of any kind.

(2) To be eligible for a Limited Student Service License the applicant must:

(a) Have a bachelor's degree or higher from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the Commission, together with an equally valid master's degree or other specialized preparation related to the intended service role and ordinarily equivalent to one academic year of graduate study. Awarding of a higher degree in the arts and sciences or an advanced degree in the professions from a regionally accredited institution in the United States validates a non-regionally accredited bachelor's degree for licensure.

(b) Obtain a passing score on a Commission-approved test of knowledge of U.S. and Oregon civil rights and professional ethics; and

(c) Furnish fingerprints in the manner prescribed by the Commission and provide satisfactory responses to the character questions contained in the Commission's licensure application. (See also, OAR 584-036-0062 for Criminal Records Check Requirement.)

(3) The Limited Student Service License is restricted to use within a district that has applied for it jointly with the applicant, whose qualifications and job description are subject to Commission approval. Upon application, the co-applicant district must describe its particular need in relation to the co-applicant specialist's qualifications summarized on a submitted resume, agree to provide a mentor during the first year of the assignment, and attest that the role to be filled has been structured so as not to require a school counselor, school psychologist, or school social worker license.

(4) The holder of a Limited Student Service License shall use only the title specifically approved by the Commission and shall not use any unapproved title or imply any unapproved duties related to serving children. Titles such as "advisor" or "student service specialist" or "student assistance specialist" will more readily be approved. The following additional provisos apply:

(a) No holder of a limited student service license shall use a title containing words derived from "psychology" nor claim to be a psychologist or to render psychological services without obtaining a school psychologist license from the Commission unless licensed as a psychologist or psychologist associate by the Board of Psychologist Examiners. Under ORS 675.990(1)(b), a violation of this subsection is a Class A misdemeanor; and

(b) The Commission at its discretion may consider a title indicating a therapeutic student service role like counseling or social work, for a specialist who has a corresponding master's or doctor's degree, if the applicant is licensed by the Board of Licensed Professional Counselors and Therapists or the Board of Licensed Social Workers, respectively, and is demonstrably prevented from gaining admission to a graduate program in school counseling, school psychology or school social work.

(5) Renewal Requirements: To renew the Limited Teaching License, the applicant must:

(a) Complete professional development requirements in accordance with OAR 584, division 90; and

(b) Submit a complete and correct renewal application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-036-0055.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120—342.430; 342.455 - 342.495; 342.533

Hist.: TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 9-1999, f. & cert. ef. 11-22-99; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09; Administrative correction 11-19-09; TSPC 8-2009, f. & cert. ef. 12-15-09; TSPC 5-2010(Temp), f. & cert. ef. 8-13-10 thru 12-31-10; TSPC 9-2010, f. 12-15-10, cert. ef. 1-1-11; TSPC 1-2015, f. & cert. ef. 2-10-15; TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-090-0100**
**Professional Development Generally**

(1) Professional development is required for renewal of most active licenses and certificates for public school teachers, administrators, school counselors, school psychologists, school social workers, and school nurses.

(2) Continuing professional development (CPD) obligations are common to most professions. CPD is defined as a structured approach to learning to help ensure competence to practice, taking in knowledge, skills and practical experience. CPD can involve any relevant education learning activity, whether formal and structured or informal and self-directed.

(3) Educators seeking to reinstate a renewable license must demonstrate completion of all professional development requirements obtained after the date on which their last active license was issued by the Commission provided continuing professional development (CPD) is required for renewal.

(4) New out-of-state educators may submit professional development obtained prior to licensure in Oregon as a basis for licensure renewal so long as:

(a) The professional development was obtained within the five (5) years immediately preceding the date the first Oregon educator license or certification was issued;

(b) The professional development is consistent with the requirements of this Division; and

(c) The professional development was obtained within the five years immediately preceding the expiration date on the license or certificate for which they are seeking renewal.

(5) Professional development is required for renewal of the following teaching, administration, and personnel service licenses and school nursing certificates:

(a) American Indian Language Teaching;

(b) Basic;

(c) Standard;

(d) Career and Technical Education II Teaching (See also, OAR 584-042-0051);

(e) Continuing;

(f) Five-Year Career and Technical Education Teaching;

(g) Five Year Teaching (pre-1965);

(h) Initial II;

(i) Professional;

(j) Limited;

(k) Distinguished Teaching License;

(l) Distinguished Administrator;

(m) Exceptional Administrator;

(n) Five Year Administrator (pre-1965);

(o) Five Year Personnel Service (pre-1965);

(p) Professional School Nurse Certificate; and

(q) Initial I Teaching License after the first two terms of the license.

(6) Educators who hold dual licensure with other state professional licensing boards are encouraged to fulfill their CPD requirements by completing PDU's provided by those professional licensure areas.

(7) It is the sole responsibility of the licensed educator to ensure accurate completion of continuing professional development upon renewal. Failure to complete continuing professional development does not constitute an "emergency" for the purposes of receiving an Emergency License when CPD requirements have not been met.

(8) If employed during the life of the license, the supervisor or CPD advisor will verify that the educator has successfully completed all CPD requirements to the district superintendent or designee on the TSPC Professional Educational Experience Report (PEER) form prior to renewal of licensure.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120-342.430; 342.455-342.495; 342.553

Hist.: TSPC 6-2012, f. & cert. ef. 5-18-12; TSPC 3-2013, f. & cert. ef. 8-19-13; TSPC 1-2015, f. & cert. ef. 2-10-15; TSPC 3-2015, f. & cert. ef. 4-15-15; TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-090-0115**
**Professional Development Generally**

(1) Applicants for licensure renewal must complete professional development units. The professional development requirements apply to all actively licensed and certified educators listed in OAR 584-090-0100(5).

(2) Professional Development Units (PDUs) are defined as follows:

(a) One (1) hour of approved professional development activity equals one (1) PDU;

(b) One (1) semester hour of college credit equals thirty (30) PDUs; or

(c) One (1) quarter hour of college credit equals twenty (20) PDUs.

(3) The professional development units (PDUs) required for licensure and certification renewal are as follows:

(a) Except as provided in subsection (4), all licensed educators shall report 25 PDUs per year of the licensure term. (Certified school nurses are not considered licensed educators and must meet only the PDU requirements of section [3(b) of this rule.)

(A) 50 professional development units (PDUs) for a two year license;

(B) 75 professional development units (PDUs) for a three year license; and

(C) 125 professional development units (PDUs) for a five year license.

(b) School nurses certified pursuant to OAR Chapter 584, Division 021 shall meet the professional development requirements set forth in OAR 584-021-0150 (Renewal of Professional School Nurse Certification) and OAR 584-021-0155 (Emergency School Nurse Certification Renewal).

(4) The following licenses do not have a professional development unit requirement because the licenses require the completion of additional specific coursework or other requirements to move to the next stage license:

(a) Initial Teaching license;

(b) Initial I Teaching license (during the first two terms of the license);

(c) Initial Administrator license;

(d) Initial I School Counselor license;

(e) Initial I School Social Worker license;

(f) Initial School Psychologist license;

(g) Career and Technical Education I Teaching license;

(h) All restricted licenses, except the Restricted Substitute license;

(i) All emergency licenses; and

(j) All transitional licenses.

(5) PDUs for licensure renewal may be earned at any time during the life of the license; however, licensees may only carry-over into the next renewal cycle excess PDUs pursuant to section (8) below.

(6)(a) Educators holding a Career and Technical I Education teaching license may be subject to other continuing professional development requirements consistent with their formal professional development plan. See, OAR 584-042-0051 Career and Technical Education (CTE) Professional Development Plan to determine whether additional CPD requirements apply upon licensure renewal.

(b) Educators holding a Five-Year Career and Technical Education Teaching License or a Career and Technical Education II Teaching License are subject to the requirements in section (3) above.

(7) Completing any of the following advanced certifications will waive CPD for the renewal period during which the certification is completed and the next licensure renewal cycle only:

(a) National Board of Professional Teaching Standards (NBPTS);

(b) National Association of School Psychologists certification (NASP);

(c) National School Counselor Certification (NCSC);

(d) National Association of Social Workers certification (C-SSWS); or

(e) Association of Speech, Hearing and Audiology (ASHA) certification.

(8) Licensed educators may carry-over excess PDUs obtained only in the previous reporting renewal period as follows:

(a) Three year licenses: 25 PDUs;

(b) Five year licenses: 25 PDUs.

Stat. Auth.: ORS 342

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

Hist.: TSPC 8-2012, f. & cert. ef. 8-15-12; TPSC 10-2012, f. & cert. ef. 11-19-12; TSPC 1-2015, f. & cert. ef. 2-10-15; TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

**584-300-0170**
**Transition to New Licensure System**

(1) Endorsements:

(a) Effective July 1, 2015, the endorsements as provided in OAR 584-060-0725 will be placed on first-issue licenses and renewals.

(b) Multiple Subjects – Middle Level Endorsements: Effective July 1, 2015, the Multiple Subjects — Middle Level endorsement is abolished. The Multiple Subjects — Middle Level endorsement will not be added to or retained with an applicant's Initial, Initial I, Initial II, Continuing, Professional Teaching Licenses or any future licenses the applicant holds. Current holders of the Multiple Subjects — Middle Level endorsement will be subject to the following transition provisions:

(A) If the applicant has been assigned and taught multiple subjects (self-contained) for four full years or more, as evidenced by Professional Educational Experience Report (PEER) forms, the Elementary-Multiple Subjects endorsement may be added to the license. If the applicant has not taught four full years or more in an assignment that requires a multiple subjects (self-contained) endorsement, the Elementary-Multiple Subject endorsement may not be added to the license. If necessary, the applicant and an Oregon school district may apply for an Emergency Teaching License pursuant to OAR 584-060-0210 while the applicant is in the process of qualifying for an Elementary- Multiple Subjects or another valid endorsement.

(B) If the applicant has been assigned and taught Foundational Mathematics, Foundational Language Arts, Foundational Social Studies or Foundational Science for four full years or more, as evidenced by Professional Educational Experience Report (PEER) forms, the appropriate foundational single subject may be added to the license. If the applicant has not taught four full years in an assignment that requires a foundational subject matter endorsement, the foundational subject matter endorsement may not be added to or retained on the license. If necessary, the applicant and a district may apply for an Emergency Teaching License pursuant to OAR 584-060-0210 while the applicant is in the process of qualifying for a valid subject-matter endorsement.

(2) Grade-Level Authorizations:

(a) Effective July 1, 2015, grade-level authorizations for Basic, Standard, Initial, Initial I, Initial II, Continuing, Professional Teaching and Distinguished Teacher Leader licenses are abolished and all licenses are authorized prekindergarten through grade 12 within the scope of the NCES course-codes assigned to the endorsements held on the license.

(b) Effective July 1, 2015, licensees will no longer be advised that they must add a grade-level authorization program in order to expand the grade levels on their license.

(c) Licensees advised they were required to complete a grade—level authorization program will not be held for failure to complete that requirement.

(d) The Commission will make every effort to identify these licensees to alert them to the new grade — authorization requirements.

(3) Initial I Teaching Licenses New Applicants: (a) Effective July 1, 2015, new qualified applicants for an Oregon Teaching License will be issued a license in accordance with the Initial I teaching license as adopted on July 1, 2015.

(b) Effective January 1 2016, these licenses will be administratively renamed to the Preliminary Teaching License.

(4) Initial I and Initial II Teaching Licenses Based on a MAT or Post-Baccalaureate Preparation Program issued prior to July 1, 2015: General Provisions Effective July 1 2015, the completion of the advanced coursework of six (6) semester or nine (9) quarter graduate hours required to advance to the Initial II Teaching License satisfies the advanced coursework requirements for the Professional Teaching License.

(5) Initial I Teaching Licenses Based on a Bachelor's Degree issued prior to July 1, 2015: General Provisions Effective July 1, 2015, for Initial I Teaching Licenses based on a Bachelor's degree, the requirements to complete the master's degree or equivalent post-Initial I Teaching License are modified as follows:

(a) Admission to and completion of a master's degree or higher in education or in the arts and sciences from a regionally accredited institution, or the foreign equivalent of such degree approved by the Commission will satisfy the advanced coursework requirements of the Professional Teaching License.

(b) Completion of thirty (30) semester hours or forty-five (45) quarter hours of graduate coursework will be considered "equivalent" to completion of a master's degree.

(c) Effective July 1, 2015, the requirement that "equivalent" graduate coursework must include equal amounts of pedagogy; content; and electives [ten (10) semester or fifteen (15) quarter graduate hours each] has been eliminated.

(6) Initial I Teaching Licenses Based on a MAT or Post-Baccalaureate Preparation Program Issued After July 1, 2012: First Renewal:

(a) Upon first renewal of the Initial I Teaching License issued between July 1, 2012 through June 30, 2015, applicants will be issued a new set of instructions indicating the requirements that must be completed in order to obtain the Professional Teaching License.

(b) Qualified applicants will be issued an Initial I Teaching license which will be administratively renamed to a Preliminary Teaching License after January 1, 2016.

(c) Applicants for the first renewal of the Initial I Teaching License may elect:

(A) To continue with the previously advised six (6) semester or nine (9) quarter graduate hours to meet the advanced coursework requirements for the Professional Teaching License. If this option is elected, the applicant will have one renewal (three years) to complete the new advanced coursework requirements.

(B) To complete the new advanced coursework requirements for the Professional Teaching License as provided in OAR 584-060-0715. If this option is elected, the applicant will have one renewal (three years) to complete the new advanced coursework requirements. The applicant may use any qualifying coursework earned during the first term of her or his Initial I Teaching License to satisfy the new advanced coursework requirements.

(d) Applicants will be advised of the professional teaching experience requirement for the Professional Teaching License.

(7) Initial I Teaching Licenses Based on a Bachelor's Degree Issued After July 1, 2012: First Renewal:

(a) Upon first renewal of the Initial I Teaching License issued between July 1, 2012 through June 30, 2015, applicants will be issued a new set of instructions for the requirements that must be completed in order to obtain the Professional Teaching License.

(b) Qualified applicants will be issued an Initial I Teaching license which will be administratively renamed to a Preliminary Teaching License after January 1, 2016.

(c) Applicants for the first renewal of the Initial I Teaching License may elect:

(A) To continue with the previously advised master's or equivalent coursework requirements for the Initial II Teaching License as modified by subsection (5) of this rule. If this option is elected, the applicant will have two renewals (six years), for a total of nine years, to complete the master's degree or equivalent coursework of thirty (30) semester hours or forty-five (45) quarter hours; or

(B) To complete the new advanced coursework requirements for the Professional Teaching License. If this option is elected, the applicant will have one renewal (three years) to complete the new advanced coursework requirements. The applicant may use any qualifying coursework earned during the first term of her or his Initial I Teaching License to satisfy the new advanced coursework requirement.

(8) Initial I Teaching Licenses Based on a Bachelor's Degree First Issued After July 1, 2009: Second Renewal:

(a) Upon second renewal of the Initial I Teaching License issued between July 1, 2009 through June 30, 2012, applicants will be issued a new set of instructions for the requirements that must be completed in order to obtain the Professional Teaching License.

(b) Qualified applicants will be issued an Initial I Teaching license which will be administratively renamed to a Preliminary Teaching License after January 1, 2016.

(c) Applicants for the second renewal of the Initial I Teaching License may elect:

(A) To continue with the previously-advised master's degree or equivalent coursework requirements for the Initial II Teaching License as modified by subsection (5) of this rule. If this option is elected, the applicant will have three more years, for a total of nine years, to complete the master's degree or equivalent coursework of thirty (30) semester hours or forty-five (45) quarter hours ; or

(B) To complete the new advanced coursework requirements for the Professional Teaching License as provided in OAR 584-060-0715. If this option is elected, the applicant will have three more years, for a total of nine years, to complete the new advanced coursework requirements.

(d) Applicants who have completed the advanced coursework requirements following the expiration of the third term of the license (nine years total), but have not acquired the required teaching experience requirement for the Professional Teaching License, will be issued a continuously renew-

able Preliminary Teaching License until such time the teaching experience required for the Professional Teaching License is acquired.

(e) In all cases, if the advanced coursework is not completed within the nine years after the first Initial I Teaching License has been issued, the applicant's license will expire. The license may be reinstated once the advanced coursework is completed.

(9) Initial I Teaching Licenses Based on a MAT or Post-Baccalaureate Preparation Program Issued After July 1, 2009: No Further Renewals:

(a) Qualified applicants who have completed the advanced coursework requirements and professional experience requirement will be issued the Professional Teaching License.

(b) Qualified Initial I applicants (MAT or Post-Baccalaureate prepared) for the Professional Teaching License may elect:

(A) To qualify for the Professional Teaching License with the previously advised six (6) semester or nine (9) quarter graduate hours; or

(B) To qualify for the Professional Teaching License with the new advanced coursework requirements for the Professional Teaching License as provided in OAR 584-060-0715. If this option is elected, the applicant may use any qualifying coursework earned during the first term of her or his Initial I Teaching License to satisfy the new advanced coursework requirement.

(c) Qualified applicants who have met the advanced coursework requirements but do not have sufficient teaching experience for the Professional Teaching License will be issued a continuously renewable Initial I Teaching License as provided in OAR 584-060-0710, Initial I Teaching License. On January 1, 2016, the Initial I Teaching License will be administratively renamed to the Preliminary Teaching License.

(10) Initial I Teaching Licenses Based on a Bachelor's Degree First Issued After July 1, 2006: No Further Renewals:

(a) Qualified applicants who have completed the advanced coursework requirements and professional experience requirement will be issued the Professional Teaching License;

(b) Qualified applicants (Bachelor's Degree Prepared) for the Professional Teaching License may elect:

(A) To qualify for the Professional Teaching License with the previously-advised master's degree or equivalent coursework requirements for the Initial II Teaching License as modified by subsection (5) of this rule; or

(B) To qualify for the Professional Teaching License with the new advanced coursework requirements for the Professional Teaching License as provided in OAR 584-060-0715. If this option is elected, the applicant may use any qualifying coursework earned during the first term of her or his Initial I Teaching License to satisfy the new advanced coursework requirement.

(b) Qualified applicants who have met the advanced coursework requirements but do not have sufficient teaching experience for the Professional Teaching License will be issued a continuously renewable Initial I Teaching License as provided in OAR 584-060-0710, Initial I Teaching License. On January 1, 2016, the Initial I Teaching License will be administratively renamed to the Preliminary Teaching License.

(c) All applicants will be advised of their options related to the advanced coursework requirements for the Professional Teaching License in the event they have not yet completed their advanced coursework.

(11) Initial II Teaching Licenses Effective July 1, 2015:

(a) Effective July 1, 2015, the Initial II Teaching License will no longer be issued.

(b) Qualified applicants who have completed the advanced coursework requirements, as provided in subsection (5) above, and the teaching experience requirement to advance to the Professional Teaching License will be issued the Professional Teaching License;

(c) Qualified applicants who have met the advanced coursework requirements but do not have sufficient teaching experience for the Professional Teaching License will be issued a continuously renewable Initial I Teaching License as provided in OAR 584-060-0710, Initial I Teaching License. On January 1, 2016, the Initial I Teaching License will be administratively renamed to the Preliminary Teaching License.

(12) Continuing Teaching Licenses:

(a) Effective March 1, 2014, the Continuing Teacher License is no longer issued.

(b) Qualified Continuing Teaching License holders will be issued a Professional Teaching License.

(13) Basic Teaching License Renewals:

(a) Effective January 1, 2016, the Basic Teaching License will no longer be issued.

(b) Qualified Basic Teaching License holders that have not met the requirements for a Professional Teaching License, may elect to obtain a Legacy Teaching License or may elect to obtain a Preliminary Teaching License.

(c) A holder of a Basic Teaching License may elect to obtain the Legacy Teaching license one time.

(d) If the Legacy Teaching License lapses, applicants must choose and be eligible for another available teaching license if they wish to reinstate a teaching license.

(e) A holder of a Basic Teaching License who first selected the Preliminary Teaching License upon expiration of their last Basic Teaching License, may elect one time to obtain the Legacy Teaching License.

(14) Standard Teaching License Renewals:

(a) Effective January 1, 2016, the Standard Teaching License will no longer be issued.

(b) Qualified Standard Teaching License holders will be issued a Professional Teaching License.

(15) First Time Out of State Applicants:

(a) Effective January 1, 2016, the Initial Teaching License will no longer be issued.

(b) Qualified new out of state applicants will be issued a Reciprocal Teaching License until such time as they qualify for either a Preliminary Teaching License or a Professional Teaching License.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120—342.430; 342.455 - 342.495; 342.533
Hist.: TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15

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**Rule Caption:** Suspends, amends and adopts rules related to licensure of teachers.
**Adm. Order No.:** TSPC 7-2015(Temp)
**Filed with Sec. of State:** 7-10-2015
**Certified to be Effective:** 7-10-15 thru 1-5-16
**Notice Publication Date:**
**Rules Adopted:** 584-060-0710, 584-060-0715, 584-300-0170
**Rules Amended:** 584-060-0014
**Rules Suspended:** 584-060-0014(T), 584-060-0710(T), 584-060-0715(T), 584-300-0170(T),
**Subject:** Adopts and suspends rules related to teacher licensure, including licensure redesign.
**Rules Coordinator:** Victoria Chamberlain—(503) 378-6813

**584-060-0014**
**Initial Teaching License for Out-of-State Candidate First Application**

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant who is applying for licensure in Oregon for the first time and has completed an out-of-state approved teacher-education program resulting in a non-provisional teaching license may be granted an Initial Teaching License for eighteen (18) months.

(2) The Initial Teaching License is valid for teaching at the prekindergarten through grade 12 authorization levels in one or more designated subject-matter endorsement areas indicated on the out-of-state non-provisional teaching license. The Initial Teaching License is also valid for substitute teaching in any teaching subject-matter endorsement area.

(3) To be eligible for an Initial Teaching License, an out-of-state applicant must:

(a) Have never held an Oregon educator license, charter school registration, or completed an Oregon educator preparation program;

(b) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possess good moral character and mental and physical health necessary for employment as an educator;

(c) Hold a bachelor's degree or higher from a regionally-accredited institution in the United States, or the foreign equivalent of such degree approved by the commission. A master's degree or a doctoral degree from a regionally accredited institution in the United States validates a non-regionally accredited bachelor's degree for licensure;

(d) Complete an initial teacher education program approved by any U.S. jurisdiction other than Oregon, or complete a foreign program evaluated as satisfactory by the Commission as evidenced by:

(A) Official transcripts; and

(B) A license valid for unrestricted full-time teaching from another state or National Association of State Directors of Teacher Education and Certification (NASDTEC) jurisdiction, including but not limited to the U.S. Department of Defense; and

(e) Furnish fingerprints in the manner prescribed by the commission and provide satisfactory responses to the character questions contained in

the commission's licensure application. (See also, OAR 584-036-0062 for Criminal Records Check Requirement.)

(4) Upon expiration of the Initial Teaching License the applicant must qualify for a non-provisional Oregon Teaching License and must apply for any of the following:

(a) An Initial I Teaching License: Qualified applicants will be issued an Initial I Teaching License for three years plus time to the applicant's next birthday.

(b) A Professional Teaching License: Qualified applicants will be issued a Professional Teaching License for five years plus time to the applicant's next birthday. The fee for the Professional Teaching License is $100.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.553
Hist.: TSPC 1-2007(Temp), f. & cert. ef. 3-30-07 thru 9-26-07; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 2-2008, f. & cert. ef. 4-15-08; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09; TSPC 5-2009, f. & cert. ef. 10-5-09; TSPC 1-2010, f. & cert. ef. 1-28-10; TSPC 3-2011, f. & cert. ef. 3-15-11; TSPC 2-2014, f. & cert. ef. 3-15-14; TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15; TSPC 7-2015(Temp), f. & cert. ef. 7-10-15 thru 12-27-15

**584-060-0710**
**Initial I Teaching License**

(1) The Initial I Teaching License qualifies its holder to teach in a prek-12 Oregon public school district, education service districts, and charter school classrooms. The Initial I Teaching License is issued to new teachers who have successfully completed a Commission-approved teacher preparation program. The Initial I Teaching License signifies that the educator is a novice teacher who has not yet met the advanced coursework or experience requirements necessary to meet the qualifications of the Professional Teaching License. The "Initial I Teaching License" will be administratively renamed to the "Preliminary Teaching License" on January 1, 2016.

(2) Authorization: The Initial I Teaching License qualifies the teacher to:

(a) Accept any instructional assignment from prekindergarten through grade 12 within the scope of the subject-matter endorsement(s) on the Initial I Teaching License; and

(b) Accept any substitute teaching assignments.

(3) The Initial I Teaching License is valid for three years and is renewable as provided by subsection (5) of this rule. The date of the first expiration of the license is three years from the date of issue plus time until the applicant's birthday.

(4) To be eligible to apply for an Initial I Teaching License, an applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Hold a bachelor's degree or higher from a regionally accredited institution in the United States, or the foreign equivalent of such degree approved by the Commission. A master's degree or a doctoral degree from a regionally accredited institution in the United States validates a non-regionally accredited bachelor's degree for licensure purposes;

(c) Admission to and completion of an Oregon Initial I teacher preparation program approved by the Commission, a state-approved teacher preparation program in any U.S. jurisdiction, or a foreign teacher preparation program evaluated as satisfactory by the Commission;

(d) Receive a passing score as currently specified by the Commission on each of one or more tests of subject mastery for subject-matter endorsement or otherwise complete endorsement requirements established by the Commission;

(e) Obtain a passing score on a test of knowledge of U.S. and Oregon civil rights laws and professional ethics;

(f) Pass a background check by furnishing fingerprints in the manner prescribed by the Commission and providing satisfactory responses to the character questions contained in the Commission's licensure application; and

(g) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-036-0055.

(5) Renewal Requirements: The Initial I Teaching License is only renewable under the following conditions:

(a) Except as provided in subsection (5)(d) of this rule, the Initial I Teaching License or an equivalent initial license approved by the Commission is only renewable one time. Upon expiration of the second term of the Initial I Teaching License or an equivalent initial license approved by the Commission, the educator must apply and qualify for the Professional Teaching License as provided in OAR 584-060-0716 or 584-300-0171 Transition to New Licensure System.

(b) Progress on Professional Teaching License Requirements: Upon the renewal of the first Initial I Teaching License or an equivalent initial license approved by the Commission, the applicant must show progress toward completion of the Professional Teaching License eligibility requirements. The progress must meet or exceed at least one half (50%) of the advanced coursework requirements of OAR 584-060-0716, Professional Teaching License or OAR 584-300-0171 Transition to New Licensure System.

(c) Failure to Demonstrate Progress: If the applicant fails to show the required progress, the applicant will be unable to obtain the Initial I Teaching License or an equivalent initial license approved by the Commission and will need to apply for licensure reinstatement upon completing the required progress on the advanced coursework requirements.

(d) Employment Requirement Exception: The Initial I or an equivalent initial license approved by the Commission may be renewed one time for a total of two terms. If the applicant has completed the advanced coursework requirements of the Professional Teaching License but is unable to complete the employment requirements of the Professional Teaching License for any reason, the applicant may apply for additional renewals of the Initial I Teaching License or an equivalent initial license approved by the Commission under the following conditions:

(A) The applicant must complete professional development requirements in accordance with OAR 584 division 090 during the additional terms with Initial I Teaching License or an equivalent initial license approved by the Commission.

(B) Upon completing the employment requirements for the Professional Teaching License, the applicant may no longer renew the Initial I or an equivalent initial license approved by the Commission and must apply and qualify for the Professional Teaching License.

(C) Anyone issued an Initial I Teaching License prior to July 1, 2015, who is seeking to reinstate a lapsed Initial I Teaching License, must meet the rules in effect at the time for the application for reinstatement.

(6) Sunset Clause: This rule is effective until January 1, 2016.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.165 & 342.136
Hist.: TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15; TSPC 7-2015(Temp), f. & cert. ef. 7-10-15 thru 12-27-15

**584-060-0715**
**Professional Teaching License**

(1) Purpose of the License: The Professional Teaching License is a license that qualifies its holder to teach in prek–12 Oregon public school district, education service districts, and charter school classrooms. The Professional Teaching License signifies that the educator is an experienced teacher who has successfully completed a teacher preparation program acceptable to the Commission, obtained at least four years of classroom experience and completed additional advanced "approved units of study" coursework, or other acceptable advanced work, following initial licensure, to augment her or his teaching skills.

(2) Authorization: The Professional Teaching License qualifies the teacher to:

(a) Accept any instructional assignment from prekindergarten through grade 12 within the scope of the subject-matter endorsement(s) on the Professional Teaching License; and

(b) Accept any substitute teaching assignments.

(3) The Professional Teaching License is valid for five years and is renewable in accordance with provisions contained in subsection (9) of this rule. The date of the first expiration of the license is five years from the date of issue plus time until the applicant's birthday.

(4) To qualify for the first Professional Teaching License, an applicant must:

(a) Complete teaching experience requirements as provided in subsection (5) of this rule;

(b) Compete educational advanced "approved units of study" coursework as provided in subsection (6) or (7) of this rule; and

(c) Meet the other qualifications and application requirements as provided in subsection (8) of this rule.

(5) Teaching Experience Requirements: To qualify for the Professional Teaching License, an educator must obtain four full years of teaching experience subject to the following conditions:

(a) One full year of teaching experience is equal to 135 days of at least six hours per day of classroom teaching within a public school academic (July 1 to June 30) calendar year;

(b) Substitute experience is not considered qualifying teaching experience under this subsection unless the educator is assigned to a single substitute assignment in accordance with subsection (5)(a) of this rule.

(c) The teaching experience must include direct instruction of students and must occur in one, or a combination of, the following employment settings:

(A) Public prekindergarten–12 classroom;

(B) Private, regionally-accredited, prekindergarten-12 classroom; or

(C) Alternative education, post-secondary or other similar teaching settings closely-related to prekindergarten–12 classroom work as approved by the Director of Licensure for the agency.

(6) Educational Experience Requirements (Advanced Approved Units of Study) Educators must earn advanced "approved units of study" prior to qualifying for their first Professional Teaching License. All advanced "approved units of study" must be earned post-Initial I licensure. The purpose of this requirement is to augment the educational knowledge and skills of an educator during the beginning of her or his teaching career. The Commission requires undergraduate prepared educators to complete additional advanced approved units of study in order to align with the additional coursework educators receive under a M.A.T. or Post-Baccalaureate degree route.

(a) The advanced approved units of study are subject to the following standards:

(A) All advanced approved units of study must be education-related;

(B) All advanced approved units of study must be evidenced by an official transcript from a regionally accredited college or university.

(C) Coursework earned prior to the issuance of the Initial I Teaching License (or 1st license issued in another jurisdiction) will not qualify to meet the definition of advanced approved units of study as used in this subsection.

(b) When selecting an advanced "approved unit of study", an educator should consider the following:

(A) Additional graduate content courses in the area in which the teacher is endorsed may enable the teacher to qualify to teach dual credit courses with approval from a school district's partner community college; and

(B) Undergraduate coursework may be used to acquire a second language or enhance subject-matter areas.

(c) M.A.T./Post-Baccalaureate Prepared: If the educator's initial teacher preparation program was based on a Master's in Arts in Teaching (M.A.T.), or a post-baccalaureate teacher preparation program, the applicant must complete the following advanced units of study in one or a combination of the following methods:

(A) Ten (10) semester graduate hours or fifteen (15) quarter graduate hours of education-related degree applicable coursework; or

(B) Fifteen (15) semester undergraduate hours or twenty-three (23) quarter undergraduate hours of education related degree applicable coursework; or

(C) Twenty (20) semester hours or thirty (30) quarter hours of college or university continuing education coursework; or

(D) A combination of "approved units of study" that equals ten (10) semester graduate hours or fifteen (15) quarter graduate hours of education-related coursework. The conversion of the approved units of study is calculated as follows: 1 graduate credit equals 1.5 undergraduate credits or 2 continuing education credits.

(E) All coursework must be fully transcripted and evidenced by an official transcript from a regionally accredited college or university.

(d) Undergraduate Prepared: If the educator's initial teacher preparation program was based on an undergraduate teacher preparation program, the applicant must complete the following "advanced approved units of study" in one or a combination of the following methods:

(A) Twenty (20) semester graduate hours or thirty (30) quarter graduate hours of education-related degree applicable coursework; or

(B) Thirty (30) semester undergraduate hours or forty-five (45) quarter undergraduate hours of education related coursework; or

(C) Forty (40) semester hours or sixty (60) quarter hours of college or university continuing education degree applicable coursework; or

(D) A combination of "approved units of study" that equals twenty (20) semester graduate hours or thirty (30) Quarter graduate hours of education-related coursework. The conversion of the approved units of study is calculated as follows: 1 graduate credit equals 1.5 undergraduate credits or 2 continuing education credits.

(E) All coursework must be fully transcripted and evidenced by an official transcript from a regionally accredited college or university.

(7) Alternative Methods for Completing Advanced Approved Units of Study: Any one of the following may waive approved units of study required pursuant to this rule:

(a) Admission to and completion of a Commission-approved Professional Teaching License program; or

(b) An advanced degree in education beyond the master's degree from a regionally accredited institution; or the foreign equivalent of such degree approved by the Commission; or

(c) For experienced out of state applicants, certification by the National Boards of Professional Teaching Standards; or

(d) A Professional Certificate issued by the State of Washington or other equivalent out-of-state professional teaching licenses approved by the Commission.

(8) Applications for Professional License: To be eligible to apply for a Professional Teaching License, an applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Meet or complete all requirements of the Initial I, Initial II, Basic, Standard, or an equivalent teaching license issued previously by the Commission or issued by another jurisdiction;

(c) Complete the teaching experience requirements as provided in subsection (5) of this rule;

(d) Complete the educational advanced approved units of study requirements as provided in subsections (6) or (7) of this rule.

**NOTE**: The amount of advanced approved units of study differ based on how the teacher obtained her or his first teaching license.

(e) Continue to meet or pass a background check by furnishing fingerprints, if necessary, in the manner prescribed by the Commission and providing satisfactory responses to the character questions contained in the Commission's licensure application.

(f) Submit a complete and correct application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-036-0055.

(9) Renewal Requirements: To renew the Professional Teaching License, the applicant must:

(a) Complete professional development requirements in accordance with OAR 584, division 90; and

(b) Submit a complete and correct renewal application in the form and manner required by the Commission, including payment of all required fees as provided in OAR 584-036-0055.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.165 & 342.136
Hist.: TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15; TSPC 7-2015(Temp), f. & cert. ef. 7-10-15 thru 12-27-15

**584-300-0170**
**Transition to New Licensure System**

(1) Endorsements:

(a) Effective July 1, 2015, the endorsements as provided in OAR 584-060-0725 will be placed on first-issue licenses and renewals.

(b) Multiple Subjects — Middle Level Endorsements: Effective July 1, 2015, the Multiple Subjects — Middle Level endorsement is abolished. The Multiple Subjects — Middle Level endorsement will not be added to or retained with an applicant's Initial, Initial I, Initial II, Continuing, Professional Teaching Licenses or any future licenses the applicant holds. Current holders of the Multiple Subjects — Middle Level endorsement will be subject to the following transition provisions:

(A) If the applicant has been assigned and taught multiple subjects (self-contained) for four full years or more, as evidenced by Professional Educational Experience Report (PEER) forms, the Elementary-Multiple Subjects endorsement may be added to the license. If the applicant has not taught four full years or more in an assignment that requires a multiple subjects (self-contained) endorsement, the Elementary-Multiple Subject endorsement may not be added to the license. If necessary, the applicant and an Oregon school district may apply for an Emergency Teaching License pursuant to OAR 584-060-0210 while the applicant is in the process of qualifying for an Elementary — Multiple Subjects or another valid endorsement.

(B) If the applicant has been assigned and taught Foundational Mathematics, Foundational Language Arts, Foundational Social Studies or Foundational Science for four full years or more, as evidenced by Professional Educational Experience Report (PEER) forms, the appropriate foundational single subject may be added to the license. If the applicant has not taught four full years in an assignment that requires a foundational subject matter endorsement, the foundational subject matter endorsement may not be added to or retained on the license. If necessary, the applicant and a

district may apply for an Emergency Teaching License pursuant to OAR 584-060-0210 while the applicant is in the process of qualifying for a valid subject-matter endorsement.

(2) Grade-Level Authorizations:

(a) Effective July 1, 2015, grade-level authorizations for Basic, Standard, Initial, Initial I, Initial II, Continuing, Professional Teaching and Distinguished Teacher Leader licenses are abolished and all licenses are authorized prekindergarten through grade 12. The scope of the assignment is determined by the NCES course codes associated with the endorsements held on the license.

(b) Effective July 1, 2015, licensees will no longer be advised that they must add a grade-level authorization program in order to expand the grade levels on their license.

(c) Licensees advised they were required to complete a grade — level authorization program will not be held for failure to complete that requirement.

(d) The Commission will make every effort to identify these licensees to alert them to the new grade — authorization requirements.

(3) Initial I Teaching Licenses New Applicants:

(a) Effective July 1, 2015, new qualified applicants for an Oregon Teaching License will be issued a license in accordance with the Initial I teaching license as adopted on July 1, 2015.

(b) Effective January 1 2016, the Initial I Teaching License will be administratively renamed to the Preliminary Teaching License.

(4) Initial I and Initial II Teaching Licenses Based on a MAT or Post-Baccalaureate Preparation Program issued prior to July 1, 2015: General Provisions Effective July 1 2015, the completion of the advanced coursework of six (6) semester or nine (9) quarter degree applicable graduate hours required to advance to the Initial II Teaching License satisfies the advanced coursework requirements for the Professional Teaching License.

(5) Initial I Teaching Licenses Based on a Bachelor's Degree issued prior to July 1, 2015: General Provisions: Effective July 1, 2015, for Initial I Teaching Licenses based on a Bachelor's degree, the requirements to complete the master's degree or equivalent post-Initial I Teaching License are modified as follows:

(a) Admission to and completion of a master's degree or higher in education or in the arts and sciences from a regionally accredited institution, or the foreign equivalent of such degree approved by the Commission will satisfy the advanced coursework requirements of the Professional Teaching License.

(b) Completion of thirty (30) semester hours or forty-five (45) quarter hours of graduate degree applicable coursework will be considered "equivalent" to completion of a master's degree.

(c) Effective July 1, 2015, the requirement that "equivalent" graduate coursework must include equal amounts of pedagogy; content; and electives (ten (10) semester or fifteen (15) quarter graduate hours each) has been eliminated.

(6) Initial I Teaching Licenses Based on a MAT or Post-Baccalaureate Preparation Program Issued Between July 1, 2012 through June 30, 2015: First Renewal:

(a) Upon the first renewal of the Initial I Teaching License, applicants will be issued a new set of instructions for qualifying for the Professional Teaching License.

(b) Qualified applicants will be issued an Initial I Teaching license which will be administratively renamed to a Preliminary Teaching License after January 1, 2016.

(c) Progress required for first renewal: Applicants must demonstrate progress of 3 semester or 4.5 quarter graduate hours toward completion of advanced coursework requirements upon first renewal of the Initial I Teaching License, as advised in previous letters of instruction from the Commission to be eligible for renewal;

(d) Upon expiration of the final term for the Initial I Teaching License, applicants may qualify for the Professional Teaching License by completing the new advanced coursework requirements provided in OAR 584-060-0716, Professional Teaching License or by completing the previously advised coursework requirements of six (6) semester or nine (9) quarter degree applicable graduate hours.

(e) Coursework submitted that is not degree applicable will be allowed for renewal and will only be credited toward the continuing education portion of the new advanced coursework requirements for the Professional Teaching License. All coursework submitted to qualify for the graduate or undergraduate credits for advanced to the Professional Teaching License must be degree applicable.

(7) Initial I Teaching Licenses Based on a Bachelor's Degree Issued Between July 1, 2012 through June 30, 2015: First Renewal:

(a) Upon the first renewal of the Initial I Teaching License, applicants will be issued a new set of instructions for the requirements to qualify for the Professional Teaching License.

(b) Qualified applicants will be issued an Initial I Teaching license which will be administratively renamed to a Preliminary Teaching License after January 1, 2016.

(c) Progress required for first renewal: Applicants must demonstrate progress of 3 semester or 4.5 quarter graduate hours toward completion of advanced coursework requirements upon first renewal of the Initial I Teaching License, as advised in previous letters of instruction from the Commission to be eligible for renewal;

(d) Upon expiration of the final term for the Initial I Teaching License, applicants may qualify for the Professional Teaching License by completing the new advanced coursework requirements provided in OAR 584-060-0716, Professional Teaching License.

(e) Coursework submitted that is not degree applicable will be allowed for renewal and will only be credited toward the continuing education portion of the new advanced coursework requirements for the Professional Teaching License. All coursework submitted to qualify for the graduate or undergraduate credits for advanced to the Professional Teaching License must be degree applicable.

(8) Initial I Teaching Licenses Based on a Bachelor's Degree First Issued Between July 1, 2009 through June 30 2012: Second Renewal:

(a) Upon second and final renewal of the Initial I Teaching License, applicants will be issued a new set of instructions for the requirements that must be completed in order to obtain the Professional Teaching License.

(b) Qualified applicants will be issued an Initial I Teaching license which will be administratively renamed to a Preliminary Teaching License after January 1, 2016.

(c) Progress required for second renewal: Applicants must demonstrate progress of an additional 3 semester or 4.5 quarter graduate hours toward completion of advanced coursework requirements upon second renewal of the Initial I Teaching License, as advised in previous letters of instruction from the Commission to be eligible for renewal;

(d) Upon expiration of the second and final term for the Initial I Teaching License, applicants may qualify for the Professional Teaching License by completing the new advanced coursework requirements provided in OAR 584-060-0716, Professional Teaching License.

(e) Coursework submitted that is not degree applicable will be allowed for renewal and will only be credited toward the continuing education portion of the new advanced coursework requirements for the Professional Teaching License. All coursework submitted to qualify for the graduate or undergraduate credits for advanced to the Professional Teaching License must be degree applicable.

(f) Applicants who have completed the advanced coursework requirements following the expiration of the third term of the license (nine years total), but have not acquired the required teaching experience requirement for the Professional Teaching License, will be issued a continuously renewable Preliminary Teaching License until such time the teaching experience required for the Professional Teaching License is acquired.

(g) In all cases, if the advanced coursework is not completed within the nine years after the first Initial I Teaching License has been issued, the applicant's license will expire. The license may be reinstated once the advanced coursework is completed.

(9) Initial I Teaching Licenses Based on a MAT or Post-Baccalaureate Preparation Program Issued Between July 1, 2009 through June 30, 2012:

(a) Qualified applicants who have completed the advanced coursework requirements and professional experience requirement will be issued the Professional Teaching License.

(b) Applicants may qualify for the Professional Teaching License by completing the new advanced coursework requirements provided in OAR 584-060-0716, Professional Teaching License or by completing the previously advised coursework requirements of six (6) semester or nine (9) quarter degree applicable graduate hours.

(c) Coursework submitted that is not degree applicable will be allowed for renewal and will only be credited toward the continuing education portion of the new advanced coursework requirements for the Professional Teaching License. All coursework submitted to qualify for the graduate or undergraduate credits for advanced to the Professional Teaching License must be degree applicable.

(d) An applicant who submits coursework that is not degree applicable will be permitted to renew the Initial I Teaching License for one additional term (3 years) under the following circumstances:

(A) The applicant does not meet the requirements of the six (6) semester or nine (9) quarter degree applicable graduate hours to qualify for

the previously-advised coursework requirements for the Professional Teaching License; AND

(B) The applicant does not meet the new advanced coursework requirements provided in OAR 584-060-0716, Professional Teaching License.

(e) Qualified applicants who have met the advanced coursework requirements but do not have sufficient teaching experience for the Professional Teaching License will be issued a continuously renewable Initial I Teaching License as provided in OAR 584-060-0711, Initial I Teaching License. On January 1, 2016, the Initial I Teaching License will be administratively renamed to the Preliminary Teaching License.

(10) Initial I Teaching Licenses Based on a Bachelor's Degree First Issued Between July 1, 2006 through June 30, 2009: No Further Renewals:

(a) Qualified applicants who have completed the advanced coursework requirements and professional experience requirement will be issued the Professional Teaching License;

(b) Qualified applicants (Bachelor's Degree Prepared) for the Professional Teaching License may:

(A) Qualify for the Professional Teaching License with the previously-advised master's degree or equivalent degree applicable coursework requirements for the Initial II Teaching License as modified by subsection (5) of this rule; or

(B) Qualify for the Professional Teaching License with the new advanced coursework requirements for the Professional Teaching License as provided in OAR 584-060-0716. Under this option, the applicant may use any qualifying coursework earned during the two terms of her or his Initial I Teaching License to satisfy the new advanced coursework requirement.

(c) Coursework submitted that is not degree applicable will be allowed for renewal and will only be credited toward the continuing education portion of the new advanced coursework requirements for the Professional Teaching License. All coursework submitted to qualify for the graduate or undergraduate credits for advanced to the Professional Teaching License must be degree applicable.

(d) An applicant who does not have sufficient degree applicable coursework to qualify for the Professional Teaching License will be given a one year extension to their Initial I Teaching License and a new set of coursework instructions. The fee submitted for renewal will be held for 365 days from the date of the extension and will be applied for their application for the Professional Teaching License so long as the application and evidence of completion of the requirements are submitted prior to the expiration date on their license.

(e) Qualified applicants who have met the advanced coursework requirements but do not have sufficient teaching experience for the Professional Teaching License will be issued a continuously renewable Initial I Teaching License as provided in OAR 584-060-0711, Initial I Teaching License. On January 1, 2016, the Initial I Teaching License will be administratively renamed to the Preliminary Teaching License.

(11) Initial II Teaching Licenses Effective July 1, 2015:

(a) Effective July 1, 2015, the Initial II Teaching License will no longer be issued.

(b) Qualified applicants who have completed the advanced coursework requirements, as provided in subsection (5) above, and the teaching experience requirement to advance to the Professional Teaching License will be issued the Professional Teaching License;

(c) Qualified applicants who have met the advanced coursework requirements but do not have sufficient teaching experience for the Professional Teaching License will be issued a continuously renewable Initial I Teaching License as provided in OAR 584-060-0711, Initial I Teaching License. On January 1, 2016, the Initial I Teaching License will be administratively renamed to the Preliminary Teaching License.

(12) Continuing Teaching Licenses:

(a) Effective March 1, 2014, the Continuing Teacher License is no longer issued.

(b) Qualified Continuing Teaching License holders will be issued a Professional Teaching License.

(13) Basic Teaching License Renewals:

(a) Effective January 1, 2016, the Basic Teaching License will no longer be issued.

(b) Qualified Basic Teaching License holders that have not met the requirements for a Professional Teaching License, may elect to obtain a Legacy Teaching License or may elect to obtain a Preliminary Teaching License.

(c) A holder of a Basic Teaching License may elect to obtain the Legacy Teaching license one time.

(d) If the Legacy Teaching License lapses, applicants must choose and be eligible for another available teaching license if they wish to reinstate a teaching license.

(e) A holder of a Basic Teaching License who first selected the Preliminary Teaching License upon expiration of their last Basic Teaching License, may elect one time to obtain the Legacy Teaching License.

(14) Standard Teaching License Renewals:

(a) Effective January 1, 2016, the Standard Teaching License will no longer be issued.

(b) Qualified Standard Teaching License holders will be issued a Professional Teaching License.

(15) First Time Out of State Applicants:

(a) Effective January 1, 2016, the Initial Teaching License will no longer be issued.

(b) Qualified new out of state applicants will be issued a Reciprocal Teaching License until such time as they qualify for either a Preliminary Teaching License or a Professional Teaching License.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120—342.430; 342.455 - 342.495; 342.533
Hist.: TSPC 6-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15; TSPC 7-2015(Temp), f. & cert. ef. 7-10-15 thru 12-27-15

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## Water Resources Department
## Chapter 690

**Rule Caption:** Amends Division 522 to Clarify Adjustment of Allocation Cap and Mitigation Credit Reassignment Upon Cancellation.
**Adm. Order No.:** WRD 4-2015
**Filed with Sec. of State:** 6-26-2015
**Certified to be Effective:** 6-26-15
**Notice Publication Date:** 2-1-2015
**Rules Amended:** 690-522-0030, 690-522-0050
**Subject:** OAR Chapter 690, Division 522 is used in conjunction with the Deschutes Basin Ground Water Mitigation Rules in OAR Chapter 690, Division 505, and the Deschutes Basin Mitigation Bank and Mitigation Credit rules in OAR Chapter 690, Division 521. In addition to other provisions, the Division 522 rules allow water to be added back to a 200 cubic foot per second allocation cap on new groundwater use and permanent mitigation credits to be reassigned under certain circumstances, including permit and certificate cancellation. However, the rules unintentionally limit cancellation to specific statutes. Division 522 cites ORS 537.410 (cancellation of a permit for failure to meet construction conditions), ORS 540.621 (voluntary cancellation of a certificate), and ORS 540.610 (forfeiture of a certificated water right). This limits reassignment of permanent mitigation credits and inclusion of water back to the allocation cap if cancellation occurs under another statute.

The purpose of this rulemaking is to remove the references to specific cancellation statutes and allow water to be added back to the allocation cap and mitigation credits to be reassigned regardless of which cancellation process is exercised.
**Rules Coordinator:** Diana Enright—(503) 986-0874

**690-522-0030**
**Ground Water Appropriations within the Deschutes Ground Water Study Area**

The cumulative rate specified under 690-505-0500(1) shall not include:

(1) Rates associated with offsets pursuant to 690-505-0610(8);

(2) Rates associated with applications withdrawn after final order issuance pursuant to 690-505-0620;

(3) Portion of rates approved by a final order issued under 690-505-0620 but not included in a water right permit issued following satisfaction of the mitigation requirement;

(4) Rates associated with expired final orders pursuant to 690-505-0620(2);

(5) Portions of rates associated with permits issued pursuant to 690-505-0620 and subsequently cancelled;

(6) Rates associated with certificates issued pursuant to 690-505-0620 and subsequently canceled; and

(7) Rates associated with the portion of use originally authorized under a permit issued pursuant to 690-505-0620 and not included in a subsequent certificate.

Stat. Auth.: ORS 536.025, 536.027 & 537.746
Stats. Implemented: Ch. 669, OL 2005; Ch. 694, OL 2011
Hist.: WRD 1-2010, f. & cert. ef. 6-9-10; WRD 4-2015, f. & cert. ef. 6-26-15

**690-522-0050**
**Reassignment of Permanent Mitigation Credits**

(1) Notwithstanding OAR 690-521-0400(2), part or all of permanent mitigation credits that were used to satisfy a mitigation obligation may be reassigned if:

(a) The ground water permit application to which the credits were assigned is denied or withdrawn;

(b) The ground water permit application to which the credits were assigned is amended and the mitigation obligation is reduced;

(c) The final order issued approving the ground water permit application to which the credits were assigned expires pursuant to OAR 690-505-0620;

(d) The ground water permit to which the credits were assigned is subsequently cancelled;

(e) The subsequent ground water certificate is issued for less ground water use than originally allowed under the permit and there is a corresponding reduction in mitigation obligation;

(f) The subsequent ground water certificate to which the credits were assigned is cancelled, or partially cancelled resulting in a reduced mitigation obligation; or

(g) The permit holder holds more than one municipal or quasi-municipal ground water permit issued under OAR 690-505-0620 and requests to re-assign credits from one such existing permit to another existing permit, provided the reassignment is consistent with the requirements of OAR 690-505-0610(4).

(2) Mitigation credits available pursuant to this rule may be assigned by applicant or permit or certificate holder to any person or mitigation bank or assigned to satisfy a mitigation obligation.

Stat. Auth.: ORS 536.025, 536.027 & 537.746
Stats. Implemented: Ch. 669, OL 2005; Ch. 694, OL 2011
Hist.: WRD 1-2010, f. & cert. ef. 6-9-10; WRD 4-2015, f. & cert. ef. 6-26-15

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**Rule Caption:** Well Construction Rules Regarding Special Area Standards, Definitions, Rule Clarifications, Setbacks, Dug Wells and Peizometers.
**Adm. Order No.:** WRD 5-2015
**Filed with Sec. of State:** 7-1-2015
**Certified to be Effective:** 7-1-15
**Notice Publication Date:** 4-1-2015
**Rules Adopted:** 690-200-0028
**Rules Amended:** 690-200-0020, 690-200-0028, 690-200-0050, 690-205-0185, 690-210-0030, 690-210-0130, 690-210-0140, 690-210-0150, 690-210-0155, 690-210-0190, 690-210-0220, 690-210-0230, 690-210-0270, 690-210-0320, 690-210-0380, 690-210-0400, 690-210-0410, 690-210-0420, 690-215-0200, 690-220-0115, 690-240-0005, 690-240-0355, 690-240-0475, 690-240-0525
**Rules Repealed:** 690-215-0015
**Subject:** This rulemaking includes a number of changes regarding well construction. The changes include the following:

Establishing special area standards for the Mosier area of Wasco County. The Mosier area has declining water levels due, in part, to improper well construction. These proposed rules address the construction of new wells in the Mosier area by requiring the licensed well constructor responsible to consult with the Water Resources Department prior to the permanent installation of casing and seal material. In addition, the rules require an additional notice period prior to the start of construction activities to allow the Department time to research information regarding the location of the proposed well and to have discussions about the proposed construction methods. Also, the proposed rules require the installation of a dedicated measuring tube at the time of pump installation, repair or replacement so that the water level in the well can be determined at any time.

Clarifying responsibilities regarding certain well and geotechnical hole construction, maintenance, alteration, conversion and abandonment activities.

Clarifying the classification of injection wells installed for remediation purposes.

Modifying the definition of silt so the definition in Division 200 matches the definition in Division 240.

Correcting old and incorrect rule and table references and removing dates in rule that have expired.

Clarifying the construction standards for dug wells.

Establishing setback standards from permanent structures for new water wells in order to allow access for drilling equipment.

Clarifying the protection methods of piezometers.

Clarifying the location where constructor information is placed on a drilling machine.

Adopts Figure 200-8.
**Rules Coordinator:** Diana Enright—(503) 986-0874

**690-200-0020**
**General Statement About the Standards**

(1) The rules and regulations set forth herein provide the minimum standards for the construction, conversion, alteration, maintenance, and abandonment of water supply wells. After the effective date of adoption of these rules and regulations, no water supply well shall be constructed, altered, converted, or abandoned contrary to the provisions of these rules and regulations without prior approval from the Water Resources Department. Violation of these standards may result in enforcement under OAR chapter 690, division 225, including suspension or revocation of a constructor's license, imposition of civil penalties on the landowner or constructor, action on a bond, or other sanctions authorized by law.

(2) Every well shall be designed and constructed to adapt to the existing local geologic and ground water conditions at the well site and shall fully utilize every natural protection to the ground water supply. If prior to or during construction the well constructor becomes aware that specific site conditions will not allow adherence to the following minimum well standards, the constructor shall request and obtain written approval from the Director to use alternative construction methods, materials or standards. The request shall be in writing and submitted to the Director as described in OAR 690-200-0021. Special standard approval from the Director must be obtained prior to completion of the well.

(3) Certain wells constructed under these rules may be suitable for use as public, community, municipal, or public utility supplies. Regulations administered by other agencies may apply in addition to those in this chapter (see Appendix 1).

[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 536.027, ORS 536.090 & ORS 537.505 - ORS 537.795
Stats. Implemented: ORS 536.090 & ORS 537.505 - ORS 537.795
Hist.: WRD 9-1978, f. 12-12-78, ef. 1-1-79; Renumbered from 690-060-0008 & 690-060-0040 by WRD 13-1986, f. 10-7-86, ef. 11-1-86; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 5-2015, f. & cert. ef. 7-1-15

**690-200-0028**
**Designated Special Area Standards**

(1) Special Area Standards for the Construction and Alteration of Water Supply Wells in the Lakeview Area.

(a) As used in this rule and illustrated in Figure 200-3, "The Lakeview Area" includes the area located in Sections 4, 5, 8 and 9 of Township 39 South, Range 20 East of the Willamette Meridian, Lake County, Oregon. Beginning at a point on the West line of Section 4, said point bears South 1 40' 45" East — 2245.31 feet from the Northwest Corner of Section 4; thence South 89 54'45" East — 1907.04 feet to the West right of way line of the Fremont Logging Road; thence South 39 26' 40" East along the West right of way line of the Fremont Logging Road — 3095.16 feet; thence South 1 53' 14" East — 617.32 feet to the South line of Section 4; thence continuing in Section 9 — South 00 13' 8" West parallel to the North South centerline of Section 9 - 2649.14 feet to the East West centerline of Section 9; thence South 89 45' 31" West along the East West centerline of Section 9 — 3782.55 feet more or less to the West line of Section 9; thence West along the East West centerline of Section 8 — 1320.00 feet more or less to the center East 1/16 corner of Section 8; thence North 2640.00 feet more or less to the East 1/16 corner common to Sections 5 and 8; thence North 1 41' 33" West — 2630.48 feet more or less to the center East 1/16 corner of Section 5; thence North 1 40' 45" West — 410.32 feet; thence South 59 54' 45" East — 1307.02 feet more or less to the point of beginning.

(b) Any new, altered, deepened or converted well in the sedimentary units (clay, sand, silt, gravel) in the Lakeview Area shall be cased and sealed according to OAR 690, division 210 with the following additional requirements:

(A) Unperforated casing and seal shall extend from land surface to a depth of 250 feet below land surface; and

(B) Perforated casing may extend below the seal.

(c) Liner installed in any new, altered, deepened or converted well in the sedimentary units (clay, sand, silt, gravel) in the Lakeview Area shall not extend more than 10 feet above the bottom of the unperforated casing.

(d) Alternatives to the special area standards shall be approved only if it can be demonstrated that the alternative techniques proposed to be used are as effective as the techniques required in subsection (1)(b) and (1)(c) above. Such alternatives require prior written approval by the Department and follow-up testing as may be required by the Department.

(e) Except as they may conflict with subsection (1)(b) and (1)(c), all other provisions of Oregon Administrative Rules for Well Construction and Maintenance Standards apply.

(f) This rule is applicable to wells for which construction, alteration, deepening or conversion began on or after April 1, 2004.

(g) This special area standard may be revised at a future date when additional information and analysis is provided from other agencies including the Oregon Department of Environmental Quality.

(2) Special Area Standards for the Construction, Conversion and Maintenance of Water Supply Wells for the "Petes Mountain Area", Clackamas County.

(a) As used in this rule and illustrated in Figure 200-4, "The Petes Mountain Area" includes the area located in Sections 28, 29, 32, 33 and 34 Township 2 South, Range 1 East, Willamette Meridian; and Sections 2, 3, 4, 5, 9, 10, 11, 15 and 16, Township 3 South, Range 1 East, Willamette Meridian. Beginning at the intersection of SW Ek Road and SW Stafford Road (T.2 S., R.1 E., Sec. 29); thence southerly along SW Stafford Road to SW Mountain Road; thence southerly along SW Mountain Road to SW Hoffman Road; thence easterly along SW Hoffman Road to the intersection of SW Hoffman Road, SW Petes Mountain Road and SW Riverwood Drive; thence due east to the Willamette River; thence northerly along the Willamette River to the mouth of the Tualatin River; thence northwesterly along the Tualatin River to SW Borland Road (a.k.a. Willamette Falls Drive); thence northwesterly along SW Borland Road to SW Ek Road; thence westerly along SW Ek Road to SW Stafford Road, to the point of beginning.

(b) All new, altered, deepened or converted wells constructed in the Petes Mountain Area shall be cased and sealed in accordance with OAR 690, Division 210 with the following additional requirements:

(A) All new wells shall have a nominal minimum well casing diameter of at least 6 inches.

(B) All wells shall have a minimum 3/4-inch diameter dedicated measuring tube installed at the time of pump installation, pump repair or pump replacement (See Figure 200-5 and OAR 690-215-0200).

(C) Alternatives to the special area standards shall be approved only if it can be demonstrated that the alternative techniques proposed to be used are as effective as the techniques required in subsection (2)(b) above. Such alternatives require prior written approval by the Department. In addition, follow-up testing may be required by the Department to insure the effectiveness of the alternative technique.

(D) Except as they may conflict with subsection (2)(b), all other provisions of Oregon Administrative Rules for Well Construction and Maintenance Standards apply.

(E) This rule is applicable to wells for which pump installation, repair or replacement began on or after July 1, 2008.

(F) This special area standard may be revised at a future date when additional information and analysis is provided from other agencies including the Oregon Department of Environmental Quality.

(3) Special Area Standards for the Construction, Conversion and Maintenance of Water Supply Wells for the "Eola Hills Ground Water Limited Area ," Polk and Yamhill Counties.

(a) As used in this rule and illustrated in Figure 200-7, "The Eola Hills Ground Water Limited Area" includes all or portions of Sections 4 through 9, 16 through 21, and 29 through 32, Township 6 South, Range 3 West, Willamette Meridian; Sections 3 through 10, 15 through 22, 28, 29 and 30, Township 7 South, Range 3 West, Willamette Meridian; Sections 1 through 5, 8 through 17, 20 through 29, and 32 through 36, Township 6 South, Range 4 West, Willamette Meridian; and Sections 1 through 30, Township 7 South, Range 4 West, Willamette Meridian. The boundary of the Eola Hills area is as follows: Beginning at the intersection of the south line of Township 5 South and U.S. Highway 99W, thence east along the township line to the Willamette River, thence southerly to Oregon State Highway 22, thence westerly to U.S. Highway 99W, thence northerly along Hwy 99W to the point of beginning.

(b) All new, altered, deepened or converted wells constructed in the Eola Hills Ground Water Limited Area shall be cased and sealed in accordance with OAR 690, Division 210 with the following additional requirements:

(A) All new wells shall have a nominal minimum well casing diameter of at least 6 inches.

(B) All wells, in all aquifers, shall have a minimum 3/4-inch diameter dedicated measuring tube installed at the time of pump installation, pump repair or pump replacement (See Figure 200-5 and OAR 690-215-0200).

(C) All new and deepened wells developing water from basalt in the Eola Hills Ground Water Limited Area shall be limited to one aquifer and shall be continuously cased and continuously sealed to within 100 feet of the bottom of the hole.

(c) Alternatives to the special area standards shall be approved only if it can be demonstrated that the alternative techniques proposed to be used are as effective as the techniques required in subsection (3)(b) above. Such alternatives require prior written approval by the Department. In addition, follow-up testing may be required by the Department to insure the effectiveness of the alternative technique.

(d) Except as they may conflict with subsection (3)(b), all other provisions of Oregon Administrative Rules for Well Construction and Maintenance Standards apply.

(e) This rule is applicable to wells for which pump installation, repair or replacement began on or after July 1, 2008.

(4) Special Area Standards for New, Altered, Deepened or Converted Water Supply Wells in the "Mosier Area," Wasco County.

(a) As used in this rule and illustrated in Figure 200-8, the "Mosier Area" includes the area located in Section 36 Township 3 North, Range 11 East, Willamette Meridian; and Sections 31, 32, 33 and 34 Township 3 North, Range 12 East, Willamette Meridian; and Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35 and 36 Township 2 North, Range 11 East, Willamette Meridian; and Sections 3, 4, 5, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 27, 28, 29, 30, 31, 32 and 33 Township 2 North, Range 12 East, Willamette Meridian. Beginning at a point of intersection of the Wasco County, Hood River County, State of Oregon and State of Washington lines; thence south along the Wasco and Hood River County line to the Southwest corner of Section 34, Township 2 North, Range 11 East of the Willamette Meridian; thence east to the Southeast corner of Section 32, Township 2 North, Range 12 East of the Willamette Meridian; thence north to the East 1/4 corner of Section 32; thence east to the Southeast corner of the SW1/4 of the NW1/4 of Section 33; thence north to the Southeast corner of the NW1/4 of the NW1/4 of Section 33; thence east to the Southeast corner of the NE1/4 of the NW1/4 of Section 33; thence north to the North 1/4 corner of Section 33; thence east to the Southeast corner of the SW1/4 of the SE1/4 of Section 28; thence north to the Southeast corner of the NW1/4 of the SE1/4 of Section 28; thence east to Southeast corner of the NW1/4 of the SW1/4 of Section 27; thence north to the Southeast corner of the SW1/4 of the NW1/4 of Section 27; thence east to the Center 1/4 corner of Section 27; thence north to Southeast corner of the NE1/4 of the NW1/4 of Section 27; thence east to the Southeast corner of the NW1/4 of the NE1/4 of Section 27; thence north to the Northeast corner of the NW1/4 of the NE1/4 of Section 27; thence east to the SE corner of section 22; thence north to the East 1/4 corner of Section 22; thence east to the Center 1/4 of Section 23; thence north to the Southeast corner of the NE1/4 of the NW1/4 of Section 23; thence east to the Southeast corner of the NE1/4 of the NE1/4 of Section 23; thence north to the Northwest corner of Section 24; thence east to the North 1/4 corner of Section 24; thence north to the North 1/4 corner of Section 13; thence west to the Northeast corner of Section 15; thence north to the Oregon and Washington State line; thence west along the Oregon-Washington State line to the point of beginning.

(a) Well constructors shall provide at least 10 calendar days notice to the Department prior to the start of construction, alteration, deepening or conversion on any new or existing well in the "Mosier Area", in one of two ways:

(A) A Start Card submitted electronically at least ten (10) calendar days prior to the start of construction, alteration, deepening or conversion; or

(B) A Start Card mailed, faxed or hand delivered and received by the Department in Salem at least ten (10) calendar days prior to the start of construction, alteration, deepening or conversion.

(c) In cases where the additional notice requirement cannot be met the well constructor shall notify the Department by fax, telephone or e-mail prior to the start of construction, alteration, deepening or conversion. Department approval is required to proceed. Approval shall be either, verbal, written or electronic.

(d) All new and deepened water supply wells developing water from the Columbia River Basalt Group in the "Mosier Area", as described in (a) above, shall be limited to one aquifer and shall be constructed in accordance with OAR 690, division 210 with the following additional requirements:

(A) All new wells shall have a nominal minimum well casing diameter of at least 6 inches.

(B) The well constructor shall provide the following information to the Department so that a case and seal depth can be determined. The well shall not be permanently cased and sealed prior to consultation with the Department:

(i) A rough log that describes the kind and nature of the material in each stratum penetrated, with at least one entry for each change of formation, the thickness of aquifers and available static water level measurements; and

(ii) Such additional information as required by the Department.

(e) Alternatives to the special area standards shall be approved only if it can be demonstrated that the alternative techniques proposed to be used are as effective as the techniques required in (d) above. Such alternatives require prior written approval by the Department. In addition, follow-up testing may be required by the Department to ensure the effectiveness of the alternative technique.

(f) All wells, in all aquifers, shall have a minimum 3/4-inch diameter dedicated measuring tube installed at the time of pump installation, pump repair or pump replacement (See Figure 200-5 and OAR 690-215-0200).

(g) Except as they may conflict with (d) above, all other provisions of Oregon Administrative Rules for Well Construction and Maintenance Standards apply.

[ED. NOTE: Exhibits referenced are available from the agency.]

Stat. Auth.: ORS 183, 537.780, 536.027, 536.090, 540

Stats. Implemented: ORS 183, 536, 537.505 - 537.795, 537.780(1) & 540

Hist.: WRD 2-2004, f. & cert. ef. 4-1-04; WRD 2-2008, f. 6-18-08, cert. ef. 7-1-08; WRD 5-2015, f. & cert. ef. 7-1-15

**690-200-0050**
**Definitions**

The Water Resources Commission uses the definitions of the words listed below in the administration and enforcement of Oregon's Ground Water Law and the Rules and Regulations for the Construction and Alteration of Wells. No other definitions of these same words apply:

(1) "Abandonment, Permanent" means to remove a well from service by completely filling it in such a manner that vertical movement of water within the well bore and within the annular space surrounding the well casing, is effectively and permanently prevented. If a portion of a well is to be abandoned in order to prevent commingling, waste, or loss of artesian pressure, the abandonment shall conform with the requirements of OAR chapter 690, division 220 for water supply wells. This term is synonymous with "decommission."

(2) "Abandonment, Temporary" means to remove a drilling machine from a well site after completing or altering a well provided the well is not immediately put into service, or to remove a well from service with the intent of using it in the future.

(3) "Access Port" means a minimum 1/2-inch tapped hole and plug, a 1/2-inch capped pipe welded onto the casing in the upper portion of a water supply well, or a dedicated measuring tube to permit unobstructed entry to determine the water level in the well at any time.

(4) "Air Gap" means a complete physical break between the outlet end of the discharge pipe or other conduit and the discharged substance. The break shall be at least twice the inside diameter of the pipe or conduit. (Back-siphon prevention)

(5) "Airline" means a water level measuring device consisting of a pressure gauge attached to an airtight line or pipe of known length, within the water supply well bore, extending from land surface to below the pumping level. The device will allow the water level to be computed by measuring the stable air pressure remaining in the line after completely purging water from within the line.

(6) "Air/Vacuum Relief Valve" means a device to automatically relieve or break vacuum. (Back-siphon prevention)

(7) "Altering a Well" means the deepening, hydrofracturing, re-casing, perforating, re-perforating, installation of packers or seals, and any other material change in the design or construction of a well. Material changes include but are not limited to casing installation or modification including casing extensions, installation or modification of liner pipe, reaming or under reaming of the borehole, pitless unit installation or re-sealing except for re-sealing performed during pitless adapter installation.

(8) "Annular Space" means the space between the drillhole wall and the outer well casing.

(9) "Aquifer" means a geologic formation, group of formations, or part of a formation that contains saturated and permeable material capable of transmitting water in sufficient quantity to supply wells or springs and that contains water that is similar throughout in characteristics such as potentiometric head, chemistry, and temperature (see Figure 200-2).

(10) "Artesian Aquifer" means a confined aquifer in which ground water is under sufficient head to rise above the level at which it was first encountered, whether or not the water flows at land surface. If the water level stands above land surface, the well is a flowing artesian well (see Figure 200-2).

(11) "Artesian Water Supply Well" means a water supply well in which ground water is under sufficient pressure to rise above the level at which it was first encountered, whether or not the water flows at land surface. If the water level stands above land surface the well is a flowing artesian water supply well.

(12) "Automatic Low-Pressure Drain" means a self-activating device designed and constructed to intercept incidental leakage and drain that portion of an irrigation pipeline or any other method of conveyance whose contents could potentially enter the water supply when operation of the irrigation system pumping plant fails or is shut down. (Back-siphon prevention)

(13) "Back-Siphon Prevention Device" means a safety device used to prevent water pollution or contamination by preventing flow of a mixture of water and/or chemicals in the opposite direction of that intended. (Back-siphon prevention)

(14) "Bored Well" means a well constructed with the use of earth augers turned either by hand or by power equipment.

(15) "Buried Slab Type Well" means a dug well in which well casing is used to case the upper hole. A slab, sealed with cement grout, is placed between the upper hole and lower drillhole, and the remainder of the annulus is filled with concrete.

(16) "Casing" means the outer tubing, pipe, or conduit, welded or thread coupled, and installed in the borehole during or after drilling to support the sides of the well and prevent caving. Casing can be used, in conjunction with proper seal placement, to shut off water, gas, or contaminated fluids from entering the hole, and to prevent waste of ground water.

(17) "Casing Seal" means the water tight seal established in the well bore between the well casing and the drillhole wall to prevent the inflow and movement of surface water or shallow ground water in the well annulus, or to prevent the outflow or movement of water under artesian or hydrostatic pressures.

(18) "Check Valve" means a certified device designed and constructed to close a water supply pipeline, chemical injection line, or other conduit in a chemigation system to prevent reverse flow in that line. (Back-siphon prevention)

(19) "Chemigation" means the method of applying agricultural chemicals and fertilizer through an irrigation system.

(20) "Clay" means a fine-grained, inorganic material having plastic properties and with a predominant grain size of less than 0.002 mm.

(21) "Commission" means the Oregon Water Resources Commission.

(22) "Committee" means the Oregon Ground Water Advisory Committee created by ORS 536.090.

(23) "Community Well" means a water supply well, whether publicly or privately owned, which serves or is intended to serve more than three connections for residences or other connections for the purpose of supplying water for drinking, culinary, or household uses.

(24) "Confined Animal Feeding or Holding Area" means the concentrated confined feeding or holding of animals or poultry, including but not limited to horse, cattle, sheep, swine, and dairy confinement areas, slaughterhouse or shipping terminal holding pens where the animal waste is allowed to build up on the ground. Pastures and areas adjacent to buildings where animals and animal waste is confined by a physical barrier such as concrete are exempt.

(25) "Confining Formation" means the "impermeable" stratum immediately overlying an artesian (confined) aquifer (see Figure 200-2).

(26) "Consolidated Formation" means materials that have become firm through natural rock-forming processes. It includes, but is not limited to, such materials as basalt, sandstone, shale, hard claystone, and granite.

(27) "Contamination" means an impairment of water quality by chemicals, radionuclides, biologic organisms or other extraneous matter whether or not it affects the potential or intended beneficial use of water.

(28) "Continuing Education" means that education required as a condition of licensure under ORS 537.747, to maintain the skills necessary for the protection of ground water, the health and general welfare of the citizens of Oregon and the competent practice of the construction, alteration,

abandonment, conversion, and maintenance of water supply wells, monitoring wells, and geotechnical holes.

(29) "Continuing Education Committee" means the Well Constructor Continuing Education Committee authorized under Chapter 496, Oregon Laws 2001 (ORS 537.765).

(30) "Continuing Education Course" means a formal offering of instruction or information to licensee's that provides continuing education credits.

(31) "Continuing Education Credit" (CEC) means a minimum of 50 minutes of instruction or information approved by the Continuing Education Committee.

(32) "Converting" a well means changing the use of an existing well or hole not previously used to either withdraw or monitor water such that the well or hole can be used to either withdraw or monitor water.

(33) "Deepening a well" means extending the well bore of an existing well through previously undisturbed native material. Deepening is a type of alteration.

(34) "Department" means the Oregon Water Resources Department.

(35) "Director" means the Director of the Department or the Director's authorized representatives.

(36) "Documentation of Completion" means written evidence or documentation demonstrating attendance and completion of a continuing education course, including but not limited to: a certificate of completion, diploma, transcript, certified class roster, or other documentation as approved by the Continuing Education Committee.

(37) "Domestic Well" means a water supply well used to serve no more than three residences for the purpose of supplying water for drinking, culinary, or household uses, and which is not used as a public water supply.

(38) "Drawdown" means the difference in vertical distance between the pumping level and the static water level in a well.

(39) "Drive Point Well" means a well constructed by driving into the ground a well-point fitted to the end of a pipe section or series of pipe sections.

(40) "Dug Well" means a well in which the excavation is made by the use of digging equipment such as backhoes, clam shell buckets, or sand buckets. (See Hand dug well)

(41) "Excavation" means a free-standing cavity with greater width than depth constructed in the earth's surface which has a primary purpose other than seeking water or water quality monitoring.

(42) "Figure", when used herein, refers to an illustration and is made a part of the primary article and section by reference.

(43) "Filter Pack Well" means a well in which the area immediately surrounding the well screen or perforated pipe within the water-producing zone is filled with graded granular material.

(44) "Geologic Formation" means an igneous, sedimentary, or metamorphic material that is relatively homogeneous and is sufficiently recognized as to be distinguished from the adjacent material. The term is synonymous with "formation."

(45) "Geologist" means an individual registered by the State of Oregon to practice geology.

(46) "Geotechnical hole" means a hole constructed to collect or evaluate subsurface data or information, monitor movement of landslide features, or to stabilize or dewater landslide features. Geotechnical holes are not monitoring wells or water supply wells as defined below. Various classes and examples of geotechnical holes are listed in OAR 690-240-0035(6)-(9).

(47) "Grout" means approved cement, concrete, or bentonite sealing material used to fill an annular space of a well or to abandon a well.

(48) "Grout Pipe" means a pipe which is used to place grout at the bottom of the sealing interval of a well.

(49) "Hand dug well" means a well in which the excavation is only made by the use of picks, shovels, spades, or other similar hand operated implements. (See Dug Well)

(50) "Hazardous Materials Training" means training as defined by OAR 437-002-0100 Adoption by Reference Subdivision H Hazardous Materials 1910.120 Hazardous Waste Operations and Emergency Response.

(51) "Hazardous Waste" means a substance as defined by ORS 466.005.

(52) "Hazardous Waste Disposal Site" means a geographical site in which or upon which hazardous waste is disposed.

(53) "Hazardous Waste Storage Site" means the geographical site upon which hazardous waste is stored.

(54) "Hazardous Waste Treatment Site" means the geographical site upon which or a facility in which hazardous waste is treated.

(55) "Health Hazard" means a condition where there are sufficient concentrations of biological, chemical, or physical, including radiological, contaminants in the water that are likely to cause human illness, disorders, or disability. These include but are not limited to, naturally occurring substances, pathogenic viruses, bacteria, parasites, toxic chemicals, and radioactive isotopes. Sufficient concentrations of a contaminant include but are not limited to contaminant levels set by the Oregon Department of Environmental Quality and Oregon Health Division.

(56) "Health Threat" means a condition where there is an impending health hazard. The threat may be posed by, but not limited to: a conduit for contamination, or a well affecting migration of a contaminant plume, or the use of contaminated water. A well in which the construction is not verified by a water supply well report or geophysical techniques may be considered a conduit for contamination in certain circumstances. Those circumstances include, but are not limited to: an unused and neglected well or a well for which no surface seal was required. A well in which the casing seal, sanitary seal, or watertight cap has failed, or was inadequately installed may be considered a conduit for contamination.

(57) "Horizontal Well" means a well that intentionally deviates more than 20 degrees from true vertical at any point.

(58) "Hydrofracturing" means the use of high pressure liquid, sand, packers or other material to open or widen fractures in consolidated formations for the purpose of increasing well yield.

(59) "Hydrologic Cycle" is the general pattern of water movement by evaporation from sea to atmosphere, by precipitation onto land, and by return to sea under influence of gravity.

(60) "Impermeable Sealing Material" means cement, concrete, or bentonite which is used to fill the open annulus between the lower and upper sealing intervals.

(61) "Inspection Port" means an orifice or other viewing device from which the low-pressure drain and check valve may be observed.

(62) "Jetted Well" means a well in which the drillhole excavation is made by the use of a high velocity jet of water.

(63) "Leakage" means movement of surface and/ or subsurface water around the well casing or seal.

(64) "Liner Pipe" means the inner tubing, pipe, or conduit installed inside the well casing or lower well bore. The liner pipe is used to protect against caving formations and is not permanently affixed to the drillhole wall or casing.

(65) "Lower Drillhole" means that part of the well bore extending below the surface seal interval in a well.

(66) "Mineralized Water" means any naturally occurring ground water containing an amount of dissolved chemical constituents limiting the beneficial uses to which the water may be applied.

(67) "Monitoring Well" means a well designed and constructed to determine the physical (including water level), chemical, biological, or radiological properties of ground water.

(68) "Monitoring Well Constructor" means any person who has a current water well constructor's license with a monitoring well endorsement issued in accordance with ORS 537.747(3).

(69) "Monitoring Well Constructor's License" means a Water Well Constructor's License with a monitoring well endorsement issued in accordance with ORS 537.747(3).

(70) "Municipal or Quasi-Municipal Well" means a water supply well owned by a municipality or nonprofit corporation that may be used as a community or public water supply.

(71) "Order" means any action satisfying the definition given in ORS Chapter 183 or any other action so designated in ORS 537.505 to 537.795.

(72) "Other Hole" means a hole other than a water supply well, a monitoring well, or geotechnical hole, however constructed, in naturally occurring or artificially emplaced earth materials, through which ground water can become contaminated. Holes constructed under ORS Chapters 517, 520, and 522 are not subject to these rules. Other holes are regulated under OAR 690-240. Examples of other holes are listed in 690-240-0030.

(73) "Perched Ground Water" means ground water held above the regional or main water table by a less permeable underlying earth or rock material (see Figure 200-2).

(74) "Permeability" means the ability of material to transmit fluid, usually described in units of gallons per day per square foot of cross-section area. It is related to the effectiveness with which pore spaces transmit fluids.

(75) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the Federal Government and any agencies thereof.

(76) "Petcock Valve" is a valve used to contain pressure which when opened will drain the line or pipe.

(77) "Piezometer" means a type of monitoring well designed solely to obtain ground water levels. Piezometers are prohibited in areas of known or reasonably suspected contamination. This term is synonymous with "observation well"(See OAR 690-240).

(78) "Pitless Adapter" means a commercially manufactured device designed for attachment to one or more openings through a well casing, which will permit water service pipes to pass through the wall of a well casing or extension thereof and prevent entrance of contaminants into the well or ground water. (Note: Unhydrated bentonite shall be installed at least one and one-half inches thick around the casing in any disturbed seal interval during pitless adapter installation).

(79) "Pitless Unit" means a commercially manufactured assembly which extends the upper end of the well casing to above grade, constructed and installed so as to prevent the entrance of contaminants into the well and to protect the ground water supply, conduct water from the well, and provide full access to the well and water system parts therein. (Note: Unhydrated bentonite shall be installed at least one and one-half inches thick around the casing in any disturbed seal interval during pitless unit installation).

(80) "Porosity" means the ratio of the volume of voids in the geologic formation being drilled to the overall volume of the material without regard to size, shape, interconnection, or arrangement of openings.

(81) "Potable Water" means water which is sufficiently free from biological, chemical, physical, or radiological impurities so that users thereof will not be exposed to or threatened with exposure to disease or harmful physiological effects.

(82) "Potentiometric Surface" means the level to which water will rise in tightly cased artesian wells (see Figure 200-2).

(83) "Pressure Grouting" means a process by which grout is confined within the drillhole or casing by the use of retaining plugs or packers and by which sufficient pressure is applied to drive the grout slurry into the annular space or zone to be grouted.

(84) "Professional" means any person licensed or registered by the State of Oregon to construct monitoring wells, water supply wells, or practice geology or civil engineering.

(85) "Public-at-Large" means a person not actively engaged in the well industry.

(86) "Public Water System" means a system for the provision to the public of piped water for human consumption, if such system has more than three service connections or supplies water to a public or commercial establishment that operates a total of at least 60 days per year, and that is used by ten or more individuals per day. Public water system also means a system for the provision to the public of water through constructed conveyances other than pipes to at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days of the year. A public water system is either a "Community Water System," a "Transient Non-Community Water System," a "Non-Transient Non-Community Water System" or a "State Regulated Water System."

(87) "Public Well" means a water supply well, whether publicly or privately owned, other than a municipal well, where water is provided for or is available through the single user for public consumption. This includes, but is not limited to, a school, a farm labor camp, an industrial establishment, a recreational facility, a restaurant, a motel, or a group care home.

(88) "Pumping Level" means the level of the water surface in a well while it is being pumped or bailed.

(89) "Pump Test" means the procedure involving pumping water for a specified period of time to determine the yield characteristics of an aquifer.

(90) "Refusal to Renew" means a provision in an order, or as allowed by ORS 537.747, that prohibits renewal of a well constructor's license, for a specified term not to exceed one year from the expiration date of the current license.

(91) "Remediation Well" means a well used for extracting contaminates and/or contaminated ground water from an aquifer. This term is synonymous with "extraction well" and "recovery well."

(92) "Respondent" means the person against whom an enforcement action is taken.

(93) "Responsible Party" means the person or agency that is in charge of construction or maintenance and is either in violation as specified in a notice of violation or who may benefit from that violation.

(94) "Rough Drilling Log" means a record kept on the well site of the information needed to complete the well report for the well being constructed.

(95) "Revoke" means termination of a well constructor's license.

(96) "Sand" means a material having a prevalent grain size ranging from 2 millimeters to 0.06 millimeters.

(97) "Sanitary Seal" means a tight fitting properly sized threaded, welded, or gasketed cap placed on the top of the permanent well casing to prevent entry of water and foreign material.

(98) "Sealant": See Grout

(99) "Silt" means an unconsolidated sediment composed predominantly of particles between 0.06 mm and 0.002mm in diameter.

(100) "Slope Stability Geotechnical Hole" means a geotechnical hole excavated, drilled or bored for studying and/or monitoring movement of landslide features, including water levels, or other mass-wasting features to detect zones of movement and establish whether movement is constant, accelerating, or responding to remedial measures. Hole(s) excavated, drilled or bored for the purpose of slope remediation or stabilization shall be considered a slope stability geotechnical hole. Slope stability geotechnical holes are not monitoring wells, piezometers, or water supply wells.

(101) "Sponsor" means an institution, professional organization, individual, or business that offers continuing education courses to licensees. This term is synonymous with provider.

(102) "Static Water Level" means the stabilized level or elevation of water surface in a well not being pumped.

(103) "Stratum" means a bed or layer of a formation that consists throughout of approximately the same type of consolidated or unconsolidated material.

(104) "Sump" means a hole dug to a depth of ten feet or less with a diameter greater than ten feet in which ground water is sought or encountered.

(105) "Suspension" means the temporary removal of the privilege to construct wells under an existing license for a period of time not to exceed one year.

(106) "System Interlock" means an interlocking mechanism used to link irrigation pumps and chemical injection units, other pumps, or supply tanks so designed that in the event of irrigation pump malfunction or failure, shutdown of the chemical injection units will occur. (Back-siphon prevention)

(107) "Unconsolidated Formation" means naturally occurring, loosely cemented, or poorly indurated materials including clay, sand, silt, and gravel.

(108) "Underground Injection" means the emplacement or discharge of fluids to the subsurface.

(109) "Underground Injection System" means a well, improved sump, sewage drain hole, subsurface fluid distribution system, or other system or ground water point source used for the emplacement or discharge of fluids.

(110) "Upper Oversize Drillhole" means that part of the well bore extending from land surface to the bottom of the surface seal interval.

(111) "Violation" means an infraction of any statute, rule, standard, order, license, compliance schedule, or any part thereof and includes both acts and omissions.

(112) "Water Supply Well" means a well, other than a monitoring well, that is used to beneficially withdraw or beneficially inject ground or surface water. Water supply wells include, but are not limited to, community, dewatering, domestic, irrigation, industrial, municipal, and aquifer storage and recovery wells.

(113) "Water Supply Well Constructor" means any person who has a current water well constructor's license with a water supply well endorsement issued in accordance with ORS 537.747(3).

(114) "Water Supply Well Constructor's License" means a Water Well Constructor's License with a water supply well endorsement issued in accordance with ORS 537.747(3).

(115) "Water Supply Well Drilling Machine" means any power-driven driving, jetting, percussion, rotary, boring, digging, augering machine, or other equipment used in the construction or alteration of water supply wells.

(116) "Water Table" means the upper surface of an unconfined water body, the surface of which is at atmospheric pressure and fluctuates seasonally. The water table is defined by the levels at which water stands in wells that penetrate the water body (see Figure 200-2).

(117) "Water Well Constructor's License" means a license to construct, alter, deepen, abandon or convert wells issued in accordance with ORS 537.747(3). Endorsements are issued to the license and are specific to

the type of well a constructor is qualified to construct, alter, deepen, abandon or convert.

(118) "Well" means any artificial opening or artificially altered natural opening, however made, by which ground water is sought or through which ground water flows under natural pressure, or is artificially withdrawn or injected. This definition shall not include a natural spring, or wells drilled for the purpose of exploration or production of oil or gas. Prospecting or exploration for geothermal resources as defined in ORS 522.005 or production of geothermal resources derived from a depth greater than 2,000 feet as defined in 522.055 is regulated by the Department of Geology and Mineral Industries.

[ED. NOTE: Figures referenced are available from the agency]
Stat. Auth.: ORS 536.027, 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 9, f. & ef. 12-9-77; WRD 9-1978, f. 12-12-78, ef. 1-1-79; WRD 12-1982, f. & ef. 12-14-82; Renumbered from 690-060-0050 & 690-064-0000 by WRD 13-1986, f. 10-7-86, ef. 11-1-86; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 21-1990, f. & cert. ef. 12-14-90; WRD 1-1991, f. & cert. ef. 2-8-91; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 2-1995, f. 5-17-95, cert. ef. 7-1-95; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03; WRD 4-2004, f. & cert. ef. 6-15-04; WRD 2-2006, f. & cert. ef. 6-20-06; WRD 2-2008, f. 6-18-08, cert. ef. 7-1-08; WRD 3-2008, f. 12-22-08, cert. ef. 1-2-09; WRD 5-2015, f. & cert. ef. 7-1-15

**690-205-0185**
**Water Supply Well Drilling Machines**

(1) All water supply well drilling machines being operated, other than under a landowner's permit, shall be plainly marked either with the bonded Water Supply Well Constructor's license number, the name of the bonded Water Supply Well Constructor, or the name of the well drilling business. The markings shall be permanently affixed on each side of the machine. Good quality paint or commercial decal numbers shall be used in placing the identification information on the drilling machine. In no case shall the constructor's license number, name, or business name, be inscribed with crayon, chalk, marking keel, pencil, or other temporary markings.

(2) In all cases, the license number, name, or business name, of the bonded Water Supply Well Constructor shall be removed from the drilling machine immediately upon change of ownership or change of control of the drilling machine.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 3, f. & ef. 2-18-77; WRD 3-1983, f. & ef. 4-28-83; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-010-0030 & 690-060-0035; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-205-0060; WRD 2-2006, f. & cert. ef. 6-20-06; WRD 5-2015, f. & cert. ef. 7-1-15

**690-210-0030**
**Placement of Water Supply Wells**

(1) No person shall construct a water supply well:

(a) Within 50 feet of any septic tank; or

(b) Within 100 feet of a septic drainline or sewage disposal structure or facility; or

(c) Within 50 feet of a closed sewage or storm drainage system (except those in or underneath a building); or

(d) Within 50 feet of a confined animal feeding or holding area; or

(e) Within 50 feet of any animal waste holding area such as a pond or lagoon; or

(f) Within 100 feet of any sewage sludge disposal area; or

(g) Within 5 feet from a permanent structure or the roof, eaves or overhangs of a permanent structure. This includes decks or other additions to the structure that may hinder the ability of a drilling machine to get over the well. This does not include pump houses or other outbuildings that are easily moved; or

(h) Within 500 feet of a hazardous waste storage, disposal or treatment facility without written permission of the Director.

(2) A new water supply well may be constructed at the site of an abandoned septic tank or drain field one year after the septic tank or drain field is taken out of use. The abandoned septic tank shall be pumped by a DEQ licensed sewage disposal business to remove all contents. Following pumping, the tank shall be filled with reject sand, bar run gravel or other material approved by the on site sub-surface sewage permitting agent. The delivery line between the building and the tank shall be permanently capped or filled with cement grout. A water supply well shall not be constructed through an abandoned septic tank or septic drain line. The new water supply well shall be located to meet other setbacks as directed in section (1) of this rule.

(3) Rain water gutter downspouts and drains are exempt from the setback requirements.

(4) The constructor should consider whether greater setback distances are required for the protection of the ground water depending on the topography and local geology.

(5) Additional setback standards may apply to wells used for public water systems. See OAR 333-061-0050(2) or contact the Oregon Health Authority for more information.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 3. f. & ef. 2-18-77; WRD 9-1978, f. 12-12-78, ef. 1-1-79; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-060-0015; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 5-2015, f. & cert. ef. 7-1-15

**690-210-0130**
**Sealing of Wells in Unconsolidated Formations Without Significant Clay Beds**

Water supply wells drilled into unconsolidated water-bearing strata overlain by unconsolidated materials, such as sand, silt, or gravel, without significant clay beds, shall have a watertight, unperforated well casing extending to a minimum of eighteen feet below land surface. An upper oversize drillhole, four inches greater in diameter than the nominal diameter of the casing, shall be constructed to a minimum depth of 18 feet. To prevent caving, a temporary surface casing, at least 18 feet in length, shall be used throughout the construction of the annular seal space. The annular space between the permanent well casing and the upper, oversize drillhole shall be completely full of grout in accordance with OAR 690-210-0310 thru 690-210-0360 after the permanent well casing is set into final position. The temporary surface casing shall be removed from the well as the annular space is filled. (See Figure 210-2)

[ED. NOTE: Figures referenced are available from the agency.]
Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented:
Hist.: WRD 9-1978, f. 12-12-78, ef. 1-1-79; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-061-0126; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 5-2015, f. & cert. ef. 7-1-15

**690-210-0140**
**Sealing of Water Supply Wells in Unconsolidated Formations with Significant Clay Beds**

Water supply wells drilled into water-bearing strata overlain by unconsolidated deposits of clay, or sand and gravel in which significant interbeds of clay are present, shall have a watertight, nonperforated, permanent well casing extending at least five feet into a clay or other impermeable stratum overlying the water-bearing zone. In all cases, an upper oversize drillhole, at least four inches greater in diameter than the nominal diameter of the permanent well casing shall be constructed to this same depth. In the event that the subsurface materials penetrated by the upper drillhole cave, or tend to cave, an outer, temporary surface casing shall be used to case out caving materials throughout the construction of the oversize drillhole. If the clay or other impermeable stratum is 13 feet or less below land surface, the watertight, nonperforated well casing and the upper, oversize drillhole shall extend to a minimum depth of 18 feet below land surface. If necessary to complete the well, the single, permanent well casing may be extended below the required sealing depth prior to sealing the well with grout. If preferred, a smaller diameter casing, liner, or well screen may be installed. The annular space between the permanent well casing and the upper, oversize drillhole shall be completely full of grout in accordance with OAR 690-210-0310 through 690-210-0360 after the permanent well casing is set into final position. The temporary surface casing shall be removed from the well as the annular space is filled. (See Figure 210-3).

[ED. NOTE: Figures referenced are available from the agency.]
Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 183, 536, 537 & 540
Hist.: WRD 9-1978, f. 12-12-78, ef. 1-1-79, Renumbered from 690-061-0131; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 5-2015, f. & cert. ef. 7-1-15

**690-210-0150**
**Sealing of Water Supply Wells in Consolidated Formations**

(1) Water supply wells drilled into a water-bearing rock formation overlain by clay, silt, sand, gravel, or similar materials, shall be constructed in accordance with one of the following methods:

(a) Method 1 (Continuous Seal): An upper drillhole, four inches greater in diameter than the nominal diameter of the permanent well casing to be installed, shall extend from land surface to at least five feet into solid, uncreviced, consolidated rock overlying the water-bearing rock formation below a depth of 13 feet. Unperforated permanent well casing shall extend to this same depth. The annular space between the casing and the drillhole wall within the rock formation shall be filled with grout. The upper annular space between the casing and the drillhole wall shall be filled from land

surface to at least five feet into an impermeable clay stratum below a depth of 13 feet. The annular space between the upper and lower sealing intervals shall be filled with an impermeable sealing material. If necessary to complete the well, a smaller diameter well casing, liner pipe, or well screen may be installed. If cement grout is placed by a suitable method from the bottom of the casing to land surface (Methods A, B, D, Appendix 210-3), the upper drillhole shall be at least two inches larger than the nominal diameter of the casing. (See Figure 210-4);

(b) Method 2 (Step-Down Casing): An upper drillhole, four inches greater in diameter than the permanent well casing to be installed, shall extend from land surface to at least five feet into an impermeable clay stratum below a depth of 13 feet. Unperforated, permanent well casing shall extend to, and be driven into, solid, uncreviced, consolidated rock overlying the water- bearing rock formation. A lower drillhole, equal in diameter to the inside diameter of the upper permanent well casing, shall be constructed at least five feet into solid uncreviced rock overlying the water-bearing formation. A smaller diameter casing, at least two inches smaller in diameter than the diameter of the upper permanent well casing, shall extend at least five feet into the lower drillhole and at least eight feet into the upper permanent well casing. The annular space between the upper oversize drillhole and the permanent well casing, and the annular space between the smaller diameter lower casing and the lower drillhole, shall be completely filled with grout in accordance with OAR 690-210-0310 through 690-210-0360 after the permanent well casing and the lower casing are set into final position. (See Figure 210-5);

(c) Method 3 (Under-Reaming): An upper drillhole, four inches greater in diameter than the permanent well casing to be installed, shall extend from land surface to at least five feet into an impermeable clay stratum below a depth of 13 feet. A lower drillhole, at least two inches greater in diameter than the diameter of the permanent well casing, shall be constructed at least five feet into solid, uncreviced, consolidated rock by under-reaming methods. Unperforated, permanent well casing shall extend to and be driven into solid, uncreviced, consolidated rock at the bottom of the under-reamed section following placement of the sealing material. The annular space between the upper oversize drillhole and the upper permanent well casing shall be filled with cement grout using Method C or bentonite. The annular space between the lower under- reamed drillhole wall and the permanent well casing shall be completely filled with grout applied under pressure in accordance with the appropriate Method A, B, or D, in Appendix 210-3. (See Figure 210-6).

(2) In all cases, (Methods 1, 2, or 3, above), if materials penetrated by the upper oversize drillhole cave, or tend to cave, an outer temporary surface casing shall be used to case out all caving material throughout construction of the oversize drillhole. The temporary surface casing shall be withdrawn as the annular space is filled with grout.

[ED. NOTE: Figures and Appendices referenced are available from the agency.]
Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 183, 536, 537 & 540
Hist.: WRD 9-1978, f. 12-12-78, ef. 1-1-79; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-061-0136; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef 11-15-01; WRD 5-2015, f. & cert. ef. 7-1-15

**690-210-0155**
**Additional Standards for Artesian Water Supply Wells**

(1) Water supply wells penetrating into an artesian aquifer shall have an upper oversize drillhole four inches greater in diameter than the nominal diameter of the permanent well casing. Watertight unperforated casing shall extend and be sealed at least five feet into the confining formation immediately overlying the artesian water-bearing zone. In all cases, a minimum of 18 feet of casing and casing seal will be required. If cement grout is placed by a suitable method from the bottom of the casing (Methods A, B, and D, in Appendix 210-3 and Figure 210-1), the diameter of the upper drillhole shall be at least two inches larger than the nominal diameter of the casing.

(2) To complete the well, smaller diameter casing, perforated liner, or a well screen may be installed. When artesian pressures are encountered in the absence of a confining formation, casing and casing seal requirements shall be determined by the Director upon written application. In the alternative, the person constructing the well may construct the well in conformance with the minimum standards for artesian wells with a confining formation, set forth in section (1) of this rule.

(3) If an artesian water supply well flows at land surface, the well shall be equipped with a control valve and a watertight mechanical cap, threaded or welded, so that all flow of water from the well can be completely stopped.

(4) All flowing artesian wells shall be equipped with a pressure gauge placed on a dead- end line. A petcock valve shall be placed between the gauge and well casing. (See Figure 210-7).

(5) All flowing artesian water supply wells shall be tested for artesian shut-in pressure in pounds per square inch and rate of flow in cubic feet per second, or gallons per minute, under free discharge conditions. This data shall be reported on the well report.

[ED. NOTE: Figures & Appendices referenced are available from the agency.]
Stat. Auth.: ORS 183, 536, 537 & 540
Stats. Implemented: ORS 183, 536, 537 & 540
Hist.: WRD 9-1978, f. 12-12-78, ef. 1-1-79; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-061-0156, 690-061-0161, 690-061-0166, 690-061-0171 & 690-061-0176; Renumbered from 690-210-0120 by WRD 7-2001, f. & cert. ef. 11-15-01; WRD 5-2015, f. & cert. ef. 7-1-15

**690-210-0190**
**Steel Casing**

(1) All steel casing installed shall be in new or like new condition, being free of pits or breaks, and shall meet or exceed the minimum American Society for Testing Materials (ASTM A-53A or B) specifications for steel pipe, for the sizes as set out in Table 210-2.

(2) All steel casing having a diameter larger than 20 inches shall have a wall thickness of at least 0.375 inch.

(3) Steel casing installed in a well greater than a nominal diameter of ten inches, having a wall thickness of 0.250 inch and meeting or exceeding ASTM A-53 A or B specifications must not exceed the following depth limitations (Diameter — Maximum Depth, respectively):

(a) 12 inches — 500 feet;

(b) 14 — 16 inches — 250 feet;

(c) 18 — 20 inches — 100 feet.

(4) Steel casings of other ASTM specifications shall not be used without written permission of the Director. A written request to use casing of other specifications shall be submitted to the Director. This request shall include a description of the casing specifications and the reason for its use.

[ED. NOTE: Tables & Publications referenced are available from the agency.]
Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented:
Hist.: WRD 9-1978, f. 12-12-78, ef. 1-1-79; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-061-0006; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-011; WRD 5-2015, f. & cert. ef. 7-1-15

**690-210-0220**
**Plastic Casing Joints**

All plastic casing joints shall be watertight. Either "bell" type, threaded, or coupling hubs are approved. Hub couplings shall be of material meeting the specifications for plastic casings as set forth in OAR 690-210-0210. Joints shall be made by solvent cement in accordance with manufacturer's directions. Newly assembled joints require careful handling until the initial set has taken place, which varies with the temperature and the pipe size. The recommended initial set times are from manufacturer's recommendations (See Table 210-4).

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 183, 536, 537 & 540
Hist.: WRD 9-1978, f. 12-12-78, ef. 1-1-79; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-061-0036; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 5-2015, f. & cert. ef. 7-1-15

**690-210-0230**
**Inner Casing**

Inner casing installed into a well must meet the minimum requirements of well casing (OAR 690-210-0190). The space between the two well casings shall be sealed so as to prevent the movement of water between the two casings. Inner casing installed in a well shall extend or telescope at least eight feet into the lower end of the well casing. The inner casing must be centered and must be a minimum of one inch smaller in diameter than the outer casing if an under reaming method system is used. If other methods are used, the inner casing must be a minimum of two inches smaller in diameter than the outer casing. The grout must be placed in a positive manner in accordance with method A, B, D, or E (see Appendix 210-3).

[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 183, 536, 537 & 540
Hist.: WRD 9-1978, f. 12-12-78, ef. 1-1-79; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-061-02310; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 5-2015, f. & cert. ef. 7-1-15

**690-210-0270**
**Pitless Well Adapters and Units**

Surface seal requirements for well casing set forth herein shall also apply when a pitless adapter or unit is installed in a well. The seal shall cover that interval occupied by the pitless case from the point of casing connection to land surface. A cement grout seal shall not be allowed within the pitless unit or pitless adaptor sealing interval. The pitless adapter or unit sealing interval shall be sealed with unhydrated bentonite as described in OAR 690-210-0330 and 690-210-0340. The pitless adapter or unit, including the cap or cover, pitless case and other attachments, shall be designed and constructed to be watertight to prevent the entrance of contaminants into the well from surface or near-surface sources. Pitless units shall be vented to the atmosphere. Refer to OAR 690-210-0210 if the pitless adaptor or unit is to be used in conjunction with PVC casing.

**NOTE:** Prior to installing pitless well adapters or units on public, community, municipal, or public utility water supply wells, contact the Department of Human Resources. (See references to Health Division regulation in Appendix 210-1).

[ED. NOTE: The Appendices referenced are available from the agency.]

Stat. Auth.: ORS 536.090 & 537.505 - 537.795

Stats. Implemented: ORS 183, 536, 537 & 540

Hist.: WRD 9-1978, f. 12-12-78, ef. 1-1-79; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-061-051; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 5-2015, f. & cert. ef. 7-1-15

**690-210-0320**
**Methods of Placement of Cement Grout or Concrete**

Cement grout or concrete used as a sealing material in a well shall be placed or forced upward from the bottom to completely fill the annular space to be grouted and shall be placed in one continuous operation without significant interruption. If temporary outer surface casing is used in the construction of the well, it shall be withdrawn as the grout or concrete is placed. (For acceptable methods of placement, see Appendix 210-3 and Figure 210-1, 1986).

[ED. NOTE: Figures and Appendices referenced are available from the agency.]

Stat. Auth.: ORS 183, 536, 537 & 540

Stats. Implemented: ORS 183, 536, 537 & 540

Hist.: WRD 9-1978, f. 12-12-78, ef. 1-1-79; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-061-0021 & 690-061-0096; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 5-2015, f. & cert. ef. 7-1-15

**690-210-0380**
**Disinfection of a Well**

Prior to or after being placed in the well, pumping equipment, sand, gravel and well casing shall be thoroughly hosed or sluiced with water, and shall be disinfected with a solution containing at least 50 parts per million chlorine. All water introduced into a well during construction shall be clean and potable. Upon completion, the well and its equipment, including the interior of the well casing, shall be thoroughly swabbed and cleaned to remove all of the oil, grease, and foreign substances. The well and its equipment shall be disinfected by thoroughly agitating and mixing in the well a solution containing enough chlorine to leave a residual of 25 parts per million throughout the well after a period of 24 hours. Disinfection should also occur following the installation of pumping equipment. (See Chart Recommendations for Disinfection of Wells, Appendix 210-2).

**NOTE**: Other public agencies may have jurisdiction over the discharge of chlorine in certain areas. The constructor should contact the Oregon Department of Environmental Quality or the appropriate city public works department for further information.

[ED. NOTE: Appendices referenced are available from the agency.]

Stat. Auth.: ORS 536.090 & 537.505 - 537.795

Stats. Implemented: ORS 183, 536, 537 & 540

Hist.: WRD 9-1978, f. 12-12-78, ef. 1-1-79; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-061-0116; WRD 7-1988, f. & cert. ef. 6-29-88; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 5-2015, f. & cert. ef. 7-1-15

**690-210-0400**
**Construction of Dug Wells**

Dug wells that are 21 feet or less in depth shall be sealed with grout from land surface to within three feet of the bottom of the well. Dug wells greater than 21 feet in depth shall be sealed with grout from land surface to a depth of at least 18 feet below land surface. In all cases a watertight surface curbing shall extend from a minimum of 12 inches above land surface and continue the entire length of the sealed interval. Open wells, sometimes called sumps, which exceed ten feet in average diameter and are dug to a depth of ten feet or less are exempt from these construction requirements, but are subject to all the requirements covering the use of ground water (water right application).

Stat. Auth.: ORS 183, 536, 537 & 540

Stats. Implemented: ORS 183, 536, 537 & 540

Hist.: WRD 9-1978, f. 12-12-78, ef. 1-1-79; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-061-0196; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 5-2015, f. & cert. ef. 7-1-15

**690-210-0410**
**Buried Slab Construction**

In a buried slab type well, the slab shall be at least 18 feet below land surface and shall be at least three inches in thickness. The slab shall be reinforced to withstand all stresses. The slab shall be sealed with cement grout at least one foot thick, and the well bore backfilled with grout in accordance with OAR 690-210-0300 through 690-210-0360. (See Figure 210-13).

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 183, 536, 537 & 540

Stats. Implemented: ORS 183, 536, 537 & 540

Hist.: WRD 9-1978, f. 12-12-78, ef. 1-1-79; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-061-0206; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 5-2015, f. & cert. ef. 7-1-15

**690-210-0420**
**Surface Curbing**

(1) The surface curbing required in OAR 690-210-0400 shall be of concrete, concrete tile, or steel. If concrete is used, the concrete wall thickness shall not be less than six inches. In the case of buried slab type wells, well casing meeting the minimum specifications given in 690-210-0190 through 690-210-0220 shall be used. (See Figure 210-13.)

(2) If precast concrete tile or steel casing is used for the surface curbing, the well diameter to the bottom of the surface curbing shall be eight inches greater than the outside diameter of the tile or steel, and the annular space shall be completely filled with grout in accordance with OAR 690-210-0310 through 690-210-0340. (See Figure 210-13).

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 183, 536, 537 & 540

Stats. Implemented: ORS 183, 536, 537 & 540

Hist.: WRD 9-1978, f. 12-12-78, ef. 1-1-79; WRD 13-1986, f. 10-7-86, ef. 11-1-86, Renumbered from 690-061-0201; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 5-2015, f. & cert. ef. 7-1-15

**690-215-0200**
**Dedicated Measuring Tube**

A dedicated measuring tube as described in 690-215-0060 shall be installed in any water supply well at the time of pump installation, pump repair or pump replacement in the following areas (See Figures 200-4, 200-5, 200-7 and 200-8):

(1) Petes Mountain Area of Clackamas County (See OAR 690-200-0028(2));

(2) Eola Hills Ground Water Limited Area of Polk and Yamhill Counties (See OAR 690-200-0028(3);

(3) "Mosier Area" Special Area Standards area of Wasco County (See OAR 690-200-0028(4)).

[ED. NOTE: Figures referenced are available from the agency.]

Stat. Auth.: ORS 183, 536, 537 & 540

Stats. Implemented: ORS 183, 536, 537 & 540

Hist.: WRD 2-2008, f. 6-18-08, cert. ef. 7-1-08; WRD 5-2015, f. & cert. ef. 7-1-15

**690-220-0115**
**Unhydrated Bentonite and Method of Placement**

(1) When abandoning a pre-existing well with unhydrated bentonite the Water Supply Well Constructor shall provide additional notification to the Regional Well Inspector or the Well Construction Program Coordinator in Salem by fax, e-mail or telephone 72 hours prior to starting abandonment work.

(a) In case of an emergency, the additional notification is not required; however, the Water Supply Well Constructor shall notify the Department prior to beginning abandonment work as required in OAR 690-205-0200.

(2) Unhydrated bentonite used in the abandonment of water supply wells shall meet the following requirements:

(a) Specifically designed for use in water supply wells; and

(b) Within industry tolerance for dry western sodium bentonite; and

(c) Free of polymers that promote bacterial growth; and

(d) Manufactured to be 3/8-inch or 3/4-inch; and

(e) National Sanitation Foundation (NSF) approved or have a swell index greater than 15 milliliters (ml) per 2 grams (gm).

(3) Powdered bentonite, bentonite grout or bentonite slurry shall not be used to abandon water supply wells.

(4) Unhydrated bentonite shall only be used to abandon water supply wells when in contact with water having less than 800 parts per million (ppm) total dissolved solids (TDS).

(a) Unhydrated bentonite may be used to abandon water supply wells exceeding 800 ppm TDS if the bentonite manufacturer provides documentation that their product can be used in water that exceeds 800 ppm TDS.

(A) Prior Department approval is required before placement.

(B) The bentonite manufacturer's documentation and Department approval shall be submitted with the Water Supply Well Report as required in OAR 690-205-0210.

(b) In all cases, the TDS shall be reported on the Water Supply Well Report as required in OAR 690-205-0210.

(5) Water supply wells with casing that is at least four inches in diameter and less than eight inches in diameter may be abandoned with unhydrated bentonite to a maximum well depth of 700 feet, if being placed through water. Unhydrated bentonite may be used deeper with prior Department approval.

(6) Water supply wells with casing that is at least four inches in diameter and less than eight inches in diameter may be abandoned with unhydrated bentonite to a maximum well depth of 1000 feet, if being placed through air. Unhydrated bentonite may be used deeper with prior Department approval.

(7) Water supply wells with casing that is at least eight inches in diameter may be abandoned with unhydrated bentonite to a maximum well depth of 1200 feet, if being placed through water. Unhydrated bentonite may be used deeper with prior Department approval.

(8) Water supply wells with casing that is at least eight inches in diameter may be abandoned with unhydrated bentonite to a maximum well depth of 1500 feet, if being placed through air. Unhydrated bentonite may be used deeper with prior Department approval.

(9) Unhydrated bentonite shall be screened across a minimum 1/4-inch mesh screen during placement to minimize the introduction of bentonite dust into the sealing interval. The resulting seal shall be free of voids or bridges.

(10) A sounding or tamping tool shall be used in the sealing interval during placement to measure the fill rate and to break up possible bridges or cake formations.

(11) Unhydrated bentonite shall be poured at the manufacturers recommended rate in the water- filled portion of the drillhole and shall not be less than two minutes per 50 pound sack.

(12) In a dry sealing interval, (above the water level), bentonite shall be hydrated from land surface to a minimum depth of 50 feet below land surface. Unhydrated bentonite shall be hydrated with potable water in maximum ten foot lifts to ensure activation.

(13) The estimated and actual volume of sealing material used shall be calculated and reported on the Water Supply Well Report as required by OAR 690-205-0210.

Stat. Auth.: ORS 183, 536, 537 & 540
Stats. Implemented: ORS 183, 536, 537 & 540
Hist.: WRD 3-2008, f. 12-22-08, cert. ef. 1-2-09; WRD 5-2015, f. & cert. ef. 7-1-15

**690-240-0005**
**Introduction**

(1) Monitoring wells and geotechnical holes drilled to allow ground water and geologic determinations are constructed in a variety of environments and under a variety of conditions. Improper construction, maintenance, operation, and abandonment can allow deterioration of ground water quality and supply. Although enforcement actions may be exercised against other parties, the landowner of the property where the monitoring well or geotechnical hole is constructed is ultimately responsible for the condition, use, maintenance, conversion, and abandonment of the monitoring well, or geotechnical hole.

(2) Holes other than monitoring wells, water supply wells, or geotechnical holes which are drilled, excavated, or otherwise constructed in the earth's surface can also provide an avenue for deterioration of ground water quality. Improper construction, maintenance, use, and abandonment of other holes can pose a significant risk to ground water. Table 240-1 lists common subsurface borings and indicates which administrative rule governs the construction, conversion, maintenance, alteration, and abandonment of the boring.

(3) Ground water problems are difficult, expensive, and time consuming to correct. The Water Resources Commission (Commission) has been authorized to develop standards for wells drilled for the purpose of monitoring ground water in order to protect the state's ground waters. The Commission has also been authorized to develop standards for other holes through which ground water may become contaminated. The rules set forth herein are adopted to provide that protection. Their purpose is to prevent and eliminate ground water contamination, waste, and loss of artesian pressure.

(4) The Commission may develop additional rules as needed prescribing standards for the construction, operation, maintenance, and abandonment of other specific types of wells and holes to protect ground water.

(5) Except for the Commission's power to adopt rules, the Commission may delegate to the Water Resources Director the exercise or discharge in the Commission's name of any power, duty or function of whatever character, vested in or imposed by law upon the Commission. The official act of the Director acting in the Commission's name and by the Commission's authority shall be considered to be an official act of the Commission. The Commission delegates to the Director full authority to act in the Commission's name where that delegation is reflected in these rules.

(6) Under the provisions of ORS 537.780, the Commission is authorized to adopt such procedural rules and regulations as deemed necessary to carry out its function in compliance with the Ground Water Act of 1955. In fulfillment of these responsibilities and to ensure the preservation of the public welfare, safety, and health, the Commission has established these rules and regulations as the minimum standards for the construction, alteration, abandonment, conversion, and maintenance of monitoring wells in Oregon.

(7) Monitoring wells are wells as defined in ORS 537.515(9). A license and licensing fee, bond, examination, well report, and start card are required for construction, conversion, alteration, or abandonment of a monitoring well. In addition, a start card fee is required for new construction, deepening a well, and conversion.

(8) To protect the ground water resource, the Commission has the authority to regulate geotechnical holes under ORS 537.780(1)(c)(A). Construction of geotechnical holes requires either a Water Supply Well Constructor or Monitoring Well Constructor's License or Oregon registration as a geologist or civil engineer. If any one of the criteria in OAR 690-240-0035(2)(a)–(d) is met, a geotechnical hole report must be submitted.

(9) To protect the ground water resource, the Commission has the authority, under ORS 537.780(1)(c)(A), to regulate any hole through which ground water may be contaminated. Construction of holes other than water supply wells and monitoring wells does not require a license and licensing fee, bond, examination, well report, start card, and start card fee.

(10) Holes constructed under ORS Chapters 517, 520, and 522, and rules promulgated from those statutes, are the responsibility of the Oregon Department of Geology and Mineral Industries and are not subject to these rules. These include, but are not limited to, holes constructed for the purposes of exploring for, or producing, petroleum, minerals, or geothermal resources.

(11) The rules and regulations set forth herein shall become effective upon adoption by the Water Resources Commission.

(12) Under no circumstances shall a monitoring well, piezometer, geotechnical hole, or other hole be constructed in a manner that allows commingling or leakage of ground water by gravity flow or artesian pressure from one aquifer to another. (See definition of aquifer.)

(13) The rules and regulations set forth herein provide the minimum standards for the construction, conversion, alteration, maintenance, and abandonment of monitoring wells, geotechnical holes, and other holes. After the effective date of adoption of these rules and regulations, no monitoring well, geotechnical hole, or other hole shall be constructed, altered, converted, or abandoned contrary to the provisions of these rules and regulations without prior approval from the Water Resources Department. Violation of these standards may result in enforcement under OAR chapter 690, division 240, including suspension or revocation of a constructor's license, imposition of civil penalties on the landowner or constructor, action on a bond, or other sanctions authorized by law.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 2-1995, f. 5-17-95, cert. ef. 7-1-95; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 4-2004, f. & cert. ef. 6-15-04; WRD 2-2006, f. & cert. ef. 6-20-06; WRD 3-2014, f. & cert. ef. 11-25-14; WRD 5-2015, f. & cert. ef. 7-1-15

**690-240-0355**
**Monitoring Well Drilling Machines**

(1) All monitoring well drilling machines being operated, other than under a landowner's permit, shall be plainly marked either with the bonded Monitoring Well Constructor's license number, the name of the bonded Monitoring Well Constructor, or the name of the well drilling business. The markings shall be permanently affixed on each side of the machine. Good quality paint or commercial decal numbers shall be used in placing the identification information on the drilling machine. In no case shall the constructor's license number, name, or business name, be inscribed with crayon, chalk, marking keel, pencil, or other temporary markings.

(2) In all cases, the license number, name, or business name, of the bonded Monitoring Well Constructor shall be removed from the drilling

machine immediately upon change of ownership or change of control of the drilling machine.

Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 536.090 & 537.505 - 537.795
Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0085; WRD 2-2006, f. & cert. ef. 6-20-06; WRD 5-2015, f. & cert. ef. 7-1-15

**690-240-0475**
**Well Seals**

(1) Proper seal placement is essential to minimize the potential for movement of water and contaminants from the surface, or other waterbearing zones, into the monitoring well. Appropriate sealing materials may vary depending on the site characteristics and the substances being monitored. Well seals shall consist of a physically and chemically stable hydrated grout slurry composed of:

(a) Neat cement; or

(b) Sodium bentonite; or

(c) A cement-bentonite grout mixture containing no more than five percent bentonite by dry weight; or

(d) Sodium bentonite granules, pellets or chips placed in an unhydrated state, and subsequently hydrated downhole.

(2) Grout slurries shall be mixed in the proper proportions and placed in the bore hole in such a manner as to prevent excessive shrinkage, water loss, chemical breakdown, bridging or invasion into the filter pack. The following procedures shall be utilized if a grout slurry is to be the sealing material:

(a) Neat cement used for grouting shall be American Petroleum Institute Class A or B, or ASTM C-150 Type I or II neat cement with no additives, mixed in the proportion of 5.2 gallons of water per standard 94 pound sack and having a mud weight of approximately 15.6 pounds per gallon;

(b) Bentonite used as a slurry for grouting shall be a high solids granular sodium bentonite mixed according to the manufacturer's directions, having a minimum mud weight of at least 9.5 pounds per gallon, and containing at least 20 percent solids. Mixing methods should be used which prevent the slurry from being excessively lumpy;

(c) When a mixture of cement and bentonite is used as a slurry for grouting, the cement shall be American Petroleum Institute Class A or B, or ASTM C-150 Type I or II neat cement. The slurry shall be no more than five percent, by dry weight, of sodium bentonite gel powder (3.75 pounds of bentonite per sack of cement). For each pound of bentonite added, up to an additional 0.7 gallons of water shall be added to the original neat cement mix. The water and bentonite shall be mixed first, and then the cement added to the bentonite slurry. The cement-bentonite mixture shall have a mud weight of approximately 14.1 pounds per gallon;

(d) Prior to placing grout in the annular space, the grout slurry weight shall be measured by ASTM Test Method D-4380-84. Grout slurry shall not be placed in the annular space until the grout slurry weight is within ten percent of the weight specified in subsection (2)(a), (b) or (c) of this rule;

(e) Grout slurries shall be placed from the bottom of the annular space upward in such a manner as to completely fill the sealing interval. Grout slurries shall begin at the top of the filter pack seal overlying the filter pack and extend to the bottom of the surface seal. If the grout slurry is intended to serve as the surface seal, it shall extend to land surface;

(f) Grout slurries shall be placed through a side discharge grout pipe by gravity flow or by pumping to ensure positive placement without bridging or wash-out of previously placed annular materials. The discharge end of the grout pipe shall remain submerged in the grout throughout the sealing operation;

(g) Prior to discontinuing placement of grout in the annular space, grout slurry returns from the annular space shall be measured by ASTM Test Method D-4380-84. Placement of grout slurry in the annular space shall continue until the returns are within ten percent of the weight specified in subsection (2)(a), (b) or (c) of this rule.

(3) Bentonite used in an unhydrated form shall be sodium bentonite granules, pellets or chips. Unhydrated bentonite shall be specifically designed for sealing wells and be within industry tolerances for dry western sodium bentonite. Bentonite shall be free of polymers that promote bacterial growth. The following procedures shall be adhered to if dry bentonite is used for sealing:

(a) Dry, poured bentonite seals shall only be used if the depth to the bottom of the seal is less than fifty feet and the standing water column in the bore hole or annular space is less than twenty-five feet deep at the time of seal placement. Only sodium bentonite chips manufactured to be greater than 1/4 inch or tablets shall be used below the water level in the sealing interval;

(b) Pour rate shall be three minutes or slower per 50 pound sack in the water-filled portion of the annulus;

(c) A sounding or tamping tool shall be used in the bore hole or annular space during pouring to measure fill rate and to break up possible bridges or cake formation;

(d) Care shall be taken to minimize the introduction of bentonite dust into the sealing interval;

(e) In a dry sealing interval, bentonite shall be hydrated with potable water in two foot lifts to ensure activation.

(4) The estimated and actual volume of sealing material used shall be calculated and reported to the Department.

[Publications referenced are available from the agency.]
Stat. Auth.: ORS 536.090 & 537.505 - 537.795
Stats. Implemented: ORS 183, 536, 537 & 540
Hist.: WRD 14-1990, f. & cert. ef. 8-9-90; WRD 8-1993, f. 12-14-93, cert. ef. 1-1-94; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0130; WRD 5-2015, f. & cert. ef. 7-1-15

**690-240-0525**
**Piezometers**

It is prohibited to construct a piezometer in an area of known or reasonably suspected contamination.

**NOTE**: The Water Resources Department and the Department of Environmental Quality have information sources to use in determining if contaminants are present. Customary drilling practice as conducted by licensed professional must be included as part of the appropriate inquiry to determine if contaminants are present or reasonably suspected.

(1) A piezometer is defined in OAR 690-240-0010(59). Piezometers are a type of monitoring well and shall meet current monitoring well rules except for the following:

(a) Borehole size with depth requirements:

(A) For piezometers with a sealing depth less than 50 feet deep, the borehole diameter shall be at least two and one half inches (2.5") larger than the nominal casing diameter. If the piezometer is constructed using a hollow stem auger drilling machine, the inside diameter of the auger must be at least 2.5 inches larger than the nominal diameter of the casing to be installed;

(B) For piezometers with a sealing depth greater than 50 feet deep, the borehole diameter shall be at least three inches larger than the nominal casing diameter. If the piezometer is constructed using a hollow stem auger drilling machine, the inside diameter of the auger must be at least 3 inches larger than the nominal diameter of the casing to be installed.

(b) Surface Completion:

(A) Piezometers shall be protected as described in OAR 690-240-0420 concerning monitoring wells.

(c) If an artesian piezometer flows at land surface, it shall be equipped with a control valve or a watertight mechanical cap, so that all flow of water from the well can be completely stopped. Flowing artesian piezometers are not required to be equipped with a pressure gauge placed on a dead-end line or a petcock valve;

(d) The special cleaning and drill cutting storage requirements in OAR 690-240-0450 shall not apply to piezometers because they may not be constructed in areas of known or reasonably suspected contamination. However, all equipment and materials used in the construction of a piezometer shall be free of foreign materials and contaminants prior to entry into the well;

(e) Use of commercially fabricated screens are not required for piezometers. The screens installed shall be in new or like new condition, being free of pits or breaks, and shall be free of foreign materials and contaminants prior to installation;

(f) The filter pack requirements of OAR 690-240-0460(5) shall not apply to piezometers because they are not constructed in areas of known or reasonably suspected contamination;

(g) A minimum three foot annular seal is required. If a grout slurry is used, the filter pack seal requirements of 690-240-0460(6) apply. If a piezometer is completed with a flush monument, the annular seal shall extend a minimum of three feet below the monument seal.

Stat. Auth.: ORS 537.780
Stats. Implemented: ORS 183, 536, 537 & 540
Hist.: WRD 2-1995, f. 5-17-95, cert. ef. 7-1-95; WRD 7-2001, f. & cert. ef. 11-15-01; WRD 1-2003, f. & cert. ef. 3-14-03, Renumbered from 690-240-0137; WRD 4-2004, f. & cert. ef. 6-15-04; WRD 5-2015, f. & cert. ef. 7-1-15

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**Rule Caption:** Rules Governing Grants and Loans for Water Supply Development
**Adm. Order No.:** WRD 6-2015
**Filed with Sec. of State:** 7-2-2015
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**Notice Publication Date:** 5-1-2015
**Rules Adopted:** 690-093-0010, 690-093-0020, 690-093-0030, 690-093-0040, 690-093-0050, 690-093-0060, 690-093-0070, 690-093-0080, 690-093-0090, 690-093-0100, 690-093-0110, 690-093-0120, 690-093-0130, 690-093-0150, 690-093-0160, 690-093-0170, 690-093-0180, 690-093-0190, 690-093-0200
**Subject:** These rules establish procedures and requirements for the funding of water resources projects having economic, environmental, and community benefits from the Water Supply Development Account. These rules are needed in order for the Oregon Water Resources Department (OWRD) to award loans and grants to qualifying water resources projects. These rules provide the process through which applicants may receive a grant or loan from OWRD for a water resource project.
**Rules Coordinator:** Diana Enright—(503) 986-0874

**690-093-0010**
**Purpose**

The purpose of OAR 690-093 is to establish a means for state government to support the development of water resource projects having economic, environmental and community benefits. The rules establish procedures and requirements for the funding of water resources projects from the Water Supply Development Account established in ORS 541.656.

Stat. Auth.: ORS 541.651 - 541.696
Stats. Implemented: ORS 541.651 - 541.696
Hist.: WRD 6-2015, f. & cert. ef. 7-2-15

**690-093-0020**
**Definitions**

The following definitions apply to this division of the rules:

(1) "Collateral" means the security pledged for the payment of a loan.

(2) "Commission" means the Water Resources Commission.

(3) "Conserved Water" means that amount of water that results from conservation measures, measured as the difference between:

(a) The smaller of the amount stated on the water right or the maximum amount of water that can be diverted using the existing facilities; and

(b) The amount of water needed after implementation of conservation measures to meet the beneficial use under the water right certificate.

(4) "Director" means the director of the Oregon Water Resources Department or the director's designee.

(5) "Expanded Storage" means the quantity of water authorized by a new water storage permit that adds to the capacity of an already-existing storage facility.

(6) "Indian Tribe" as defined by ORS 391.802 means a federally recognized Indian tribe in Oregon that has members residing on a reservation or tribal trust lands in Oregon.

(7) "Instream Use" means water that remains in or is released into the natural stream channel or lake bed or where water naturally flows or occurs that provides a benefit including but not limited to recreation, conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, other ecological values, pollution abatement or navigation.

(8) "Newly Developed Water" means the new increment of water:

(a) Stored for a project providing new or expanded storage;

(b) Allocated to a use under a secondary water right for a project involving the allocation of previously uncontracted water stored by the United States Army Corps of Engineers under an existing water right; or

(c) Conserved for a project to allocate conserved water under the program described in ORS 537.455 to 537.500.

(9) "Non-Profit Organizations" means an organization that uses surplus revenues to achieve its goals rather than distributing them as profit or dividends.

(10) "Perennial Stream" means a continuous stream flow year around.

(11) "Persons" as defined by ORS 536.007 means individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the federal government and any agencies thereof.

(12) "Project Materials" means documents or media materials that are published or produced to describe or market the project.

(13) "Protected Instream" means water that remains in or is released into the natural channel and is legally protected by the state.

(14) "Seasonally Varying Flows" means the duration, timing, frequency and volume of flows, identified for the purpose of determining conditions for a new or expanded storage project, that must remain in-stream outside of the official irrigation season in order to protect and maintain the biological, ecological and physical functions of the watershed downstream of the point of diversion, with due regard given to the need for balancing the functions against the need to store water for multiple purposes.

(15) "Secondary Water Right" as used in OAR 690-093-0020 (8)(b) means a water right permit issued for the beneficial use of stored water.

(16) "Technical Review Team" means the group consisting of representatives from Water Resources Department, the Department of Environmental Quality, the State Department of Fish and Wildlife, the State Department of Agriculture, Oregon Business Development Department, affected Indian tribes, any collaborative body established by the Governor to address challenges, opportunities and priorities for the region affected by the project and additional experts as determined by the Water Resources Department.

(17) "Water Supply Development Account" is the account established in the State Treasury under ORS 541.656.

Stat. Auth.: ORS 541.651 - 541.696
Stats. Implemented: ORS 541.651 - 541.696
Hist.: WRD 6-2015, f. & cert. ef. 7-2-15

**690-093-0030**
**Authorized Use of Funds**

(1) The Department may expend moneys from the Water Supply Development Account for:

(a) Subject to subsection (3) of this section, making loans and grants to evaluate, plan and develop instream and out-of-stream water development projects approved by the Water Resources Commission, including but not limited to projects that:

(A) Repair or replace infrastructure to increase the efficiency of water use;

(B) Provide new or expanded water storage;

(C) Improve or alter operations of existing water storage facilities in connection with newly developed water;

(D) Create new, expanded, improved or altered water distribution, conveyance or delivery systems in connection with newly developed water;

(E) Allocate federally stored water;

(F) Promote water reuse;

(G) Promote water conservation;

(H) Provide streamflow protection or restoration;

(I) Provide for water management or measurement in connection with newly developed water; and

(J) Determine seasonally varying flows in connection with newly developed water.

(b) Paying the necessary administrative and technical costs of the Department in carrying out OAR 690-093.

(2)(a) In addition to any other permissible uses of moneys in the account, the Department may expend moneys from the account to support:

(A) Ongoing studies conducted by the United States Army Corps of Engineers to allocate stored water; and

(B) Comprehensive basin studies conducted by the United States Bureau of Reclamation.

(b) Expenditures described in this subsection are not subject to any grant or loan procedures, public benefit scoring or ranking or other requirements or restrictions for grants or loans established under this administrative rule.

(3) The Department may expend account moneys under subsection (1) of this section for loans and grants to develop instream and out-of-stream water development projects only if the Department determines under ORS 540.530 that any transfer of water rights for the project will not injure existing water rights.

(4) The Commission is not required to obligate all available account moneys during a funding cycle. Any available account moneys that are not obligated during a funding cycle shall be carried forward and be made available for projects in future funding cycles.

Stat. Auth.: ORS 541.651 - 541.696
Stats. Implemented: ORS 541.651 - 541.696
Hist.: WRD 6-2015, f. & cert. ef. 7-2-15

**690-093-0040**
**Loan and Grant Applicant Eligibility**

(1) Parties eligible for a loan or grant under these rules include persons, Indian tribes, and non-profit organizations.

(2) If an applicant is required to have a water management and conservation plan as prescribed by a condition of a water use permit; a permit extension; or another order or rule of the Commission, the plan must be submitted to the Water Resources Department and receive approval prior to Department acceptance of an application for a loan or grant from the account.

Stat. Auth.: ORS 541.651 - 541.696
Stats. Implemented: ORS 541.651 - 541.696
Hist.: WRD 6-2015, f. & cert. ef. 7-2-15

**690-093-0050**
**Pre-Application Conferences**

(1) A pre-application conference may be requested by prospective applicants.

(2) The Department may request, and the applicant must provide 14 days prior to the conference, adequate project information to prepare for the pre-application conference.

(3) At the pre-application conference, the Department shall inform the prospective applicant of:

(a) The procedural and substantive requirements of a loan or grant application;

(b) The scoring system used to evaluate loan and grant requests; and

(c) Any known issues associated with project eligibility for a loan or grant from the account.

(4) The prospective applicant may request additional pre-application consultation with the Department.

Stat. Auth.: ORS 541.651 - 541.696
Stats. Implemented: ORS 541.651 - 541.696
Hist.: WRD 6-2015, f. & cert. ef. 7-2-15

**690-093-0060**
**Application Submission Periods**

(1) The Department shall accept an application for a loan or grant at any time, but shall establish a yearly deadline for the consideration of a pool of applications.

(2) The Department will conduct a preliminary review of the application for completeness, eligibility and for sufficiency of information to determine benefits and outcomes as listed in OAR 690-093-0090 Scoring and Ranking and OAR 690-093-0100 Project Selection.

(3) Applications not funded during one annual period may be resubmitted in a future period.

Stat. Auth.: ORS 541.651 - 541.696
Stats. Implemented: ORS 541.651 - 541.696
Hist.: WRD 6-2015, f. & cert. ef. 7-2-15

**690-093-0070**
**Application Requirements**

(1) Applications for a loan or grant from the Water Supply Development Account must be in a form prescribed by the Water Resources Department and must include the following:

(a) A description of the need, purpose and nature of the project, including what the applicant intends to complete and how the applicant intends to proceed;

(b) Sufficient information to allow evaluation of the application based upon the public benefit scoring and ranking of the project;

(c) Current contact information for the principal contact, fiscal officer and involved landowners;

(d) For applications involving physical changes or monitoring on private land, evidence that landowners are aware of and agree to the proposal and are aware that monitoring information is a public record;

(e) The location of the proposed project, using public land survey reference points, latitude and longitude, county, watershed, river and stream mile, if appropriate;

(f) An itemized budget for the project, including fiscal and administrative costs;

(g) A description of funds, services or materials available to the project;

(h) A project schedule, including beginning and completion dates;

(i) Any conditions that may affect the completion of the project;

(j) A completed feasibility analysis if appropriate;

(k) Suggestions for interim and long-term project performance benchmarks;

(l) If the application is for a grant, demonstrated in-kind and cash cost match of not less than 25 percent of the amount of the grant sought from the account;

(m) If the application is for a loan, evidence demonstrating ability to repay the loan and provide collateral;

(n) Letters of support for the proposed project;

(o) If required by the Department, a description of consultations with affected Indian tribes regarding the project; and

(p) Any other information required by the Department.

(2) Applications determined to be ineligible, incomplete or that provide insufficient information shall be returned to the applicant.

Stat. Auth.: ORS 541.651 - 541.696
Stats. Implemented: ORS 541.651 - 541.696
Hist.: WRD 6-2015, f. & cert. ef. 7-2-15

**690-093-0080**
**Public Comment**

(1) The Department shall provide public notice and a 60-day period for public comment prior to initial scoring by the Technical Review Team by posting applications passing an initial review on the Department's website.

(2) Additional public comment will be sought by the Commission after rankings are published and prior to a final decision on an application.

Stat. Auth.: ORS 541.651 - 541.696
Stats. Implemented: ORS 541.651 - 541.696
Hist.: WRD 6-2015, f. & cert. ef. 7-2-15

**690-093-0090**
**Scoring and Ranking; Funding Decisions**

(1) The primary elements in the process of scoring and ranking of applications include the following:

(a) Initial review for completeness by the Department;

(b) Public comment;

(c) The Technical Review Team conducts the initial scoring and ranking for the projects, considers comments from applicants and the public and makes loan and grant funding recommendations to the Commission; and

(d) The Commission determines the final scoring and ranking of projects, provides for additional public comment, and makes the final decision regarding which projects are awarded loans or grants from the account.

(2) The Technical Review Team scoring methodology shall rank applications based upon the public benefits of the project and additional considerations set forth in ORS 541.677 subsection (1)(b), (1)(d) and (1)(e). The Technical Review Team shall use a score sheet provided by the Department. Each of the three public benefit categories shall be given equal importance in the evaluation and will have scoring sublevels including but not limited to the following:

(a) The evaluation of economic benefits for a project based on the changes in economic conditions expected to result from the project related to:

(A) Job creation or retention;

(B) Increases in economic activity;

(C) Increases in efficiency or innovation;

(D) Enhancement of infrastructure, farmland, public resource lands, industrial lands, commercial lands or lands having other key uses;

(E) Enhanced economic value associated with tourism or recreational or commercial fishing, with fisheries involving native fish of cultural significance to Indian tribes or with other economic values resulting from restoring or protecting water in-stream; and

(F) Increases in irrigated land for agriculture.

(b) The evaluation of environmental benefits for a project based on the changes in environmental conditions expected to result from the project related to:

(A) A measurable improvement in protected streamflows that:

(i) Supports the natural hydrograph;

(ii) Improves floodplain function;

(iii) Supports state or federally listed sensitive, threatened or endangered fish species;

(iv) Supports native fish species of cultural importance to Indian tribes; or

(v) Supports riparian habitat important for wildlife;

(B) A measurable improvement in groundwater levels that enhances environmental conditions in groundwater restricted areas or other areas;

(C) A measurable improvement in the quality of surface water or groundwater;

(D) Water conservation;

(E) Increased ecosystem resiliency to climate change impacts; and

(F) Improvements that address one or more limiting ecological factors in the project watershed.

(c) The evaluation of the social or cultural benefits for a project based on the changes in social or cultural conditions expected to result from the project related to:

(A) The promotion of public health and safety and of local food systems;

(B) A measurable improvement in conditions for members of minority or low-income communities, economically distressed rural communities, tribal communities or other communities traditionally underrepresented in public processes;

(C) The promotion of recreation and scenic values;

(D) Contribution to the body of scientific data publicly available in this state;

(E) The promotion of state or local priorities, including but not limited to the restoration and protection of native fish species of cultural significance to Indian tribes; and

(F) The promotion of collaborative basin planning efforts, including but not limited to efforts under the state Integrated Water Resources Strategy.

(3) Scoring sublevels shall have a numeric point scale that accounts for positive and negative effects of the project. Sublevel scores shall be summed to a public benefit category level. The Department shall set a minimum score for the application to proceed.

(4) The Technical Review Team will use the total score from the score sheet provided by the Department to rank all applications and make loan and grant funding recommendations to the Commission.

(5) The Commission shall determine the final scoring and ranking of projects and make the final decision regarding which projects are awarded loans or grants from the account based on criteria in OAR 690-093-0100.

(6) The Department shall document the ranking of all applications and make the application ranking publicly available after the funding decisions by the Commission have been published.

Stat. Auth.: ORS 541.651 - 541.696
Stats. Implemented: ORS 541.651 - 541.696
Hist.: WRD 6-2015, f. & cert. ef. 7-2-15

**690-093-0100**
**Project Selection**

(1) The Commission shall select projects for funding which have the greatest public benefit and will achieve the outcomes listed in subsection (3) of this section.

(2) Project evaluation shall include:

(a) The public benefit in three categories:

(A) Economic;

(B) Environmental; and

(C) Social or cultural.

(b) Equal importance of each of the three categories of public benefit; and

(c) Consideration of both positive and negative effects of the projects.

(3) The Commission will consider the following in its determination of eligible projects that will receive funding:

(a) The issuance of grants or loans only to projects that provide benefits in each of the three categories of public benefit described in (2)(a) of this section;

(b) Preference for partnerships and collaborative projects;

(c) The funding of projects of diverse sizes, types and geographic locations;

(d) If a project proposes to divert water, preference for projects that provide a measurable improvement in protected streamflows; and

(e) If a project proposes to increase efficiency, preference for projects that provide a measurable increased efficiency of water use.

Stat. Auth.: ORS 541.651 - 541.696
Stats. Implemented: ORS 541.651 - 541.696
Hist.: WRD 6-2015, f. & cert. ef. 7-2-15

**690-093-0110**
**Water Dedicated Instream for Certain Above-Ground Storage Facilities**

(1) For the purposes of this section "dedicated instream" has the same meaning as "protected instream" as defined in OAR 690-093-0020(13).

(2) The recipient of a grant for the development of a new or expanded above-ground storage facility (reservoir) that impounds surface water on a perennial stream; diverts water from a stream that supports state or federally listed sensitive, threatened or endangered fish species; or diverts more than 500 acre-feet of water annually must dedicate 25 percent of the newly developed water to instream use.

(3) To meet the requirements of subsection (2) of this section, dedicated water from projects may come from any combination of newly developed water and other sources and may be released or transferred instream at other locations in the tributary if the Department determines as provided under ORS 540.530 that the alternate location would not injure existing water rights and, in consultation with the State Department of Fish and Wildlife, determines that the alternate location would provide greater or equal environmental benefit. The Water Resources Department, in consultation with the State Department of Fish and Wildlife, shall determine the timing of the flows to maximize instream benefits in a manner consistent with public health and safety.

(a) Other sources of water as identified in this subsection include but are not limited to water released from another reservoir and protected under a secondary water right for instream use or a water right transferred instream under OAR chapter 690 Division 77 through a permanent instream transfer or a time limited instream transfer that has a term that is consistent with subsection 3(c) of this section.

(b) To establish that a project complies with subsection (2) of this section, the grant recipient may include water dedicated to instream use as a result of the conditions of federal, state or local permits for the project.

(c) Other sources of water to meet the requirement of subsection (2) of this section shall be legally protected instream for the life of the project for which grant funds were used.

(d) The Department shall protect water dedicated to instream use under this subsection consistent with the priority of the dedicated water source.

(4) A storage water right that is using stored water releases to meet the requirement of subsection (2) of this section, shall be conditioned to achieve the following:

(a) Meet the dedication requirement with stored water releases that are protected under a separate secondary water right;

(b) Annually report, on a schedule determined by the Department, the maximum volume of newly developed water stored in the funded reservoir, including newly developed water present in the reservoir during the immediate past storage season. Twenty-five percent of this volume equals the dedication requirement;

(c) If the dedication requirement is not fully met from other sources, the funded reservoir shall release and the Department shall protect the balance of the water necessary to meet the dedication requirement; and

(d) Demonstrate that the dedication requirement has been met.

(5) For an existing storage permit subject to the requirements of subsection (2) of this section, the grant agreement shall be conditioned to meet the requirements of subsections (3) and (4) of this section.

Stat. Auth.: ORS 541.651 - 541.696
Stats. Implemented: ORS 541.651 - 541.696
Hist.: WRD 6-2015, f. & cert. ef. 7-2-15

**690-093-0120**
**Demonstration of Public Benefits of Project**

(1) A project that receives a loan or grant from the Water Supply Development Account must:

(a) Demonstrate social or cultural benefits and economic benefits sufficient to qualify the project under the scoring and ranking system described in OAR 690-093-0090; and

(b) Except as otherwise provided in ORS 541.681, demonstrate environmental benefits:

(A) By dedicating 25 percent of conserved water or newly developed water, that will be protected by the Department, to instream use; or

(B) By demonstrating environmental benefits that are sufficient to qualify the project under the scoring and ranking system described in OAR 690-093-0090.

(2) To establish that a project complies with subsection (1)(b) of this section, the loan or grant recipient may include water dedicated to instream use as a result of the conditions of federal, state or local permits for the project.

Stat. Auth.: ORS 541.651 - 541.696
Stats. Implemented: ORS 541.651 - 541.696
Hist.: WRD 6-2015, f. & cert. ef. 7-2-15

**690-093-0130**
**Seasonally Varying Flows**

(1) For the purposes of this section "sufficient" information means enough scientific information collected using standard biological, hydrologic, or hydraulic methods to develop the recommended flow prescription.

(2) The Department shall make a determination as provided under subsection (3) of this section if an application for a loan or grant is for a project that requires a water storage or aquifer recharge permit or limited license for the storage of water outside of the official irrigation season and:

(a) Impounds surface water on a perennial stream;

(b) Diverts water from a stream that supports state or federally listed sensitive, threatened or endangered fish species; or

(c) Diverts more than 500 acre-feet of surface water from October 1 through September 30 of a given year.

(3) The Department shall review a completed application to determine whether the applicable seasonally varying flows have been established for the stream of interest. If the Department determines that the applicable seasonally varying flows have not been established, the Department shall establish the seasonally varying flows before issuing a loan or grant. The establishment of the seasonally varying flows by the Department shall occur after an application has been selected for funding based on the criteria of OAR 690-093-0100. The Department may use Water Supply

Development Account moneys to pay the cost of establishing a seasonally varying flow and to pay other costs directly related to project development.

(4) The Department shall establish any seasonally varying flows under subsection (3) of this section in consultation with the State Department of Fish and Wildlife and any affected Indian tribes. The Department may rely upon existing scientific data and analysis or may fund new data and analysis. The Department shall determine the method for development of a seasonally varying flow prescription using the matrix provided in Appendix OAR 690-093.

(5) If the Department establishes applicable seasonally varying flows for the stream of interest, the Department shall make the seasonally varying flows a condition of:

(a) The new or existing water storage or aquifer recharge permit or limited license for the storage of water issued for any project described in subsection (2) of this section that receives a loan or grant from the account; and

(b) The new or existing water storage or aquifer recharge permit or limited license for the storage of water issued for any subsequent project that:

(A) Receives a loan or grant from the account;

(B) Is for the storage of water outside of the official irrigation season; and

(C) Has a diversion point that is subject to seasonally varying flows.

(6) The applicant for a permit or license described in subsection (5)(b) of this section may request that seasonally varying flows established under subsection (3) of this section for the stream of interest be altered based upon new information. There is, however, a rebuttable presumption that existing applicable seasonally varying flows protect and maintain the biological, ecological and physical functions of the stream to the extent required by Commission rules.

(7) The Department shall condition a water storage permit and resulting certificate, aquifer recharge permit and resulting certificate or limited license for a project that receives a grant or loan from the account and meets the other conditions described in subsection (5) of this section to protect the seasonally varying flow in effect at the time the loan or grant is issued for the project.

(8) For purposes of any project that receives a loan or grant and meets the other conditions described in subsection (5) of this section, the Department shall use the matrix provided in Appendix OAR 690-093 for determining the seasonally varying flow prescription.

(9) The matrix in Appendix OAR 690-093 contains the following considerations:

(a) The level of ecological impact of the proposed project including:

(A) Whether the project is diverting water from a stream supporting sensitive, threatened, or endangered species;

(B) Whether the impoundment is located in-channel;

(C) Whether the impoundment or proposed project has an impact on sensitive habitat/process;

(D) Whether the project is proposing to divert more than half of the remaining available water in the basin;

(E) Whether the majority of water is already developed in the basin.

(b) The type of information already available including:

(A) Whether there is sufficient long-term data to understand the natural hydrograph;

(B) Whether there is sufficient information to understand climate driven shifts to the flow regime;

(C) Whether there is sufficient information about water availability;

(D) Whether there is sufficient information about all species present at/below the point of diversion and their lifecycle needs;

(E) Whether there are habitat studies that provide sufficient information to understand the relationship between selected habitat features and streamflow;

(F) Whether there are geomorphological studies or data that provide sufficient information to understand the relationship between sediment transport and streamflow;

(G) Whether there is sufficient stream data available to describe stream complexity and floodplain connectivity; and

(H) Whether there is sufficient water quality data available, particularly related to temperature.

(10) Subsections (1) through (9) of this section do not eliminate or alter any applicable standard for department review of an application to determine whether water is available for purposes of reviewing an application for a new water storage or aquifer recharge permit or a limited license for the storage of water.

Stat. Auth.: ORS 541.651 - 541.696
Stats. Implemented: ORS 541.651 - 541.696
Hist.: WRD 6-2015, f. & cert. ef. 7-2-15

**690-093-0150**
**Agreements and Conditions**

(1) Before loan or grant moneys are expended from the Water Supply Development Account for the construction of a project, the recipient must obtain all applicable local, state and federal permits.

(2) Project materials must include a notation indicating that Water Resources Department funding was used for the project.

(3) The loans or grants may be conditioned to require that the recipient complete and operate the funded project as described in the loan or grant application. The Department may require that before commencing the operation of a project funded with account moneys, the funding recipient demonstrate that the public benefits identified for the project, including any environmental benefits proposed at a location other than the project site, will be realized in a timely fashion.

(4) At regular intervals, and upon completion of the project, the loan or grant recipient must submit updates to the Department that describe the completed work, the public benefits achieved and project expenditures.

(5) The recipient must regularly measure and report the water diverted and used from the project. The Department shall make the final determination regarding the method, timing, frequency and location of measurement.

(6) The recipient must monitor, evaluate and maintain the project for the life of the loan, or for a specified number of years for a grant, and provide annual progress reports to the Department.

(7) The Department may impose other project specific conditions by noting the conditions during project evaluation and including the condition in the funding agreement for the project.

(8) The Department may terminate, reduce or delay funding for a project if the loan or grant recipient fails to comply with any provision of subsections (1) to (7) of this section.

Stat. Auth.: ORS 541.651 - 541.696
Stats. Implemented: ORS 541.651 - 541.696
Hist.: WRD 6-2015, f. & cert. ef. 7-2-15

**690-093-0160**
**Authority of the Director**

(1) The Director is authorized by the Commission to enter into agreements with applicants who have been awarded a grant or loan by the Commission.

(2) The Director may:

(a) Contract with regulated lenders, state or federal agencies or others to provide services to the program.

(b) Take such steps as are needed to:

(A) Ensure repayment or recovery of loan funds; and

(B) Prevent project funds from being diverted from the originally approved purpose.

(c) Delegate to staff, in writing, authority to approve, deny, or amend agreements consistent with these rules.

(3) The Director or the Director's designee may conduct periodic inspections of water projects with reasonable notice.

Stat. Auth.: ORS 541.651 - 541.696
Stats. Implemented: ORS 541.651 - 541.696
Hist.: WRD 6-2015, f. & cert. ef. 7-2-15

**690-093-0170**
**Loan Interest Rates and Terms**

(1) Interest on loans shall be at reasonable rates as determined by the Commission.

(2) Loan repayment terms shall be for no more than 50 years and shall not exceed the estimated lifespan of the project.

Stat. Auth.: ORS 541.651 - 541.696
Stats. Implemented: ORS 541.651 - 541.696
Hist.: WRD 6-2015, f. & cert. ef. 7-2-15

**690-093-0180**
**Loan Closing**

(1) If the Commission approves a loan, the Department and the applicant or applicants shall enter into an agreement for repayment; arrangements for repayment shall be made by the applicant and the Director.

(2) The loan agreement shall set forth the repayment schedule. The repayment schedule shall:

(a) Include the amortization of the principal plus interest and provide for full repayment of the loan within 50 years or the life of the project, from the date of the first payment, whichever occurs first; and

(b) Provide for commencement of repayment by the applicant of moneys used for construction and interest thereon not later than two years after the date of the loan contract or at such other time as the Director may provide.

(3) The loan agreement shall be a binding legal document between the applicant and the Director stating the terms of the loan, including but not limited to:

(a) The purpose of the loan describing the project and location;

(b) The amount of the loan and payment schedule;

(c) The description of good and sufficient collateral for the loan; and

(d) A statement allowing the Director to inspect the project to ensure that the developer complies with conditions for which the money was loaned. This shall remain in effect for the length of the agreement.

(4) The loan agreement shall include provisions for early prepayment of the loan.

(5) The ownership of a project shall not be assigned or transferred during the term of the loan without the prior written approval of the Director; such approval shall not be unreasonably withheld.

Stat. Auth.: ORS 541.651 - 541.696
Stats. Implemented: ORS 541.651 - 541.696
Hist.: WRD 6-2015, f. & cert. ef. 7-2-15

**690-093-0190**
**Standards for Security of Loans**

Loans shall not be approved unless:

(1) The applicant demonstrates and the Department finds that the loan will comply with all requirements of the Department and any applicable federal and state requirements.

(2) The Director determines that the applicant meets the following standards:

(a) Demonstrated revenues or other resources available to:

(A) Repay the loan in accordance with its terms; and

(B) Provide for the continued operation and maintenance of the project.

(b) The applicant is qualified, credit-worthy and responsible as demonstrated by a satisfactory credit history or rating from a rating agency; or

(c) A first lien or other good and sufficient collateral is available to secure and provide repayment of the loan; and

(d) The project plan assures timely completion and includes schedules with measurable performance benchmarks.

(3) The application requirements and qualifications are met.

(4) The proposed water development project is feasible and a reasonable risk from practical and economic standpoints.

Stat. Auth.: ORS 541.651 - 541.696
Stats. Implemented: ORS 541.651 - 541.696
Hist.: WRD 6-2015, f. & cert. ef. 7-2-15

**690-093-0200**
**Program Review**

(1) The Water Resources Department shall review the loan and grant program on a biennial basis to assess to what extent the outcomes described in ORS 541.677 are being achieved, and shall report the review findings to the Water Resources Commission.

(2) The Commission shall modify the project selection process as necessary to better achieve the outcomes described in ORS 541.677.

Stat. Auth.: ORS 541.651 - 541.696
Stats. Implemented: ORS 541.651 - 541.696
Hist.: WRD 6-2015, f. & cert. ef. 7-2-15

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| 150-317.131 | 1-1-2015 | Adopt | 2-1-2015 |
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| 161-006-0025 | 7-20-2015 | Amend(T) | 7-1-2015 |
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| 161-010-0080 | 1-1-2015 | Amend | 2-1-2015 |
| 161-010-0085 | 1-1-2015 | Amend | 2-1-2015 |
| 161-015-0000 | 1-1-2015 | Amend | 2-1-2015 |
| 161-015-0010 | 1-1-2015 | Amend | 2-1-2015 |
| 161-015-0015 | 1-1-2015 | Adopt | 2-1-2015 |
| 161-015-0025 | 1-1-2015 | Repeal | 2-1-2015 |
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| 161-020-0045 | 1-1-2015 | Amend | 2-1-2015 |
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| 161-020-0065 | 1-1-2015 | Amend | 2-1-2015 |
| 161-020-0070 | 1-1-2015 | Amend | 2-1-2015 |
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| 161-020-0130 | 1-1-2015 | Amend | 2-1-2015 |
| 161-020-0150 | 1-1-2015 | Amend | 2-1-2015 |
| 161-025-0005 | 1-1-2015 | Amend | 2-1-2015 |
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| 259-008-0010 | 1-1-2015 | Amend | 2-1-2015 |
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| 259-008-0078 | 3-24-2015 | Adopt | 5-1-2015 |
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| 309-114-0020 | 4-24-2015 | Amend(T) | 6-1-2015 |
| 309-114-0025 | 12-1-2014 | Amend(T) | 1-1-2015 |
| 325-001-0001 | 7-10-2015 | Amend | 8-1-2015 |
| 325-001-0005 | 7-10-2015 | Amend | 8-1-2015 |
| 325-005-0015 | 3-17-2015 | Amend | 5-1-2015 |
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| 325-015-0035 | 7-10-2015 | Amend | 8-1-2015 |
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| 325-020-0001 | 7-10-2015 | Amend | 8-1-2015 |
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| 325-020-0035 | 7-10-2015 | Amend | 8-1-2015 |
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| 325-020-0050 | 7-10-2015 | Amend | 8-1-2015 |
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| 325-030-0050 | 7-10-2015 | Amend | 8-1-2015 |
| 325-030-0055 | 7-10-2015 | Amend | 8-1-2015 |

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| 330-070-0078 | 1-1-2015 | Adopt | 1-1-2015 |
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| 330-070-0091 | 1-1-2015 | Repeal | 1-1-2015 |
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| 330-230-0150 | 3-23-2015 | Amend(T) | 5-1-2015 |
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| 331-601-0010 | 7-1-2015 | Amend | 8-1-2015 |
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| 331-840-0070 | 1-1-2015 | Amend | 1-1-2015 |
| 331-850-0010 | 1-1-2015 | Amend | 1-1-2015 |
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| 332-015-0070 | 1-1-2015 | Repeal | 2-1-2015 |
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| 332-025-0020 | 1-2-2015 | Amend(T) | 2-1-2015 |
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| 333-014-0080(T) | 12-17-2014 | Repeal | 2-1-2015 |
| 333-014-0090 | 12-17-2014 | Adopt | 2-1-2015 |
| 333-014-0090(T) | 12-17-2014 | Repeal | 2-1-2015 |
| 333-014-0100 | 12-17-2014 | Adopt | 2-1-2015 |
| 333-014-0100(T) | 12-17-2014 | Repeal | 2-1-2015 |
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| 333-018-0018 | 7-3-2015 | Amend | 8-1-2015 |

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| 333-018-0110 | 3-24-2015 | Amend | 5-1-2015 |
| 333-018-0127 | 3-24-2015 | Amend | 5-1-2015 |
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| 333-019-0010(T) | 7-3-2015 | Repeal | 8-1-2015 |
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| 333-072-0215(T) | 1-16-2015 | Repeal | 3-1-2015 |
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| 340-242-0740 | 4-16-2015 | Repeal | 6-1-2015 |
| 340-242-0750 | 4-16-2015 | Repeal | 6-1-2015 |
| 340-242-0760 | 4-16-2015 | Repeal | 6-1-2015 |
| 340-242-0770 | 4-16-2015 | Repeal | 6-1-2015 |
| 340-242-0780 | 4-16-2015 | Repeal | 6-1-2015 |
| 340-242-0790 | 4-16-2015 | Repeal | 6-1-2015 |
| 340-244-0020 | 4-17-2015 | Amend | 6-1-2015 |
| 340-244-0030 | 4-17-2015 | Amend | 6-1-2015 |
| 340-244-0040 | 4-16-2015 | Amend | 6-1-2015 |
| 340-244-0220 | 4-17-2015 | Amend | 6-1-2015 |
| 340-244-0232 | 4-16-2015 | Amend | 6-1-2015 |
| 340-244-0234 | 4-16-2015 | Amend | 6-1-2015 |
| 340-244-0236 | 4-16-2015 | Amend | 6-1-2015 |
| 340-244-0238 | 4-16-2015 | Amend | 6-1-2015 |
| 340-244-0239 | 4-16-2015 | Amend | 6-1-2015 |
| 340-244-0240 | 4-16-2015 | Amend | 6-1-2015 |
| 340-244-0242 | 4-16-2015 | Amend | 6-1-2015 |
| 340-244-0244 | 4-16-2015 | Amend | 6-1-2015 |
| 340-244-0246 | 4-16-2015 | Amend | 6-1-2015 |
| 340-244-0248 | 4-16-2015 | Amend | 6-1-2015 |
| 340-244-0250 | 4-16-2015 | Amend | 6-1-2015 |
| 340-246-0230 | 4-16-2015 | Amend | 6-1-2015 |
| 340-253-0000 | 2-1-2015 | Amend | 2-1-2015 |
| 340-253-0040 | 2-1-2015 | Amend | 2-1-2015 |
| 340-253-0060 | 2-1-2015 | Amend | 2-1-2015 |
| 340-253-0100 | 2-1-2015 | Amend | 2-1-2015 |
| 340-253-0200 | 2-1-2015 | Amend | 2-1-2015 |
| 340-253-0250 | 2-1-2015 | Amend | 2-1-2015 |
| 340-253-0310 | 2-1-2015 | Amend | 2-1-2015 |
| 340-253-0320 | 2-1-2015 | Amend | 2-1-2015 |
| 340-253-0330 | 2-1-2015 | Amend | 2-1-2015 |
| 340-253-0340 | 2-1-2015 | Amend | 2-1-2015 |
| 340-253-0400 | 2-1-2015 | Amend | 2-1-2015 |
| 340-253-0450 | 2-1-2015 | Amend | 2-1-2015 |
| 340-253-0500 | 2-1-2015 | Amend | 2-1-2015 |
| 340-253-0600 | 2-1-2015 | Amend | 2-1-2015 |
| 340-253-0620 | 2-1-2015 | Adopt | 2-1-2015 |
| 340-253-0630 | 2-1-2015 | Amend | 2-1-2015 |
| 340-253-0650 | 2-1-2015 | Amend | 2-1-2015 |
| 340-253-1000 | 2-1-2015 | Amend | 2-1-2015 |
| 340-253-1010 | 2-1-2015 | Amend | 2-1-2015 |
| 340-253-1020 | 2-1-2015 | Amend | 2-1-2015 |
| 340-253-1030 | 2-1-2015 | Amend | 2-1-2015 |
| 340-253-1050 | 2-1-2015 | Adopt | 2-1-2015 |
| 340-253-2000 | 2-1-2015 | Adopt | 2-1-2015 |
| 340-253-2100 | 2-1-2015 | Adopt | 2-1-2015 |
| 340-253-2200 | 2-1-2015 | Adopt | 2-1-2015 |
| 340-253-3010 | 2-1-2015 | Am. & Ren. | 2-1-2015 |
| 340-253-3020 | 2-1-2015 | Am. & Ren. | 2-1-2015 |
| 340-253-3030 | 2-1-2015 | Am. & Ren. | 2-1-2015 |
| 340-253-3040 | 2-1-2015 | Am. & Ren. | 2-1-2015 |
| 340-253-3050 | 2-1-2015 | Am. & Ren. | 2-1-2015 |
| 340-253-8010 | 2-1-2015 | Adopt | 2-1-2015 |
| 340-253-8020 | 2-1-2015 | Adopt | 2-1-2015 |
| 340-253-8050 | 2-1-2015 | Adopt | 2-1-2015 |
| 340-262-0450 | 4-16-2015 | Amend | 6-1-2015 |
| 340-264-0010 | 4-16-2015 | Amend | 6-1-2015 |
| 340-264-0020 | 4-16-2015 | Amend | 6-1-2015 |
| 340-264-0030 | 4-16-2015 | Amend | 6-1-2015 |
| 340-264-0040 | 4-16-2015 | Amend | 6-1-2015 |
| 340-264-0050 | 4-16-2015 | Amend | 6-1-2015 |
| 340-264-0060 | 4-16-2015 | Amend | 6-1-2015 |
| 340-264-0070 | 4-16-2015 | Amend | 6-1-2015 |

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| 340-264-0075 | 4-16-2015 | Amend | 6-1-2015 |
| 340-264-0078 | 4-16-2015 | Amend | 6-1-2015 |
| 340-264-0080 | 4-16-2015 | Amend | 6-1-2015 |
| 340-264-0100 | 4-16-2015 | Amend | 6-1-2015 |
| 340-264-0110 | 4-16-2015 | Amend | 6-1-2015 |
| 340-264-0120 | 4-16-2015 | Amend | 6-1-2015 |
| 340-264-0130 | 4-16-2015 | Amend | 6-1-2015 |
| 340-264-0140 | 4-16-2015 | Amend | 6-1-2015 |
| 340-264-0150 | 4-16-2015 | Amend | 6-1-2015 |
| 340-264-0160 | 4-16-2015 | Amend | 6-1-2015 |
| 340-264-0170 | 4-16-2015 | Amend | 6-1-2015 |
| 340-264-0175 | 4-16-2015 | Amend | 6-1-2015 |
| 340-264-0180 | 4-16-2015 | Amend | 6-1-2015 |
| 340-264-0190 | 4-16-2015 | Repeal | 6-1-2015 |
| 340-268-0010 | 4-16-2015 | Amend | 6-1-2015 |
| 340-268-0020 | 4-16-2015 | Amend | 6-1-2015 |
| 340-268-0030 | 4-16-2015 | Amend | 6-1-2015 |
| 345-022-0000 | 5-18-2015 | Amend | 7-1-2015 |
| 345-027-0070 | 5-18-2015 | Amend | 7-1-2015 |
| 407-007-0210 | 12-1-2014 | Amend | 1-1-2015 |
| 407-007-0220 | 12-1-2014 | Amend | 1-1-2015 |
| 407-007-0230 | 12-1-2014 | Amend | 1-1-2015 |
| 407-007-0240 | 12-1-2014 | Amend | 1-1-2015 |
| 407-007-0250 | 12-1-2014 | Amend | 1-1-2015 |
| 407-007-0275 | 12-1-2014 | Amend | 1-1-2015 |
| 407-007-0277 | 12-1-2014 | Amend | 1-1-2015 |
| 407-007-0280 | 12-1-2014 | Amend | 1-1-2015 |
| 407-007-0290 | 12-1-2014 | Amend | 1-1-2015 |
| 407-007-0290 | 2-3-2015 | Amend(T) | 3-1-2015 |
| 407-007-0300 | 12-1-2014 | Amend | 1-1-2015 |
| 407-007-0315 | 12-1-2014 | Amend | 1-1-2015 |
| 407-007-0330 | 12-1-2014 | Amend | 1-1-2015 |
| 407-007-0335 | 12-1-2014 | Amend | 1-1-2015 |
| 407-007-0340 | 12-1-2014 | Amend | 1-1-2015 |
| 407-007-0350 | 12-1-2014 | Amend | 1-1-2015 |
| 407-007-0600 | 12-1-2014 | Adopt | 1-1-2015 |
| 407-007-0610 | 12-1-2014 | Adopt | 1-1-2015 |
| 407-007-0620 | 12-1-2014 | Adopt | 1-1-2015 |
| 407-007-0630 | 12-1-2014 | Adopt | 1-1-2015 |
| 407-007-0640 | 12-1-2014 | Adopt | 1-1-2015 |
| 407-025-0000 | 2-11-2015 | Amend(T) | 3-1-2015 |
| 407-025-0010 | 2-11-2015 | Amend(T) | 3-1-2015 |
| 407-025-0020 | 2-11-2015 | Amend(T) | 3-1-2015 |
| 407-025-0030 | 2-11-2015 | Amend(T) | 3-1-2015 |
| 407-025-0040 | 2-11-2015 | Amend(T) | 3-1-2015 |
| 407-025-0050 | 2-11-2015 | Amend(T) | 3-1-2015 |
| 407-025-0060 | 2-11-2015 | Amend(T) | 3-1-2015 |
| 407-025-0070 | 2-11-2015 | Amend(T) | 3-1-2015 |
| 407-025-0080 | 2-11-2015 | Amend(T) | 3-1-2015 |
| 407-025-0090 | 2-11-2015 | Amend(T) | 3-1-2015 |
| 407-025-0100 | 2-11-2015 | Amend(T) | 3-1-2015 |
| 407-025-0110 | 2-11-2015 | Amend(T) | 3-1-2015 |
| 407-120-1505 | 6-18-2015 | Amend | 8-1-2015 |
| 409-022-0010 | 7-1-2015 | Amend | 8-1-2015 |
| 409-022-0020 | 7-1-2015 | Amend | 8-1-2015 |
| 409-022-0030 | 7-1-2015 | Repeal | 8-1-2015 |
| 409-022-0040 | 7-1-2015 | Repeal | 8-1-2015 |
| 409-022-0050 | 7-1-2015 | Repeal | 8-1-2015 |
| 409-022-0060 | 7-1-2015 | Amend | 8-1-2015 |
| 409-022-0070 | 7-1-2015 | Amend | 8-1-2015 |
| 409-022-0080 | 7-1-2015 | Repeal | 8-1-2015 |
| 409-030-0110 | 7-1-2015 | Amend | 8-1-2015 |
| 409-030-0140 | 7-1-2015 | Amend | 8-1-2015 |
| 409-030-0150 | 7-1-2015 | Amend | 8-1-2015 |
| 409-030-0160 | 7-1-2015 | Amend | 8-1-2015 |
| 409-030-0170 | 7-1-2015 | Amend | 8-1-2015 |
| 409-030-0180 | 7-1-2015 | Amend | 8-1-2015 |
| 409-030-0190 | 7-1-2015 | Amend | 8-1-2015 |
| 409-030-0210 | 7-1-2015 | Amend | 8-1-2015 |
| 409-030-0220 | 7-1-2015 | Amend | 8-1-2015 |
| 409-030-0230 | 7-1-2015 | Amend | 8-1-2015 |
| 409-035-0020 | 2-1-2015 | Amend | 2-1-2015 |
| 409-035-0040 | 2-1-2015 | Amend | 2-1-2015 |
| 409-055-0010 | 2-1-2015 | Amend | 3-1-2015 |
| 409-055-0030 | 2-1-2015 | Amend | 3-1-2015 |
| 409-055-0040 | 2-1-2015 | Amend | 3-1-2015 |
| 409-055-0045 | 2-1-2015 | Adopt | 3-1-2015 |
| 410-050-0861 | 12-1-2014 | Amend | 1-1-2015 |
| 410-050-0861(T) | 12-1-2014 | Repeal | 1-1-2015 |
| 410-120-0000 | 2-10-2015 | Amend | 3-1-2015 |
| 410-120-0000 | 5-29-2015 | Amend | 7-1-2015 |
| 410-120-0006 | 3-19-2015 | Amend(T) | 4-1-2015 |
| 410-120-0006 | 7-1-2015 | Amend | 8-1-2015 |
| 410-120-0006(T) | 7-1-2015 | Repeal | 8-1-2015 |
| 410-120-0025 | 7-1-2015 | Amend | 8-1-2015 |
| 410-120-1280 | 7-1-2015 | Amend | 8-1-2015 |
| 410-120-1340 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 410-120-1340 | 3-4-2015 | Amend | 4-1-2015 |
| 410-120-1340(T) | 3-4-2015 | Repeal | 4-1-2015 |
| 410-120-1360 | 7-1-2015 | Amend | 8-1-2015 |
| 410-120-1510 | 7-1-2015 | Amend | 8-1-2015 |
| 410-120-1560 | 7-1-2015 | Amend | 8-1-2015 |
| 410-120-1960 | 7-1-2015 | Amend | 8-1-2015 |
| 410-121-0030 | 12-12-2014 | Amend | 1-1-2015 |
| 410-121-0030 | 12-12-2014 | Amend(T) | 1-1-2015 |
| 410-121-0030 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 410-121-0030 | 3-3-2015 | Amend(T) | 4-1-2015 |
| 410-121-0030 | 4-18-2015 | Amend(T) | 6-1-2015 |
| 410-121-0030 | 6-26-2015 | Amend | 8-1-2015 |
| 410-121-0030 | 7-1-2015 | Amend(T) | 8-1-2015 |
| 410-121-0030(T) | 12-12-2014 | Repeal | 1-1-2015 |
| 410-121-0030(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-121-0040 | 12-12-2014 | Amend | 1-1-2015 |
| 410-121-0040 | 12-12-2014 | Amend(T) | 1-1-2015 |
| 410-121-0040 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 410-121-0040 | 2-3-2015 | Amend(T) | 3-1-2015 |
| 410-121-0040 | 4-18-2015 | Amend(T) | 6-1-2015 |
| 410-121-0040 | 6-26-2015 | Amend | 8-1-2015 |
| 410-121-0040 | 7-1-2015 | Amend(T) | 8-1-2015 |
| 410-121-0040(T) | 12-12-2014 | Repeal | 1-1-2015 |
| 410-121-0040(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-121-2000 | 2-18-2015 | Renumber | 4-1-2015 |

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| 410-121-2005 | 2-18-2015 | Renumber | 4-1-2015 |
| 410-121-2010 | 2-18-2015 | Renumber | 4-1-2015 |
| 410-121-2020 | 2-18-2015 | Renumber | 4-1-2015 |
| 410-121-2030 | 2-18-2015 | Renumber | 4-1-2015 |
| 410-121-2050 | 2-18-2015 | Renumber | 4-1-2015 |
| 410-121-2065 | 2-18-2015 | Renumber | 4-1-2015 |
| 410-122-0080 | 1-1-2015 | Amend | 2-1-2015 |
| 410-122-0187 | 1-29-2015 | Adopt(T) | 3-1-2015 |
| 410-122-0187 | 4-15-2015 | Adopt | 5-1-2015 |
| 410-122-0187(T) | 4-15-2015 | Repeal | 5-1-2015 |
| 410-122-0202 | 1-1-2015 | Amend | 2-1-2015 |
| 410-122-0209 | 3-1-2015 | Amend | 4-1-2015 |
| 410-122-0520 | 1-1-2015 | Amend | 2-1-2015 |
| 410-123-1220 | 2-17-2015 | Amend(T) | 4-1-2015 |
| 410-123-1220 | 5-1-2015 | Amend | 6-1-2015 |
| 410-123-1220(T) | 5-1-2015 | Repeal | 6-1-2015 |
| 410-123-1260 | 2-17-2015 | Amend(T) | 4-1-2015 |
| 410-123-1260 | 5-1-2015 | Amend | 6-1-2015 |
| 410-123-1260(T) | 5-1-2015 | Repeal | 6-1-2015 |
| 410-130-0160 | 1-1-2015 | Amend(T) | 1-1-2015 |
| 410-130-0160 | 4-1-2015 | Amend | 5-1-2015 |
| 410-130-0160(T) | 4-1-2015 | Repeal | 5-1-2015 |
| 410-130-0200 | 3-10-2015 | Amend | 4-1-2015 |
| 410-130-0200(T) | 3-10-2015 | Repeal | 4-1-2015 |
| 410-130-0220 | 12-24-2014 | Amend(T) | 2-1-2015 |
| 410-130-0220 | 3-10-2015 | Amend | 4-1-2015 |
| 410-130-0220 | 5-29-2015 | Amend(T) | 7-1-2015 |
| 410-130-0220(T) | 3-10-2015 | Repeal | 4-1-2015 |
| 410-130-0240 | 1-1-2015 | Amend | 1-1-2015 |
| 410-141-0060 | 1-1-2015 | Amend(T) | 1-1-2015 |
| 410-141-0060 | 3-1-2015 | Amend | 4-1-2015 |
| 410-141-0060(T) | 3-1-2015 | Repeal | 4-1-2015 |
| 410-141-0280 | 4-1-2015 | Amend | 5-1-2015 |
| 410-141-0280 | 4-15-2015 | Amend | 5-1-2015 |
| 410-141-0280 | 4-15-2015 | Amend | 5-1-2015 |
| 410-141-0300 | 4-1-2015 | Amend | 5-1-2015 |
| 410-141-0300 | 4-15-2015 | Amend | 5-1-2015 |
| 410-141-0300 | 4-15-2015 | Amend | 5-1-2015 |
| 410-141-0420 | 1-1-2015 | Amend | 1-1-2015 |
| 410-141-0420(T) | 1-1-2015 | Repeal | 1-1-2015 |
| 410-141-0520 | 12-31-2014 | Amend | 2-1-2015 |
| 410-141-0520 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 410-141-0520 | 4-1-2015 | Amend | 5-1-2015 |
| 410-141-0520(T) | 12-31-2014 | Repeal | 2-1-2015 |
| 410-141-0520(T) | 4-1-2015 | Repeal | 5-1-2015 |
| 410-141-3040 | 7-1-2015 | Adopt(T) | 8-1-2015 |
| 410-141-3060 | 12-27-2014 | Amend(T) | 1-1-2015 |
| 410-141-3060 | 1-1-2015 | Amend | 1-1-2015 |
| 410-141-3060 | 1-1-2015 | Amend(T) | 1-1-2015 |
| 410-141-3060 | 3-1-2015 | Amend | 4-1-2015 |
| 410-141-3060(T) | 1-1-2015 | Repeal | 1-1-2015 |
| 410-141-3060(T) | 3-1-2015 | Repeal | 4-1-2015 |
| 410-141-3267 | 7-1-2015 | Adopt(T) | 8-1-2015 |
| 410-141-3268 | 4-1-2015 | Amend | 5-1-2015 |
| 410-141-3269 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-141-3269 | 5-1-2015 | Adopt | 5-1-2015 |
| 410-141-3269(T) | 5-1-2015 | Repeal | 5-1-2015 |
| 410-141-3280 | 4-1-2015 | Amend | 5-1-2015 |
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| 410-141-3280 | 4-15-2015 | Amend | 5-1-2015 |
| 410-141-3300 | 4-1-2015 | Amend | 5-1-2015 |
| 410-141-3300 | 4-15-2015 | Amend | 5-1-2015 |
| 410-141-3300 | 4-15-2015 | Amend | 5-1-2015 |
| 410-141-3420 | 1-1-2015 | Amend | 1-1-2015 |
| 410-141-3420(T) | 1-1-2015 | Repeal | 1-1-2015 |
| 410-143-0020 | 3-10-2015 | Repeal | 4-1-2015 |
| 410-143-0040 | 3-10-2015 | Repeal | 4-1-2015 |
| 410-143-0060 | 3-10-2015 | Repeal | 4-1-2015 |
| 410-165-0000 | 2-3-2015 | Amend(T) | 3-1-2015 |
| 410-165-0000 | 4-8-2015 | Amend | 5-1-2015 |
| 410-165-0000(T) | 4-8-2015 | Repeal | 5-1-2015 |
| 410-165-0020 | 2-3-2015 | Amend(T) | 3-1-2015 |
| 410-165-0020 | 4-8-2015 | Amend | 5-1-2015 |
| 410-165-0020(T) | 4-8-2015 | Repeal | 5-1-2015 |
| 410-165-0040 | 2-3-2015 | Amend(T) | 3-1-2015 |
| 410-165-0040 | 4-8-2015 | Amend | 5-1-2015 |
| 410-165-0040(T) | 4-8-2015 | Repeal | 5-1-2015 |
| 410-165-0060 | 2-3-2015 | Amend(T) | 3-1-2015 |
| 410-165-0060 | 4-8-2015 | Amend | 5-1-2015 |
| 410-165-0060(T) | 4-8-2015 | Repeal | 5-1-2015 |
| 410-165-0080 | 2-3-2015 | Amend(T) | 3-1-2015 |
| 410-165-0080 | 4-8-2015 | Amend | 5-1-2015 |
| 410-165-0080(T) | 4-8-2015 | Repeal | 5-1-2015 |
| 410-165-0100 | 2-3-2015 | Amend(T) | 3-1-2015 |
| 410-165-0100 | 4-8-2015 | Amend | 5-1-2015 |
| 410-165-0100(T) | 4-8-2015 | Repeal | 5-1-2015 |
| 410-172-0000 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0000 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0010 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0010 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0020 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0020 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0030 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0030 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0040 | 1-1-2015 | Suspend | 2-1-2015 |
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| 410-172-0050 | 1-1-2015 | Suspend | 2-1-2015 |
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| 410-172-0060 | 1-1-2015 | Suspend | 2-1-2015 |
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| 410-172-0070 | 1-1-2015 | Suspend | 2-1-2015 |
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| 410-172-0080 | 1-1-2015 | Suspend | 2-1-2015 |
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| 410-172-0090 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0090 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0100 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0100 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0110 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0110 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0120 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0120 | 6-26-2015 | Repeal | 8-1-2015 |

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| 410-172-0130 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0140 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0140 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0150 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0150 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0160 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0160 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0170 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0170 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0180 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0180 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0190 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0190 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0200 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0200 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0210 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0210 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0220 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0220 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0230 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0230 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0240 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0240 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0250 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0250 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0260 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0260 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0270 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0270 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0280 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0280 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0290 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0290 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0300 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0300 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0310 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0310 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0320 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0320 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0330 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0330 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0340 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0340 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0350 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0350 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0360 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0360 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0370 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0370 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0380 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0380 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0390 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0390 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0400 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0400 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0410 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0410 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0420 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0420 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0430 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0430 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0440 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0440 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0450 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0450 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0460 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0460 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0470 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0470 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0480 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0480 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0490 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0490 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0500 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0500 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0510 | 1-1-2015 | Suspend | 2-1-2015 |
| 410-172-0510 | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0600 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-172-0600 | 6-26-2015 | Adopt | 8-1-2015 |
| 410-172-0600(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0610 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-172-0610 | 6-26-2015 | Adopt | 8-1-2015 |
| 410-172-0620 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-172-0620 | 6-26-2015 | Adopt | 8-1-2015 |
| 410-172-0620(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0630 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-172-0630 | 6-26-2015 | Adopt | 8-1-2015 |
| 410-172-0630(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0640 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-172-0640 | 6-26-2015 | Adopt | 8-1-2015 |
| 410-172-0640(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0650 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-172-0650 | 6-26-2015 | Adopt | 8-1-2015 |
| 410-172-0650(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0660 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-172-0660 | 6-26-2015 | Adopt | 8-1-2015 |
| 410-172-0660(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0670 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-172-0670 | 6-26-2015 | Adopt | 8-1-2015 |
| 410-172-0670(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0680 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-172-0680 | 6-26-2015 | Adopt | 8-1-2015 |
| 410-172-0680(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0690 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-172-0690 | 6-26-2015 | Adopt | 8-1-2015 |
| 410-172-0690(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0700 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-172-0700 | 6-26-2015 | Adopt | 8-1-2015 |
| 410-172-0700(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0710 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-172-0710 | 6-26-2015 | Adopt | 8-1-2015 |

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| 410-172-0710(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0720 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-172-0720 | 6-26-2015 | Adopt | 8-1-2015 |
| 410-172-0720(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0730 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-172-0730 | 6-26-2015 | Adopt | 8-1-2015 |
| 410-172-0730(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0740 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-172-0740 | 6-26-2015 | Adopt | 8-1-2015 |
| 410-172-0740(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0750 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-172-0750 | 6-26-2015 | Adopt | 8-1-2015 |
| 410-172-0750(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0760 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-172-0760 | 6-26-2015 | Adopt | 8-1-2015 |
| 410-172-0760(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0770 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-172-0770 | 6-26-2015 | Adopt | 8-1-2015 |
| 410-172-0770(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0780 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-172-0780 | 6-26-2015 | Adopt | 8-1-2015 |
| 410-172-0780(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0790 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-172-0790 | 6-26-2015 | Adopt | 8-1-2015 |
| 410-172-0790(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0800 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-172-0800 | 6-26-2015 | Adopt | 8-1-2015 |
| 410-172-0800(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0810 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-172-0810 | 6-26-2015 | Adopt | 8-1-2015 |
| 410-172-0810(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0820 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-172-0820 | 6-26-2015 | Adopt | 8-1-2015 |
| 410-172-0820(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0830 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-172-0830 | 6-26-2015 | Adopt | 8-1-2015 |
| 410-172-0830(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0840 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-172-0840 | 6-26-2015 | Adopt | 8-1-2015 |
| 410-172-0840(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0850 | 1-1-2015 | Adopt(T) | 2-1-2015 |
| 410-172-0850 | 6-26-2015 | Adopt | 8-1-2015 |
| 410-172-0850(T) | 6-26-2015 | Repeal | 8-1-2015 |
| 410-172-0860 | 6-26-2015 | Adopt | 8-1-2015 |
| 410-200-0010 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0010(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0015 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0015(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0100 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0100(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0105 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0105(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0110 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0110(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0111 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0111(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0115 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0115(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0120 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0120(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0125 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0125(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0130 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0130(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0135 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0135(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0140 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0140(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0145 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0145(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0146 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0146(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0200 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0200(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0205 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0205(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0210 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0210(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0215 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0215(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0220 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0220(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0225 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0225(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0230 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0230(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0235 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0235(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0240 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0240(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0305 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0305(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0310 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0310(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0315 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0315 | 3-1-2015 | Amend(T) | 3-1-2015 |
| 410-200-0315 | 4-22-2015 | Amend | 6-1-2015 |
| 410-200-0315(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0315(T) | 4-22-2015 | Repeal | 6-1-2015 |
| 410-200-0400 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0400(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0405 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0405(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0410 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0410(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0415 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0415(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0420 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0420(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0425 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0425(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0435 | 1-30-2015 | Amend | 3-1-2015 |

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| 410-200-0435(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0440 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0440 | 4-2-2015 | Amend(T) | 5-1-2015 |
| 410-200-0440 | 6-16-2015 | Amend(T) | 8-1-2015 |
| 410-200-0440(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0500 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0500(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0505 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0505(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 410-200-0510 | 1-30-2015 | Amend | 3-1-2015 |
| 410-200-0510(T) | 1-30-2015 | Repeal | 3-1-2015 |
| 411-015-0100 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-015-0100 | 4-3-2015 | Amend | 5-1-2015 |
| 411-015-0100(T) | 4-3-2015 | Repeal | 5-1-2015 |
| 411-020-0000 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0002 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0010 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0015 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0020 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0025 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0030 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0040 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0060 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0080 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0085 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0090 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0100 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0110 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0120 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0123 | 1-1-2015 | Amend | 1-1-2015 |
| 411-020-0130 | 1-1-2015 | Amend | 1-1-2015 |
| 411-030-0040 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-030-0040 | 4-3-2015 | Amend | 5-1-2015 |
| 411-030-0040(T) | 4-3-2015 | Repeal | 5-1-2015 |
| 411-032-0050 | 12-28-2014 | Adopt | 2-1-2015 |
| 411-032-0050 | 7-1-2015 | Amend(T) | 8-1-2015 |
| 411-032-0050(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-035-0010 | 3-9-2015 | Amend | 4-1-2015 |
| 411-035-0010(T) | 3-9-2015 | Repeal | 4-1-2015 |
| 411-035-0015 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-035-0015 | 4-3-2015 | Amend | 5-1-2015 |
| 411-035-0015(T) | 4-3-2015 | Repeal | 5-1-2015 |
| 411-035-0025 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-035-0025 | 4-3-2015 | Amend | 5-1-2015 |
| 411-035-0025(T) | 4-3-2015 | Repeal | 5-1-2015 |
| 411-035-0040 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-035-0040 | 4-3-2015 | Amend | 5-1-2015 |
| 411-035-0040(T) | 4-3-2015 | Repeal | 5-1-2015 |
| 411-035-0055 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-035-0055 | 4-3-2015 | Amend | 5-1-2015 |
| 411-035-0055(T) | 4-3-2015 | Repeal | 5-1-2015 |
| 411-035-0070 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-035-0070 | 4-3-2015 | Amend | 5-1-2015 |
| 411-035-0070(T) | 4-3-2015 | Repeal | 5-1-2015 |
| 411-035-0085 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-035-0085 | 4-3-2015 | Amend | 5-1-2015 |
| 411-035-0085(T) | 4-3-2015 | Repeal | 5-1-2015 |
| 411-050-0602 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-050-0602 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0602(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-050-0610 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0615 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0620 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0625 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-050-0625 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0625(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-050-0632 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0635 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0640 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-050-0640 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0640(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-050-0645 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-050-0645 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0645(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-050-0650 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0655 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-050-0655 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0655(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-050-0660 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0662 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0665 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-050-0665 | 6-28-2015 | Amend | 8-1-2015 |
| 411-050-0665(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-054-0005 | 1-15-2015 | Amend | 2-1-2015 |
| 411-054-0012 | 1-15-2015 | Amend | 2-1-2015 |
| 411-054-0090 | 1-15-2015 | Amend | 2-1-2015 |
| 411-054-0093 | 1-15-2015 | Amend | 2-1-2015 |
| 411-054-0120 | 1-29-2015 | Amend(T) | 3-1-2015 |
| 411-054-0120 | 6-28-2015 | Amend | 8-1-2015 |
| 411-054-0120(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-054-0200 | 1-15-2015 | Amend | 2-1-2015 |
| 411-054-0200 | 6-24-2015 | Amend | 8-1-2015 |
| 411-054-0300 | 1-15-2015 | Amend | 2-1-2015 |
| 411-070-0005 | 3-9-2015 | Amend | 4-1-2015 |
| 411-070-0027 | 3-9-2015 | Amend | 4-1-2015 |
| 411-070-0035 | 3-9-2015 | Amend | 4-1-2015 |
| 411-070-0043 | 3-9-2015 | Amend | 4-1-2015 |
| 411-070-0091 | 3-9-2015 | Amend | 4-1-2015 |
| 411-085-0005 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-085-0005 | 6-28-2015 | Amend | 8-1-2015 |
| 411-085-0005(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-085-0010 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-085-0010 | 6-28-2015 | Amend | 8-1-2015 |
| 411-085-0010(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-085-0013 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-085-0013 | 6-28-2015 | Amend | 8-1-2015 |
| 411-085-0013(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-085-0015 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-085-0015 | 6-28-2015 | Amend | 8-1-2015 |
| 411-085-0015(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-085-0030 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-085-0030 | 6-28-2015 | Amend | 8-1-2015 |

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| 411-085-0030(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-085-0040 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-085-0040 | 6-28-2015 | Amend | 8-1-2015 |
| 411-085-0040(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-085-0060 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-085-0060 | 6-28-2015 | Amend | 8-1-2015 |
| 411-085-0060(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-085-0310 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-085-0310 | 6-28-2015 | Amend | 8-1-2015 |
| 411-085-0310(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-085-0350 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-085-0350 | 6-28-2015 | Amend | 8-1-2015 |
| 411-085-0350(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-085-0360 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-085-0360 | 6-28-2015 | Amend | 8-1-2015 |
| 411-085-0360(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-085-0370 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-085-0370 | 6-28-2015 | Amend | 8-1-2015 |
| 411-085-0370(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-088-0050 | 3-2-2015 | Amend(T) | 4-1-2015 |
| 411-088-0060 | 3-2-2015 | Amend(T) | 4-1-2015 |
| 411-089-0010 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-089-0010 | 6-28-2015 | Amend | 8-1-2015 |
| 411-089-0010(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-089-0020 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-089-0020 | 6-28-2015 | Amend | 8-1-2015 |
| 411-089-0020(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-089-0030 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-089-0030 | 6-28-2015 | Amend | 8-1-2015 |
| 411-089-0030(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-089-0040 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-089-0040 | 6-28-2015 | Amend | 8-1-2015 |
| 411-089-0040(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-089-0050 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-089-0050 | 6-28-2015 | Amend | 8-1-2015 |
| 411-089-0050(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-089-0070 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-089-0070 | 6-28-2015 | Amend | 8-1-2015 |
| 411-089-0070(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-089-0075 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-089-0075 | 6-28-2015 | Amend | 8-1-2015 |
| 411-089-0075(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-089-0100 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-089-0100 | 6-28-2015 | Amend | 8-1-2015 |
| 411-089-0100(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-089-0110 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-089-0110 | 6-28-2015 | Amend | 8-1-2015 |
| 411-089-0110(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-089-0120 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-089-0120 | 6-28-2015 | Amend | 8-1-2015 |
| 411-089-0120(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-089-0130 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 411-089-0130 | 6-28-2015 | Amend | 8-1-2015 |
| 411-089-0130(T) | 6-28-2015 | Repeal | 8-1-2015 |
| 411-089-0140 | 1-1-2015 | Amend(T) | 2-1-2015 |
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| 411-300-0100 | 2-16-2015 | Amend | 3-1-2015 |
| 411-300-0110 | 2-16-2015 | Amend | 3-1-2015 |
| 411-300-0110(T) | 2-16-2015 | Repeal | 3-1-2015 |
| 411-300-0120 | 2-16-2015 | Amend | 3-1-2015 |
| 411-300-0120 | 3-12-2015 | Amend | 4-1-2015 |
| 411-300-0120 | 4-10-2015 | Amend(T) | 5-1-2015 |
| 411-300-0120(T) | 2-16-2015 | Repeal | 3-1-2015 |
| 411-300-0130 | 2-16-2015 | Amend | 3-1-2015 |
| 411-300-0130(T) | 2-16-2015 | Repeal | 3-1-2015 |
| 411-300-0140 | 2-16-2015 | Repeal | 3-1-2015 |
| 411-300-0150 | 2-16-2015 | Amend | 3-1-2015 |
| 411-300-0150(T) | 2-16-2015 | Repeal | 3-1-2015 |
| 411-300-0155 | 2-16-2015 | Amend | 3-1-2015 |
| 411-300-0165 | 2-16-2015 | Adopt | 3-1-2015 |
| 411-300-0165(T) | 2-16-2015 | Repeal | 3-1-2015 |
| 411-300-0170 | 2-16-2015 | Amend | 3-1-2015 |
| 411-300-0170(T) | 2-16-2015 | Repeal | 3-1-2015 |
| 411-300-0175 | 2-16-2015 | Adopt | 3-1-2015 |
| 411-300-0190 | 2-16-2015 | Amend | 3-1-2015 |
| 411-300-0190(T) | 2-16-2015 | Repeal | 3-1-2015 |
| 411-300-0200 | 2-16-2015 | Amend | 3-1-2015 |
| 411-300-0200(T) | 2-16-2015 | Repeal | 3-1-2015 |
| 411-300-0205 | 2-16-2015 | Amend | 3-1-2015 |
| 411-300-0205(T) | 2-16-2015 | Repeal | 3-1-2015 |
| 411-300-0210 | 2-16-2015 | Repeal | 3-1-2015 |
| 411-300-0220 | 2-16-2015 | Repeal | 3-1-2015 |
| 411-308-0010 | 12-28-2014 | Amend | 2-1-2015 |
| 411-308-0010 | 1-29-2015 | Amend | 3-1-2015 |
| 411-308-0020 | 12-28-2014 | Amend | 2-1-2015 |
| 411-308-0020 | 1-29-2015 | Amend | 3-1-2015 |
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| 411-308-0030 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-308-0070 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-308-0110 | 12-28-2014 | Amend | 2-1-2015 |
| 411-308-0110 | 1-29-2015 | Amend | 3-1-2015 |

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| 411-308-0130 | 12-28-2014 | Amend | 2-1-2015 |
| 411-308-0130 | 1-29-2015 | Amend | 3-1-2015 |
| 411-308-0130(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-308-0135 | 12-28-2014 | Adopt | 2-1-2015 |
| 411-308-0135 | 1-29-2015 | Amend | 3-1-2015 |
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| 411-308-0140 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-308-0150 | 12-28-2014 | Amend | 2-1-2015 |
| 411-308-0150 | 1-29-2015 | Amend | 3-1-2015 |
| 411-317-0000 | 12-28-2014 | Adopt | 2-1-2015 |
| 411-317-0000(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-318-0000 | 12-28-2014 | Adopt | 2-1-2015 |
| 411-318-0000(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-318-0005 | 12-28-2014 | Adopt | 2-1-2015 |
| 411-318-0005(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-318-0010 | 12-28-2014 | Adopt | 2-1-2015 |
| 411-318-0010(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-318-0015 | 12-28-2014 | Adopt | 2-1-2015 |
| 411-318-0015(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-318-0020(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-318-0025 | 12-28-2014 | Adopt | 2-1-2015 |
| 411-318-0025(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-318-0030 | 12-28-2014 | Adopt | 2-1-2015 |
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| 411-320-0040 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-320-0070 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-320-0175 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-320-0190 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-323-0010 | 12-28-2014 | Amend | 2-1-2015 |
| 411-323-0010(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-323-0020 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-323-0030 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-323-0035 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-323-0040 | 12-28-2014 | Amend | 2-1-2015 |
| 411-323-0050 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-323-0070 | 12-28-2014 | Amend | 2-1-2015 |
| 411-323-0070(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-325-0020 | 12-28-2014 | Amend | 2-1-2015 |
| 411-325-0020(T) | 12-28-2014 | Repeal | 2-1-2015 |
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| 411-325-0120 | 12-28-2014 | Amend | 2-1-2015 |
| 411-325-0120(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-325-0180 | 12-28-2014 | Amend | 2-1-2015 |
| 411-325-0185 | 12-28-2014 | Amend | 2-1-2015 |
| 411-325-0230 | 12-28-2014 | Amend | 2-1-2015 |
| 411-325-0300 | 12-28-2014 | Amend | 2-1-2015 |
| 411-325-0300(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-325-0320 | 12-28-2014 | Repeal | 2-1-2015 |
| 411-325-0330 | 12-28-2014 | Repeal | 2-1-2015 |
| 411-325-0360 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-325-0400 | 12-28-2014 | Repeal | 2-1-2015 |
| 411-325-0430 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-328-0560 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-328-0570 | 12-28-2014 | Amend | 2-1-2015 |
| 411-328-0620 | 12-28-2014 | Amend | 2-1-2015 |
| 411-328-0630 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-328-0680 | 12-28-2014 | Amend | 2-1-2015 |
| 411-328-0690 | 12-28-2014 | Amend | 2-1-2015 |
| 411-328-0700 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-328-0710 | 12-28-2014 | Amend | 2-1-2015 |
| 411-328-0715 | 12-28-2014 | Amend | 2-1-2015 |
| 411-328-0720 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-328-0740 | 12-28-2014 | Repeal | 2-1-2015 |
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| 411-328-0750(T) | 12-28-2014 | Repeal | 2-1-2015 |

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| 411-328-0770(T) | 12-28-2014 | Repeal | 2-1-2015 |
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| 411-328-0790 | 12-28-2014 | Amend | 2-1-2015 |
| 411-328-0790(T) | 12-28-2014 | Repeal | 2-1-2015 |
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| 411-330-0020 | 12-28-2014 | Amend | 2-1-2015 |
| 411-330-0020(T) | 12-28-2014 | Repeal | 2-1-2015 |
| 411-330-0030 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-330-0070 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-330-0130 | 12-28-2014 | Amend | 2-1-2015 |
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| 411-340-0020(T) | 12-28-2014 | Repeal | 2-1-2015 |
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| 411-340-0060 | 12-28-2014 | Amend | 2-1-2015 |
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| 459-007-0009 | 11-21-2014 | Amend(T) | 1-1-2015 |
| 459-007-0009 | 1-30-2015 | Amend | 3-1-2015 |
| 459-007-0320 | 3-30-2015 | Amend | 5-1-2015 |
| 459-007-0330 | 3-30-2015 | Amend | 5-1-2015 |
| 459-017-0060 | 5-29-2015 | Amend | 7-1-2015 |
| 459-035-0070 | 3-30-2015 | Amend | 5-1-2015 |
| 459-045-0070 | 5-29-2015 | Adopt | 7-1-2015 |
| 459-050-0076 | 11-21-2014 | Amend | 1-1-2015 |
| 459-050-0076 | 1-8-2015 | Amend | 2-1-2015 |
| 459-050-0120 | 11-21-2014 | Amend | 1-1-2015 |
| 459-050-0120 | 1-8-2015 | Amend | 2-1-2015 |
| 459-070-0001 | 1-30-2015 | Amend | 3-1-2015 |
| 459-080-0250 | 3-30-2015 | Amend | 5-1-2015 |
| 459-080-0500 | 5-29-2015 | Amend | 7-1-2015 |
| 461-001-0000 | 4-1-2015 | Amend | 4-1-2015 |
| 461-001-0025 | 7-1-2015 | Amend(T) | 8-1-2015 |
| 461-101-0010 | 4-1-2015 | Amend | 4-1-2015 |
| 461-110-0210 | 4-1-2015 | Amend | 4-1-2015 |
| 461-110-0210 | 6-30-2015 | Amend | 8-1-2015 |
| 461-110-0430 | 4-1-2015 | Amend | 4-1-2015 |
| 461-115-0016 | 3-31-2015 | Amend | 4-1-2015 |

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| 461-115-0030 | 6-30-2015 | Amend | 8-1-2015 |
| 461-115-0040 | 6-30-2015 | Amend | 8-1-2015 |
| 461-115-0050 | 4-1-2015 | Amend | 5-1-2015 |
| 461-115-0050(T) | 4-1-2015 | Repeal | 5-1-2015 |
| 461-115-0071 | 1-1-2015 | Amend | 2-1-2015 |
| 461-115-0071(T) | 1-1-2015 | Repeal | 2-1-2015 |
| 461-120-0010 | 6-30-2015 | Amend | 8-1-2015 |
| 461-125-0190 | 1-1-2015 | Repeal | 2-1-2015 |
| 461-125-0370 | 12-8-2014 | Amend(T) | 1-1-2015 |
| 461-125-0370 | 1-29-2015 | Amend | 3-1-2015 |
| 461-125-0370(T) | 12-8-2014 | Suspend | 1-1-2015 |
| 461-135-0405 | 4-1-2015 | Amend | 5-1-2015 |
| 461-135-0407 | 4-1-2015 | Amend | 5-1-2015 |
| 461-135-0780 | 1-1-2015 | Amend | 2-1-2015 |
| 461-135-0825 | 7-1-2015 | Repeal | 8-1-2015 |
| 461-135-0834 | 4-1-2015 | Amend | 5-1-2015 |
| 461-140-0040 | 3-19-2015 | Amend | 5-1-2015 |
| 461-145-0050 | 4-1-2015 | Amend | 4-1-2015 |
| 461-145-0088 | 4-1-2015 | Amend | 4-1-2015 |
| 461-145-0120 | 4-1-2015 | Amend | 5-1-2015 |
| 461-145-0130 | 4-1-2015 | Amend | 4-1-2015 |
| 461-145-0200 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 461-145-0200 | 6-30-2015 | Amend | 8-1-2015 |
| 461-145-0220 | 1-1-2015 | Amend | 2-1-2015 |
| 461-145-0530 | 4-1-2015 | Amend | 5-1-2015 |
| 461-145-0910 | 4-1-2015 | Amend | 4-1-2015 |
| 461-145-0930 | 4-1-2015 | Amend | 4-1-2015 |
| 461-155-0020 | 7-1-2015 | Amend | 8-1-2015 |
| 461-155-0150 | 3-23-2015 | Amend(T) | 5-1-2015 |
| 461-155-0150 | 6-30-2015 | Amend | 8-1-2015 |
| 461-155-0150(T) | 6-30-2015 | Repeal | 8-1-2015 |
| 461-155-0180 | 2-1-2015 | Amend | 3-1-2015 |
| 461-155-0250 | 1-1-2015 | Amend | 2-1-2015 |
| 461-155-0270 | 1-1-2015 | Amend | 2-1-2015 |
| 461-155-0290 | 3-1-2015 | Amend | 4-1-2015 |
| 461-155-0291 | 3-1-2015 | Amend | 4-1-2015 |
| 461-155-0295 | 3-1-2015 | Amend | 4-1-2015 |
| 461-155-0300 | 1-1-2015 | Amend | 2-1-2015 |
| 461-160-0015 | 1-1-2015 | Amend | 2-1-2015 |
| 461-160-0015(T) | 1-1-2015 | Repeal | 2-1-2015 |
| 461-160-0055 | 3-10-2015 | Amend(T) | 4-1-2015 |
| 461-160-0055 | 6-30-2015 | Amend | 8-1-2015 |
| 461-160-0055(T) | 6-30-2015 | Repeal | 8-1-2015 |
| 461-160-0410 | 7-1-2015 | Amend(T) | 8-1-2015 |
| 461-160-0580 | 1-1-2015 | Amend | 2-1-2015 |
| 461-160-0620 | 1-1-2015 | Amend | 2-1-2015 |
| 461-160-0620 | 7-1-2015 | Amend | 8-1-2015 |
| 461-165-0010 | 7-1-2015 | Amend | 8-1-2015 |
| 461-165-0030 | 4-1-2015 | Amend | 5-1-2015 |
| 461-165-0030(T) | 4-1-2015 | Repeal | 5-1-2015 |
| 461-165-0180 | 2-1-2015 | Amend | 3-1-2015 |
| 461-165-0180 | 6-30-2015 | Amend | 8-1-2015 |
| 461-165-0180(T) | 2-1-2015 | Repeal | 3-1-2015 |
| 461-170-0101 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 461-170-0101 | 6-30-2015 | Amend | 8-1-2015 |
| 461-175-0210 | 4-1-2015 | Amend | 5-1-2015 |
| 461-175-0210(T) | 4-1-2015 | Repeal | 5-1-2015 |
| 461-180-0070 | 6-30-2015 | Amend | 8-1-2015 |
| 461-190-0211 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 461-190-0211 | 6-30-2015 | Amend | 8-1-2015 |
| 461-190-0211 | 7-1-2015 | Amend(T) | 8-1-2015 |
| 461-193-0031 | 4-1-2015 | Amend | 4-1-2015 |
| 461-195-0301 | 4-1-2015 | Amend | 5-1-2015 |
| 461-195-0303 | 4-1-2015 | Amend | 5-1-2015 |
| 461-195-0321 | 4-1-2015 | Amend | 5-1-2015 |
| 461-195-0501 | 7-1-2015 | Amend | 8-1-2015 |
| 461-195-0521 | 7-1-2015 | Amend | 8-1-2015 |
| 461-195-0601 | 7-1-2015 | Amend | 8-1-2015 |
| 461-195-0621 | 7-1-2015 | Amend | 8-1-2015 |
| 462-150-0030 | 11-21-2014 | Amend | 1-1-2015 |
| 462-200-0700 | 2-2-2015 | Adopt | 3-1-2015 |
| 462-210-0010 | 3-25-2015 | Amend | 5-1-2015 |
| 543-010-0034 | 3-23-2015 | Amend | 5-1-2015 |
| 573-040-0005 | 5-6-2015 | Amend | 6-1-2015 |
| 573-050-0020 | 6-5-2015 | Amend | 7-1-2015 |
| 573-050-0025 | 6-5-2015 | Amend | 7-1-2015 |
| 573-050-0030 | 6-5-2015 | Amend | 7-1-2015 |
| 574-050-0005 | 2-12-2015 | Amend | 3-1-2015 |
| 577-050-0050 | 1-23-2015 | Amend(T) | 3-1-2015 |
| 578-001-0000 | 6-30-2015 | Repeal | 8-1-2015 |
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| 578-001-0090 | 6-30-2015 | Repeal | 8-1-2015 |
| 578-001-0100 | 6-30-2015 | Repeal | 8-1-2015 |
| 578-012-0010 | 6-30-2015 | Repeal | 8-1-2015 |
| 578-015-0010 | 6-30-2015 | Repeal | 8-1-2015 |
| 578-015-0020 | 6-30-2015 | Repeal | 8-1-2015 |
| 578-033-0210 | 6-30-2015 | Repeal | 8-1-2015 |
| 578-033-0220 | 6-30-2015 | Repeal | 8-1-2015 |
| 578-033-0230 | 6-30-2015 | Repeal | 8-1-2015 |
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| 578-033-0242 | 6-30-2015 | Repeal | 8-1-2015 |
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| 578-033-0246 | 6-30-2015 | Repeal | 8-1-2015 |
| 578-033-0252 | 6-30-2015 | Repeal | 8-1-2015 |
| 578-033-0260 | 6-30-2015 | Repeal | 8-1-2015 |
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| 578-034-0050 | 6-30-2015 | Repeal | 8-1-2015 |
| 578-034-0055 | 6-30-2015 | Repeal | 8-1-2015 |
| 578-034-0060 | 6-30-2015 | Repeal | 8-1-2015 |
| 578-034-0065 | 6-30-2015 | Repeal | 8-1-2015 |

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| 578-034-0070 | 6-30-2015 | Repeal | 8-1-2015 |
| 578-034-0075 | 6-30-2015 | Repeal | 8-1-2015 |
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| 578-041-0030 | 6-30-2015 | Repeal | 8-1-2015 |
| 578-041-0030 | 8-24-2015 | Amend | 7-1-2015 |
| 578-041-0040 | 6-30-2015 | Repeal | 8-1-2015 |
| 578-041-0050 | 6-30-2015 | Repeal | 8-1-2015 |
| 578-042-0050 | 6-30-2015 | Repeal | 8-1-2015 |
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| 578-045-0025 | 6-30-2015 | Repeal | 8-1-2015 |
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| 578-072-0050 | 6-30-2015 | Repeal | 8-1-2015 |
| 578-072-0055 | 6-30-2015 | Repeal | 8-1-2015 |
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| 578-072-0091 | 6-30-2015 | Repeal | 8-1-2015 |
| 579-020-0006 | 12-1-2014 | Amend(T) | 1-1-2015 |
| 580-040-0040 | 6-15-2015 | Amend(T) | 7-1-2015 |
| 581-015-2000 | 12-17-2014 | Amend | 2-1-2015 |
| 581-015-2000 | 7-13-2015 | Amend | 8-1-2015 |
| 581-015-2005 | 7-15-2015 | Amend | 8-1-2015 |
| 581-015-2010 | 7-15-2015 | Amend | 8-1-2015 |
| 581-015-2040 | 7-15-2015 | Amend | 8-1-2015 |
| 581-015-2080 | 7-15-2015 | Amend | 8-1-2015 |
| 581-015-2245 | 12-17-2014 | Amend | 2-1-2015 |
| 581-015-2320 | 3-11-2015 | Amend | 4-1-2015 |
| 581-015-2565 | 7-15-2015 | Amend | 8-1-2015 |
| 581-015-2572 | 7-13-2015 | Amend | 8-1-2015 |
| 581-018-0130 | 7-15-2015 | Amend(T) | 8-1-2015 |
| 581-018-0133 | 12-4-2014 | Adopt | 1-1-2015 |
| 581-018-0145 | 7-15-2015 | Amend(T) | 8-1-2015 |
| 581-018-0148 | 7-15-2015 | Amend(T) | 8-1-2015 |
| 581-020-0060 | 12-4-2014 | Renumber | 1-1-2015 |
| 581-020-0065 | 12-4-2014 | Renumber | 1-1-2015 |
| 581-020-0065 | 1-26-2015 | Am. & Ren. | 3-1-2015 |
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| 581-020-0085 | 12-4-2014 | Renumber | 1-1-2015 |
| 581-020-0090 | 12-4-2014 | Renumber | 1-1-2015 |
| 581-021-0061 | 3-11-2015 | Amend | 4-1-2015 |
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| 581-022-0102 | 7-1-2015 | Amend | 3-1-2015 |
| 581-022-1130 | 12-17-2014 | Amend | 2-1-2015 |
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| 581-026-0505 | 12-17-2014 | Amend | 2-1-2015 |
| 581-045-0586 | 4-15-2015 | Amend | 5-1-2015 |
| 582-001-0003 | 1-1-2015 | Repeal | 2-1-2015 |
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| 583-050-0016 | 3-17-2015 | Amend | 5-1-2015 |
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| 584-060-0682 | 7-1-2015 | Amend(T) | 8-1-2015 |
| 584-060-0682(T) | 5-15-2015 | Suspend | 6-1-2015 |
| 584-060-0700 | 7-1-2015 | Adopt(T) | 8-1-2015 |
| 584-060-0710 | 7-1-2015 | Adopt(T) | 8-1-2015 |
| 584-060-0710 | 7-10-2015 | Adopt(T) | 8-1-2015 |
| 584-060-0710(T) | 7-10-2015 | Suspend | 8-1-2015 |
| 584-060-0715 | 7-1-2015 | Adopt(T) | 8-1-2015 |
| 584-060-0715 | 7-10-2015 | Adopt(T) | 8-1-2015 |
| 584-060-0715(T) | 7-10-2015 | Suspend | 8-1-2015 |
| 584-060-0720 | 7-1-2015 | Adopt(T) | 8-1-2015 |
| 584-060-0725 | 7-1-2015 | Adopt(T) | 8-1-2015 |
| 584-065-0001 | 2-10-2015 | Amend | 3-1-2015 |
| 584-065-0060 | 2-10-2015 | Amend | 3-1-2015 |
| 584-065-0070 | 2-10-2015 | Amend | 3-1-2015 |
| 584-065-0080 | 2-10-2015 | Amend | 3-1-2015 |
| 584-065-0090 | 2-10-2015 | Amend | 3-1-2015 |
| 584-065-0120 | 2-10-2015 | Amend | 3-1-2015 |
| 584-066-0010 | 2-10-2015 | Amend | 3-1-2015 |
| 584-066-0020 | 2-10-2015 | Amend | 3-1-2015 |
| 584-066-0025 | 2-10-2015 | Adopt | 3-1-2015 |
| 584-066-0030 | 4-15-2015 | Adopt | 5-1-2015 |
| 584-070-0012 | 7-1-2015 | Amend(T) | 8-1-2015 |
| 584-070-0120 | 2-10-2015 | Amend | 3-1-2015 |
| 584-070-0132 | 2-10-2015 | Amend | 3-1-2015 |
| 584-070-0310 | 2-10-2015 | Amend | 3-1-2015 |
| 584-070-0310 | 7-1-2015 | Amend(T) | 8-1-2015 |
| 584-080-0152 | 2-10-2015 | Amend | 3-1-2015 |
| 584-080-0171 | 2-10-2015 | Amend | 3-1-2015 |
| 584-090-0100 | 2-10-2015 | Amend | 3-1-2015 |
| 584-090-0100 | 4-15-2015 | Amend | 5-1-2015 |
| 584-090-0100 | 7-1-2015 | Amend(T) | 8-1-2015 |
| 584-090-0115 | 2-10-2015 | Amend | 3-1-2015 |
| 584-090-0115 | 7-1-2015 | Amend(T) | 8-1-2015 |
| 584-090-0120 | 4-15-2015 | Amend | 5-1-2015 |
| 584-100-0006 | 2-10-2015 | Amend | 3-1-2015 |
| 584-100-0007 | 2-10-2015 | Amend | 3-1-2015 |
| 584-100-0016 | 2-10-2015 | Amend | 3-1-2015 |
| 584-100-0026 | 2-10-2015 | Amend | 3-1-2015 |

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| 584-100-0036 | 2-10-2015 | Amend | 3-1-2015 |
| 584-300-0170 | 7-1-2015 | Adopt(T) | 8-1-2015 |
| 584-300-0170 | 7-10-2015 | Adopt(T) | 8-1-2015 |
| 584-300-0170(T) | 7-10-2015 | Suspend | 8-1-2015 |
| 589-002-0120 | 6-15-2015 | Amend | 7-1-2015 |
| 589-006-0100 | 5-18-2015 | Amend | 7-1-2015 |
| 603-011-0610 | 2-23-2015 | Amend | 4-1-2015 |
| 603-011-0615 | 2-23-2015 | Amend | 4-1-2015 |
| 603-011-0620 | 2-23-2015 | Amend | 4-1-2015 |
| 603-011-0630 | 2-23-2015 | Amend | 4-1-2015 |
| 603-011-0800 | 12-30-2014 | Adopt(T) | 2-1-2015 |
| 603-011-0810 | 12-30-2014 | Adopt(T) | 2-1-2015 |
| 603-011-0820 | 12-30-2014 | Adopt(T) | 2-1-2015 |
| 603-011-0830 | 12-30-2014 | Adopt(T) | 2-1-2015 |
| 603-011-0840 | 12-30-2014 | Adopt(T) | 2-1-2015 |
| 603-011-0900 | 1-28-2015 | Adopt(T) | 3-1-2015 |
| 603-011-0910 | 1-28-2015 | Adopt(T) | 3-1-2015 |
| 603-011-0920 | 1-28-2015 | Adopt(T) | 3-1-2015 |
| 603-011-0930 | 1-28-2015 | Adopt(T) | 3-1-2015 |
| 603-011-0940 | 1-28-2015 | Adopt(T) | 3-1-2015 |
| 603-024-0017 | 4-3-2015 | Amend | 5-1-2015 |
| 603-024-0211 | 4-3-2015 | Amend | 5-1-2015 |
| 603-048-0010 | 1-29-2015 | Adopt | 3-1-2015 |
| 603-048-0050 | 1-29-2015 | Adopt | 3-1-2015 |
| 603-048-0100 | 1-29-2015 | Adopt | 3-1-2015 |
| 603-048-0110 | 1-29-2015 | Adopt | 3-1-2015 |
| 603-048-0200 | 1-29-2015 | Adopt | 3-1-2015 |
| 603-048-0250 | 1-29-2015 | Adopt | 3-1-2015 |
| 603-048-0300 | 1-29-2015 | Adopt | 3-1-2015 |
| 603-048-0400 | 1-29-2015 | Adopt | 3-1-2015 |
| 603-048-0500 | 1-29-2015 | Adopt | 3-1-2015 |
| 603-048-0600 | 1-29-2015 | Adopt | 3-1-2015 |
| 603-048-0700 | 1-29-2015 | Adopt | 3-1-2015 |
| 603-048-0800 | 1-29-2015 | Adopt | 3-1-2015 |
| 603-048-0900 | 1-29-2015 | Adopt | 3-1-2015 |
| 603-048-1000 | 1-29-2015 | Adopt | 3-1-2015 |
| 603-052-0051 | 5-29-2015 | Amend | 7-1-2015 |
| 603-052-0385 | 5-29-2015 | Amend | 7-1-2015 |
| 603-052-0860 | 1-13-2015 | Amend | 2-1-2015 |
| 603-052-0861 | 1-13-2015 | Amend | 2-1-2015 |
| 603-052-0862 | 1-13-2015 | Amend | 2-1-2015 |
| 603-052-0870 | 1-13-2015 | Amend | 2-1-2015 |
| 603-052-0880 | 1-13-2015 | Amend | 2-1-2015 |
| 603-052-0882 | 1-13-2015 | Amend | 2-1-2015 |
| 603-052-0884 | 1-13-2015 | Amend | 2-1-2015 |
| 603-052-0886 | 1-13-2015 | Amend | 2-1-2015 |
| 603-052-0888 | 1-13-2015 | Amend | 2-1-2015 |
| 603-052-0921 | 1-13-2015 | Amend | 2-1-2015 |
| 603-057-0388 | 2-27-2015 | Adopt | 4-1-2015 |
| 603-095-0100 | 1-29-2015 | Amend | 3-1-2015 |
| 603-095-0120 | 1-29-2015 | Amend | 3-1-2015 |
| 603-095-0140 | 1-29-2015 | Amend | 3-1-2015 |
| 603-095-0160 | 1-29-2015 | Repeal | 3-1-2015 |
| 603-095-0180 | 1-29-2015 | Amend | 3-1-2015 |
| 632-030-0025 | 1-7-2015 | Amend | 2-1-2015 |
| 635-003-0003 | 4-27-2015 | Amend | 6-1-2015 |
| 635-003-0085 | 4-27-2015 | Amend | 6-1-2015 |
| 635-004-0215 | 1-15-2015 | Amend | 2-1-2015 |
| 635-004-0275 | 1-1-2015 | Amend(T) | 1-1-2015 |
| 635-004-0275 | 3-10-2015 | Amend | 4-1-2015 |
| 635-004-0275 | 6-12-2015 | Amend(T) | 7-1-2015 |
| 635-004-0275(T) | 3-10-2015 | Repeal | 4-1-2015 |
| 635-004-0350 | 1-15-2015 | Amend | 2-1-2015 |
| 635-004-0355 | 1-1-2015 | Amend(T) | 1-1-2015 |
| 635-004-0355 | 1-15-2015 | Amend | 2-1-2015 |
| 635-004-0355 | 7-5-2015 | Amend(T) | 8-1-2015 |
| 635-004-0355(T) | 1-15-2015 | Repeal | 2-1-2015 |
| 635-004-0370 | 5-27-2015 | Amend(T) | 7-1-2015 |
| 635-004-0370 | 6-29-2015 | Amend | 8-1-2015 |
| 635-004-0370(T) | 6-29-2015 | Repeal | 8-1-2015 |
| 635-004-0375 | 4-25-2015 | Amend(T) | 6-1-2015 |
| 635-004-0375 | 5-27-2015 | Amend(T) | 7-1-2015 |
| 635-004-0375 | 6-29-2015 | Amend | 8-1-2015 |
| 635-004-0375 | 6-29-2015 | Amend(T) | 8-1-2015 |
| 635-004-0375(T) | 5-27-2015 | Suspend | 7-1-2015 |
| 635-004-0375(T) | 6-29-2015 | Repeal | 8-1-2015 |
| 635-004-0376 | 5-27-2015 | Adopt(T) | 7-1-2015 |
| 635-004-0376 | 6-29-2015 | Adopt | 8-1-2015 |
| 635-004-0376(T) | 6-29-2015 | Repeal | 8-1-2015 |
| 635-004-0405 | 5-27-2015 | Amend(T) | 7-1-2015 |
| 635-004-0405 | 6-29-2015 | Amend | 8-1-2015 |
| 635-004-0405(T) | 6-29-2015 | Repeal | 8-1-2015 |
| 635-004-0420 | 5-27-2015 | Suspend | 7-1-2015 |
| 635-004-0420 | 6-29-2015 | Repeal | 8-1-2015 |
| 635-004-0430 | 5-27-2015 | Amend(T) | 7-1-2015 |
| 635-004-0430 | 6-29-2015 | Amend | 8-1-2015 |
| 635-004-0430(T) | 6-29-2015 | Repeal | 8-1-2015 |
| 635-004-0500 | 5-27-2015 | Suspend | 7-1-2015 |
| 635-004-0500 | 6-29-2015 | Repeal | 8-1-2015 |
| 635-004-0505 | 1-16-2015 | Amend(T) | 3-1-2015 |
| 635-004-0520 | 5-27-2015 | Suspend | 7-1-2015 |
| 635-004-0520 | 6-29-2015 | Repeal | 8-1-2015 |
| 635-004-0535 | 5-27-2015 | Suspend | 7-1-2015 |
| 635-004-0535 | 6-29-2015 | Repeal | 8-1-2015 |
| 635-004-0585 | 4-28-2015 | Amend | 6-1-2015 |
| 635-005-0355 | 2-6-2015 | Amend(T) | 3-1-2015 |
| 635-005-0465 | 11-25-2014 | Amend(T) | 1-1-2015 |
| 635-005-0480 | 3-16-2015 | Amend(T) | 5-1-2015 |
| 635-005-0485 | 11-25-2014 | Amend(T) | 1-1-2015 |
| 635-005-0920 | 5-27-2015 | Amend(T) | 7-1-2015 |
| 635-006-0209 | 1-1-2015 | Amend(T) | 1-1-2015 |
| 635-006-0209 | 1-15-2015 | Amend | 2-1-2015 |
| 635-006-0209(T) | 1-15-2015 | Repeal | 2-1-2015 |
| 635-006-0212 | 4-27-2015 | Amend | 6-1-2015 |
| 635-006-0212 | 5-1-2015 | Amend(T) | 5-1-2015 |
| 635-006-0212 | 5-1-2015 | Amend(T) | 6-1-2015 |
| 635-006-0212(T) | 4-27-2015 | Repeal | 6-1-2015 |
| 635-006-0213 | 4-27-2015 | Amend | 6-1-2015 |
| 635-006-0215 | 1-15-2015 | Amend | 2-1-2015 |
| 635-006-0215 | 5-1-2015 | Amend(T) | 5-1-2015 |
| 635-006-0225 | 5-1-2015 | Amend(T) | 5-1-2015 |
| 635-006-0232 | 1-13-2015 | Amend | 2-1-2015 |

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| 635-011-0100 | 1-1-2015 | Amend | 2-1-2015 |
| 635-011-0104 | 1-1-2015 | Amend | 2-1-2015 |
| 635-012-0090 | 5-27-2015 | Amend(T) | 7-1-2015 |
| 635-012-0100 | 5-27-2015 | Amend(T) | 7-1-2015 |
| 635-013-0003 | 4-27-2015 | Amend | 6-1-2015 |
| 635-013-0004 | 1-1-2015 | Amend | 2-1-2015 |
| 635-013-0007 | 4-27-2015 | Amend | 6-1-2015 |
| 635-014-0080 | 1-1-2015 | Amend | 2-1-2015 |
| 635-014-0090 | 1-1-2015 | Amend | 2-1-2015 |
| 635-014-0090 | 4-1-2015 | Amend(T) | 5-1-2015 |
| 635-014-0090 | 6-23-2015 | Amend | 8-1-2015 |
| 635-014-0090 | 6-24-2015 | Amend(T) | 8-1-2015 |
| 635-014-0090(T) | 6-23-2015 | Repeal | 8-1-2015 |
| 635-016-0080 | 1-1-2015 | Amend | 2-1-2015 |
| 635-016-0090 | 1-1-2015 | Amend | 2-1-2015 |
| 635-016-0090 | 6-23-2015 | Amend | 8-1-2015 |
| 635-016-0090 | 6-23-2015 | Amend(T) | 8-1-2015 |
| 635-017-0080 | 1-1-2015 | Amend | 2-1-2015 |
| 635-017-0090 | 1-1-2015 | Amend | 2-1-2015 |
| 635-017-0090 | 5-27-2015 | Amend(T) | 7-1-2015 |
| 635-017-0090 | 6-12-2015 | Amend(T) | 7-1-2015 |
| 635-017-0090(T) | 6-12-2015 | Suspend | 7-1-2015 |
| 635-017-0095 | 1-1-2015 | Amend | 2-1-2015 |
| 635-018-0080 | 1-1-2015 | Amend | 2-1-2015 |
| 635-018-0090 | 1-1-2015 | Amend | 2-1-2015 |
| 635-018-0090 | 4-15-2015 | Amend(T) | 5-1-2015 |
| 635-019-0080 | 1-1-2015 | Amend | 2-1-2015 |
| 635-019-0090 | 1-1-2015 | Amend | 2-1-2015 |
| 635-019-0090 | 5-20-2015 | Amend(T) | 6-1-2015 |
| 635-019-0090 | 6-6-2015 | Amend(T) | 7-1-2015 |
| 635-019-0090 | 6-9-2015 | Amend(T) | 7-1-2015 |
| 635-019-0090 | 7-5-2015 | Amend(T) | 8-1-2015 |
| 635-019-0090(T) | 6-6-2015 | Suspend | 7-1-2015 |
| 635-019-0090(T) | 6-9-2015 | Suspend | 7-1-2015 |
| 635-019-0090(T) | 7-5-2015 | Suspend | 8-1-2015 |
| 635-021-0080 | 1-1-2015 | Amend | 2-1-2015 |
| 635-021-0090 | 1-1-2015 | Amend | 2-1-2015 |
| 635-021-0090 | 5-20-2015 | Amend(T) | 6-1-2015 |
| 635-021-0090 | 7-18-2015 | Amend(T) | 8-1-2015 |
| 635-021-0090(T) | 7-18-2015 | Suspend | 8-1-2015 |
| 635-023-0080 | 1-1-2015 | Amend | 2-1-2015 |
| 635-023-0090 | 1-1-2015 | Amend | 2-1-2015 |
| 635-023-0095 | 1-1-2015 | Amend | 2-1-2015 |
| 635-023-0095 | 1-1-2015 | Amend(T) | 2-1-2015 |
| 635-023-0095 | 5-12-2015 | Amend(T) | 6-1-2015 |
| 635-023-0095 | 6-3-2015 | Amend(T) | 7-1-2015 |
| 635-023-0095(T) | 6-3-2015 | Suspend | 7-1-2015 |
| 635-023-0125 | 1-1-2015 | Amend | 2-1-2015 |
| 635-023-0125 | 3-1-2015 | Amend(T) | 3-1-2015 |
| 635-023-0125 | 3-5-2015 | Amend(T) | 4-1-2015 |
| 635-023-0125 | 4-10-2015 | Amend(T) | 5-1-2015 |
| 635-023-0125 | 5-2-2015 | Amend(T) | 6-1-2015 |
| 635-023-0125 | 5-6-2015 | Amend(T) | 6-1-2015 |
| 635-023-0125 | 5-28-2015 | Amend(T) | 7-1-2015 |
| 635-023-0125 | 6-3-2015 | Amend(T) | 7-1-2015 |
| 635-023-0125(T) | 3-5-2015 | Suspend | 4-1-2015 |
| 635-023-0125(T) | 4-10-2015 | Suspend | 5-1-2015 |
| 635-023-0125(T) | 5-2-2015 | Suspend | 6-1-2015 |
| 635-023-0125(T) | 5-6-2015 | Suspend | 6-1-2015 |
| 635-023-0125(T) | 5-28-2015 | Suspend | 7-1-2015 |
| 635-023-0125(T) | 6-3-2015 | Suspend | 7-1-2015 |
| 635-023-0128 | 1-1-2015 | Amend | 2-1-2015 |
| 635-023-0128 | 6-16-2015 | Amend(T) | 7-1-2015 |
| 635-023-0128 | 7-3-2015 | Amend(T) | 8-1-2015 |
| 635-023-0128(T) | 7-3-2015 | Suspend | 8-1-2015 |
| 635-023-0130 | 1-1-2015 | Amend | 2-1-2015 |
| 635-023-0134 | 1-1-2015 | Amend | 2-1-2015 |
| 635-023-0134 | 5-2-2015 | Amend(T) | 6-1-2015 |
| 635-023-0140 | 1-1-2015 | Amend | 2-1-2015 |
| 635-039-0080 | 1-1-2015 | Amend | 2-1-2015 |
| 635-039-0080 | 3-10-2015 | Amend | 4-1-2015 |
| 635-039-0085 | 4-28-2015 | Amend | 6-1-2015 |
| 635-039-0085 | 6-3-2015 | Amend(T) | 7-1-2015 |
| 635-039-0085 | 6-15-2015 | Amend(T) | 7-1-2015 |
| 635-039-0085(T) | 6-15-2015 | Suspend | 7-1-2015 |
| 635-039-0090 | 1-1-2015 | Amend | 2-1-2015 |
| 635-039-0090 | 1-15-2015 | Amend | 2-1-2015 |
| 635-039-0090 | 1-15-2015 | Amend(T) | 2-1-2015 |
| 635-039-0090 | 4-28-2015 | Amend | 6-1-2015 |
| 635-039-0090(T) | 3-10-2015 | Repeal | 4-1-2015 |
| 635-041-0045 | 6-16-2015 | Amend(T) | 7-1-2015 |
| 635-041-0063 | 11-25-2014 | Amend(T) | 1-1-2015 |
| 635-041-0063(T) | 11-25-2014 | Suspend | 1-1-2015 |
| 635-041-0065 | 2-2-2015 | Amend(T) | 3-1-2015 |
| 635-041-0065 | 2-20-2015 | Amend(T) | 4-1-2015 |
| 635-041-0065 | 3-12-2015 | Amend(T) | 4-1-2015 |
| 635-041-0065 | 5-5-2015 | Amend(T) | 6-1-2015 |
| 635-041-0065 | 5-19-2015 | Amend(T) | 7-1-2015 |
| 635-041-0065 | 5-27-2015 | Amend(T) | 7-1-2015 |
| 635-041-0065 | 6-2-2015 | Amend(T) | 7-1-2015 |
| 635-041-0065 | 6-9-2015 | Amend(T) | 7-1-2015 |
| 635-041-0065 | 6-11-2015 | Amend(T) | 7-1-2015 |
| 635-041-0065(T) | 2-20-2015 | Suspend | 4-1-2015 |
| 635-041-0065(T) | 3-12-2015 | Suspend | 4-1-2015 |
| 635-041-0065(T) | 5-19-2015 | Suspend | 7-1-2015 |
| 635-041-0065(T) | 5-27-2015 | Suspend | 7-1-2015 |
| 635-041-0065(T) | 6-2-2015 | Suspend | 7-1-2015 |
| 635-041-0065(T) | 6-9-2015 | Suspend | 7-1-2015 |
| 635-041-0065(T) | 6-11-2015 | Suspend | 7-1-2015 |
| 635-041-0076 | 6-16-2015 | Amend(T) | 7-1-2015 |
| 635-041-0076 | 7-6-2015 | Amend(T) | 8-1-2015 |
| 635-041-0076 | 7-8-2015 | Amend(T) | 8-1-2015 |
| 635-041-0076 | 7-15-2015 | Amend(T) | 8-1-2015 |
| 635-041-0076(T) | 7-6-2015 | Suspend | 8-1-2015 |
| 635-041-0076(T) | 7-8-2015 | Suspend | 8-1-2015 |
| 635-041-0076(T) | 7-15-2015 | Suspend | 8-1-2015 |
| 635-041-0525 | 1-1-2015 | Adopt | 1-1-2015 |
| 635-042-0022 | 3-31-2015 | Amend(T) | 5-1-2015 |
| 635-042-0022 | 4-7-2015 | Amend(T) | 5-1-2015 |
| 635-042-0022 | 5-4-2015 | Amend(T) | 6-1-2015 |
| 635-042-0022 | 5-6-2015 | Amend(T) | 6-1-2015 |
| 635-042-0022 | 5-12-2015 | Amend(T) | 6-1-2015 |

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| 635-042-0022 | 5-27-2015 | Amend(T) | 7-1-2015 |
| 635-042-0022 | 6-2-2015 | Amend(T) | 7-1-2015 |
| 635-042-0022 | 6-10-2015 | Amend(T) | 7-1-2015 |
| 635-042-0022(T) | 6-10-2015 | Suspend | 7-1-2015 |
| 635-042-0027 | 6-17-2015 | Amend(T) | 7-1-2015 |
| 635-042-0027 | 7-8-2015 | Amend(T) | 8-1-2015 |
| 635-042-0027(T) | 7-8-2015 | Suspend | 8-1-2015 |
| 635-042-0027(T) | 7-14-2015 | Suspend | 8-1-2015 |
| 635-042-0130 | 2-2-2015 | Amend(T) | 3-1-2015 |
| 635-042-0145 | 2-9-2015 | Amend(T) | 3-1-2015 |
| 635-042-0145 | 3-9-2015 | Amend(T) | 4-1-2015 |
| 635-042-0145 | 3-24-2015 | Amend(T) | 5-1-2015 |
| 635-042-0145 | 4-21-2015 | Amend(T) | 6-1-2015 |
| 635-042-0145 | 5-4-2015 | Amend(T) | 6-1-2015 |
| 635-042-0145 | 5-12-2015 | Amend(T) | 6-1-2015 |
| 635-042-0145 | 5-27-2015 | Amend(T) | 7-1-2015 |
| 635-042-0145 | 6-2-2015 | Amend(T) | 7-1-2015 |
| 635-042-0145 | 6-10-2015 | Amend(T) | 7-1-2015 |
| 635-042-0145(T) | 3-9-2015 | Suspend | 4-1-2015 |
| 635-042-0145(T) | 3-24-2015 | Suspend | 5-1-2015 |
| 635-042-0145(T) | 4-21-2015 | Suspend | 6-1-2015 |
| 635-042-0145(T) | 5-4-2015 | Suspend | 6-1-2015 |
| 635-042-0145(T) | 5-12-2015 | Suspend | 6-1-2015 |
| 635-042-0145(T) | 5-27-2015 | Suspend | 7-1-2015 |
| 635-042-0145(T) | 6-2-2015 | Suspend | 7-1-2015 |
| 635-042-0145(T) | 6-10-2015 | Suspend | 7-1-2015 |
| 635-042-0160 | 2-9-2015 | Amend(T) | 3-1-2015 |
| 635-042-0160 | 4-21-2015 | Amend(T) | 6-1-2015 |
| 635-042-0160 | 5-4-2015 | Amend(T) | 6-1-2015 |
| 635-042-0160 | 6-16-2015 | Amend(T) | 7-1-2015 |
| 635-042-0160 | 6-25-2015 | Amend(T) | 8-1-2015 |
| 635-042-0160(T) | 4-21-2015 | Suspend | 6-1-2015 |
| 635-042-0160(T) | 5-4-2015 | Suspend | 6-1-2015 |
| 635-042-0160(T) | 6-16-2015 | Suspend | 7-1-2015 |
| 635-042-0160(T) | 6-25-2015 | Suspend | 8-1-2015 |
| 635-042-0170 | 2-9-2015 | Amend(T) | 3-1-2015 |
| 635-042-0170 | 4-21-2015 | Amend(T) | 6-1-2015 |
| 635-042-0170 | 5-4-2015 | Amend(T) | 6-1-2015 |
| 635-042-0170(T) | 4-21-2015 | Suspend | 6-1-2015 |
| 635-042-0170(T) | 5-4-2015 | Suspend | 6-1-2015 |
| 635-042-0180 | 2-9-2015 | Amend(T) | 3-1-2015 |
| 635-042-0180 | 4-21-2015 | Amend(T) | 6-1-2015 |
| 635-042-0180 | 5-4-2015 | Amend(T) | 6-1-2015 |
| 635-042-0180(T) | 4-21-2015 | Suspend | 6-1-2015 |
| 635-042-0180(T) | 5-4-2015 | Suspend | 6-1-2015 |
| 635-043-0151 | 1-15-2015 | Adopt(T) | 2-1-2015 |
| 635-043-0151(T) | 1-15-2015 | Suspend | 2-1-2015 |
| 635-045-0000 | 6-11-2015 | Amend | 7-1-2015 |
| 635-048-0005 | 12-10-2014 | Amend | 1-1-2015 |
| 635-053-0100 | 2-25-2015 | Repeal | 4-1-2015 |
| 635-053-0105 | 2-25-2015 | Repeal | 4-1-2015 |
| 635-053-0111 | 2-25-2015 | Repeal | 4-1-2015 |
| 635-053-0125 | 2-25-2015 | Repeal | 4-1-2015 |
| 635-065-0001 | 1-6-2015 | Amend | 2-1-2015 |
| 635-065-0011 | 1-6-2015 | Amend | 2-1-2015 |
| 635-065-0015 | 1-6-2015 | Amend | 2-1-2015 |
| 635-065-0015 | 6-11-2015 | Amend | 7-1-2015 |
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| 635-065-0401 | 1-6-2015 | Amend | 2-1-2015 |
| 635-065-0625 | 1-6-2015 | Amend | 2-1-2015 |
| 635-065-0705 | 1-6-2015 | Amend | 2-1-2015 |
| 635-065-0705(T) | 1-6-2015 | Repeal | 2-1-2015 |
| 635-065-0740 | 1-6-2015 | Amend | 2-1-2015 |
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| 635-065-0760(T) | 6-11-2015 | Repeal | 7-1-2015 |
| 635-065-0765 | 1-6-2015 | Amend | 2-1-2015 |
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| 635-071-0010 | 1-7-2015 | Amend(T) | 2-1-2015 |
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| 635-440-0025 | 12-8-2014 | Adopt | 1-1-2015 |

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| 690-215-0045 | 11-25-2014 | Amend | 1-1-2015 |
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| 690-240-0035 | 11-25-2014 | Amend | 1-1-2015 |
| 690-240-0046 | 11-25-2014 | Amend | 1-1-2015 |
| 690-240-0355 | 7-1-2015 | Amend | 8-1-2015 |
| 690-240-0475 | 7-1-2015 | Amend | 8-1-2015 |
| 690-240-0525 | 7-1-2015 | Amend | 8-1-2015 |
| 690-310-0080 | 1-1-2015 | Amend | 1-1-2015 |
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| 735-176-0170 | 7-1-2015 | Adopt | 1-1-2015 |
| 735-176-0180 | 7-1-2015 | Adopt | 1-1-2015 |
| 735-176-0190 | 7-1-2015 | Adopt | 1-1-2015 |
| 735-176-0200 | 7-1-2015 | Adopt | 1-1-2015 |
| 735-176-0210 | 7-1-2015 | Adopt | 1-1-2015 |
| 738-001-0006 | 7-1-2015 | Amend | 8-1-2015 |
| 738-001-0025 | 7-1-2015 | Repeal | 8-1-2015 |
| 738-001-0030 | 7-1-2015 | Repeal | 8-1-2015 |
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| 740-100-0085 | 5-26-2015 | Amend | 7-1-2015 |
| 740-100-0090 | 5-26-2015 | Amend | 7-1-2015 |
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| 740-200-0010 | 5-26-2015 | Amend | 7-1-2015 |
| 740-200-0020 | 5-26-2015 | Amend | 7-1-2015 |
| 740-200-0040 | 5-26-2015 | Amend | 7-1-2015 |
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| 806-001-0003 | 7-1-2015 | Amend | 6-1-2015 |

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| 806-010-0010 | 6-26-2015 | Amend(T) | 8-1-2015 |
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| 806-010-0035 | 6-26-2015 | Amend(T) | 8-1-2015 |
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| 808-003-0065 | 2-12-2015 | Amend(T) | 3-1-2015 |
| 808-003-0065 | 6-11-2015 | Amend | 7-1-2015 |
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| 808-003-0231 | 12-1-2014 | Adopt | 1-1-2015 |
| 808-008-0425 | 12-1-2014 | Amend | 1-1-2015 |
| 809-001-0015 | 12-5-2014 | Amend | 1-1-2015 |
| 809-010-0025 | 7-1-2015 | Amend | 7-1-2015 |
| 809-040-0001 | 12-5-2014 | Amend | 1-1-2015 |
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| 809-050-0050 | 12-5-2014 | Amend | 1-1-2015 |
| 809-050-0050(T) | 12-5-2014 | Repeal | 1-1-2015 |
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| 811-010-0085 | 7-1-2015 | Amend | 7-1-2015 |
| 811-010-0086 | 7-1-2015 | Amend | 7-1-2015 |
| 811-015-0005 | 4-10-2015 | Amend | 5-1-2015 |
| 812-008-0020 | 10-1-2015 | Amend | 8-1-2015 |
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| 812-008-0060 | 10-1-2015 | Amend | 8-1-2015 |
| 812-008-0110 | 10-1-2015 | Amend | 8-1-2015 |
| 813-013-0035 | 2-26-2015 | Amend(T) | 4-1-2015 |
| 813-013-0035 | 7-9-2015 | Amend | 8-1-2015 |
| 813-044-0040 | 3-11-2015 | Amend(T) | 4-1-2015 |
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| 813-055-0001 | 12-2-2014 | Amend | 1-1-2015 |
| 813-055-0095 | 12-2-2014 | Repeal | 1-1-2015 |
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| 813-055-0115 | 12-2-2014 | Repeal | 1-1-2015 |
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| 813-090-0110(T) | 12-2-2014 | Repeal | 1-1-2015 |
| 813-110-0005 | 12-2-2014 | Amend | 1-1-2015 |
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| 813-110-0021 | 12-2-2014 | Amend | 1-1-2015 |
| 813-110-0026 | 12-2-2014 | Amend | 1-1-2015 |
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| 813-110-0031 | 12-2-2014 | Adopt | 1-1-2015 |
| 813-110-0032 | 12-2-2014 | Renumber | 1-1-2015 |
| 813-110-0034 | 12-2-2014 | Repeal | 1-1-2015 |
| 813-110-0040 | 12-2-2014 | Repeal | 1-1-2015 |
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| 817-040-0003 | 7-8-2015 | Amend | 8-1-2015 |
| 818-001-0087 | 6-26-2015 | Amend(T) | 8-1-2015 |
| 818-035-0025 | 4-17-2015 | Amend(T) | 6-1-2015 |
| 818-035-0030 | 4-17-2015 | Amend(T) | 6-1-2015 |
| 820-010-0225 | 5-27-2015 | Amend(T) | 7-1-2015 |
| 820-010-0226 | 5-27-2015 | Amend(T) | 7-1-2015 |
| 820-010-0227 | 5-27-2015 | Amend(T) | 7-1-2015 |
| 820-010-0228 | 5-27-2015 | Amend(T) | 7-1-2015 |
| 820-010-0325 | 7-1-2015 | Amend(T) | 8-1-2015 |
| 820-010-0417 | 2-3-2015 | Amend | 3-1-2015 |
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| 820-010-0520 | 2-3-2015 | Amend | 3-1-2015 |
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| 824-030-0030 | 12-2-2014 | Amend(T) | 1-1-2015 |
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| 836-010-0026 | 3-12-2015 | Adopt | 4-1-2015 |
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| 836-052-0740 | 1-1-2016 | Amend | 7-1-2015 |

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| 836-052-0746 | 1-1-2016 | Amend | 7-1-2015 |
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| 837-095-0050 | 1-1-2015 | Adopt | 2-1-2015 |
| 839-002-0065 | 1-6-2015 | Amend(T) | 2-1-2015 |
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