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Secretary of State
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INFORMATION ABOUT ADMINISTRATIVE RULES

General Information

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

Background on Oregon Administrative Rules

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

OAR Citations

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

Understanding an Administrative Rule's "History"

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

Locating Current Versions of Administrative Rules

The online version of the OAR Compilation is updated on the first of each month to include all rule actions filed with the Administrative Rules Unit by the 15th of the previous month. The annual printed OAR Compilation volumes contain text for all rules filed through November 15 of the previous year. Administrative Rules created or changed after publication in the print Compilation will appear in a subsequent edition of the online Bulletin. These are listed by rule number in the Bulletin's OAR Revision Cumulative Index, which is updated monthly. The listings specify each rule's effective date, 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 - 03

DETERMINATION OF A STATE OF DROUGHT EMERGENCY IN CROOK, HARNEY, AND KLAMATH COUNTIES DUE TO DROUGHT, LOW SNOW PACK LEVELS, AND LOW WATER CONDITIONS

At the request of Crook County (by Order 2015-15 dated March 18, 2015), Harney County (by Resolution 2015-03 dated March 18, 2015), and Klamath County (by Resolution 2015-0317 dated March 17, 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 Crook, Harney, and Klamath Counties.

Projected forecasts are not expected to alleviate the severe drought conditions, and the drought is having significant economic impacts on agriculture, livestock, and natural resources in Crook, Harney, and Klamath Counties.

The dry conditions present hardships for these communities: crops, agricultural and recreational investments 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, property and economic security of the citizens and businesses of Crook, Harney, and Klamath Counties. I am therefore declaring that a severe, continuing drought emergency exists in Crook, Harney, and Klamath 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 Crook, Harney, and Klamath Counties.

II. The Department of Water Resources and the Water Resources Commission are directed to coordinate and provide assistance to water users in Crook, Harney, and Klamath Counties as the Department and Commission determine deem 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 Crook, Harney, and Klamath Counties.

IV. All other state agencies are directed to coordinate with the above agencies and to provide appropriate state resources as determined essential to assist affected political subdivisions and water users in Crook, Harney, and Klamath Counties.

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

Done at Salem, Oregon, this 6th day of April, 2015.

/s/ Kate Brown
Kate Brown
GOVERNOR

ATTEST

/s/ Jeanne P. Atkins
Jeanne P. Atkins
SECRETARY OF STATE

EXECUTIVE ORDER NO. 15 - 04

DETERMINATION OF A STATE OF DROUGHT EMERGENCY IN BAKER AND WHEELER COUNTIES DUE TO DROUGHT, LOW SNOW PACK LEVELS, AND LOW WATER CONDITIONS

At the request of Baker County (by Declaration 2015-01 dated March 18, 2015) and Wheeler County (by Resolution 2015-13 dated March 18, 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 that continuing dry conditions, low snowpack, and lack of precipitation have caused natural and economic disaster conditions in Baker and Wheeler Counties.

Projected forecasts are not expected to alleviate the severe drought conditions, and the drought is having significant economic impacts on agriculture, livestock, and natural resources in Baker and Wheeler Counties.

The dry conditions present hardships for these communities: crops, agricultural and recreational investments 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, the protection of property and the economic security of the citizens and businesses of Baker and Wheeler Counties. I am therefore declaring that a severe, continuing drought emergency exists in Baker County and Wheeler County, 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 Baker and Wheeler Counties.

II. The Department of Water Resources and the Water Resources Commission are directed to coordinate and provide assistance to water users in Baker and Wheeler 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 Baker and Wheeler 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 Baker and Wheeler Counties.

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

Done at Salem, Oregon this 20th day of April, 2015.

/s/ Kate Brown
Kate Brown
GOVERNOR

ATTEST

/s/ Jeanne P. Atkins
Jeanne P. Atkins
SECRETARY OF STATE

REQUEST FOR COMMENTS PROPOSED CONDITIONAL NO FURTHER ACTION DETERMINATION AND PROSPECTIVE PURCHASER AGREEMENT, BOISE CASCADE VENEER MILL SITE IN ST. HELENS, OREGON

COMMENTS DUE: 5 p.m., Monday, June 1, 2015
PROJECT LOCATION: South 1st Street, St. Helens
PROPOSAL: The Oregon Department of Environmental Quality invites comments on its proposal to issue a conditional no further action determination for the Boise Cascade Veneer Mill site, and also to enter into a consent judgment with City of St. Helens, a prospective purchaser of the site property.

The consent judgment requires maintaining environmental controls including appropriate management of residual contaminated soil and groundwater that may be encountered during site development.

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

HIGHLIGHTS: The Boise Cascade Veneer Mill Site property covers approximately 22 acres adjacent to the west bank of the Columbia River and Multnomah Channel of the Willamette River. Sawmills were built on the northern portion of the Site around 1900. The northern half of the site historically included two sawmills, planer mills, lumber stackers, dry kilns, a machine shop, electrical transformers, wood-fired boilers and a wood refuse burner. Soon after purchasing the Site in 1971, Boise Cascade constructed a veneer production plant in the lumber shed building on the southern half of the Site. The veneer mill ceased production in 2008. Boise Cascade removed all manufacturing equipment from the Site and demolished the last buildings in 2013. Remnants of a former veneer mill foundation are present in the southern site area. All other structures have been removed from the site.

Historical remedial actions included removal of gasoline and diesel underground storage tanks in 1987, removal of 400 tons of petroleum-impacted soil from the maintenance shop area in 1996, and removal of 10 cubic yards of soil in the lathe mill area.

In 2004, DEQ reviewed cleanup and investigative reports and determined that residual contamination did not present unacceptable risk for site workers or present an ongoing source of contamination to the river. The investigation was somewhat limited due to accessibility, and DEQ issued a conditional no further action determination. The determination specified that the concrete foundation above the lathe area contamination be maintained to eliminate direct contact exposure or mobilization of the contamination through leaching, and that contamination be fully investigated if exposed or otherwise uncovered The no further action decision did not evaluate risks for construction workers, excavation workers or urban residential use and could be re-opened if additional information became available.

In 2013, Boise Cascade enrolled in DEQ's Voluntary Cleanup Program under the Independent Cleanup Pathway for technical assistance. Boise Cascade wanted to evaluate and remediate the site as needed for additional future uses in anticipation of selling the property for redevelopment. The investigation included collection of soil, groundwater and stormwater samples.

The investigation confirmed that soil contaminated with diesel fuel and hydraulic oil exists in a localized area adjacent to the south side of the former lathe. The contaminated soil is currently covered with a concrete cap.

Contamination in shallow groundwater and stormwater was detected at generally low concentrations and does not appear to be an ongoing source to the adjacent river. Petroleum-related contamination was detected in some shallow groundwater samples above drinking water standards. The investigation also found a previously unknown contaminated area in the northwest portion of the Site with elevated lead concentrations above standards for construction and excavation workers, and occupational and residential use. The source of the lead is unknown.

Approximately 1,700 cubic yards of lead-contaminated soil was removed from the site. A two to three-foot wide strip of soil with lead concentrations exceeding DEQ's human health risk screening levels for direct contact remains along portions of the western and northern property boundaries in the northwest Site area. This soil could not be removed due to concerns about potential damage to adjacent properties. Historical documentation shows that adjacent properties were developed before the subject site, and thus likely not affected by the site-related contamination.

DEQ determined that the site is protective for future uses, including urban residential development provided the following conditions and restrictions are implemented:

1. No water supply wells for any purpose will be allowed.
2. A cap will be maintained in the lathe area to prevent potential future exposure by site workers or residents and to minimize future leaching of contamination into shallow groundwater.
3. Any contaminated soil or groundwater removed from the Site during future development must be managed in accordance with a DEQ-approved contaminated media management plan.

These restrictions and requirements will be specified in the consent judgment with the City of St. Helens, and memorialized in an Easement and Equitable Servitudes recorded on the site property deed.

HOW TO COMMENT: To schedule an appointment to review files in DEQ's Northwest Region office, call 503-229-6729. Detailed information supporting DEQ's proposed no further action determination is contained in a DEQ Staff Report. This document and other site documents may be viewed on DEQ's web site at: www.deq.state.or.us/lq/ECSI/ecsi.htm. Select "Search Complete ECSI Database," then enter ECSI #3283 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI #3283 in the Site ID/Info column. Send comments on the draft consent judgment by 5 p.m., Monday, June 1, 2015 to DEQ Project Manager, Mark Pugh, DEQ Northwest Region, 2020 SW 4th Ave., Portland, OR 97201 or pugh.mark@deq.state.or.us. For more information contact Pugh at 503-229-5587.

THE NEXT STEP: DEQ will review and consider all comments received during the comment period. If DEQ decides to enter the consent judgment, it will be executed by the parties and then filed with the Columbia County Circuit Court. The court must approve the consent judgment for it to take effect.

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.

REQUEST FOR COMMENTS PROPOSED CLEANUP PLAN FOR MCBRIDE SLOUGH

COMMENTS DUE: 5 p.m., June 1, 2015
PROJECT LOCATION: 8000 block, NE Alderwood Rd., Portland, Oregon
PROPOSAL: The Oregon Department of Environmental Quality is proposing cleanup action for a segment of McBride Slough, within the Columbia Slough watershed. The proposed remedial action includes dredging the slough for flood maintenance and placing activated carbon amendments on newly exposed sediment surfaces.

HIGHLIGHTS: During historic Portland International Airport operations, hazardous substance releases likely occurred to McBride Slough as a result of contaminated storm water runoff. McBride Slough connects to the Columbia Slough via a culvert east of NE Alderwood Rd. In 2011, Multnomah County Drainage District

collected and analyzed sediments in McBride Slough as a part of evaluating sediment removal for floodwater conveyance. Elevated concentrations of PCBs, PAHs, metals and pesticides were detected in both dredge material and proposed new leave surfaces. Emergency dredging was conducted with the understanding that the Port of Portland would conduct follow-up evaluation to determine cleanup options for side-cast dredge material and residual sediment contamination.

The Port of Portland performed a stormwater source control evaluation and sediment investigation in 2013. The proposed remedial action for the sediment includes:

• Excavation and off-site disposal of removed sediment required for effective stormwater management.

• Placing activated carbon over the new sediment surface and sediment adjacent to the maintenance dredge area to reduce bioavailability of residual contamination.

• Confirmation sampling and long-term monitoring to evaluate the effectiveness of the remedial action.

HOW TO COMMENT: Send comments by 5 p.m., June 1, 2015 to DEQ Project Manager Sarah Miller at 2020 SW 4th Ave. Suite #400, Portland, Oregon, or miller.sarah@deq.state.or.us or

To review the project file, call Brent Funk at 503-29-5321 for a file review appointment.

To access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, go tohttp://www.deq.state.or.us/lq/ECSI/ecsi.htm, then enter ECSI#5676 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI #5676 in the Site ID/Info column.

THE NEXT STEP: Once the comment period closes, DEQ will consider any comments and select the cleanup approach for McBride Slough.

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

REQUEST FOR COMMENTS
PROPOSED REMEDIAL ACTION FOR SWAN ISLAND UPLAND FACILITY OPERABLE UNIT 4

COMMENTS DUE: 5 p.m. Monday, June 1, 2015

PROJECT LOCATION: 5225 North Channel Avenue

PROPOSAL: The Department of Environmental Quality is proposing cleanup action to address soil contamination at the Swan Island Upland Facility Operable Unit 4. Currently the property is used as a parking lot by Vigor Industrial. The proposed cleanup consists of a protective cap.

HIGHLIGHTS: Investigation at the Swan Island Upland Facility Operable Unit 4 has identified elevated concentrations of polycyclic aromatic hydrocarbons and metals in soil. The proposed cleanup consists of utilizing the existing asphalt parking lot as cap for areas with significant contamination.

HOW TO COMMENT: Send comments to DEQ Project Manager David Lacey at 2020 SW Forth Ave., Suite 400, Portland, Oregon 97201 or lacey.david@deq.state.or.us. For more information contact the project manager at (503) 229-5354.

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

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

To access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, go to http://www.deq.state.or.us/lq/ECSI/ecsi.htm, select "Search complete ECSI database", then enter 271 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 271 in the Site ID/Info column. Alternatively, you may go directly to the database website for this page at http://www.deq.state.or.us/Webdocs/Forms/Output/FPController.ashx?SourceId=271&SourceIdType=11.

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

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

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

REQUEST FOR COMMENTS
PROPOSED PROSPECTIVE PURCHASER AGREEMENT FOR NORTHWEST ALUMINUM COMPANY PROPERTY SITE — TAX LOT 200

COMMENTS DUE: 5 p.m., Monday, June 1, 2015

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

PROPOSAL: The Department of Environmental Quality seeks comments on its proposed consent judgment for a prospective purchaser agreement with Moraine Industries, LLC concerning its potential acquisition of real property located at 2650, 2652 and 2625 River Road, The Dalles, Oregon (Property). Historical releases of hazardous substances at the Property are mainly related to a former city disposal site that occupies a portio of the Property and moderately elevated levels of polycyclic aromatic hydrocarbons (PAHs) in soil at a separate area of the site.

The proposed consent judgment if finalized will require Moraine Industries LLC to expand an existing engineered cap on the Property. Under the consent judgment, the prospective purchaser will also agree not to use groundwater at the site for consumption or other beneficial uses and to adhere to a contaminated media management plan to ensure the Property's use before, during and after the proposed redevelopment will not contribute to or exacerbate existing contamination or increase health risk. In addition, the prospective purchaser's proposed development plans include, in general, the installation of concrete building foundations, parking lots, and other hardscape and landscaped areas which would be constructed to serve as a cap, where needed.

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

HOW TO COMMENT: Send comments to DEQ Project Manager Bob Schwarz at 400 E. Scenic Drive, Suite 307, The Dalles, Oregon 97058 or schwarz.bob@deq.state.or.us. For more information contact Mr. Schwarz at 541-298-7255 x230.

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

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

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

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

THE NEXT STEP: DEQ will consider all public comments received by the date and time stated above before making a final decision regarding the proposed PPA. A public notice of DEQ's final decision will be issued.

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

REQUEST FOR COMMENTS PROPOSED CERTIFICATION OF COMPLETION WILLAMETTE PACIFIC SITE, CORVALLIS, BENTON COUNTY

COMMENTS DUE: 5 p.m., June 1, 2015

PROJECT LOCATION: 700 NW Cornell Ave, Corvallis, Oregon

PROPOSAL: DEQ is providing this public notice and an opportunity to comment on a proposed Certification of Completion for environmental cleanup activities conducted at the Willamette Pacific (aka Waucomah Auto Repair) Site in Corvallis, Oregon. Willamette Pacific, LLC, entered into a Consent Judgment with DEQ on January 6, 2015 to address final remedial actions at the Site prior to a property sale.

HIGHLIGHTS: In January 2015, Willamette Pacific LLC entered a Prospective Purchaser Agreement Consent Judgment with DEQ and agreed to: 1) Perform remedial actions for the Property in accordance with a DEQ-approved scope of work; and 2) Record a deed restriction with Benton County to provide the institutional controls necessary to ensure protectiveness of the remedial actions.

The Consent Judgment required Willamette Pacific LLC to clean up the soil at the Site to reduce the residual petroleum hydrocarbon contamination levels to below applicable DEQ risk-based cleanup concentrations. The cleanup work included injecting the contaminated soil with bacteria-containing patented amendments that ingested and broke down the residual contamination, the amendments also contained nutrients that enhanced the ability of the microbes to degrade the contamination.

The Consent Judgment required a property deed restriction to prevent the public from being exposed to potentially harmful residual chemicals, now and in the future. The institutional controls for the Property preclude: the use of the Property for residential purposes, the installation of water well(s), and the use of the shallow groundwater.

An Easement and Equitable Servitude (i.e., a deed restriction) was developed, signed and recorded with Benton County to encompass the above institutional controls as part of the approved remedy's implementation.

The Consent Judgment's requirements have either been satisfied or are included as part of the Easement and Equitable Servitude document.

DEQ's Prospective Purchaser Agreement Program was created 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 legal liabilities associated with purchasing a contaminated site.

The Certification of Completion confirms Willamette Pacific LLC's release from liability for claims by the State of Oregon under ORS 465.200 to 465.545 and 465.990, 466.640, and 468B.310 regarding existing hazardous substance releases at or from the property, as of the date of purchase. The Consent Judgment and the Certification of Completion also provide Willamette Pacific LLC with third-party liability protection

HOW TO COMMENT: To access Site summary information and other documents in the DEQ Environmental Cleanup Site Information database, go to: http://goo.gl/YmyvDL. Written comments concerning the proposed certification of completion be sent to Bill Mason at DEQ's Western Region Office via email at mason.bill@deq.state.or.us or via letter to 165 East 7th Ave., Ste 100, Eugene, OR 97401-3049. Comments must be received by DEQ by 5p.m. on June 1, 2015. If you have questions or would like to review the hard-copy draft Certificate of Completion and DEQ's files on the property, call Bill Mason at 541-687-7427.

Upon written request by ten or more persons, or by a group having ten or more members, a public meeting will be held to receive verbal comments on the proposed 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 DEQ's TTY number (800) 735-2900.

REQUEST FOR COMMENTS PROPOSED ENVIRONMENTAL CLEANUP OF EVANITE FIBER SITE IN CORVALLIS

COMMENTS DUE: 8 a.m., Monday, June 1, 2015

PROJECT LOCATION: Hollingsworth and Vose Fiber (formerly Evanite), 1115 Crystal Lake Drive, Corvallis

PROPOSAL: The Oregon Department of Environmental Quality invites public review and comment on a long-term environmental cleanup proposed for solvent contamination of soil and groundwater at the Evanite Site in Corvallis. The long-term cleanup plan includes continuing the current groundwater extraction and treatment system, and maintaining the integrity of a pavement area to prevent direct contact with contaminated soils. The new cleanup actions proposed for the site are property deed restrictions, soil vapor extraction, and bioremediation. DEQ believes the combination of these cleanup actions will permanently protect human health and the environment from unsafe levels of trichloroethylene at this site.

HIGHLIGHTS: The site is an active industrial facility that manufactures glass fiber. Between 1975 and 1996, Evanite manufactured battery separator material using trichloroethylene. Cleanup actions began in 1991 when Evanite built a system to extract groundwater and pure TCE from beneath a portion of their property. Groundwater pumping continues to this day, to prevent migration of contaminated groundwater. Pure TCE product appears to be largely removed from underground, but groundwater remains contaminated by isolated and dissolved TCE. Most contamination is concentrated at depth in a source zone between two industrial buildings. During the last five years, pilot studies have shown that the cleanup actions already in place within the contaminated zone would be made more effective with increased soil vapor extraction and bioremediation. The spread of contamination outside the source area can be prevented with continued groundwater pumping in the source zone until contamination is sufficiently diminished, and property deed restrictions preventing drilling of water supply wells on the property.

To access site summary information and other selected documents in the DEQ's electronic files, go to http://tinyurl.com/Evanite.

If you prefer access to DEQ's hard copy file, please request a file review by going to: http://www.deq.state.or.us/records/recordsRequestFAQ.htm

HOW TO COMMENT: Send written comments to DEQ Project Manager Seth Sadofsky at 165 E. 7th St., Ste. 100, Eugene, OR 97401 or Sadofsky.seth@deq.state.or.us .

THE NEXT STEP: After June 1, DEQ will consider all substantive comments received during the public comment period in making the final decision about the proposed cleanup of the Evanite site. Selection of the DEQ's final decision will be documented in a Record of Decision that will be announced in a public notice when released later this year.

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
ANALYSIS OF BROWNFIELD CLEANUP
ALTERNATIVES FOR HANEL MILL LOG POND

COMMENTS DUE: 5 p.m., June 1, 2015
PROJECT LOCATION: 3289 Neal Mill Rd., Odell
PROPOSAL: The Department of Environmental Quality (DEQ) is providing notice for a public opportunity to review and comment on the Analysis of Brownfield Cleanup Alternatives (ABCA) for the former Hanel Mill Log Pond located at 3289 Neal Mill Rd. in Odell. The ABCA details the analysis and selection of protective cleanup options designed to address contamination at the site.
HIGHLIGHTS: The site is a former lumber mill. The former log pond and log deck will be removed to prevent the generation of leachate containing manganese from entering nearby surface water bodies. The ABCA selected the excavation of the log pond and log deck area with on-site screening and eventually off-site reuse of mulch material as the preferred remedial alternative.

The ABCA, as well as more information concerning previous site-specific investigations, is available in DEQ's Environmental Cleanup Site Information (ECSI) database located on the web at http://www.deq.state.or.us/lq/ecsi/ecsi.htm under Site ID 2872.

Site specific information is also available by contacting Katie Robertson, DEQ's project manager for this site. The Administrative File for this facility is located at DEQ's Pendleton office, and can be reviewed in person by contacting project manager at the number below to arrange for an appointment.
HOW TO COMMENT: Send comments by 5 p.m., June 1, 2015, to DEQ Project Manager Katie Robertson by phone at 541-278-4620, by mail at 800 SE Emigrant, Suite 330, Pendleton, OR 97801, by e-mail at robertson.katie@deq.state.or.us or by fax at 541-278-0168.
THE NEXT STEP: DEQ will consider all public comments received before making a final decision on the proposed ABCA. DEQ will provide written responses to all public comments received.
ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. If you need information in another format, please contact DEQ toll free in Oregon at 800-452-4011, email at deqinfo@deq.state.or.us, or 711 for people with hearing impairments.

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 specific edition of a document.

Date:	Time:	Location:
5-19-15	9 a.m.	205 Liberty St. NE Salem, OR 97301

Hearing Officer: Maria Brown
Stat. Auth.: ORS 671.020 & 671.125
Stats. Implemented: ORS 671.020 & 671.125
Proposed Amendments: 806-010-0010
Last Date for Comment: 6-4-15, 4:30 p.m.
Summary: Amends the rules regarding the approved architect registration and evaluation programs, as well as registration by reciprocity. By adopting the July 2014 edition of the document titled NCARB Intern Development Program Guidelines, the experience requirement would remain as it is, currently. If the specific edition of the document is not adopted into the Board's Rules, the guidelines could continue to change without the Board's approval.
Rules Coordinator: Maria Brown
Address: Oregon Board of Architect Examiners, 205 Liberty St. NE, Suite A, Salem, OR 97301
Telephone: (503) 763-0662

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Rule Caption: To include the specific experience requirement to registration by reciprocity.

Date:	Time:	Location:
5-19-15	10 a.m.	205 Liberty St. NE Salem, OR 97301

Hearing Officer: Maria Brown
Stat. Auth.: ORS 671.020 & 671.125
Stats. Implemented: ORS 671.020 & 671.125
Proposed Amendments: 806-010-0035
Last Date for Comment: 6-4-15, 4:30 p.m.
Summary: Amends the rules regarding registration by reciprocity to include the specific number of experience hours required for individuals completing the Intern Development Program (IDP) after July 1, 2015.
Rules Coordinator: Maria Brown
Address: Oregon Board of Architect Examiners, 205 Liberty St. NE, Suite A, Salem, OR 97301
Telephone: (503) 763-0662

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Board of Chiropractic Examiners
Chapter 811

Rule Caption: Increases DC application, retake, initial license, renewal license fees and late renewal penalty

Date:	Time:	Location:
5-21-15	1 p.m.	University of Western States, Hampton Hall 2900 NE 132nd Ave. Portland, OR

Hearing Officer: Daniel Cote DC, OBCE President
Stat. Auth.: ORS 684
Other Auth.: SB 106 (2013)
Stats. Implemented: ORS 684.040, 684.050, 684.052, 684.060, 684.090 & 684.092
Proposed Amendments: 811-010-0066, 811-010-0085, 811-010-0086
Last Date for Comment: 5-21-15, 4:30 p.m.
Summary: The increased fees would generate approximately $323,164 of additional Other Fund revenue for the 2015–17 biennium, providing the required months of ending cash balance and to enable the agency to pay for increased legal expenses, costs, and fees incurred in defending administrative, circuit court, and appellate cases, in addition to other policy packages within the agency's 2015–17 budget.
Rules Coordinator: Kelly J. Beringer
Address: Board of Chiropractic Examiners, 3218 Pringle Rd. SE, Suite 150, Salem, OR 97302
Telephone: (503) 373-1573

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Board of Geologist Examiners
Chapter 809

Rule Caption: Adoption of 2015–2017 Operating Budget

Date:	Time:	Location:
5-21-15	9 a.m.	707 13th St. SE, Suite 114 Salem, OR 97301

Hearing Officer: Christine Valentine
Stat. Auth.: ORS 670.310, 672.705, 182.462
Stats. Implemented: ORS 672.505 & 182.462
Proposed Amendments: 809-010-0025
Last Date for Comment: 5-21-15, 5 p.m.
Summary: This rule revision will adopt the 2015–2017 biennial budget of the Board with a spending limit of $613,625, covering the period from July 1, 2015, and ending June 30, 2017. The Board approved the 2015–2017 budget on March 19, 2015. The Board is now presenting the budget for review by its registrants and other interested parties. Individuals may view a copy of the budget rule and details on the Board's web page or may request copies by contacting the Board's office.
Rules Coordinator: Christine Valentine
Address: Board of Geologist Examiners, 707 13th St. SE, Suite 114, Salem, OR 97301
Telephone: (503) 566-2837

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Board of Massage Therapists
Chapter 334

Rule Caption: Clarify verbiage in existing Board Stipend Rules.

Date:	Time:	Location:
5-21-15	9 a.m.	728 Hawthorne Ave. NE Salem, OR 97301

Hearing Officer: Kate Coffey
Stat. Auth.: ORS 687.001, 687.041, 687.051, 687.121 & 687.071

Other Auth.: ORS 183 & 182.456-182.472
Stats. Implemented: ORS 687.011, 687.121, 687.031, 687.041, 687.051 & 687.071
Proposed Amendments: 334-001-0055
Last Date for Comment: 5-21-15, Close of Hearing
Summary: Amend the verbiage for Board Member Stipend.
Rules Coordinator: Ekaette Udosenata
Address: Board of Massage Therapists, 748 Hawthorne Ave. NE, Salem, OR 97301
Telephone: (503) 365-8657

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Board of Pharmacy
Chapter 855

Rule Caption: Amend or adopt Division 19, 25, 31, 41, 60, 62, 65 and 110 rules.

Date:	Time:	Location:
5-28-15	9:30 a.m.	800 NE Oregon St. Rm. 1A Portland, OR 97232

Hearing Officer: Courtney Wilson
Stat. Auth.: ORS 183.705, 291.055, 475, 475.035, 689.151, 689.155, 689.205, 689.305 & 689.315
Stats. Implemented: ORS 431.972, 676.410, 677.511, 689.135, 689.151, 689.155, 689.207, 689.225, 689.255, 689.275, 689.305, 689.315, 689.325, 689.774 & 689.765
Proposed Adoptions: 855-041-1036, 855-060-0002
Proposed Amendments: 855-019-0300, 855-025-0010, 855-031-0045, 855-031-0055, 855-041-1010, 855-041-1060 , 855-060-0004, 855-060-0015, 855-060-0027, 855-060-0029, 855-062-0003, 855-062-0005, 855-062-0040, 855-062-0050, 855-065-0001, 855-065-0005, 855-065-0010, 855-065-0013, 855-110-0005, 855-110-0007
Last Date for Comment: 5-28-15, 4:30 p.m.
Summary: Amendments in division 19 establish minimum requirements for a Pharmacist-in-Charge (PIC) to be practicing onsite at a pharmacy. These amendments also establish requirements for a Pharmacist to be designated as the PIC of more than one pharmacy.

Amendments in division 25 make the Pharmacy Technician license expire the second June 30 from the date of issuance, 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 new Pharmacist license biennial expiration date.

Amendments in division 41 establish requirements for when there is a change in Pharmacist-in-Charge (PIC) in a non-resident or resident pharmacy. It also requires pharmacies to notify the Board of a change in PIC within five business days and identify a Pharmacist employed at the location to serve as the Board contact person until a PIC is designated. Resident pharmacies are required to designate an Oregon licensed PIC within 60 days when there is a change. Nonresident pharmacies are required to designate an Oregon licensed PIC within 90 days when there is a change.

Rules proposed for adoption in division 41 establish new requirements for the proper storage of drugs, cold storage and monitoring, and vaccine drug storage. The Board worked in collaboration with the Oregon Health Authority's Oregon Immunization Program in the development of these rules. They helped serve as subject matter experts as they operate immunization programs such as Vaccines for Children and perform site visits throughout the state.

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 register with the Board as a Manufacturer. Third-party logistics providers are directed to register as a Drug Distribution Agent.

Amendments in 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 division 65 Wholesaler rules direct third-party logistics providers to register as a Drug Distribution Agent. Amendments also establish new definitions, updates minimum requirements for record keeping and inventory management, and updates prohibited practices.

Amendments in division 110 update the Fee rules to reflect that a Pharmacy Technician license 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 Divisions 060 and 065.
Rules Coordinator: Karen MacLean
Address: Board of Pharmacy, 800 NE Oregon St., # 150, Portland, OR 97232
Telephone: (971) 673-0001

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Bureau of Labor and Industries
Chapter 839

Rule Caption: Hearing 5/15/15, 9-11 am, on amending rule regarding agency response to objections to investigative subpoenas.

Date:	Time:	Location:
5-15-15	9a.m.	Oregon State Office Bldg., Rm. 1-D 800 NE Oregon St. Portland, OR 97232

Hearing Officer: BOLI employee tbd
Stat. Auth.: ORS 651.060, 658.220 & 659A.800
Stats. Implemented: ORS 279C, 651, 652, 653, 658 & 659A
Proposed Amendments: 839-002-0065
Last Date for Comment: 5-15-15, 5 p.m.
Summary: The amended rule would clarify the procedure by which BOLI enforcement divisions would respond to an objection filed by a person served with an investigative subpoena by clarifying timelines for objecting to subpoenas and for the division's response to objections and by cross referencing the administrative rule setting out permissible grounds for objections. The amendment would provide for division discretion in responding to objections based on cost of compliance with a subpoena, allowing the division to determine use of its resources based on circumstances rather than mandatorily. The amendment would also clarify that the division may engage in communication with a person objecting to a subpoena to determine whether the division's objective and objecting person's concerns can be addressed by mutual agreement, avoiding costly enforcement actions.

The bureau filed a Notice of Proposed Rulemaking in this matter on February 22, 2015. The Notice stated that the last date for public comment on the proposed rule amendments was April 21, 2015. On April 13, 2015, the bureau Rules Coordinator received an email from an organization with 10 or more members, requesting that a public hearing be held. This Notice of Rulemaking Hearing responds to that request.

The hearing will be held on Friday, May 15, 2015 from 9 to 11 am in Room 1-D of the Portland State Office Building, 800 NE Oregon St., Portland, OR 97232.
Rules Coordinator: Marcia Ohlemiller
Address: Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232
Telephone: (971) 673-0784

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Citizens' Initiative Review Commission
Chapter 710

Rule Caption: Amendment of rule related to the 2015–2017 budget for Citizens' Initiative Review Commission

Date:	Time:	Location:
6-8-15	11 a.m.–1 p.m.	College of Urban & Public Affairs Rm. 710 (7th Floor) Portland State University 506 SW Mill St. Portland, OR 97201

Hearing Officer: Staff

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
Proposed Amendments: 710-005-0005
Last Date for Comment: 6-8-15, 1 p.m.
Summary: The proposed rule is administrative, specifying the Citizens' Initiative Review Commission's 2015–17 Biennium Budget, and the method for amending the budget if necessary.
Rules Coordinator: Sarah Giles
Address: Citizens' Initiative Review Commission, Policy Consensus Initiative, PO Box 1762, Portland, OR 97207
Telephone: (503) 725-5248

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Construction Contractors Board
Chapter 812

Rule Caption: Home Inspector Examination

Date:	Time:	Location:
5-20-15	10 a.m.	700 Summer St. NE Suite 300, Conference Rm. B Salem, OR

Hearing Officer: Catherine Dixon
Stat. Auth.: ORS 293.455, 670.310, 701.235, 701.350 & 701.355
Stats. Implemented: ORS 293.445, 701.081, 701.084, 701.350 & 701.355
Proposed Amendments: 812-008-0020, 812-008-0040, 812-008-0050, 812-008-0060, 812-008-0110
Last Date for Comment: 5-20-15, Close of Hearing
Summary: 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.

NOTE: To sign up to appear by telephone for the rulemaking hearing, please contact Catherine Dixon at (503) 934-2185.

Send written comments to Catherine Dixon, PO Box 14140, Salem OR 97309 or email

NOTE: In order to save postage and printing costs in these difficult times, CCB is only providing a copy of the notice. To view the language of each individual rule change, please go to our web site at http://www.oregon.gov/CCB/laws-rules/Pages/proposed-rules.aspx. If you don't have web access, contact Rules Coordinator Cathy Dixon at (503) 934-2185 for assistance in receiving a copy.
Rules Coordinator: Catherine Dixon
Address: Construction Contractors Board, 700 Summer St. NE, Suite 300, Salem, OR 97310
Telephone: (503) 934-2185

Department of Agriculture
Chapter 603

Rule Caption: Housekeeping changes to two rules; adds a virus to grape quarantine per industry's request.
Stat. Auth.: ORS 561 & 570
Stats. Implemented: ORS 561.190, 561.510–561.600, 570.305, 570.405 & 570.410–570.415
Proposed Amendments: 603-052-0051, 603-052-0385
Last Date for Comment: 5-22-15, 5 p.m.
Summary: 603-052-0051: Removes a treatment requirement that is no longer needed and, per industry's request, adds a virus to the list of regulated organisms. 603-052-0385: Corrects a typo in one section that was leading to confusion about inspection requirements for Trial Grounds. These are considered housekeeping changes to the rules.
Rules Coordinator: Sue Gooch
Address: Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301
Telephone: (503) 986-4583

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

Rule Caption: Amends 2014 Oregon Residential Specialty Code

Date:	Time:	Location:
5-19-15	9:30 a.m.	1535 Edgewater St. NW Salem, OR 97304

Hearing Officer: Mark Heizer
Stat. Auth.: ORS 455.020, 455.110, 455.496, 455.610 & 455.485
Stats. Implemented: ORS 455.610
Proposed Amendments: 918-480-0010
Last Date for Comment: 5-22-15, 5 p.m.
Summary: These proposed rules amend the 2014 Oregon Residential Specialty Code (ORSC) to align the minimum energy efficiency standards for heat pumps with federal manufacturing requirements.
Rules Coordinator: Holly A. Tucker
Address: Department of Consumer and Business Services, Building Codes Division, PO Box 14470, Salem, OR 97309-0404
Telephone: (503) 378-5331

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

Rule Caption: Adopt changes to Oregon Rules for Firefighters in general industry, Division 2/L.

Date:	Time:	Location:
5-28-15	2 p.m.	Chemeketa Brooks Regional Training Ctr., Bldg. I, Rm. 105 4910 Brooklake Rd. NE Brooks, OR 97305
6-2-15	9 a.m.	Baker City, City Hall, 2nd Floor, Rm. 201 1655 1st St. Baker City, OR 97814
6-4-15	1:30 p.m.	Redmond Fire and Rescue Training Rm. 341 NW Dogwood Ave. Redmond, OR 97756 **Please park on Elm St. and use North entrance to the building.**
6-9-15	10:30 a.m.	Siuslaw Valley Fire and Rescue 2nd Floor, Meeting Rm. 2625 Hwy. 101 Florence, OR 97439
6-9-15	3 p.m.	Roseburg Fire Department South Umpqua Rm. 700 SE Douglas Roseburg, OR 97470

Hearing Officer: Sue Joye
Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001–654.295
Proposed Amendments: 437-002-0182
Last Date for Comment: 6-19-15, 5 p.m.
Summary: Oregon OSHA proposes amendments to OAR 437-002-0182 Oregon Rule for Firefighters, in Division 2/L, to better align Oregon's firefighter safety and health rules with recognized and accepted consensus standards and industry practices. Significant proposed changes include the following:

Firefighting Training and Education

- The proposed rule requires firefighters to be trained according to NFPA 1001 (2013): Standard for Fire Fighter Professional Qualifications (Fire Fighter I), prior to participating in interior structural firefighting activities.

- The proposed rule requires firefighters to meet the training levels prescribed by NFPA 1403 (2012): Standard on Live Fire Training Evolutions, prior to participating in live fire training or in exterior structural firefighting activities. Since the training level of Department of Public Safety Standards and Training's (DPSST) "Entry-Level Firefighter" is equivalent to the "Student Prerequisites for Live Fire Training" outlined in NFPA 1403 (2012), the proposed rule removes the outdated reference to "Entry-Level Firefighter" and requires that firefighters meet the training levels prescribed by NFPA 1403 (2012).

Requirements for Protective Ensembles

- The proposed rule requires structural fire fighting protective ensemble elements purchased by fire service agencies on or after the date the proposed rule is adopted and goes into effect to be at least equivalent to the requirements of NFPA 1971 (2013): Standard on Protective Ensemble for Structural Fire Fighting.

- The proposed rule also requires all other structural fire fighting protective ensemble elements to be at least equivalent to the following NFPA standards:

-- Structural fire fighting coats and trousers must be at least equivalent to the requirements of NFPA 1971 (1991): Standard on Protective Clothing for Structural Fire Fighting.

-- Structural fire fighting head protection must be at least equivalent to the requirements of NFPA 1971 (2000): Standard on Protective Ensemble for Structural Firefighting.

-- Flame-resistant protective hoods must be at least equivalent to the requirements of NFPA 1971 (1997): Standard on Protective Ensembles for Structural Fire Fighting.

-- Structural fire fighting hand protection must be at least equivalent to the requirements of NFPA 1973 (1988): Standard on Gloves for Structural Fire Fighting.

-- Structural fire fighting protective footwear must be at least equivalent to the requirements of the NFPA 1971 (1997): Standard on Protective Ensembles for Structural Fire Fighting.

Fire service agencies that currently use protective ensemble elements for structural fire fighting, that are at least equivalent to the NFPA standards listed above, would not need to replace them with NFPA 1971 (2013) equivalent ensemble elements until they are purchased.

Riding on tailboards, tail steps, or running boards is prohibited

-The proposed rule prohibits firefighters from riding on tailboards, tail steps, or running boards as recommended under Chapter 4, section 3.1, of the NFPA 1500 (1997): Standard on Fire Department Occupational Safety and Health Program.

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

Department of Corrections
Chapter 291

Rule Caption: Programming Levels of Intensive Management Unit Inmates
Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075
Proposed Amendments: 291-055-0020
Last Date for Comment: 6-15-15, 4:30 p.m.
Summary: This rule amendment is necessary to clarify that an inmate assigned to the Intensive Management Unit (IMU) who continues to present a serious management concern may be retained in an IMU or IMU status cell at custody level 5. This provision applies retroactively to inmates assigned to an IMU on or after December 29, 2014. Other changes are necessary to clarify what personal property is permitted within IMU.
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: Program for Inmates to Obtain Driver License or Identification Card Prior to Release
Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075 , 802.087
Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 , 802.087
Proposed Amendments: 291-207-0100
Last Date for Comment: 6-15-15, 4:30 p.m.
Summary: 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. The current interagency agreement expires on June 30, 2015. 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. A couple of small changes were identified that needed to be made in rule as follows:

- 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 proposed because DMV's policy regarding renewal is being evaluated and that time period may change shortly after these amended rules take effect.

- 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 be able to provide the service to more inmates.

- 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: 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 Fish and Wildlife
Chapter 635

Rule Caption: Amend and Adopt Rules for Commercial Coastal Pelagic Species Fisheries.

Date:	Time:	Location:
6-5-15	8 a.m.	ODFW Headquarters Commission Rm. 4034 Fairview Industrial Dr. SE Salem, OR 97302

Hearing Officer: Oregon Fish and Wildlife Commission
Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 496.162, 506.109 & 506.129
Proposed Adoptions: Rules in 635-004
Proposed Amendments: Rules in 635-004

Proposed Repeals: Rules in 635-004
Last Date for Comment: 6-5-15, Close of Hearing
Summary: Amendments to Oregon's regulations for Coastal Pelagic Species (CPS) fisheries will bring the State concurrent with federally adopted regulations. CPS includes Pacific sardine, Pacific mackerel, market squid, jack mackerel, northern anchovy, and krill. Proposed rule modifications establish Pacific sardine seasons and/or quotas for the period of July 1, 2015 to June 30, 2016. Final federal regulations have not been adopted as of the filing of this Notice, however, based on the latest stock assessment it is highly unlikely a directed commercial sardine fishery will be allowed. The proposed new rules may: place limits on the amount of sardines that may be taken incidentally in commercial fisheries targeting other species; require vessel operators to maintain a logbook; and submit logbook information to the Department when participating in a CPS fishery that does not currently have such requirements.

NOTE: The Commission will meet beginning on Thursday, June 4, 2015 at 1:00 p.m. Rulemaking agenda items for both Fish and Wildlife divisions will be heard on Friday, June 5, 2015 beginning at 8:00 a.m.
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: 2015 controlled hunt tag numbers/location access; 2016 annual changes to game mammal hunting regulations

Date:	Time:	Location:
6-5-15	8 a.m.	ODFW 4034 Fairview Industrial Dr. SE Salem, OR 97302

Hearing Officer: ODFW Commission
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Proposed Amendments: Rules in 635-002, 635-008, 635-043, 635-045, 635-049, 635-060, 635-065, 635-066, 635-067, 635-068, 635-069, 635-070, 635-071, 635-072, 635-073, 635-075, 635-078, 635-080
Last Date for Comment: 6-5-15, Close of Hearing
Summary: Establish 2015 controlled hunt tag numbers and /or season regulations for the hunting of pronghorn antelope, bighorn sheep, Rocky Mountain goat, deer and elk.

Propose 2016 hunting regulations for game mammals, including season dates, bag limits, open areas, location of cooperative travel management areas, wildlife area regulations and controlled hunting regulations. Propose quotas for 2016 cougar seasons and spring bear limited, first-come first-serve and controlled hunt tag numbers for 2016. These proposals will be presented in principle to the Oregon Fish and Wildlife Commission in June 2015 and again for adoption in October 2015.

NOTE: The Commission may meet on Thursday, June 4, 2015 at 1:00 p.m. Rulemaking for Fish and Wildlife Divisions will be on Friday, June 5, 2015 beginning at 8:00 a.m.
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: Coastal Zone Salmon Fisheries.

Date:	Time:	Location:
6-5-15	8 a.m.	Oregon Dept. of Fish and Wildlife 4034 Fairview Industrial Dr. SE Salem, OR 97302

Hearing Officer: Oregon Fish and Wildlife Commission
Stat. Auth.: ORS 496.138, 496.146, 506.036, 506.119, 506.129 and 506.750 et Seq.
Other Auth.: Magnuson-Stevens Sustainable Fisheries Act.
Stats. Implemented: ORS 496.162, 506.036, 506.109, 506.129 and 506.750 et Seq.
Proposed Adoptions: Rules in 635-003, 635-013, 635-014, 635-016
Proposed Amendments: Rules in 635-003, 635-013, 635-014, 635-016
Proposed Repeals: Rules in 635-003, 635-013, 635-014, 635-016
Last Date for Comment: 6-5-15, Close of Hearing
Summary: Amend rules relating to sport salmon fishing in the Northwest and Southwest zones consistent with guidelines established by the Oregon Fish and Wildlife Commission, Pacific Fishery Management Council and enacted Federal Regulations. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

NOTE: The Commission will meet beginning on Thursday, June 4, 2015 at 1:00 p.m. Rulemaking agenda items for both Fish and Wildlife divisions will be heard on Friday, June 5, 2015 beginning at 8:00 a.m.
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 Forestry
Chapter 629

Rule Caption: Revision of the Central Oregon Forest Protection District Boundary

Date:	Time:	Location:
5-26-15	6 p.m.	Crook County Library 175 NW Meadow Lakes Dr. Prineville, Oregon

Hearing Officer: Tracy Wrolson
Stat. Auth.: ORS 477.255
Other Auth.: ORS 526.041
Stats. Implemented: ORS 477.225
Proposed Amendments: 629-041-0515
Last Date for Comment: 5-27-15, 5 p.m.
Summary: There are two changes that need to be made to the Central Oregon Forest Protection District boundary. The first is within The Dalles Unit and the second is within the Prineville Unit as described below, respectively.

When Central Oregon District "The Dalles Unit" was established in the OAR's there were four isolated parcels of private ownership classified and protected by ODF within the Warm Springs Reservation boundaries located south of the "McQuinn Strip" in Wasco County. One 80-acre parcel located in the E of the NE of section 6, T6S, R11E was under private ownership. Since then this parcel has been purchased by the Warm Springs Tribe and as such was removed from the assessment rolls since the fire protection responsibilities were now the responsibility of the Warm Springs Tribe. Since ODF no longer protects this parcel, it should be removed from the District Boundary description of the OAR's and the re-lettering of the subsections should occur. See attachment 2 map.

On the Prineville Unit of the Central Oregon District, there is a discrepancy as to how the boundary is described in administrative rule and what is shown on the protection map. This discrepancy was discovered recently when Crook County conducted preliminary Forestland Classification of all lands within the District boundary, based on the boundary displayed on the map. Once the error on the map was found to not match administrative rule, the Forestland Classification committee in conjunction with the District Forester, proposed a modified boundary change.

With this proposed boundary change to the Central Oregon Forest Protection District, there will be approximately 110 Tax Lots and 66 landowners affected. Approximately 92 Tax Lots and 60 landowners will be added to the Forest Protection District for a total increase of 20,746 Acres. Approximately 18 Tax Lots and 6 landowners will be removed from the Forest Protection District for approximately 6,428 acres.

Written comments must be received by 5:00 p.m., May 27, 2015. Submissions should be addressed to Sabrina Perez, Rules Coordinator, Oregon Department of Forestry, 2600 State Street, Salem, OR 97310, sent via email to sabrina.perez@oregon.gov or via fax to 503-945-7212.

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

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

Rule Caption: Technical Revisions to Clarify "Mailing" Date Means "Postmark" Date
Stat. Auth.: ORS 409.050, 411.060 & 413.032
Stats. Implemented: ORS 409.010, 409.180, 414.025 & 414.065
Proposed Amendments: 407-120-1505
Last Date for Comment: 5-25-15, 5 p.m.
Summary: Due to several inquiries, the Department of Human Services (Department) is proposing these rule amendments to clarify that the references to "mailing date" mean "postmark date."

Proposed rules are available on the Department of Human Services website: http://www.oregon.gov/dhs/admin/pages/dwssrules/index.aspx. For hard copy 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: Licensure of Adult Foster Homes for Adults who are Older or Adults with Physical Disabilities

Date:	**Time:**	**Location:**
5-15-15	2:30 p.m.	Human Services Bldg., Rm. 160 500 Summer St. NE Salem, OR 97301

Hearing Officer: Staff
Stat. Auth.: ORS 410.010, 410.070, 410.090, 441.715, 443.725 &443.875
Other Auth.: HB 4151 (2014), 2014 OL Ch. 104, Sec. 6 & 7
Stats. Implemented: ORS 124.050–412.095, 410.070, 410.090 & 441.373
Proposed Amendments: 411-050-0600 – 411-050-0690
Proposed Repeals: 411-050-0602(T), 411-050-0625(T), 411-050-0640(T), 411-050-0645(T), 411-050-0655(T), 411-050-0665(T)
Last Date for Comment: 5-29-15, 5 p.m.
Summary: The Department of Human Services (Department) is proposing to amend 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 amending:

- 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:

-- Referencing OAR 407-007-0210 in the Criminal Records Checks and Abuse Checks rules;

-- 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

-- 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:

-- 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

-- 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:

-- The background check process may not be used as a screening tool for hiring;

-- Licensees may obtain a portable background check;

-- Written verification of the background check may be sent electronically and must be readily available upon request; and

-- 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:

-- Licensee, resident manager, floating resident manager, and shift caregivers must maintain "approved" CPR certification; and

-- 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 struc-

tural 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:

-- Reference the Oregon Fire Code, Appendix L;

-- 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;

-- Clarify that the licensee must notify the local licensing authority if a shift caregiver is absent from the home for 10 days or more;

-- 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

-- 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:

-- Allow hazardous materials to be stored in their original container, or in a container manufactured for the type of product;

-- Identify the standards for medical sharps containers including type of container, storage, and disposal;

-- 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.

-- 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:

-- Determine whether readmission to the home is appropriate for the classification;

-- Determine whether the licensee can continue to meet the resident's care and safety needs in addition to those of the other residents;

-- Demonstrate compliance with the rules; and

-- 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:

-- Update two rule references;

-- Clarify the medication administration record must identify the dosage, route, and the date and the time each medication "and" supplement is to be given;

-- Clarify over-the-counter products may include medication, vitamins, and supplements;

-- Clarify that residents shall not have access to medications belonging to: licensee, caregivers, other household members, residents, or pets;

-- Reformat Documentation of Disposal section for clarity; and

-- 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:

-- A Notification of Findings is issued upon a determination of substantiated abuse or a rule violation; and

-- 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.

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 residency requirements to receive TANF benefits while out of state

Date:	Time:	Location:
5-26-15	1 p.m.	Human Services Bldg., Rm. 255 500 Summer St. NE Salem, OR 97301

Hearing Officer: Kris Skaro

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.009 & 412.049

Stats. Implemented: ORS 409.050, 411.060, 411.070, 412.006, 412.009 & 412.049

Proposed Amendments: 461-110-0210, 461-120-0010

Last Date for Comment: 5-29-15, 5 p.m.

Summary: 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. 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. OAR 461-120-0010 is being amended to state that in the TANF program, an individual continues to be a resident of Oregon if they intend to return to Oregon and remain in the household group under OAR 461-110-0210.

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.

Written comments may be submitted until Friday, May 29, 2015 at 5:00 p.m. Written comments may be e-mailed to Kris.A.Skaro@state.or.us, faxed to 503-373-7032, or mailed to Kris Skaro, 500 Summer Street NE, E-48, Salem, Oregon, 97301.

The Department provides the same consideration to written comment as it does to any oral or written testimony provided at the public hearing.

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 rules relating to the Employment Related Day Care (ERDC) program

Date:	Time:	Location:
5-26-15	1 p.m.	Human Services Bldg., Rm. 255 500 Summer St. NE Salem, OR 97301

Hearing Officer: Kris Skaro
Stat. Auth.: ORS 409.050, 411.060 & 411.070
Stats. Implemented: ORS 409.010, 409.050, 409.610, 411.060 & 411.070
Proposed Amendments: 461-145-0200, 461-165-0180
Last Date for Comment: 5-29-15, 5 p.m.
Summary: 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 461 165 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.

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.

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 rules relating to the TANF program

Date:	Time:	Location:
5-26-15	1 p.m.	Human Services Bldg., Rm. 255 500 Summer St. NE Salem, OR 97301

Hearing Officer: Kris Skaro
Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.121, 412.006, 412.009, 412.049, 412.124, 213 Or. Laws 722
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.121, 412.001, 412.006, 412.009, 412.049, 412.124, 2013 Or. Laws 722
Proposed Amendments: 461-170-0101, 461-190-0211
Last Date for Comment: 5-29-15, 5 p.m.
Summary: 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 461-190-0211 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 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.

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 Transportation
Chapter 731

Rule Caption: Road Usage Charge Pilot Program
Stat. Auth.: ORS 184.616, 184.619, 2001 OL Ch. 862 & 2003 OL Ch. 618
Stats. Implemented:
Proposed Repeals: 731-080-0010, 731-080-0020, 731-080-0030, 761-080-0040, 731-080-0070, 731-080-0080
Last Date for Comment: 5-21-15, Close of Business
Summary: 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 being repealed because the program was completed in 2012.

Rules Coordinator: Lauri Kunze
Address: Department of Transportation, 355 Capitol St. NE, MS 51, Salem, OR 97301
Telephone: (503) 986-3171

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

Rule Caption: Establishing Serious Traffic Violations and Marijuana Offenses
Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.240, 807.270, 809.480, 809.520, 809.525, 809.605 & 813.510
Other Auth.: 49 CFR, Sec. 383.51
Stats. Implemented: ORS 807.240, 807.250, 807.270, 807.370, 809.480, 809.520, 809.525, 809.600(2), 809.605, 813.100, 813.500, 813.510, 813.602, 813.608, 813.610, 813.612 & 813.614
Proposed Adoptions: 735-063-0130
Proposed Amendments: 735-064-0040, 735-064-0100, 735-064-0220, 735-072-0035
Proposed Repeals: 735-070-0037
Proposed Ren. & Amends: 735-070-0200 to 735-063-0180
Last Date for Comment: 5-21-15, Close of Business
Summary: 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 proposes to adopt OAR 735-063-0130 to designate serious traffic violations. DMV further proposes to repeal OAR 735-070-0037 because the specific information it contains regarding fatal accidents and serious traffic violation is contained in the proposed OAR 735-063-0130. The proposed 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 is being deleted as 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 proposes to amend OAR 735-070-0200 and renumber the rule 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 proposes to amend OAR 735-072-0035 to include the new conviction for using marijuana while driving. DMV proposes to further amend 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 proposes to amend 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 also proposes to amend 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
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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Rule Caption: DMV/DOC Program for Inmates to Obtain Driver License or Identification Card Prior to Release
Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.087 & 807.110
Stats. Implemented: ORS 802.087
Proposed Amendments: 735-001-0062
Last Date for Comment: 5-21-15, Close of Business
Summary: 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. The current interagency agreement expires on June 30, 2015. 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. A couple of small changes were identified that needed to be made in rule as follows:

- 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 proposed because DMV's policy regarding renewal is being evaluated and that time period may change shortly after these amended rules take effect.

- 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 be able to provide the service to more inmates.

- 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
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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Rule Caption: Biometric Data (Photograph) to Establish Identity
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
Proposed Amendments: 735-062-0016
Last Date for Comment: 5-21-15, Close of Business
Summary: 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 is amending 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 is further amending 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
Address: Department of Transportation, Driver and Motor Vehicle Services Division, 355 Capitol St. NE, MS 51, Salem, OR 97301
Telephone: (503) 986-3171

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Department of Transportation, Highway Division
Chapter 734

Rule Caption: Fire Apparatus Authorization
Stat. Auth.: ORS 184.616, 184.619, 810.060 & 823.011
Stats. Implemented: ORS 815.275, 818.220 & 818.225
Proposed Amendments: 734-082-0009
Last Date for Comment: 5-21-15, Close of Business
Summary: These rules describe to the issuance of variance permits to fire apparatus. In 2003, size and weight exemptions for fire apparatus were repealed, and subsequently OAR 734-071-0005 was revised removing the exemption for these vehicles. In addition, OAR 734-082-0009 was revised to require fire apparatus exceeding legal size and weight limits to obtain variance permits for operations in Oregon, and these vehicles would be subject to the terms of the permit, which has been 600 pounds per inch of tire width for weight. In 2008, the terms of the permit (permitted weights) changed from 600 pounds to 635 pounds, however; the rule was not amended to reflect the change.

Rules Coordinator: Lauri Kunze
Address: Department of Transportation, Highway Division, 355 Capitol St. NE, MS 51, Salem, OR 97301
Telephone: (503) 986-3171

Higher Education Coordinating Commission, Department of Community Colleges and Workforce Development
Chapter 589

Rule Caption: Relating to the Community College Support Fund distribution methodology base payment

Date:	Time:	Location:
5-15-15	10 a.m.	775 Court St. NE, Small Conference Rm. Salem, OR 97301

Hearing Officer: Kelly Dickinson
Stat. Auth.: ORS 326.051, 341.015, 341.022, 341.317, 341.440, 341.525, 341.528, 341.626 & 341.665
Stats. Implemented: ORS 341.626
Proposed Amendments: 589-002-0120
Last Date for Comment: 5-22-15, 5 p.m.
Summary: The distribution methodology, for the Community College Support, includes a base payment for up to 1,100 FTE. Currently, the base payment per FTE is $720 and $360 for unrealized enrollments between actual FTE and 1,100 FTE. The amount of the payment has not been adjusted since 2008. The purpose of the base payment is to help colleges with the base operational costs of keeping the college open and is designed to help small community colleges in particular.

As the costs of operating colleges increases, the amount of the base payment should increase. This amendment ties the amount of the base payment to the Portland CPI-U and the base payment is to be adjusted each year.
Rules Coordinator: Kelly Dickinson
Address: Department of Community Colleges and Workforce Development, 775 Court St. NE, Salem, OR 97301
Telephone: (503) 378-5690

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Landscape Contractors Board
Chapter 808

Rule Caption: Adopt 2015–2017 LCB operating budget

Date:	Time:	Location:
6-1-15	2 p.m.	Landscape Contractors Board 2111 Front St. NE, Suite 2-101 Salem, OR 97301

Hearing Officer: Kim Gladwill-Rowley
Stat. Auth.: ORS 182.462
Stats. Implemented: ORS 182.462 & 671
Proposed Amendments: 808-001-0008
Last Date for Comment: 6-1-15, Close of Hearing
Summary: Adopt 2015–2017 LCB operating budget.
Rules Coordinator: Kim Gladwill-Rowley
Address: Landscape Contractors Board, 2111 Front Street NE, Suite 2-101, Salem, OR 97301
Telephone: (503) 967-6291, ext. 223

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

Rule Caption: Permanent amendments to OAR 309-019 regarding Outpatient Addictions and Mental Health Services.

Date:	Time:	Location:
5-19-15	9 a.m.	500 Summer St. NE, Rm. 137-D Salem, OR 97301

Hearing Officer: Nola Russell
Stat. Auth.: ORS 161.390, 413.02, 428.205–428.270, 430.256, 430.640 & 461.549
Stats. Implemented: ORS 109.675, 413.520–413.522, 430.010, 430.205-430.210,430.240–430.640, 430.850–430.955, 461.549, 743A.168, 813.010–813.052 & 813.200-813.270, 161.390-161.400, 179.505, 409.430–409.435, 426.380–426.395 & 443.991
Proposed Amendments: 309-019-0125, 309-019-0170
Last Date for Comment: 5-25-15, Close of Business
Summary: These rules prescribe minimum standards for services and supports by providers approved by the Addictions and Mental Health Division of the Oregon Health Authority.
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

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Oregon Health Authority, Division of Medical Assistance Programs
Chapter 410

Rule Caption: Add Acronym for CCO Where PHP Referenced, Housekeeping, Codification, and Clarification of Overpayments Language

Date:	Time:	Location:
6-16-15	10:30 a.m.	500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Sandy Cafourek
Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.025, 414.065, 414.115, 414.125, 414.135 & 414.145
Proposed Amendments: 410-120-0025, 410-120-1280, 410-120-1360, 410-120-1510, 410-120-1560, 410-120-1960
Last Date for Comment: 6-18-15, 5 p.m.
Summary: 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
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: Clarification of Credentialing Approval and Denial Protocol and Provider Discrimination Recourse Process

Date:	Time:	Location:
5-15-15	10:30 a.m.	500 Summer St. NE, Rm. 166 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, 414.615, 414.625, 414.635 & 414.651
Proposed Amendments: 410-141-0120, 410-141-3120
Last Date for Comment: 5-18-15, 5 p.m.
Summary: The Division of Medical Assistance Programs (Division) needs to amend these rules to comply with recommendations from the Integrated Medicine Advisory Group (IMAG) that serves as an advisory forum to the Oregon Health Authority (Authority), appointed by the Authority director. The intent of these recommendations is to give healthcare providers written documentation from the Oregon Health Plan contracted health plans in response to their credentialing applications and to do so within a 90-day time period from the date a completed application packet is received by the health plan. The written documentation will also serve as the vehicle for submission to the plan's discrimination review panel and/or the OHA Provider Discrimination Review Committee, should the provider receive and wishes to appeal a negative response. In addition, the Division needs to amend these rules in order to revise the language with current credentialing processes and align the MCO rules with the CCO rules, as appropriate.
Rules Coordinator: Sandy Cafourek
Address: Oregon Health Authority, Division of Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301
Telephone: (503) 945-6430

Rule Caption: Amending Prior Authorization Approval Criteria Guide

Date:	**Time:**	**Location:**
5-15-15	10:30 a.m.	500 Summer St. NE, Rm. 166 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: 5-18-15, 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: Amending PDL January 29, 2015 DUR/P&T Action

Date:	**Time:**	**Location:**
5-15-15	10:30 a.m.	500 Summer St. NE, Rm. 166 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: 5-18-15, 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:
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™
Humulin 70/30 KWIKPEN™
Humalog mix 50-50™
Humalog mix 75-25™
Humulin R™
Humulin N™
Oxybutynin Patch TDSW
Etanercept (Enbrel™) 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 (Zubsolv™)
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 (Harvoni™)
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
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
Proposed Repeals: 410-120-0006(T)
Last Date for Comment: 5-18-15, 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 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
Address: Oregon Health Authority, Division of Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301
Telephone: (503) 945-6430

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.

Date:	Time:	Location:
6-1-15	2 p.m.	Health Licensing Office Rhoades Conference Rm. 700 Summer St. NE, Suite 320 Salem, OR 97301

Hearing Officer: Anne Thompson
Stat. Auth.: ORS 700.053
Stats. Implemented: ORS 700.053
Proposed Amendments: 338-010-0016
Last Date for Comment: 6-1-15, 4 p.m.
Summary: The rule adds language to the section regarding the registration of waste water specialists. It allows the Board discretion to approve qualified work experience from trainees who have been registered for at least two years.
Rules Coordinator: Samantha Patnode
Address: Health Licensing Office, Environmental Health Registration Board, 700 Summer St. NE, Suite 320, Salem, OR 97301-1287
Telephone: (503) 373-1917

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Oregon Liquor Control Commission
Chapter 845

Rule Caption: Amends five rules eliminating the 31 day special license limit to allow more business opportunities.

Date:	Time:	Location:
5-21-15	10 a.m.	9079 SE McLoughlin Blvd. Portland, OR 97222

Hearing Officer: Bryant Haley
Stat. Auth.: ORS 471, 471.030, 471.040, 471.190 & 471.730(1) & (5)
Stats. Implemented: ORS 471.184(2), 471.190, 471.200, 471.223, 471.227, 471.230, 471.360 & 471.482
Proposed Amendments: 845-005-0410, 845-005-0413, 845-005-0414, 845-005-0415, 845-005-0440
Last Date for Comment: 6-5-15, 5 p.m.
Summary: OAR 845-005-0410, 005-0413, 005-0414, 005-0415, and 005-0440 limit the number of days a Special License may be obtained. Currently, these rules limit a person from obtaining a special event license to sell alcohol at the same address to only 31 license days in a calendar year. Eliminating the 31 days limit will allow more business opportunities.

There are three primary measures already in place that give the Commission the ability to control these licenses: (1) The applicant must still obtain the local government's (city or county) approval of each application. (2) The Commission won't approve the application until there is a control plan approved by the Commission. (3) There is a limit on the number of licensed days per application (the limit is 5 days or 7 days, depending on the type of application). This limit allows the Commission to monitor an event, and if necessary, require an enhanced control plan for future events.
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 University System, Southern Oregon University
Chapter 573

Rule Caption: Parking Enforcement and Appeals
Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 352.360
Proposed Amendments: 573-050-0020, 573-050-0025, 573-050-0030
Last Date for Comment: 6-1-15, 3 p.m.
Summary: This amendment in Div. 50 edits language to correct subsections of the rule.
Rules Coordinator: Treasa Sprague
Address: Oregon University System, Southern Oregon University, 1250 Siskiyou Blvd., Ashland, OR 97520
Telephone: (541) 552-6319

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Public Utility Commission
Chapter 860

Rule Caption: In the Matter of Adoption of 2012 Version of IEEE-1366 in Division 23 Rules.
Stat. Auth.: ORS 183, 756, 757
Stats. Implemented: ORS 757.020
Proposed Amendments: 860-023-0081
Last Date for Comment: 5-22-15, 5 p.m.
Summary: This rulemaking adopts the current version of the Institute of Electrical Electronic Engineers (IEEE) Standard 1366 entitled, "IEEE Guide for Electric Power Distribution Reliability Indices" approved on May 14, 2012, by the IEEE-SA Standards Board.

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 586 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=19502. 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

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Public Utility Commission, Board of Maritime Pilots
Chapter 856

Rule Caption: Amendment to synchronize timing of annual renewal with issuance of unlimited license.
Stat. Auth.: ORS 776 & 670
Stats. Implemented: ORS 776.115 & 670.310
Proposed Amendments: 856-010-0012
Last Date for Comment: 5-27-15, 4 p.m.
Summary: The amendment provides for the payment of a pro-rated license fee to synchronize the renewal of an unlimited license with the annual renewal.
Rules Coordinator: Susan Johnson
Address: Public Utility Commission, Board of Maritime Pilots, 800 NE Oregon St., Suite 507, Portland, OR 97232
Telephone: (971) 673-1530

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Water Resources Department
Chapter 690

Rule Caption: Rules Governing Grants and Loans for Water Supply Development.

Date:	Time:	Location:
5-18-15	6 p.m.	Blue Mountain Community College Meeting Rm. ST-200 2411 NW Carden Ave. Pendleton, OR 97801
5-19-15	6 p.m.	Ontario Community Library, Library Conference Rm. 388 SW 2nd Ave. Ontario, OR 97914

5-20-15	6 p.m.	Double Tree Hotel Mt. Bachelor Rm. 300 NW Franklin Ave. Bend, OR 97701
5-21-15	6 p.m.	Lodge at Riverside, 2nd Floor Oak Rm. #1 900 SE 8th St. Grants Pass, OR 97526
5-22-15	6 p.m.	Oregon Water Resources Dept. 3rd Floor Rogue Conf. Rm. 725 Summer St. NE, Suite A Salem, OR 97301

Hearing Officer: Brenda Bateman, Tracy Louden
Stat. Auth.: ORS 541.651–541.696
Other Auth.: SB 839 (2013)
Stats. Implemented: ORS 541.651–541.696
Proposed Adoptions: Rules in 690-093
Last Date for Comment: 5-22-15, 5 p.m.
Summary: 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 resource projects. These rules provide the process through which applicants may receive a grant or loan from OWRD for a water resource project.
Rules Coordinator: Joshua Spansail
Address: Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301
Telephone: (503) 986-0874

Board of Chiropractic Examiners
Chapter 811

Rule Caption: Remove fee from rule and requires the applicant to pay the "current" background check fees
Adm. Order No.: BCE 1-2015
Filed with Sec. of State: 3-20-2015
Certified to be Effective: 3-20-15
Notice Publication Date: 3-1-2015
Rules Amended: 811-010-0085
Subject: The amendment removes the fee in the rule (which is outdated) and replaces it with generic language - "current fee" (established by Oregon State Police
Rules Coordinator: Kelly J. Beringer—(503) 373-1573

811-010-0085
Application and Examination of Applicants

(1) Applicants shall be examined according to ORS 684.050 or 684.052.

(2) The Board shall provide a Candidate's Guide, which contains all necessary examination information.

(3) Fee and application deadlines are as follows:

(a) Application and $150 fee for chiropractic exams must be postmarked no later than 30 days prior to the first exam day.

(b) Request for retake of any section of the exam must be submitted in writing with a $100 reexamination fee postmarked no later than 30 days prior to the first exam day.

(c) Supporting documentation must be postmarked no later than 30 days prior to the first exam day.

(d) Deadlines may be waived by the Board for good cause.

(e) A complete set of fingerprints obtained from any state or local law enforcement agency, or from any other agency approved by the Board. Applicants shall use forms prescribed by the Board.

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

(g) Criminal background check results must be submitted prior to the 30 day deadline.

(4) Documents to be submitted prior to approval to take the Oregon Specifics Examinations:

(a) A completed, official application including a recent photograph and fingerprints;

(b) Evidence of the applicant's good moral character on the letterhead stationary of a Chiropractic physician;

(c) A signed affidavit attesting to successful completion of at least two years of liberal arts and sciences study in an accredited college. Original transcripts must be provided if requested by the Board; and

(d) A transcript certified by the registrar, from an approved chiropractic college, including transcripts of coursework as required by OAR 811-020-0006 (minimum Educational Requirements for physiotherapy and minor surgery/ proctology). A transcript of grades is necessary from each chiropractic college attended.

(e) An official transcript of passing grades from the National Board of Chiropractic Examiners on Part I, II and III and physiotherapy.

(5) Documents and fee to be submitted prior to licensure include:

(a) $100 initial license fee.

(b) A diploma or other evidence of graduation certified by the registrar from an approved Chiropractic college.

(c) An official transcript of passing grades from the National Board of Chiropractic Examiners Part IV.

(6) All applicants must take and pass the Oregon Specifics Examination consisting of written examination in ethics and jurisprudence, obstetrics and gynecology, minor surgery and proctology. Applicants who have previously taken and passed obstetrics and gynecology, and/or minor surgery and proctology within the last five years from the date of application as received by the Board are not required to retake these tests, however all applicants must take and pass ethics and jurisprudence.

(7) Oregon Specifics Examination Grades:

(a) The Board shall determine the passing scores. Each section of the examination shall be graded separately using the Angoff Method, a criterion referenced model. Passing scores fluctuate between sections and between examinations. All examinations are designed to test minimal competency to protect the public health and safety.

(b) Examination grades will be released within 30 days of the examination date.

(8) Regrades: any request for regrade must be submitted in writing to the Board no later than 45 days after the date of the examination. A regrade involves a manual tally of points earned for the specific examination requested.

(9) An applicant failing to achieve a passing grade, as determined by the Board for each examination section, may make application to the Board for a re-examination in the failed sections .

(10) An applicant must take at least one of the failed section(s) within 13 months following the date when the applicant took the entire examination. If the applicant fails to re-test on at least one failed section within 13 months of the last examination, the file shall become inactive and the applicant must re-apply and take the entire examination.

(11) An applicant attempting to give aid or accepting aid from another while examinations are in progress shall fail the examination and will not be allowed to take the examination for a period of five (5) years.

(12) Refunds:

(a) The application fee is non-refundable; and

(b) The retake fee can be refunded until 10 days prior to the test date.

(c) The background check fee is non-refundable.

(13) The Board may reject applications for good cause, including evidence of unprofessional behavior.

(14) Effective June 1, 2001 applicants who have completed all requirements for licensure, including passage of all required examinations, must submit the initial license fee to obtain license within one year from the date they completed all the requirements. An applicant's initial license will be valid for a minimum of 180 days. However, if the applicant's next birth date is within the 180 days, the initial license will be valid for an additional 12 months beyond the applicant's birth date.

Stat. Auth.: ORS 684
Stats. Implemented: ORS 684.050 & 684.052
Hist.: 2CE 3, f. 10-9-59; 2CE 7, f. 7-9-68; 2CE 9, f. 10-16-70; 2CE 1-1978, f. 6-16-78, ef. 7-1-78; 2CE 2-1985, f. 11-13-85, ef. 12-1-85; CE 1-1993, f. 3-1-93, cert. ef. 4-1-93; CE 6-1993(Temp), f. 9-29-93, cert. ef. 11-3-93; CE 1-1994, f. & cert. ef. 7-26-94; CE 4-1995, f. & cert. ef. 12-6-95; CE 2-1997, f. & cert. ef. 7-29-97; CE 3-1997(Temp), f. & cert. ef. 9-25-97; CE 4-1997, f. & cert. ef. 11-3-97; BCE 3-2000, cert. ef. 8-23-00; BCE 1-2001, f. 1-31-01, cert. ef. 2-1-01; BCE 2-2002, f. & cert. ef. 5-29-02; BCE 2-2003, f. & cert. ef. 12-11-03; BCE 1-2004, f. & cert. ef. 6-7-04; BCE 2-2006, f. & cert. ef. 2-9-06; BCE 5-2006, f. & cert. ef. 11-24-06l: BCE 1-2007, f. & cert. ef. 11-30-07; BCE 1-2015, f. & cert. ef. 3-20-15

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Rule Caption: Amended language states how licensees leaving practice must notify patients about accessing their records
Adm. Order No.: BCE 2-2015
Filed with Sec. of State: 4-10-2015
Certified to be Effective: 4-10-15
Notice Publication Date: 3-1-2015
Rules Amended: 811-015-0005
Subject: Addresses what a DC or a DC's legal representative's duties are with regard to patient records after DC moves, retires, becomes incapacitated, unable to practice, or dies.
Rules Coordinator: Kelly J. Beringer—(503) 373-1573

811-015-0005
Records

(1) Failure to keep complete and accurate records on all patients shall be considered unprofessional conduct

(a) Each patient shall have exclusive records which shall be clear, legible, complete and accurate; as to allow any other Chiropractic physician to understand the nature of that patient's case and to be able to follow up with the care of that patient if necessary.

(b) Every page of chart notes will identify the patient by name and one other unique identifier (date of birth, medical record number, etc.), and the clinic of origin by name and address. Each entry will be identified by day, month, year, provider of service and author of the record.

(c) Clear, legible, complete and accurate records contain the following:

(A) A description of the chief complaint or primary reason the patient sought treatment from the licensee.

(B) Documentation of any significant event that affects the chief complaint of the patient or the general history of the health of the patient.

(C) An accurate record of the diagnostic and therapeutic procedures that the licensee has employed in providing chiropractic services to the patient, including, but not limited to:

(i) Examinations and the results of those examinations;

(ii) Diagnoses;

(iii) Treatment plan, and any subsequent changes to the treatment plan and the clinical reasoning for those changes;

(iv) Dates on which the licensee provided clinical services to the patient, as well as the services performed and clinical indications for those services;

(v) Areas of the patient's body where the licensee has provided care;

(vi) Patient's response to treatment;

(vii) Therapeutic procedures must be clearly described including information such as providers involved, timing, setting and tools used as appropriate.

(D) Relevant information concerning the patient such as height, weight, and blood pressure.

(E) Documentation of informed consent for examination and treatment.

(F) Other clinically relevant correspondence including but not limited to telephonic or other patient communications, referrals to other practitioners, and expert reports.

(d) A chiropractic physician shall maintain billing records for services performed for which payment is received from or billed to the patient, an insurance company, or another person or entity who has assumed the financial responsibility for the payment of services performed to the patient. Such records will be maintained for same amount of time as other patient records. As a minimum, a billing record will include the date of the patient encounter or financial entry, a notation of the services performed either by description or code, common codes such as the AMA Current Procedural Terminology (CPT) codes may be used without additional explanation or legend, and the fee charged for the services billed. If third party payers are billed, the billing instrument (CMS 1500 form or its successor) should be retrievable. Such information may be maintained on a handwritten or printed ledger, with the assistance of a computer or other device either by direct entry or with a particular program or application, or by an alternative method. To the extent billing records do not contain patient health care records not kept elsewhere, they are not consider part of the clinical record.

(e) Such information as described in section (d) must be readily available upon request of the patient, an agent of the patient, an insurance carrier or entity responsible for the payment of the services, or by the Board or other entity with a legal right to review such information.

(2) Practitioners with dual licenses shall indicate on each patient's records under which license the services were rendered.

(3) A patient's original health care and billing records shall be kept by the chiropractic physician a minimum of seven years from the date of last treatment. However, if a patient is a minor, the records must be maintained at least seven years from the time they turn 18 years of age.

(a) If the treating chiropractic physician is an employee or associate, the duty to maintain original records shall be with the chiropractic business entity or chiropractic physician that employs or contracts with the treating chiropractic physician.

(b) Chiropractic physicians shall be responsible for keeping an available copy of all authored reports for seven years from the date authored.

(4) If a chiropractic physician releases original radiographic films to a patient or another party, upon the patient's written request, he/she should create an expectation that the films will be returned, and a notation shall be made in the patient's file or in an office log where the films are located (either permanently or temporarily). If a chiropractic physician has radiographic films stored outside his/her clinic, a notation shall be made in the patient's file or in an office log where the films are located and chiropractic physician must ensure those films are available for release if requested by the patient.

(5) The responsibility for maintaining original patient records may be transferred to another chiropractic business entity or to another chiropractic physician as part of a business ownership transfer transaction.

(6) A chiropractic physician shall establish a plan for custodianship of these records in the event they are incapacitated, deceased or otherwise unable to maintain these records pursuant to paragraph (7).

(7) Except as provided for in paragraph (7)(e) of this rule, a chiropractic physician who is an independent contractor or who has an ownership interest in a chiropractic practice shall provide notice when leaving, selling, or retiring from the chiropractic office where the chiropractic physician has provided chiropractic services.

(a) Notification shall be sent to all patients who received services from the chiropractic physician during the two years immediately preceding the chiropractic physician's last date for seeing patients. This notification shall be sent no later than thirty days prior to the last date the chiropractic physician will see patients.

(b) The notice shall include all of the following:

(A) A statement that the chiropractic physician will no longer be providing chiropractic services at the practice;

(B) The date on which the chiropractic physician will cease to provide services;

(C) Contact information that enables the patient to obtain the patient's records.

(c) The notice shall be sent in one of the following ways:

(A) A letter sent through the US Postal Service to the last known address of the patient with the date of the mailing of the letter documented, or

(B) A secure electronic message.

(d) In the event of an illness, unforeseen emergency, incarceration, or other unanticipated incident, a chiropractic physician is unable to provide a thirty day notice as required by paragraph (7)(a) of this rule the chiropractic physician shall provide such notice within thirty days after it is determined that the physician will not be returning to practice.

(e) Paragraph (7) of this rule does not apply to the chiropractic physician who is departing as an employee of another Oregon licensed chiropractic physician. It is the licensed Oregon chiropractic physician employer's responsibility to maintain continuity of care, or to comply with this rule if patient care will be terminated upon a chiropractic physician employee's leaving employment or retiring.

(f) In the event a chiropractic physician dies or becomes incapacitated and unable to practice, and there is no other chiropractic physician associated with the practice, the deceased, incapacitated, or unavailable chiropractic physician's executor, guardian, administrator, conservator, next of kin, or other legal representative shall notify the board in writing of the management arrangement for the custody and transfer of patient files and records. This individual shall ensure the security of, and access to, patient files and records by the patient or other authorized party, and must report plans or arrangements for permanent custody of patient files and records to the Board in writing within 180 days. Transfer of patient files and records must occur within one year of the death of the chiropractic physician.

Stat. Auth.: ORS 684

Stats. Implemented: ORS 684.155

Hist.: 2CE 1-1978, f. 6-16-78, ef. 7-1-78; CE 5-1995, f. & cert. ef. 12-6-95; CE 4-1997, f. & cert. ef. 11-3-97; BCE 3-2000, cert. ef. 8-23-00; BCE 2-2006, f. & cert. ef. 2-9-06; BCE 5-2013, f. & cert. ef. 11-27-13; BCE 3-2014, .f & cert. ef. 8-7-14; BCE 6-2014, f. & cert. ef. 9-5-14; BCE 2-2015, f. & cert. ef. 4-10-15

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Board of Parole and Post-Prison Supervision
Chapter 255

Rule Caption: Amend the exhibits to be in accordance with the current rules.

Adm. Order No.: PAR 1-2015

Filed with Sec. of State: 4-15-2015

Certified to be Effective: 4-15-15

Notice Publication Date: 3-1-2015

Rules Amended: 255-030-0013, 255-032-0022

Subject: The timeframe for submitting documents to the Board before a hearing is, under OAR 255-030-0040, 14 days, but the current version of the Notice of Rights (NOR), which is a document providing information about our rules, states the timeframe is 7 days. This appears to be an oversight. The change is a clean-up measure to ensure the NOR provides correct information about Board practices.

Rules Coordinator: Shawna Harnden—(503) 945-0914

255-030-0013

Notification of Hearing

(1) The Board shall send written notice of the hearing and its purpose to the inmate. The inmate shall receive a copy of the Board Review Packet, including the notice of rights (Exhibit NOR-1), at least 14 days prior to the hearing.

(2) If the inmate did not receive 14 days notice, the Board may reschedule the hearing or the inmate may waive the notice and the Board shall conduct the hearing.

(3) The Board shall attempt to notify the victim, if the victim requests notification and furnishes the Board a current address, and the District Attorney of the committing county at least ninety (90) days before all hearings by sending written notice to the current addresses of both parties.

Stat. Auth.: ORS 144.120(7) & 144.130

Stats. Implemented: ORS 144.120(7) & 144.130

Hist.: 2PB 4-1986(Temp), f. & ef. 12-2-86; PAR 3-1987, f. & ef. 4-28-87; PAR 6-1988, f. & ef. 5-19-88; PAR 4-1989, f. & ef. 11-1-89; PAR 1-1990(Temp), f. & cert. ef. 2-20-90; PAR 2-1990, f. & cert. ef. 4-5-90; PAR 8-1992, f. & cert. ef. 10-9-92; PAR 3-1997, f. 3-11-97, cert. ef. 3-14-97; PAR 7-2010, f. & cert. ef. 9-3-10; PAR 8-2010, f. & cert. ef. 9-29-10; PAR 2-2012(Temp), f. & cert. ef. 6-28-12 thru 12-25-12; PAR 3-2012(Temp), f. & cert. ef. 9-18-12

thru 3-1-13; PAR 4-2012, f. & cert. ef. 10-15-12; PAR 2-2013, f. & cert. ef. 3-1-13; PAR 5-2013, f. & cert. ef. 11-27-13; PAR 1-2015, f. & cert. ef. 4-15-15

255-032-0022
Murder Review Hearings Notice

The Board's notice (Exhibit NOR-3MR) must include:

(1) A statement that the sole issue to be considered shall be whether or not the inmate is likely to be rehabilitated within a reasonable period of time, and that the inmate shall have the burden of proof, by a preponderance of the evidence;

(2) A statement of the inmate's right to be represented by counsel; and if the inmate is without sufficient funds, counsel will be appointed by the Board at Board expense;

(3) A statement that the Board has authority and jurisdiction to hold a hearing on the issue pursuant to ORS 163.105(2) or 163.115(5); and

(4) A statement of rights of the inmate at the hearing.

Stat. Auth.: ORS 183.415, 163.105(2), 163.115(5)
Stats. Implemented:
Hist.: PAR 2-2007(Temp), f. & cert. ef. 2-1-07 thru 7-30-07; PAR 5-2007, f. & cert. ef. 7-30-07; PAR 2-2012(Temp), f. & cert. ef. 6-28-12 thru 12-25-12; PAR 4-2012, f. & cert. ef. 10-15-12; PAR 1-2015, f. & cert. ef. 4-15-15

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Board of Pharmacy
Chapter 855

Rule Caption: Amends Preceptor rules to expire Preceptor license on June 30 in odd numbered years.
Adm. Order No.: BP 1-2015(Temp)
Filed with Sec. of State: 4-10-2015
Certified to be Effective: 4-10-15 thru 10-6-15
Notice Publication Date:
Rules Amended: 855-031-0045, 855-031-0055
Subject: Amends Preceptor rules to change Preceptor license from an annual license to a biennial license. This corresponds with the new Pharmacist biennial expiration date.
Rules Coordinator: Karen MacLean—(971) 673-0001

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

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

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Department of Administrative Services
Chapter 125

Rule Caption: Amending rules governing renting or leasing office quarters.
Adm. Order No.: DAS 1-2015
Filed with Sec. of State: 4-2-2015
Certified to be Effective: 4-5-15
Notice Publication Date: 3-1-2015
Rules Amended: 125-120-0000, 125-120-0100, 125-120-0120, 125-120-0130, 125-120-0150
Rules Repealed: 125-120-0160
Subject: The proposed amendments update the leasing office quarters rules to respond to contemporary best practice recommendations from a recent study and to align with Governor's Executive Order 12-17 and Governor's 10-Year Plan for Oregon.
Rules Coordinator: Janet Chambers—(503) 378-5522

125-120-0000
Definitions

For the purposes of OAR 125-120-0000 through 125-120-0200, to be referred to as the "Leasing Rules", the term:

(1) "Administrator" means the Administrator of the Enterprise Asset Management Division of the Department of Administrative Services.

(2) "Agency" or "state agency" means any state officer, board, commission, department, institution, branch, or agency of the state government.

(3) "Department" means the Department of Administrative Services.

(4) "Director" means the Director of the Department of Administrative Services.

(5) "Facilities Division" or "Division" means the Real Estate Services Program, Enterprise Asset Management Division of the Department of Administrative Services.

(6) "Lease" means a lease for office quarters between an agency and a lessor other than the Department, including interagency and intergovernmental lease or sublease.

(7) "Office quarters" means office space, office buildings and associated service, storage and parking facilities for state agencies, and may include factory-built, modular, or portable units, but excludes stand-alone storage and parking facilities.

(8) "Significant Lease" means office space, office buildings and associated service, storage and parking facilities for state agencies, and may include factory-built, modular, or portable units, but excludes stand-alone storage and parking facilities.

Stat. Auth.: ORS 184.340
Stats. Implemented: ORS 276.420, 276.428
Hist.: GS 13-1990(Temp), f. 5-30-90, cert. ef. 6-1-90; GS 26-1990, f. & cert. ef. 11-29-90; DASII 5-1997, f. 5-27-97, cert. ef. 6-1-97; DAS 1-2015, f. 4-2-15, cert. ef. 4-5-15

125-120-0100
Lease Renewal

(1) Approximately eighteen months before an agency's lease expires, Division will notify the agency in writing and request the agency's plans for office quarters upon expiration of its lease.

(2) The agency shall respond within thirty days of receipt of the notice and inform Division of its plans for office quarters.

Stat. Auth.: ORS 184.340
Stats. Implemented: ORS 276.428
Hist.: GS 13-1990(Temp), f. 5-30-90, cert. ef. 6-1-90; GS 26-1990, f. & cert. ef. 11-29-90; DASII 5-1997, f. 5-27-97, cert. ef. 6-1-97; DAS 1-2015, f. 4-2-15, cert. ef. 4-5-15

125-120-0120
Locating Office Quarters

Division has the statutory authority to search, select and negotiate for office quarters to rent or lease in any manner necessary to best serve the interests of the state. Division also reserves the right to reject, in the best interest of the state, any and all offers received while conducting solicitation for offers on leasable properties or facilities. Unless exempted by the Administrator, Division will search for available office space in a manner consistent with applicable executive orders, policies and in the best judgment of Division.

Stat. Auth.: ORS 184.340
Stats. Implemented: ORS 276.426
Hist.: GS 13-1990(Temp), f. 5-30-90, cert. ef. 6-1-90; GS 26-1990, f. & cert. ef. 11-29-90; DASII 5-1997, f. 5-27-97, cert. ef. 6-1-97; DAS 1-2015, f. 4-2-15, cert. ef. 4-5-15

125-120-0130
Determining a Lease Search Area

Agencies will determine the geographical boundaries for a lease search area based upon its business need and state siting mandates. Division will assist the agency in further narrowing siting criteria in any geographic area by considering:

(1) The requesting agency's special needs;

(2) The state's policy of promoting economy, efficiency and convenience to the public by centralizing and consolidating state office quarters within a community whenever feasible;

(3) The availability and cost of necessary services including state services such as telephone, data, communication and mail services;

(4) Proper zoning and compatibility with local government comprehensive land use plans; and

(5) Applicable directives of the State of Oregon such as the Governor's Executive Order 94-07, or of the local government pertaining to locating state office facilities.

Stat. Auth.: ORS 184.340
Stats. Implemented: ORS 276.426 & 276.428
Hist.: GS 13-1990(Temp), f. 5-30-90, cert. ef. 6-1-90; GS 26-1990, f. & cert. ef. 11-29-90; DASII 5-1997, f. 5-27-97, cert. ef. 6-1-97; DAS 1-2015, f. 4-2-15, cert. ef. 4-5-15

125-120-0150
Giving Notice of Intent to Lease

(1) When the geographic search area for siting office quarters for a significant lease has been established or when leasable properties have been identified, Division shall contact the community or communities which Division determines are likely to be affected by the requesting agency's proposed location. Agency and Division may also opt to give said notice to any lease siting situation at its discretion. Division will issue public notice at the agency's request for any leasing action to:

(a) The mayor and/or city manager;

(b) The chair of the county commissioners;

(c) The chair of the planning commission;

(d) The local state representative;

(e) The local state senator;

(f) Affected local business associations, as identified and determined by Division; and

(g) Affected local neighborhood associations, as identified and determined by Division.

(2) A reasonable response period for notified parties will be specified in the notification letter.

(3) The Division and the requesting agency shall attempt to address the concerns of notified parties. The Division may hold a public meeting when it is considered necessary to address such concerns. For any controversial cases, the Administrator shall make the final determination as to whether or not to proceed with the proposed geographic siting location.

(4) The notification requirement under subsection (1) above is waived in the following cases:

(a) Emergency need;

(b) Lease renewals with no significant change in the use or amount of space;

(c) Interagency rental agreements for established state facilities housing agencies with similar state functions;

(d) Leases with other political subdivisions; or

(e) Storage space or other non-office space.

Stat. Auth.: ORS 184.340
Stats. Implemented: ORS 276.428
Hist.: GS 13-1990(Temp), f. 5-30-90, cert. ef. 6-1-90; GS 26-1990, f. & cert. ef. 11-29-90; DASII 5-1997, f. 5-27-97, cert. ef. 6-1-97; DAS 1-2015, f. 4-2-15, cert. ef. 4-5-15

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Department of Agriculture
Chapter 603

Rule Caption: Adopts Grade "A" Pasteurized Milk Ordinance, 2013 revision with appropriate reference.
Adm. Order No.: DOA 7-2015
Filed with Sec. of State: 4-3-2015
Certified to be Effective: 4-3-15
Notice Publication Date: 1-1-2015
Rules Amended: 603-024-0017, 603-024-0211
Subject: The Grade "A" Pasteurized Milk Ordinance (PMO) is designed to promote national uniformity and ensure a high level of excellence in milk sanitation practices. Every two years (odd-numbered years), there is a National Conference on Interstate Milk Shipments, which is made up of persons involved in the dairy industry. From the dairy farmer, to the processing plant personnel, to those persons involved in inspecting the dairy farmer's operation and/or processing plant, those persons who make laws concerning the inspections, to those who enforce the laws to the academic researcher and adviser, to the consumer of dairy products. The most recent PMO is the 2013 Revision, it was discussed at the 2013 Conference, and was released in 2014.

During the conference proposals submitted by individuals, regulators, producers, processors, and consumers are deliberated and discussed, after which each state and territory is alotted one vote. After the conclusion of the conference, the current PMO, and applicable reference documents are made available for states to adopt. The PMO regulates the production, transportation, processing, handling, sampling, examination, labeling, and sale of all Grade "A" milk and milk products sold for ultimate consumption. The inspection of dairy farms, milk plants, receiving stations, transfer stations, milk tank truck cleaning facilities, milk tank trucks, bulk milk haulers and samples, and permits to operate in the milk industry are regulated by the PMO. The dairy industry must be regulated under the PMO for access to interstate markets.

The Oregon Department of Agriculture (ODA) routinely updates the rules regarding the PMO because it is important for Oregon's dairy industry. All producers that began operation in Oregon after March 1, 2002 have been required to meet the requirments of the PMO, and there are no producers in the state licensed in Oregon to produce any other grades of milk. (See OAR 603-024-0379). ODA is amending OAR 603-024-0017 and 603-024-0211 to refer to the most current version of the PMO, which will ensure that Oregon's dairy producers will be able to participate in interstate commerce of milk and milk products.
Rules Coordinator: Sue Gooch—(503) 986-4583

603-024-0017
Standards of Identity, Quantity and Labeling Requirements

(1) The weights and measures packaging and labeling requirements for butter, fluid milk and milk products shall be those specified in OAR 603-027-0105, and the weights and measures requirements as to the methods of sale of butter, milk and milk products shall be those specified in OAR 603-027-0206.

(2) Labeling, standards of identity and marking requirements for butter, fluid milk and milk products not provided for under section (1) of this rule, shall be those specified in the Grade "A" Pasteurized Milk Ordinance, 2013 Revision.

(3) Measuring devices used for determining weight by measuring quantity of milk in farm tanks shall be done in accordance with the require-

ments of OAR chapter 603, division 027, to effectuate the administration of ORS Chapter 618.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 651 & 621
Stats. Implemented:
Hist.: DOA 6-2002, f. & cert. ef. 1-28-02; DOA 8-2006, f. & cert. ef. 3-10-06; DOA 6-2013, f. & cert. ef. 4-26-13; DOA 7-2015, f. & cert. ef. 4-3-15

603-024-0211
Adoption of the Grade A Pasteurized Milk Ordinance (PMO) and Related Documents

On all dairy farms, plants, and transport tankers, the standards for building construction, equipment construction, sanitation, sampling, pasteurization, transportation and handling of milk and dairy products shall be those given in the Grade "A" Pasteurized Milk Ordinance (PMO), 2013 Revision. This adoption shall also include the following related documents:

(1) 2013 Revision of the Methods of Making Sanitation Ratings (MMSR);

(2) 2013 Revision of Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the Conference on Interstate Milk Shipments; and

(3) The 2011 Revision of the Evaluation of Milk Laboratories (EML).

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 561.020 & 621
Stats. Implemented: 621.058
Hist.: DOA 6-2002, f. & cert. ef. 1-28-02; DOA 8-2006, f. & cert. ef. 3-10-06; DOA 9-2012, f. & cert. ef. 5-15-12; DOA 6-2013, f. & cert. ef. 4-26-13; DOA 7-2015, f. & cert. ef. 4-3-15

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

Rule Caption: Adopts the 2015 Oregon Boiler and Pressure Vessel Specialty Code.
Adm. Order No.: BCD 1-2015
Filed with Sec. of State: 3-23-2015
Certified to be Effective: 4-1-15
Notice Publication Date: 7-1-2014
Rules Amended: 918-225-0430, 918-225-0435, 918-225-0570, 918-225-0600, 918-225-0606
Rules Repealed: 918-225-0220, 918-225-0345, 918-225-0390, 918-225-0400
Subject: These rules adopt minimum safety standards for the safe installation and operation of boilers and pressure vessels in Oregon by adopting provisions of national boiler and pressure vessel model codes and standards. Additionally, the proposed rules include housekeeping changes that provide clarity and consistency among the division's rules and scope, and which delete outdated provisions.
Rules Coordinator: Holly A. Tucker—(503) 378-5331

918-225-0430
Adopted Oregon Boiler and Pressure Vessel Specialty Code

(1) The **Oregon Boiler and Pressure Vessel Specialty Code** is adopted and amended by reference. Any matters included in the referenced publications below that are in conflict with Oregon Revised Statutes or Oregon Administrative Rules are superseded by the applicable statute or rule. All remaining parts or application of the code or standard remain in effect. Items which are superseded by applicable statute or rule include but are not limited to: licensing or certification requirements; inspection schedules and requirements; quality assurance or quality control procedures or requirements; structures or equipment maintenance requirements; matters covered by federal or state law; and matters that conflict with other specialty codes or publications adopted by the department. Any matters included in the referenced publications below which are beyond the scope of the State Building Code as defined in ORS Chapter 455 are not adopted or enforced as part of the **Oregon Boiler and Pressure Vessel Specialty Code.**

(2) Effective April 1, 2015, the **2015 Oregon Boiler and Pressure Vessel Specialty Code** consists of the following minimum safety standards for boilers, pressure vessels, pressure piping, parts, items, and repair and alteration procedures:

(a) ORS 480.510 to 480.670 and OAR chapter 918, division 225;

(b) The **Boiler and Pressure Vessel Code of The American Society of Mechanical Engineers (ASME), 2013 Edition** as published, including Section I; Section II, Parts A, B, C, and D; Section IV; Section V; Section VIII, Division 1, 2, and 3; Section IX; and Section X only;

(c) The **2012 Edition of the ANSI/ASME B31.1 Power Piping Code**;

(d) The **2012 Edition of the ANSI/ASME B31.3 Process Piping Code**;

(e) The **2013 Edition of the ANSI/ASME B31.5 Refrigeration Piping Code**;

(f) The **2011 Edition of the ANSI/ASME B31.9 Building Service Piping Code**;

(g) The **2013 Edition of the National Board Inspection Code ANSI/NB 23**, including Parts 1, 2, and 3, as amended by the division in Table 2-B;

(h) The **2011 Edition of NFPA 85, Boiler and Combustion Systems Hazards Code**; and,

(i) The **2012 Edition of ASME, CSD-1, Controls and Safety Devices for Automatically Fired Boilers.**

(3) The standards and requirements applicable to boiler and pressure vessel business and trade licenses, as well as inspector certifications, issued by the Building Codes Division are established in ORS Chapters 455 and 480, and OAR chapter 918, divisions 30, 90, and 225.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 455.020, 480.545 & 480.550
Stats. Implemented: ORS 480.545, 480.550 & 480.560
Hist.: DC 17, f. 7-31-72, ef. 8-15-72; DC 19, f. 6-21-73, ef. 7-1-73; DC 27(Temp), f. & ef. 12-31-73; DC 33, f. 5-6-74, ef. 5-25-74; DC 38(Temp), f. & ef. 11-1-74; DC 50, f. 7-2-75, ef. 7-25-75; DC 89, f. & ef. 6-2-77; DC 93, f. & ef. 7-19-76; DC 1-1978, f. 1-5-78, ef. 1-15-78; DC 4-1980, f. & ef. 5-30-80; DC 6-1982, f. & ef. 2-4-82; DC 23-1982, f. & ef. 11-9-82; DC 18-1983, f. & ef. 8-11-1983; DC 21-1983, f. & ef. 9-29-83; DC 1-1984, f. & ef. 1-5-84; DC 18-1984, f. & ef. 5-9-84; DC 36-1984, f. & ef. 12-4-84; DC 16-1985, f. & ef. 7-1-85; DC 6-1986, f. & ef. 5-5-86; DC 2-1987, f. & ef. 2-18-87; BCA 5-1987, f. & ef. 8-24-87; BCA 15-1988, f. & cert. ef. 11-16-88; BCA 25-1989, f. & cert. ef. 7-27-89; Renumbered from 814-025-0006; BCA 5-1990, f. & cert. ef. 2-6-90; BCA 26-1990, f. & cert. ef. 10-30-90; BCA 36-1993, f. 12-30-93, cert. ef. 1-1-94; Renumbered from 918-225-0015; BCD 17-1996, f. & cert. ef. 9-17-96; BCD 18-1997, f. 12-3-97, cert. ef. 1-1-98; BCD 26-1998, f. 12-30-98, cert. ef. 1-1-99; BCD 36-2000, f. 12-29-00, cert. ef. 1-1-01; BCD 13-2002, f. 6-28-02, cert. ef. 7-1-02; BCD 17-2005(Temp), f. & cert. ef. 7-12-05 thru 9-30-05; BCD 20-2005, f. 9-15-05, cert. ef. 10-1-05; BCD 16-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 33-2008, f. 12-31-08, cert. ef. 1-1-09; BCD 31-2011, f. 12-30-11, cert. ef. 1-1-12; BCD 1-2015, f. 3-23-15, cert. ef. 4-1-15

918-225-0435
Amendments to the Oregon Boiler and Pressure Vessel Specialty Code

(1) The **Oregon Boiler and Pressure Vessel Specialty Code** is amended pursuant to OAR chapter 918, division 8. Amendments adopted for inclusion into the **Oregon Boiler and Pressure Vessel Specialty Code** are placed in this rule.

(2) Effective April 1, 2015, the **2013 Edition of the National Board Inspection Code ANSI/NB 23,** parts 1 and 2 are amended in Oregon as provided in Table 2-B.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 455.020, 480.545 & 480.550
Stats. Implemented: ORS 480.545 & 480.550
Hist.: BCD 16-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 6-2007, f. 6-8-07, cert. ef. 6-15-07; BCD 33-2008, f. 12-31-08, cert. ef. 1-1-09; BCD 31-2011, f. 12-30-11, cert. ef. 1-1-12; BCD 1-2015, f. 3-23-15, cert. ef. 4-1-15

918-225-0570
Boiler and Pressure Vessel Inspection Schedules

Unless the division grants special permission, all inspectors must comply with the following inspection schedule:

(1) Power boilers must be inspected, at minimum:

(a) Internally — every year, when physical construction of the boiler allows; and

(b) Externally — every year, while under pressure.

(2) Cast iron boilers must be inspected externally — every two years, while under pressure.

(3) Low pressure steam boilers must be inspected, at minimum:

(a) Internally — every two years, when physical construction of the boiler allows; and

(b) Externally — every two years, while under pressure.

(4) Hot water heating and hot water supply boilers must be inspected:

(a) Internally — every six years, when physical construction of the boiler allows; and

(b) Externally — every two years, while under pressure.

(5) Pressure vessels containing anhydrous ammonia intended for use as fertilizer must be inspected, at minimum, externally every three years.

(6) Fixed pressure vessels, containing only air, not located at a place of public assembly, not exceeding 20 cubic feet in volume, and operated at gauge pressures of not more than 200 pounds per square inch must be inspected, at minimum:

(a) Internally — every six years, subject to section (13) of this rule; and

(b) Externally — every six years.

(7) Co2 vessels and hydro-pneumatic pressure vessels, used for beverage service, not exceeding 20 cubic feet in volume, and operated at gauge pressures of not more than 300 pounds per square inch must be inspected, at minimum:

(a) Internally — every six years, subject to section (13) of this rule; and

(b) Externally every six years.

(8) Pressure vessels, not classified in sections (5), (6), and (7) of this rule, and subject to internal corrosion or erosion must be inspected, at minimum:

(a) Internally — every two years, subject to section (13) of this rule; and

(b) Externally — every two years.

(9) Unfired pressure vessels, not classified in sections (5), (6), (7), (10) and (11) of this rule, and not subject to internal corrosion must be inspected, at minimum, externally — every four years.

(10) Unfired pressure vessels not subject to internal corrosion but containing a substance which, if it were to leak, might cause serious irreversible harm to a person must be inspected, at minimum:

(a) Internally — every two years, subject to section (13)of this rule; and

(b) Externally — every two years.

(c) A substance "might cause serious irreversible harm" if the substance's Material Safety Data Sheet describes serious health or physical risks caused by short-term exposure to the substance.

(11) Unfired pressure vessels not subject to internal corrosion that are located at a place of public assembly and are not classified in section (8) of this rule must be inspected, at minimum:

(a) Internally — every two years, subject to section (13) of this rule; and

(b) Externally — every two years.

(12) Pressure piping systems containing refrigerants, steam, or pressurized condensate: Inspection during fabrication, installation, repair, or alteration for verification of compliance with material, welding, brazing, and structural support requirements. The inspector may require other tests to verify quality of weldments. This rule does not apply to welded repair of pressure piping under OAR 918-225-0720.

(13) The inspector may waive an internal inspection, under section (6), (7), (8), (10) or (11) of this rule if the inspector believes from alternate inspection methods an internal inspection is not necessary to verify the safe condition of the vessel.

(14) An inspector may require additional internal or external inspections, or tests, other than those required in this rule, if the inspector has reason to believe that the boiler or pressure vessel does not meet minimum safety standards.

(15) Failure to comply with sections (1) through (14) of this rule may cause inspections to be performed by a deputy inspector per ORS 480.570(6) as directed by the chief inspector.

Stat. Auth.: ORS 480.545, 480.550 & 480.560
Stats. Implemented: ORS 480.545, 480.550 & 480.560
Hist.: DC 17, f. 7-31-72, ef. 8-15-72; DC 12-1980, f. & ef. 9-12-80; BCA 1-1987, f. & ef. 7-1-87; Renumbered from 814-025-0075; BCA 22-1992(Temp), f. 12-15-92, cert. ef. 1-1-93; BCA 4-1993, f. & cert. ef. 4-5-93; BCA 36-1993, f. 12-30-93, cert. ef. 1-1-94; Renumbered from 918-225-0175; BCD 18-1996, f. & cert. ef. 9-17-96; BCD 18-1997, f. 12-3-97, cert. ef. 1-1-98; BCD 36-2000, f. 12-29-00, cert. ef. 1-1-01; BCD 15-2006, f. 12-29-06, cert. ef. 1-1-07; BCD 7-2007, f. 7-13-07, cert. ef. 9-1-07; BCD 29-2008, f. 12-31-08, cert. ef. 1-1-09; BCD 31-2011, f. 12-30-11, cert. ef. 1-1-12; BCD 1-2015, f. 3-23-15, cert. ef. 4-1-15

918-225-0600
Permits

(1) Except as otherwise provided in this rule, an installation permit is required before installing, altering, or repairing a nonexempt boiler or pressure vessel.

(2) Notwithstanding section (1) of this rule:

(a) An installation permit is not required for minor repairs performed under a minor repair permit in accordance with OAR 918-225-0606 to 918-225-0618.

(b) An installation permit is not required for minor repairs or nonwelded major repairs to a pressure vessel containing liquefied petroleum gas that is under the jurisdiction of the State Fire Marshal.

(c) If the installation, alteration, or repair will be performed by the owner of the boiler or pressure vessel or an employee of the owner, an installation permit is only required if the boiler or pressure vessel is located in a structure that:

(A) Is classified as an Education Group "E" Occupancy under the **Oregon Structural Specialty Code**;

(B) Is classified as an Institutional Group "I-2" Occupancy under the **Oregon Structural Specialty Code**; or

(C) Has an occupant load greater than 100, as calculated under the **Oregon Structrual Specialty Code**.

(d) Notwithstanding subsection (c) of this rule, an installation permit is not required for a boiler or pressure vessel that is installed, altered, or repaired by its owner or an employee of its owner in a location that is staffed 24 hours a day, seven days a week, by individuals knowledgeable in the operation and maintenance of the boiler or pressure vessel.

(3) An operating permit or a temporary operation authorization is required before placing a nonexempt vessel into operation.

(4) If an inspection is scheduled, and the inspector is at the site but the boiler or pressure vessel is not ready or cannot be accessed, the rescheduled inspection will be at an additional cost. The fee for such inspections is the hourly rate specified in ORS 480.605.

(5) Permits to operate boilers or pressure vessels shall be issued periodically according to vessel type, based on the schedule established by the division in Table 1-A.

(6) Operating and installation permit fees are as shown in Table 3-B.

(7)(a) Operating permit fees not received within 90 days of the billing date may be considered delinquent and subject to a late penalty of double the fee amount. It is the equipment owner's responsibility to maintain a current operating permit. This responsibility includes notifying the division of address and other billing information changes. Late penalties may only be waived under exceptional circumstances.

(b) All waiver requests must be submitted in writing and must clearly state the reason for the request. A waiver may be granted for all or part of the additional fee.

(8) Where an installation permit is required, the equipment owner or, if the work will be performed by a contractor, the contractor, must acquire the installation permit prior to beginning the intended installation, repair, or alteration, and notify the deputy or special inspector who will inspect the work. Work may not begin until the inspector has reviewed and approved the work to be performed.

(a) The installation permit must be posted at the job site before beginning the work; or.

(b) This rule does not change the provisions for emergency permits in ORS 480.630(6). It is recommended, but not required, that emergency permits be reviewed and coordinated with the inspector responsible for inspecting the completed work.

(c) Commissioning of a boiler by a commissioning agent or manufacturer's representative does not require a separate installation permit.

(9) An installation permit or operating permit issued under this rule is not transferable.

(10) An installation permit automatically expires 18 months from the date of issuance unless the installation, alteration, or repair begins before the end of the 18th month.

(a) The holder of an un-expired installation permit may submit a written request for an unconditional six-month extension of the expiration date. The division may not extend an installation permit more than twice.

(b) An expired installation permit may not be extended or renewed. A new application and fee will be required. The division will not refund the fees for an expired installation permit.

(c) Fees for installation permits are non-refundable.

(11) Any person who commences any work on a boiler or pressure vessel before obtaining the necessary permits shall be subject to an investigative fee. The amount of the investigative fee shall be the average or actual additional cost of ensuring that a boiler or pressure vessel is in conformance with the **Oregon Boiler and Pressure Vessel Specialty Code** and shall be in addition to the required permit fees.

NOTE: Table 1-A, Boiler and Pressure Vessel Operating Permit Periods, and Table 3-B, Boiler and Pressure Vessel Permit Fees, are available on the division's Web site at <http://www.bcd.oregon.gov/rules.html#oar>.
Stat. Auth.: ORS 480.585, 480.595 & 480.605
Stats. Implemented: ORS 455.058, 480.585, 480.595, 480.605, & 480.630
Hist.: BCA 36-1993, f. 12-30-93, cert. ef. 1-1-94; BCD 18-1997, f. 12-3-97, cert. ef. 1-1-98; BCD 14-2007, f. 12-28-07 cert. ef. 1-1-08; BCD 4-2009(Temp), f. & cert. ef. 7-16-09 thru 1-1-10; BCD 10-2009, f. 12-30-09, cert. ef. 1-1-10; BCD 31-2011, f. 12-30-11, cert. ef. 1-1-12; BCD 36-2011, f. 12-30-11, cert. ef. 1-1-12; BCD 1-2015, f. 3-23-15, cert. ef. 4-1-15

918-225-0606
Issuance and Purchase of Minor Repair Permits

(1) The Building Codes Division will issue minor repair permits in lots of five at a cost of $175 per lot. Each lot of minor repair permits is valid for one year from the date of purchase.

(2) The following persons may purchase minor repair permits:

(a) Contractors holding a verified Construction Contractors Board license and a valid boiler contractor license under ORS 480.630; or

(b) Owners of boilers and pressure vessels and their designated representatives.

(3) Minor repair permits are not transferable.

Stat. Auth.: ORS 480.595, 455.154 & 455.155
Stats. Implemented: ORS 480.595, 455.154 & 455.155
Hist.: BCD 36-2011, f. 12-30-11, cert. ef. 1-1-12; BCD 36-2011, f. 12-30-11, cert. ef. 1-1-12; BCD 1-2015, f. 3-23-15, cert. ef. 4-1-15

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Rule Caption: Amending the 2014 Oregon Plumbing Specialty Code
Adm. Order No.: BCD 2-2015
Filed with Sec. of State: 3-24-2015
Certified to be Effective: 4-1-15
Notice Publication Date: 2-1-2015
Rules Amended: 918-750-0115
Subject: This rule corrects an inadvertent error made during the adoption of the 2014 Oregon Plumbing Specialty Code regarding a code change proposal for removable fixture traps.
Rules Coordinator: Holly A. Tucker—(503) 378-5331

918-750-0115
Amendments to the Oregon Plumbing Specialty Code

(1) The **Oregon Plumbing Specialty Code** is amended pursuant to OAR chapter 918, division 8. Amendments adopted for inclusion into the **Oregon Plumbing Specialty Code** are placed in this rule, showing the section reference, a descriptive caption, and a short description of the amendment.

(2) Effective April 1, 2015, Section 707.4 of the **Oregon Plumbing Specialty Code** is amended to eliminate the use of removable fixture traps.

[Publications: Publications are available for review at the division. See division website for information on where to purchase publications.]
Stat. Auth.: ORS 447.020, 455.020, 455.030 & 455.110
Stats. Implemented: ORS 447.020, 455.020, 455.030 & 455.110
Hist.: BCD 16-2012, f. 12-21-12, cert. ef. 1-1-13; BCD 11-2014, f. 9-30-14, cert. ef. 10-1-14; BCD 2-2015, f. 3-24-15, cert. ef. 4-1-15

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Rule Caption: Amends 2014 Oregon Structural Specialty Code & 2014 Oregon Residential Specialty Code
Adm. Order No.: BCD 3-2015
Filed with Sec. of State: 3-24-2015
Certified to be Effective: 4-1-15
Notice Publication Date: 2-1-2015
Rules Amended: 918-305-0105, 918-460-0015, 918-480-0010
Rules Repealed: 918-800-0010, 918-800-0020, 918-800-0030, 918-800-0040
Subject: These rules amend the 2014 Oregon Structural Specialty Code (OSSC) and 2014 Oregon Residential Specialty Code (ORSC). Changes include: removing conflicts in the OSSC for I-4 Daycares; clarifying the methodology for determining the minimum number of required plumbing fixtures in certain occupancies under the OSSC; modifying accessible shower design requirements; allowing detached accessory structures in the ORSC to exceed 3,000 square feet without the use of a sprinkler system; and correcting a conflict between the OSSC the 2014 Oregon Electrical Specialty Code (OESC) relating to panic and fire exit hardware requirements.
Rules Coordinator: Holly A. Tucker—(503) 378-5331

918-305-0105
Amendments to the Oregon Electrical Specialty Code

(1) The **Oregon Electrical Specialty Code** is amended pursuant to OAR chapter 918, division 8. Amendments adopted for inclusion into the **Oregon Electrical Specialty Code** are placed in this rule, showing the section reference and a descriptive caption. Amendments to the **Oregon Electrical Specialty Code** are printed in their entirety in Table 1-E.

(2) Effective April 1, 2015 the **Oregon Electrical Specialty Code** Table 1-E is amended according to the following:

(a) Amend Section 110.26(C)(3) by adding a reference to Section 1008.1.10.1 of the **Oregon Structural Specialty Code** for listing and installation requirements for panic and fire exit hardware; and

(b) Amend Section 210.12(A) by deleting the reference to the statewide code interpretation for 210.12(A).

Stat. Auth.: ORS 479.730
Stats. Implemented: ORS 479.730
Hist.: BCD 23-2004, f. 12-15-04, cert. ef. 4-1-05; BCD 6-2008, f. 3-7-08, cert. ef. 4-1-08; BCD 3-2011, f. 3-11-11, cert. ef. 4-1-11; BCD 5-2012(Temp), f. & cert. ef. 6-7-12 thru 10-31-12; BCD 11-2012(Temp), f. 10-5-12, cert. ef. 1-1-13 thru 6-29-13; BCD 14-2012(Temp), f. 11-16-12, cert. ef. 1-1-13 thru 6-29-13; BCD 5-2013, f. 4-12-13, cert. ef. 5-1-13; BCD 12-2014, f. 9-30-14, cert. ef. 10-1-14; BCD 3-2015, f. 3-24-15, cert. ef. 4-1-15

918-460-0015
Amendments to the Oregon Structural Specialty Code

(1) The **Oregon Structural Specialty Code** is amended pursuant to OAR chapter 918, division 8. Amendments adopted for inclusion into the **Oregon Structural Specialty Code** are placed in this rule, showing the section reference, a descriptive caption, and a short description of the amendment.

(2) Effective April 1, 2015 the **Oregon Structural Specialty Code** is amended according to the following:

(a) Amend Chapter 2 Definitions to include definitions related to solar photovoltaic installations;

(b) Amend Section 1008.1.10 Panic and Fire Exit Hardware by changing the ampere threshold to 800 to align with the **Oregon Electrical Specialty Code.** Clarifies that the **Oregon Electrical Specialty Code** determines what constitutes a "work space";

(c) Amend Table 1016.2 Exit Access Travel Distance by adding "Note" (d) specifying exit travel distance;

(d) Amend Section 1018.1 Corridors by adding "Exception" (6) relating to fire-resistance rating;

(e) Amend Sections 1107.5.1 Group I-1 and 1107.6.4 Group R-4 by adding an "Exception" allowing folding seats to be omitted and shower controls to be located on the side wall;

(f) Amend Section 2902.2 Separate Facilities by amending "Exception" (2), and adding "Exception" (3); and

(g) Adopt Section 3111 Solar Photovoltaic Panels/Modules.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 447.231, 447.247, 455.030, 455.110 & 455.112
Stats. Implemented: ORS 447.247, 455.110 & 455.112
Hist.: BCA 18-1993, f. 8-24-93, cert. ef. 8-29-93; BCA 28-1993, f. 10-22-93, cert. ef. 1-1-94; BCD 6-1994, f. 2-25-94, cert. ef. 5-1-94; BCD 22-1994, f. 9-28-94, cert. ef. 1-1-95; BCD 31-1994(Temp), f. & cert. ef. 12-23-94; BCD 32-1994, f. & cert. ef. 12-30-94; BCD 2-1995, f. & cert. ef. 2-9-95; BCD 5-1995, f. & cert. ef. 3-15-95; BCD 2-1996, f. 2-2-96, cert. ef. 4-1-96; BCD 6-1996, f. 3-29-96, cert. ef. 4-1-96; BCD 12-1997, f. 9-10-97, cert. ef. 10-1-97; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 24-1998(Temp), f. & cert. ef. 12-1-98 thru 5-29-99; Temporary Rule repealed by BCD 3-1999, f. 3-12-99, cert. ef. 4-1-99; BCD 5-1999, f. 6-17-99, cert. ef. 10-1-99; BCD 12-1999(Temp), f. 9-23-99, cert. ef. 11-1-99 thru 4-28-00; BCD 2-2000 f. 1-14-00, cert. ef. 4-1-00; BCD 20-2000, f. 9-15-00, cert. ef. 10-1-00; BCD 8-2001, f. 7-17-01, cert. ef. 10-1-01; BCD 18-2001, f. 12-21-01, cert. ef. 1-1-02; BCD 14-2003, f. 8-13-03, cert. ef. 10-1-03; BCD 18-2003(Temp) f. & cert. ef. 11-14-03 thru 5-11-04; BCD 5-2004,f. & cert. ef. 4-1-04; BCD 16-2004, f. 9-24-04, cert. ef. 10-1-04; BCD 21-2004, f. & cert. ef. 10-1-04; BCD 9-2005(Temp), f. & cert. ef. 4-7-05 thru 9-30-05; BCD 14-2005, f. & cert. ef. 7-5-05; BCD 18-2005(Temp), f. & cert. ef. 7-12-05 thru 9-30-05; BCD 22-2005, f. 9-29-05, cert. ef. 10-1-05; BCD 23-2005, f. 9-29-05, cert. ef. 10-1-05; BCD 1-2006, f. & cert. ef. 2-1-06; BCD 9-2006, f. 6-30-2006, cert. ef. 7-1-06; BCD 1-2007, f. 2-15-07, cert. ef. 4-1-07; BCD 9-2008(Temp), f. & cert ef. 6-25-08 thru 12-22-08; BCD 20-2008, f. 9-30-08, cert. ef. 10-1-08; BCD 4-2010, f. 5-14-10, cert. ef. 7-1-10; BCD 19-2010, f. 12-30-10, cert. ef. 1-1-11; BCD 1-2011, f. & cert. ef. 2-15-11; BCD 14-2011(Temp), f. & cert. ef. 5-13-11 thru 11-9-11; BCD 28-2011, f. 9-30-11, cert. ef. 10-1-11; BCD 30-2011, f. & cert. ef. 11-1-11; BCD 32-2011, f. 12-30-11, cert. ef. 1-1-12; BCD 1-2012, f. 1-31-12, cert. ef. 2-1-12; BCD 8-2012, f. 8-31-12, cert. ef. 9-1-12; BCD 7-2014, f. 6-20-14, cert. ef. 7-1-14; BCD 3-2015, f. 3-24-15, cert. ef. 4-1-15

918-480-0010
Amendments to the Oregon Residential Specialty Code

(1) The **Oregon Residential Specialty Code** is amended pursuant to OAR chapter 918, division 8. Amendments adopted for inclusion into the **Oregon Residential Specialty Code** are placed in this rule, showing the section reference and a descriptive caption.

(2) Effective April 1, 2015 the **Oregon Residential Specialty Code** is amended according to the following:

(a) Amend Section R202 — definition for "Accessory Structure" and Section R325 Detached Group R Accessory Structures (Group U) for allowable area increases to detached Group R accessory structures; and

(b) Amend Section M2301 Solar Energy Systems specifying that residential solar photovoltaic installation requirements are now located in Section 3111 of the **Oregon Structural Specialty Code.**

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 455.020, 455.110, 455.525 & 455.610
Stats. Implemented: ORS 455.610
Hist.: BCA 18-1993, f. 8-24-93, cert. ef. 8-29-93; BCA 28-1993, f. 10-22-93, cert. ef. 1-1-94; BCA 29-1993, f. 11-24-93, cert. ef. 12-1-93; BCD 6-1995, f. 3-31-95, cert. ef. 4-1-95; BCD 3-1996, f. 2-2-96, cert. ef. 4-1-96; BCD 22-1996(Temp), f. 10-1-96, cert. ef. 10-4-96; BCD 5-1997, f. 3-21-97, cert. ef. 4-1-97; Administrative Reformatting 1-19-98; BCD 3-1998, f. 1-29-98, cert. ef. 4-1-98; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 3-2000, f. 1-14-00 cert. ef. 4-1-00; BCD 19-2000(Temp), f.& cert. ef. 8-15-00 thru 2-10-01; BCD 32-2000, f. 12-27-00, cert. ef. 1-1-01; BCD 3-2001, f. 2-9-01, cert. ef. 3-1-01; BCD 2-2002, f. 3-5-02, cert. ef. 4-1-02; BCD 22-2002(Temp), f. 9-13-02 cert. ef. 10-1-02 thru 3-29-03; BCD 30-2002, f. 12-6-02, cert. ef. 1-1-03; BCD 1-2003(Temp), f. & cert. ef. 1-10-03 thru 3-31-03; BCD 33-2002, f. 12-20-02 cert. ef. 4-1-03; BCD 15-2004, f. 9-10-04, cert. ef. 10-1-04; BCD 5-2005, f. & cert. ef. 3-28-05; BCD 9-2006, f. 6-30-06, cert. ef. 7-1-06; BCD 1-2007, f. 2-15-07, cert. ef. 4-1-07; BCD 5-2008, f. 2-22-08, cert. ef. 4-1-08; BCD 13-2008(Temp), f. & cert. ef. 7-3-08 thru 12-30-08; BCD 21-2008, f. 9-30-08, cert. ef. 10-1-08; BCD 24-2008(Temp), f. & cert. ef. 10-6-08 thru 4-1-09; BCD 1-2009, f. 1-30-09, cert. ef. 2-1-09; BCD 8-2009, f. 9-30-09, cert. ef. 10-1-09; BCD 5-2010, f. 5-14-10, cert. ef. 7-1-10; BCD 19-2010, f. 12-30-10, cert. ef. 1-1-11; BCD 1-2011, f. & cert. ef. 2-15-11; BCD 11-2011(Temp),

f. & cert. ef. 4-15-11 thru 9-30-11; BCD 13-2011, f. 5-13-11, cert. ef. 7-1-11; BCD 9-2014, f. 9-25-14, cert. ef. 10-1-14; BCD 3-2015, f. 3-24-15, cert. ef. 4-1-15

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

Rule Caption: Adopt changes to recordkeeping and reporting requirements in Division 1, General Administrative Rules.
Adm. Order No.: OSHA 2-2015
Filed with Sec. of State: 3-18-2015
Certified to be Effective: 1-1-16
Notice Publication Date: 2-1-2015
Rules Adopted: 437-001-0704
Rules Amended: 437-001-0015, 437-001-0700
Subject: Oregon OSHA must adopt rules that are at least as effective as the federal OSHA rules. On September 18, 2014, federal OSHA published a final rule that updates the list of industries that are exempt from the requirement to routinely keep OSHA injury and illness records, due to relatively low occupational injury and illness rates. The previous list of industries was based on the old Standard Industrial Classification (SIC) system and injury and illness data from the Bureau of Labor Statistics (BLS) from 1996, 1997, and 1998. The new list of industries that are exempt from routinely keeping OSHA injury and illness records is based on the North American Industry Classification System (NAICS) and injury and illness data from the Bureau of Labor Statistics (BLS) from 2007, 2008, and 2009. Note: The new rule retains the exemption for any employer with ten or fewer employees, regardless of their industry classification, from the requirement to routinely keep records.

The final rule also expands the list of severe work-related injuries that all covered employers must report to OSHA. The revised rule retains the current requirement to report all work-related fatalities within 8 hours and adds the requirement to report all work-related in-patient hospitalizations, amputations and loss of an eye within 24 hours to OSHA.

This rulemaking incorporates federal OSHA changes, but also makes additional changes:

The rules for reporting workplace incidents were moved to their own rule number, separating reporting from recordkeeping.

In addition to federal OSHA changes for reporting workplace incidents, the new requirement to report workplace amputations was revised to include any amputation or avulsion that includes bone and/or cartilage loss.

Clarifies inpatient hospitalization related to workplace illnesses and injuries.

Edits were made to enhance clarity so employers can better understand their responsibility to record workplace illnesses and injuries.

The annual summary requirements was modified for clarity and to allow for the employer to designate a representative to sign and certify that the information is correct, as long as the information is shared with a company executive.

A note was added reminding employers that, in addition to these reporting requirements, an injury involving a mechanical power press must also be reported to Oregon OSHA.

The definition of Standard industrial classification (SIC) was removed from OAR 437-001-0015 because it is no longer pertinent since the North American Industry Classification System (NAICS) is now used to classify industries.

Oregon OSHA held three public hearings in February and March 2015 concerning these changes. No oral or written comments were received during the open comment period, which closed on March 11, 2015.

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—(503) 947-7449

437-001-0015
Definitions

The following definitions shall apply to OAR 437, unless the context requires otherwise:

(1) Abatement — Action by an employer to comply with a cited violation of the Oregon Safe Employment Act.

(2) Accepted disabling claims — Claims accepted for disabling occupational injuries or illnesses only. A disabling injury or illness entitles the worker to compensation for disability or fatality. This type of claim excludes temporary total disability suffered during the first three calendar days after the employee leaves work as a result of the injury unless the worker is an inpatient in a hospital.

(3) Accepted disabling claims rate — The ratio of accepted disabling claims to annual average employment, times 100. Claims and employment figures are based upon the best knowledge of the Department at the time the rate is calculated (ADCR = Number of claims times 100 divided by the number of employees).

(4) Act — The Oregon Safe Employment Act (ORS 654.001 to 654.295, 654.750 to 654.780, and 654.991).

(5) Administrator — The Administrator of the Oregon Occupational Safety and Health Division (Oregon OSHA).

(6) Affected employee — An employee who, in the course and scope of employment, may be or may have been exposed to a condition or practice described in a citation, order, application for an extension date, or variance.

(7) Agent of the employer — Any supervisor or person in charge or control of the work or place of employment including, but not limited to, any manager, superintendent, foreperson, or lead worker.

(8) Appeal — A written request for a hearing to contest a citation, notice or order, a proposed assessment of civil penalty, and the period of time fixed for correction of a violation, or any of these, by filing with Oregon OSHA, within 30 days after receipt of the citation, notice or order, a written request for a hearing before the Workers' Compensation Board. Such a request need not be in any particular form, but must specify the alleged violation that is contested and the grounds upon which the employer considers the citation or proposed penalty or correction period unjust or unlawful.

(9) Audiometric zero — The lowest sound pressure level that the average young adult with normal hearing can hear.

(10) Board — The Workers' Compensation Board created by ORS 656.712.

(11) Catastrophe — An accident in which two or more employees are fatally injured, or three or more employees are admitted to a hospital or to an equivalent medical facility.

(12) Citation — A document issued by Oregon OSHA according to ORS 654.071 to cite a violation. A citation may include a notice of penalty and a correction order.

(13) Complaint — A written or oral report from an employee, employee representative or other person that an occupational safety or health violation may exist at a place of employment. A complaint may be classified as one of the following:

(a) Imminent danger.

(b) Serious.

(c) Other than serious.

(14) Compliance officer — A designated Oregon OSHA employee responsible for conducting inspections or investigations; identifying possible violations and hazards; proposing citations, penalties, and correction dates; and to assist employers and employees with information to correct violations and hazards.

(15) Comprehensive consultation — A consultation to cover the entire establishment and entails a physical hazard assessment evaluation and a review of records, written programs, and the employer's illness and injury prevention plan. Comprehensive consultations include a written report by the provider including findings, recommendations, and the guidance necessary to resolve the problems noted in the report.

(16) Comprehensive inspection — A substantially complete inspection of the establishment. An inspection may be comprehensive even though, as a result of the exercise of professional judgment, not all potentially hazardous conditions, operations, and practices within those areas are inspected.

(17) Consultant — A designated Oregon OSHA employee whose responsibility is to provide a full range of occupational safety and health assistance including, but not limited to, providing employers, employees, and other agency staff with information, advice, and recommendations on maintaining safe employment or a place of employment; on correcting vio-

lations or hazards; and on applicable occupational safety and health rules, techniques, devices, methods, practices, and development of safety and health programs.

(18) DART (Days Away, Restricted, or Transferred) — The number of lost workday injury and illness cases experienced by 100 full-time workers (DART rate = Number of lost workday cases times 200,000 divided by the number of employee hours worked).

NOTE: Lost workday cases include both days away from work and days of restricted time.

(19) Decibel (dB) — Unit of measurement of sound level. For purposes of this rule, decibels refer to the combined average of the readings at 2000, 3000, and 4000 Hz on the audiogram.

(20) Department — The Department of Consumer and Business Services.

(21) Director — The Director of the Department of Consumer and Business Services, or the director's designee.

(22) Division — The Oregon Occupational Safety and Health (Oregon OSHA) Division of the Department of Consumer and Business Services.

(23) Emphasis Program — A special program that targets Oregon OSHA activity to industries that have a high potential for serious injuries or illnesses, according to national or state data.

(24) Employee — Any individual, including a minor, whether lawfully or unlawfully employed, who engages to furnish services for a remuneration, financial or otherwise and who is subject to the direction and control of an employer, and includes:

(a) Salaried, elected and appointed officials of the state, state agencies, counties, cities, school districts, and other public corporations.

(b) Any person provided with workers' compensation coverage as a subject worker under ORS Chapter 656, whether by operation of law or by election.

(25) Employee exposure record — A record of monitoring or measuring that contains qualitative or quantitative information indicative of employee exposures to toxic materials or harmful physical agents. This includes both individual exposure records and general research or statistical studies based on information collected from exposure records.

(26) Employee medical record — A record that contains information concerning the health status of an employee or employees exposed or potentially exposed to toxic materials or harmful physical agents. These records may include, but are not limited to:

(a) The results of medical examinations and tests;

(b) Any opinions or recommendations of a physician or other health professional concerning the health of an employee or employees; and

(c) Any employee medical complaints relating to workplace exposure. Employee medical records include both individual medical records and general research or statistical studies based on information collected from medical records.

(27) Employee representative — A bargaining unit representative, or an individual selected by employees, who serves as their spokesperson.

(28) Employer:

(a) Any person who has one or more employees, or

(b) Any sole proprietor or member of a partnership who elects workers' compensation coverage as a subject worker according to ORS 656.128, or

(c) Any corporation in relation to the exposure of its corporate officers except for corporations without workers' compensation coverage under ORS 656.128 and whose only employee is the sole owner of the corporation, or

(d) Any successor or assignee of an employer. For purposes of this definition and ORS 654.005(5)(c), a business or enterprise is substantially the same entity as the predecessor employer if:

(A) A majority of the current business or enterprise is owned by the former owners or their immediate family members, and

(B) One or more of the following criteria exist for both the current and predecessor business or other enterprise:

(i) Substantially the same type of business or enterprise.

(ii) Similar jobs and working conditions.

(iii) A majority of the machinery, equipment, facility, or methods of operation.

(iv) Similar product or service.

(v) A majority of the same supervisory personnel.

(vi) A majority of the same officers and directors.

NOTE: Not every element needs to be present for an employer to be a successor. The cumulative facts will determine the employer's status.

(29) Employer representative — An individual selected by the employer, to serve as spokesperson or, in the absence of a selected spokesperson, the person in charge of the place of employment at the time of the inspection.

(30) Environmental exposure sampling – Sampling of the workplace environment, performed for a variety of reasons including identifying of contaminants and their sources, determining worker exposures, and checking the effectiveness of controls.

(31) Establishment — An establishment is a single physical location doing business, offering services, or having industrial operations. For activities where employees do not work at a single physical location, such as construction; transportation; communications, electric, gas, and sanitary services; and similar operations, the establishment is the main or branch office, terminal, station, etc. that either supervise such activities or are the base for personnel to carry out these activities.

(a) One location/multiple establishments. Normally, one business location has only one establishment. Under limited conditions, two or more separate businesses that share a single location are separate establishments. An employer may divide one location into two or more establishments only when:

(A) Each of the establishments represents a distinctly separate business;

(B) Each business is engaged in a different economic activity;

(C) Separate reports are routinely prepared for each establishment on the number of employees, their wages and salaries, sales or receipts, and other business information. For example, if an employer operates a construction company at the same location as a lumber yard, each business can be a separate establishment.

(b) Multiple locations/one establishment. Only under certain conditions. An employer may combine two or more physical locations into a single establishment only when:

(A) The employer operates the locations as a single business operation under common management;

(B) The locations are all near each other; and

(C) The employer keeps one set of business records for all the locations, such as records on the number of employees, their wages and salaries, sales or receipts, and other kinds of business information. For example, one manufacturing establishment might include the main plant, a warehouse a few blocks away, and an administrative services building across the street.

(c) Telecommuting from home. For employees who telecommute from home, the employee's home is not a business establishment, and a separate 300 Log is not required. Employees who telecommute must be linked to one of the business' establishments under 437-001-0700(15)(c).

(32) Farm operation — Any operation involved in the growing or harvesting of crops or the raising of livestock or poultry.

(33) Filed — A document is considered to have been filed on the date of postmark if mailed, or on the date of receipt, if transmitted by other means to Oregon OSHA, DCBS, or the WCB.

(34) First aid — Any one-time treatment and subsequent observation of minor scratches, cuts, burns, splinters, or similar injuries that do not ordinarily require medical care. Such one-time treatment and subsequent observation is considered first aid even though it is provided by a physician or registered professional personnel.

(35) Fixed place of employment — The entire facility maintained by an employer at one general location, and operations provided from that facility, regardless of the size or number of departments or buildings in the facility. For the purpose of determining repeat violations, fixed place of employment includes employers or owners engaged in construction activity who will be at a single worksite continuously for more than 24 months. Forest activities are excluded as are construction sites established for a period of 24 months or less.

(36) Hazard — A condition, practice, or act that could result in an injury or illness to an employee.

(37) Health hazard — Health hazards mean carcinogens, lead, silica, toxic metals and fumes, vapors or gases, toxic or highly corrosive liquids or chemicals, chemical sensitizers, pesticides, fungicides, solvents, biological agents, and harmful physical stress agents.

(38) Imminent danger — A condition, practice, or act that exists in any place of employment and could reasonably be expected to cause death or serious physical harm immediately.

(39) Injury or illness — An injury or illness is an abnormal condition or disorder. Injuries include cases such as, but not limited to, a cut, fracture, sprain, or amputation. Illnesses include both acute and chronic illnesses, such as, but not limited to, skin disease, respiratory disorder, or poisoning.

NOTE: Record injuries and illnesses only if they are new, work-related cases that meet one or more of the recording criteria.

(40) Inspection — An official examination of a place of employment by a compliance officer to determine if an employer is in compliance with the Act.

(a) Programmed. Inspections conducted under the provisions of OAR 437-001-0057.

(b) Unprogrammed.

(A) Follow-up inspection — An inspection to determine if a previously identified violation has been corrected.

(B) Complaint inspection — An inspection made in response to a complaint.

(C) Accident investigation — A systematic appraisal of an accident sequence to determine causal factors, corrective actions and preventative measures.

(D) Referral inspection — An inspection made in response to a referral.

(41) Letter of corrective action — A letter stating the corrective action(s) taken by the employer to comply with the violation(s) that were not corrected at the time of the inspection.

(42) Lost workdays — The actual number of days after, but not including, the day of injury or illness when the employee would have worked, but could not perform all or any part of their normal assignment during all or any part of the employee's next regular workday or shift because of the occupational injury or illness.

(43) Medical treatment — Treatment administered by a physician or by registered professional personnel under the standing orders of a physician. Medical treatment does not include first aid treatment even though provided by a physician or registered professional personnel, nor does it include treatment ordinarily considered diagnostic or preventative in nature.

(44) MOD (Experience Rating Modification Factor) — Experience rating recognizes the differences among individual insureds with respect to safety and loss prevention. It compares the experience of individual insureds with the average insured in the same classification. The differences are reflected by an experience rating modification, based on individual payroll and loss records, that may result in an increase, decrease, or no change in premium.

(45) North American Industry Classification System (NAICS) — A classification system developed by the Executive Office of the President/Office of Management and Budget, for use in classifying establishments by the type of activity in which they are engaged. Each establishment is assigned an industry code for its major activity. The 2002 edition of the NAICS manual is used for coding.

(46) Order to correct — A written Oregon OSHA order that directs an employer to abate a violation within a given period of time.

(47) Owner — Every person having ownership, control, or custody of any place of employment or of the construction, repair, or maintenance of any place of employment.

(48) Partial inspection — An inspection with focus limited to certain potentially hazardous areas, operations, conditions, or practices at the establishment. The inspection may include review of injury and illness records and any required programs relative to the inspection.

(49) Person — One or more individuals, legal representatives, partnerships, joint ventures, associations, corporations (whether or not organized for profit), business trusts, or any organized group of persons, and includes the state, state agencies, counties, municipal corporations, school districts, and other public corporations or subdivisions.

(50) Personal exposure samples — Measurement of contaminants or physical agents to characterize the environment in the breathing or hearing zone of individual workers in order to evaluate their specific work exposures. Personal samplers are placed on the worker to obtain either one continuous sample covering a portion of the workday or consecutive samples covering a stated time period.

(51) Physician or other licensed health care professional — A physician or other licensed health care professional is an individual whose legally permitted scope of practice (i.e., license, registration, or certification) allows them to independently perform, or be delegated the responsibility to perform, the activities described by this regulation.

(52) Place of employment:

(a) Includes every place that is fixed or movable; indoors, outdoors, or underground; and the premises and structures appurtenant thereto.

(b) Includes every place where an employee works or intends to work either temporarily or permanently.

(c) Includes every place where there is any process, operation, or activity related, either directly or indirectly, to an employer's industry, trade, business, or occupation, including a labor camp provided by an employer for their employees or by another person engaged in providing living quarters or shelters for employees.

(d) Does not include any place where the only employment involves nonsubject workers employed in or around a private home.

(e) Does not include any corporate farm where the only employment involves the farm's family members, including parents, spouses, sisters, brothers, daughters, sons, daughters-in-law, sons-in-law, nieces, nephews, or grandchildren.

(53) Record — Any recorded information regardless of its physical form or character.

(54) Recordable occupational injuries or illnesses — Any occupational injuries or illnesses that result in:

(a) Fatalities, regardless of the time between the injury and death, or the length of the illness;

(b) Lost workday cases, other than fatalities, that prevent the employee from performing their normal assignment during any part of the employee's next regular, or any subsequent workday or shift; or

(c) Nonfatal cases without lost workdays that result in transferring to another job or terminating employment, require medical treatment (other than first aid), or involve loss of consciousness or restriction of work or motion. This category also includes any diagnosed occupational illnesses that are reported to the employer but are not classified as fatalities or lost workday cases.

(55) Referral — A notification made to the responsible agency of safety or health violations observed by an Oregon OSHA employee, other federal, state or local government representatives, or the media.

(56) Rule — Any agency directive, standard, regulation or statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of the agency and is adopted according to the Administrative Procedure Act. The term includes the amendment or repeal of a prior rule, but does not include, unless a hearing is required by statute, internal management directives, regulations, or statements that do not substantially affect the interests of the public.

(57) Scheduling list — An electronic or paper list of places of employment or employers scheduled for inspection.

(58) Serious physical harm:

(a) Injuries that could shorten life or significantly reduce physical or mental efficiency by inhibiting, either temporarily or permanently, the normal function of a part of the body. Examples of such injuries are amputations, fractures (both simple and compound) of bones, cuts involving significant bleeding or extensive suturing, disabling burns, concussions, internal injuries, and other cases of comparable severity.

(b) Illnesses that could shorten life or significantly reduce physical or mental efficiency by inhibiting, either temporarily or permanently, the normal function of a part of the body, even though the effects may be cured by halting exposure to the cause or by medical treatment. Examples of such illnesses are cancer, pneumoconiosis, narcosis, or occupational infections (caused by biological agents), and other cases of comparable severity.

(59) Standard threshold shift (STS) — A change in hearing threshold relative to the baseline audiogram of an average of 10 dB or more in either ear.

(60) Substantially similar — As it relates to a repeat violation, a second violation that is closely related in substance or form to a previous violation.

(61) Suspended penalty — A penalty that is determined but not assessed.

(62) Variance — The written authority given by Oregon OSHA to an employer permitting the use of a specific alternative means or method to comply with the intent of a rule. Specific types of variances are:

(a) Permanent — A variance that remains in effect until modified or revoked according to OAR 437-001-0430;

(b) Temporary — A variance granted for a stated period of time to permit the employer to achieve compliance with a new rule;

(c) Research — A variance granted for a stated period of time to allow industrial or governmental research designed to demonstrate or validate new and improved safety or health techniques or products; and

(d) Interim order — The temporary authority for an employer to use an alternative means or method by which the employer effectively safeguards the safety and health of employees until final action can be taken on the variance request.

(63) Violation — The breach of a person's duty to comply with an Oregon occupational safety or health statute, regulation, rule, standard, or order.

(a) Specific classifications of violations are:

(A) Serious violation — A violation where there is substantial probability that death or serious physical harm could result from an existing condition, or from one or more practices, means, methods, operations, or processes that have been adopted or are in use in a place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know about the violation;

(B) Other than serious violation — A violation that is other than a serious or minimal violation; and

(C) Minimal violation — A violation that does not have a direct or immediate relationship to the safety or health of employees.

(b) Specific types of the above classifications are:

(A) Willful violation — A violation that is committed knowingly by an employer or supervisory employee who, having a free will or choice, intentionally or knowingly disobeys or recklessly disregards the requirements of a statute, regulation, rule, standard, or order.

(B) Unabated violation — A violation that has not been fully corrected by the date ordered.

(C) Repeat violation:

(i) An employer's second or subsequent violation involving a substantially similar violation as the earlier violation or violations.

(ii) In these rules, repeat, repeated and repeatedly are used synonymously.

(D) First-instance violation — An employer's first violation of a particular statute, regulation, rule, standard, or order.

(E) Egregious — Those conditions that normally constitute a flagrant violation of the Oregon Safe Employment Act, or Oregon OSHA standards, or regulations such that each instance of the violation is cited separately.

(c) Combined violation — Multiple violations of the same statute, regulation, rule, standard, or order within an establishment that have been combined as one violation to indicate an overall lack of compliance with a safety or health statute, regulation, rule, standard, or order.

(d) Grouped violation — Multiple violations of different statutes, regulations, rules, standards or orders, within an establishment that have been combined as one violation:

(A) To indicate an increase in the severity or probability of the violation, or

(B) Recordkeeping and posting requirements involving the same document, or

(C) The violations are so closely related as to constitute a single hazardous condition.

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

Stats. Implemented: ORS 654.001 - 654.326, 654.412 - 654.423, 654.991

Hist.: WCB 19-1974, f. 6-5-74, ef. 7-1-74; WCB 8-1975, f. 8-5-75, ef. 9-1-75; WCD 5-1978, f. 6-22-78, ef. 8-15-78; WCD , 7-1979, f. 8-20-79, ef. 9-1-79; WCD 4-1981, f. 5-22-81, ef. 7-1-81; WCD 6-1982, f. 6-28-82, ef. 8-1-82; WCD 9-1983, f. & ef. 11-15-83; WCD 2-1984, f. 3-2-84, ef. 3-15-84; WCD 12-1984, f. 9-20-84, ef. 11-1-84; WCD 9-1986, f. 10-7-86, ef. 12-1-86; APD 6-1987, f. 12-23-87, ef. 1-1-88; APD 7-1988, f. 6-17-88, ef. 7-1-74; OSHA 10-1990(Temp), f. & cert. ef. 5-31-90; OSHA 24-1990, F. & cert. ef. 10-10-90; OSHA 7-1992, f. 7-31-92, cert. ef. 10-1-92; OSHA 6-1994, f. & cert. ef. 9-30-94; OSHA 2-1996, f. & cert. ef. 6-13-96; OSHA 5-1998, f. & cert. ef. 10-15-98; OSHA 7-1999, f. & cert. ef. 7-15-99; OSHA 11-1999(Temp), f. & cert. ef. 10-20-99 thru 4-14-00; OSHA 4-2000, f. 4-14-00, cert. ef. 4-15-00; OSHA 11-2001, f. 9-14-01, cert. ef. 1-1-02; OSHA 7-2002, f. & cert. ef. 11-15-02; OSHA 6-2003, f. & cert. ef. 11-26-03; OSHA 7-2006, f. & cert. ef. 9-6-06; OSHA 5-2007(Temp), f. & cert. ef. 9-5-07 thru 2-29-08; OSHA 1-2008, f. 2-22-08, cert. ef. 3-1-08; OSHA 2-2009, f. 1-27-09, cert. ef. 2-3-09; OSHA 10-2009, f. & cert. ef. 10-5-09; OHSA 2-2012, f. 5-11-12, cert. ef. 7-1-12; OHSA 2-2015, f. 3-18-15, cert. ef. 1-1-16

437-001-0700

Recordkeeping and Reporting

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

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

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

(3) Exemptions.

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

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

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

(4) Alternate or Duplicate Records. If you create records to comply with another government agency's injury and illness recordkeeping requirements, those records meet Oregon OSHA's recordkeeping requirements if Oregon OSHA accepts the other agency's records under a memorandum of understanding with that agency, or if the other agency's records contain the same information as this standard requires you to record. Contact Oregon OSHA for help in determining if your records meet Oregon OSHA's requirements. Table 1. [Table not included. See ED. NOTE.]

(5) Recording Criteria and Forms.

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

(A) Is work-related; and

(B) Is a new case; and

(C) Meets one or more of the general recording criteria of OAR 437-001-0700(8) or the application to specific cases of OAR 437-001-0700(9) through (12). Table 2. [Table not included. See ED. NOTE.]

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

(6) Work-Related. You must consider an injury or illness to be work-related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing injury or illness. You presume work-relatedness for injuries and illnesses resulting from events or exposures occurring in the work environment, unless an exception in Table 3 specifically applies. [Table not included. See ED. NOTE.]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NOTE: Oregon OSHA believes that most significant injuries and illnesses will result in one of the events listed below. However, there are some significant injuries, such as a punctured eardrum or a fractured toe or rib, for which neither medical treatment nor work restrictions may be recommended. In addition, there are some significant progressive diseases, such as byssinosis, silicosis, and some types of cancer, for which medical treatment or work restrictions may not be recommended at the time of diagnosis but are likely to be recommended as the disease progresses. Cancer, chronic irreversible diseases, fractured or cracked bones, and punctured eardrums are generally considered significant injuries and illnesses, and must be recorded at the initial diagnosis even if medical treatment or work restrictions are not recommended, or are postponed, in a particular case. Table 5. [Table not included. See ED. NOTE.]

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

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

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

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

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

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

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

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

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

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

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

(B) A physician or other licensed health care professional recommends that the employee not perform one or more of the routine functions of their job, or not work the full workday that they would otherwise work.

NOTE: For recordkeeping purposes, an employee's routine functions are those work activities the employee regularly performs at least once per week.

(C) A recommended work restriction is recordable only if it affects one or more of the employee's routine job functions. To determine whether this is the case, you must evaluate the restriction in light of the routine functions of the injured or ill employee's job.

(D) A partial day of work is recorded as a day of job transfer or restriction for recordkeeping purposes, except for the day on which the injury occurred or the illness began.

(E) Record job transfer and restricted work cases in the same box on the OSHA 300 Log.

(F) Count days of job transfer or restriction in the same way you count days away from work. The only difference is that, if you permanently assign the injured or ill employee to a job modified or permanently changed to eliminate the routine functions the employee was restricted from performing, you may stop the day count when the modification or change is permanent. You must count at least 1-day of restricted work or job transfer for such cases.

(d) Medical Treatment. If a work-related injury or illness results in medical treatment beyond first aid, you must record it on the OSHA 300 Log. If the employee received medical treatment but remained at work without transfer or restriction and the injury or illness did not involve death, one or more days away from work, one or more days of restricted work, or one or more days of job transfer, you enter a check mark in the box for other recordable cases.

NOTE: You must record the case even if the injured or ill employee does not follow the physician or other licensed health care professional's recommendation.

(A) "Medical treatment" is the management and care of a patient to combat disease or disorder. For this rule, medical treatment does not include:

(i) Visits to a physician or other licensed health care professional solely for observation or counseling;

(ii) The conduct of diagnostic procedures, such as x-rays and blood tests, including the administration of prescription medications solely for diagnostic purposes (e.g., eye drops to dilate pupils); or

(iii) "First aid" as in (B) below.

(B) First aid is any of the conditions listed in Table 6. This is a complete list of all first aid treatments for this standard. These treatments are considered first aid regardless of the professional status of the person providing the treatment. Table 6. [Table not included. See ED. NOTE.]

(e) Loss of Consciousness. You must record a work-related injury or illness if the worker becomes unconscious, regardless of the length of time they remain unconscious.

(f) Other Injuries and Illnesses. Work-related cases involving cancer, chronic irreversible disease, a fractured or cracked bone, or a punctured eardrum must always be recorded under the general criteria at the time of occurrence.

(9) Needlestick and Sharps Injury Recording Criteria.

(a) When an injury is diagnosed later as an infectious bloodborne disease, you must update the classification on the 300 log to reflect the new status or classification.

(b) You must record all work-related needlestick injuries and cuts from sharp objects contaminated with another person's blood or other potentially infectious material (as defined by OAR 437-002-1910.1030). You must enter the case on the OSHA 300 Log as an injury. To protect the employee's privacy, do not enter the employee's name on the OSHA 300 Log (see the requirements for privacy cases in OAR 437-001-0700(14).

NOTE: If you have an exposure incident that is not a needlestick, you must still record it if it results in death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, loss of consciousness, or diagnosis of a significant injury or illness, such as HIV, hepatitis B, or hepatitis C.

(10) Medical Removal Recording Criteria. If another Oregon OSHA standard requires the medical removal of an employee, you must record the case on the OSHA 300 Log.

(a) You must enter each medical removal case on the OSHA 300 Log as either a case involving days away from work or a case involving restricted work activity, depending on how you decide to comply with the medical removal requirement. If the medical removal is the result of a chemical exposure, you must enter the case on the OSHA 300 Log by checking the "poisoning" column.

(b) If the case involves voluntary medical removal before reaching the medical removal levels required by an Oregon OSHA standard, do not record the case on the OSHA 300 Log.

(11) Occupational Hearing Loss Recording Criteria.

(a) Hearing loss must be recorded on the OSHA 300 Log by checking the hearing loss column when:

(A) An annual audiogram reveals a Standard Threshold Shift (STS) in either or both ears; and

(B) The hearing level in the same ear is 25 dB above audiometric zero.

NOTE: For the ease of the reader the definitions for STS and audiometric zero are provided here. Standard Threshold Shift (STS) — A change in hearing threshold relative to the baseline audiogram of an average of 10 dB or more in either ear. Audiometric Zero — The lowest sound pressure level that the average, young adult with normal hearing can hear.

(b) In determining whether an STS has occurred, you may correct for the age of the employee. Use the appropriate table in Appendix A to determine the age adjustment. If the STS is 10 dB or more after the age correction, it still meets the criteria for recordability.

(c) If you retest the employee's hearing within 30 days of the first test, and the retest does not confirm the recordable STS, you are not required to record the hearing loss case on the OSHA 300 Log. If the retest confirms the recordable STS, you must record the hearing loss case within 7 calendar days of the retest. If subsequent audiometric testing performed under the testing requirements of the noise standard (OAR 437-002-1910.95) indicates that an STS is not persistent, you may erase, delete, or line-out the recorded entry.

(d) If a physician or other licensed health care professional determines that the hearing loss is not work-related or has not been significantly aggravated by occupational noise exposure, the case is not work-related. Do not record it on the OSHA 300 Log.

(12) Tuberculosis Reporting Criteria. If any of your employees has an occupational exposure to anyone with a known case of active tuberculosis (TB), and that employee subsequently develops a tuberculosis infection, as evidenced by a positive skin test or diagnosis by a physician or other licensed health care professional, you must record the case on the OSHA 300 Log by checking the "respiratory condition" column.

(a) Do not record a pre-employment positive skin test because the exposure was not in your workplace.

(b) Line out or erase a recorded case if you prove that:

(A) The worker lives in a household with a person diagnosed with active TB;

(B) The Public Health Department identifies the worker as a contact of an individual with a case of active TB unrelated to the workplace; or

(C) A medical investigation shows that the employee's infection was caused by exposure to TB away from work, or proves that the case was not related to the workplace TB exposure.

(13) Removed.

(14) Forms.

(a) You must use OSHA 300, 300A, and DCBS Form 801 or equivalent forms, for recordable injuries and illnesses. The OSHA 300 form is the Log of Work-Related Injuries and Illnesses, the 300A is the Summary of Work-Related Injuries and Illnesses, and the DCBS Form 801 or equivalent is the Worker's and Employer's Report of Occupational Injury or Disease. The OSHA 300 and 300A Summary forms must be kept on a calendar year basis.

(A) Even if you are exempt from recordkeeping, you must have at each establishment, a copy of DCBS Form 801 or equivalent for each occupational injury or illness that may result in a compensable claim.

(B) You must enter information about your business at the top of the OSHA 300 Log, enter a one or two line description for each recordable injury or illness, and summarize this information on the OSHA 300A Summary form at the end of the year.

(C) You must complete a DCBS Form 801 or equivalent form, for each recordable injury or illness entered on the OSHA 300 Log.

(D) You must enter each recordable injury or illness on the OSHA 300 Log and DCBS Form 801 or equivalent within 7 calendar days of receiving information that a recordable injury or illness has occurred.

(E) An equivalent form is one that has the same information, is as readable and understandable, and is completed using the same instructions as the OSHA form it replaces. Many employers use an insurance form instead of the DCBS Form 801, or supplement an insurance form by adding any additional information required by OSHA.

(F) You may use a computer to keep your records if it can produce equivalent forms when needed.

(G) Privacy Concern Cases. If you have a "privacy concern case," do not enter the employee's name on the OSHA 300 Log. Instead, enter "privacy case" in the space normally used for the employee's name. This will protect the privacy of the injured or ill employee when another employee, a former employee, or an authorized employee representative has access to the OSHA 300 Log. You must keep a separate, confidential list of the case numbers and employee names for your privacy concern cases so you can update the cases and provide the information to the government if asked to do so.

(H) The following injuries or illnesses are privacy concern cases:

(i) An injury or illness to an intimate body part or the reproductive system;

(ii) An injury or illness resulting from a sexual assault;

(iii) Mental illnesses;

(iv) HIV infection, hepatitis, or tuberculosis;

(v) Needlestick injuries and cuts from sharp objects contaminated with another person's blood or other potentially infectious material; and

(vi) Other illnesses, if the employee voluntarily requests that his or her name not be entered on the log.

NOTE: This is a complete list of all injuries and illnesses that are privacy concern cases.

(I) If you reasonably believe that information describing the privacy concern case may be personally identifiable even though the employee's name is omitted, use discretion in describing the injury or illness on both the OSHA 300 and DCBS 801 Forms. You must enter enough information to identify the cause of the incident and the general severity of the injury or illness, but you do not need to include details of an intimate or private nature. For example, describe a sexual assault case as "injury from assault," or an injury to a reproductive organ could be described as "lower abdominal injury."

(J) If you voluntarily disclose the forms to persons other than government representatives, employees, former employees or authorized representatives, you must remove or hide the employees' names and other personally identifying information, except for the following cases:

(i) To an auditor or consultant hired by the employer to evaluate the safety and health program;

(ii) To the extent necessary for processing a claim for workers' compensation or other insurance benefits; or

(iii) To a public health authority or law enforcement agency for uses and disclosures for which consent, an authorization, or opportunity to agree or object is not required under Department of Health and Human Services Standards for Privacy of Individually Identifiable Health Information, 45 CFR.164.512.

(b) In addition, health care employers as defined in ORS 654.412 must record assaults against employees on the Health Care Assault Log. See OAR 437-001-0706.

(15) Multiple Business Establishments. You must keep a separate OSHA 300 Log for each establishment that you expect to operate for 1-year or longer.

(a) You may keep one OSHA 300 Log that covers all of your short-term establishments. You may also include the short-term establishments' recordable injuries and illnesses on an OSHA 300 Log that covers short-term establishments for individual company divisions or geographic regions.

(b) You may keep the records for an establishment at your headquarters or other central location if you can:

(A) Transmit information about the injuries and illnesses from the establishment to the central location within 7 calendar days of receiving information that a recordable injury or illness has occurred; and

(B) Produce and send the records from the central location to the establishment within the time frames required by OAR 437-001-0700(20) and 437-001-0700(21) when you are required to provide records to a government representative, employees, former employees or employee representatives.

(c) You must link each employee with one of your establishments, for recordkeeping purposes. You must record the injury and illness on the OSHA 300 Log of the injured or ill employee's establishment, or on an OSHA 300 Log that covers that employee's short-term establishment.

(d) If the injury or illness occurs at one of your establishments, you must record the injury or illness on the OSHA 300 Log of the establishment where the injury or illness occurred. If the employee is injured or becomes ill and is not at one of your establishments, you must record the case on the OSHA 300 Log at the establishment where the employee normally works.

(16) Covered Employees. You must record on the OSHA 300 Log the recordable injuries and illnesses of all employees on your payroll, whether they are labor, executive, hourly, salary, part-time, seasonal, or migrant workers. You also must record the recordable injuries and illnesses that occur to employees who are not on your payroll if you supervise these employees on a day-to-day basis. If your business is organized as a sole proprietorship or partnership, the owner or partners are not considered employees for recordkeeping purposes.

(a) Record the injuries and illnesses to workers from temporary help agencies or employee leasing services only if you supervise these employees on a day-to-day basis.

(b) If a contractor's employee is under the day-to-day supervision of the contractor, the contractor is responsible for recording the injury or illness. If you supervise the contractor employee's work on a day-to-day basis, you must record the injury or illness.

(c) You and the temporary help service, employee leasing service, personnel supply service, or contractor should coordinate your efforts to make sure that each injury and illness is recorded only once: either on your OSHA 300 Log (if you provide day-to-day supervision) or on the other employer's OSHA 300 Log (if that company provides day-to-day supervision).

(17) Annual Summary and Posting Requirements. At the end of each calendar year, you must:

(a) Review the OSHA 300 Log to verify that the entries are complete and accurate, and correct any deficiencies identified.

(b) Use the OSHA 300A Summary form to create an annual summary of injuries and illnesses recorded on the OSHA 300 Log:

(A) Total the columns on the OSHA 300 Log (if you had no recordable cases, enter zeros for each column total); and

(B) Enter the calendar year covered, the company's name, establishment name, establishment address, annual average number of employees covered by the OSHA 300 Log, and the total hours worked by all employees covered by the OSHA 300 Log.

(C) If you are using an equivalent form other than the OSHA 300A Summary form, the summary you use must also include the employee access and employer penalty statements found on the OSHA 300A Summary form.

(c) Sign or have a representative sign the 300A Summary to certify that the OSHA 300 Log is correct to the best of the signer's knowledge. If the summary is signed by a person other than a company executive, a company executive must also review the OSHA 300 Log in order to be generally familiar with its contents. A company executive is:

(A) An owner of the company when the company is a sole proprietorship or partnership;

(B) An officer of the corporation;

(C) The highest ranking company official working at the establishment; or

(D) The immediate supervisor of the highest ranking company official working at the establishment.

(d) Post a copy of the 300A Summary form in each establishment in a conspicuous place or places where notices to employees are customarily posted. Ensure that the posted annual summary is not altered, defaced or covered by other material.

(e) Post the 300A Summary no later than February 1 of the year following the year covered by the records and keep it posted until April 30.

(f) When you maintain records for all of your establishments at your headquarters or other central location, each 300A Summary form must be specific to each separate establishment.

(18) Paperwork Retention and Updating.

(a) You must save the OSHA 300 Log, the privacy case list (if any), the 300A Summary form, and the DCBS Form 801 or equivalent forms for 5 years following the end of the calendar year that they cover.

(b) During the storage period, you must update your stored OSHA 300 Logs to include newly discovered recordable injuries or illnesses and to show any changes that have occurred in the classification of previously recorded injuries and illnesses. If the description or outcome of a case changes, you must remove or line out the original entry and enter the new information.

NOTE: For more information on retention of medical and exposure records, see OAR 437-002-1910.1020.

(19) Change of Business Ownership. If your business changes ownership, you must record and report work-related injuries and illnesses only for the time you owned the establishment. You must transfer the records to the new owner. The new owner must save all records of the establishment kept by the prior owner, but need not update or correct the records of the prior owner.

(20) Employee Involvement. You must involve your employees and their representatives in the recordkeeping system.

(a) Inform each employee of how they are to report an injury or illness to you.

(b) Provide limited access to your injury and illness records for your employees and their representatives.

(c) Your employees, former employees, their personal representatives, and their authorized collective bargaining representatives have the right to access the OSHA injury and illness records, in accordance with (d) through (h) below.

NOTE: A personal representative is anybody designated in writing by the employee or former employee, as well as the legal representative of a deceased or legally incapacitated employee.

(d) When an employee, former employee, personal representative, or authorized employee representative asks for copies of your current or stored OSHA 300 Log(s) for an establishment the employee or former employee has worked in, you must give the requester a copy of the relevant OSHA 300 Log(s) by the end of the next business day.

(e) You must leave the names on the 300 Log. However, to protect the privacy of injured and ill employees, do not record the employee's name on the OSHA 300 Log for certain "privacy concern cases."

(f) When an employee, former employee, or personal representative asks for a copy of the DCBS Form 801 or equivalent describing an injury or illness to that employee or former employee, you must give the requester a copy of the DCBS Form 801 or equivalent containing that information by the end of the next business day.

(g) When an authorized employee representative asks for copies of the DCBS Form 801 or equivalent for an establishment where the agent represents employees under a collective bargaining agreement, you must give copies of those forms to the authorized employee representative within 7 calendar days. You are only required to give the authorized employee representative information from the releasable part of the DCBS Form 801 or equivalent section titled "Tell us about the case" or a similar section. You must remove all other information from the copy of the DCBS Form 801 or equivalent form that you give to the authorized employee representative.

(h) You may not charge for these copies the first time. However, if one of the designated persons asks for additional copies, you may assess a reasonable charge for retrieving and copying the records.

(21) Providing Records to Government Representatives. When an authorized government representative asks for the records you keep in compliance with this standard, you must provide copies of the records within 4 business hours. Authorized government representatives are:

(a) A representative of the Oregon Department of Consumer and Business Services.

(b) A representative of the Secretary of Labor conducting an inspection or investigation under the Act.

(c) A representative of the Secretary of Health and Human Services (including the National Institute for Occupational Safety and Health - NIOSH) conducting an investigation under Section 20(b) of the Act.

(22) Requests from the Bureau of Labor Statistics or DCBS. If you receive a Survey of Occupational Injuries and Illnesses Form from the Bureau of Labor Statistics (BLS), or a BLS designee, or a request for data from the Oregon Department of Consumer and Business Services, you must promptly complete the form and return it following the instructions on the survey form.

(23) Prohibition against discrimination. Oregon Revised Statute 654.062(5) prohibits discrimination against an employee for reporting a work-related fatality, injury or illness. It also protects the employee who files a safety and health complaint, asks for access to this rule, records, or otherwise exercises any rights afforded by law or rule.

[ED. NOTE: Forms, Graphics & Tables referenced are available from the agency.]

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: WCB 19-1974, f. 6-5-74, ef. 7-1-74; WCD 7-1979, f. 8-20-79, ef. 9-1-79; WCD 4-1981, f. 5-22-81, ef. 7-1-81; APD 7-1988, f. 6-17-88, ef. 7-1-74; OSHA 11-2001, f. 9-14-01, cert. ef. 1-1-02; OSHA 2-2002, f. & cert. ef. 3-12-02; OSHA 7-2002, f. & cert. ef. 11-15-02; OSHA 6-2003, f. & cert. ef. 11-26-03; OSHA 7-2006, f. & cert. ef. 9-6-06; OSHA 11-2007, f. 12-21-07, cert. ef. 1-1-08; OSHA 8-2008, f. & cert. ef. 7-14-08; OHSA 2-2015, f. 3-18-15, cert. ef. 1-1-16

437-001-0704
Reporting Fatalities and Injuries to Oregon OSHA

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

NOTE: Reporting a work-related injury, illness, or fatality does not assign fault to anybody, does not prove the violation of an OSHA rule, and does not establish the employee's eligibility for workers' compensation or other benefits.

(2) Scope. This standard covers all employers covered by the Oregon Safe Employment Act.

(3) You must report fatalities and catastrophes to Oregon OSHA only in person or by telephone within 8 hours of occurrence or employer knowledge (reported to you or any of your agents) of a fatality or catastrophe:

(a) Fatalities. You must report all work-related fatalities. You must report all fatalities caused by a heart attack at work. Report a fatality only if death occurs within 30 days of the incident.

NOTE: Work-related fatalities include those caused by a motor vehicle accident that happens during the employee's work shift.

(b) Catastrophe. A catastrophe is an incident in which two or more employees are fatally injured, or three or more employees are admitted to a hospital or an equivalent medical facility (for example, a clinic) as a result of the same incident.

(4) You must report in-patient hospitalizations, loss of an eye, and either amputations or avulsions that result in bone loss, to Oregon OSHA within 24 hours after occurrence of the work related incident or employer knowledge (reported to you or any of your agents) of the event. When an amputation, avulsion or loss of an eye involves in-patient hospitalization, you need only to make a single report.

(a) In-Patient Hospitalization. In-patient hospitalization is the formal admission to the in-patient service of a hospital or clinic for care or medical treatment (includes first-aid). Hospitalization for observation only is not reportable, nor is emergency room treatment. In-patient hospitalization for any reason after emergency room treatment is reportable. You must report all incidents that result in in-patient hospitalization, including heart attacks and motor vehicle accidents. Report in-patient hospitalizations only if they occur within 24 hours of the incident that caused the hospitalization.

(b) Loss of an eye. Report the loss of an eye only if it occurs within 24 hours of the incident that caused the loss.

(c) Amputations and avulsions.

(A) An amputation is the traumatic loss of a limb or other external body part, including a fingertip. Amputations include loss of a body part due to a traumatic incident, a gunshot wound, and medical amputations due to irreparable traumatic injuries.

(B) An avulsion is the tearing away or forcible separation of any body part by trauma.

(C) Report an amputation or avulsion only if it includes bone and/or cartilage loss.

(D) Report an amputation or avulsion only if it occurs within 24 hours of the incident that caused the amputation or avulsion.

NOTE: There are additional reporting requirements for injuries relating to Mechanical Power Presses, 1910.217(g). Oregon OSHA Office locations and telephone numbers are: [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OHSA 2-2015, f. 3-18-15, cert. ef. 1-1-16

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Department of Corrections
Chapter 291

Rule Caption: Programming Levels of Intensive Management Unit Inmates

Adm. Order No.: DOC 4-2015(Temp)

Filed with Sec. of State: 3-20-2015

Certified to be Effective: 3-20-15 thru 9-15-15

Notice Publication Date:

Rules Amended: 291-055-0020

Subject: This temporary rule amendment is necessary to clarify that an inmate assigned to the Intensive Management Unit (IMU) who continues to present a serious management concern may be retained in an IMU or IMU status cell at custody level 5. This provision applies retroactively to inmates assigned to an IMU on or after December 29, 2014. Other changes are necessary to clarify personal property that is permitted within IMU.

Rules Coordinator: Janet R. Worley—(503) 945-0933

291-055-0020
Programming Levels of Intensive Management Unit Inmates

(1) Program Level Criteria:

(a) The Assistant Superintendent of Correctional Rehabilitation or designee will establish criteria for the various program levels.

(b) All inmates assigned to an Intensive Management Unit or IMU status cell will begin on program level two. The IMU Inmate Program Committee will evaluate each inmate's legal or investigative status, conduct, program involvement and behavior periodically.

(c) The initial review will be conducted 150 days after assignment to an IMU or IMU status cell and then at least every 90 days thereafter while on IMU status to determine further and appropriate program level assignment.

(d) Demotions:

(A) An inmate may be demoted one or more program levels for conduct or behavior which threatens the safe, secure and orderly operation of the Intensive Management Unit or failure to participate in programs. An inmate will not be demoted to a program level one strictly for failure to participate in a program. Any demotion to level one shall be based on inmate behavior.

(B) If immediate action is necessary, the IMU shift supervisor may take appropriate action and recommend a reduction in an inmate's program level and submit it to the Intensive Management Unit manager for approval. All demotions will be reviewed by the IMU Inmate Program Committee for final approval.

(e) Inmate Program Committee Guidelines for Level Advancement: The following criteria will be considered when evaluating an inmate's adjustment in IMU for program level advancement:

(A) Level One: One month at level one with no major rule violation and no more than one minor rule violation may earn promotion to:

(B) Level Two: Two months at level two with no major rule violation and no more than one minor rule violation and active participation in prescribed programming may earn promotion to:

(C) Level Three: Three months at level three with no major rule violation and no more than one minor rule violation and a successful completion of prescribed programs may earn promotion to:

(D) Level Four: Maintain level four with no major rule violation and no more than one minor rule violation. Within 30 days of a promotion to level four a decision for promotion to level five or reassignment from IMU will be made.

(E) Level Five: Continue to present a serious management concern and are retained at custody Level 5.

(f) The provisions of this rule apply retroactively to all inmates assigned to an IMU or IMU status cell on or after December 29, 2014.

(2) Program Level Services and Activities: Services, activities, programs, incentives, and property may vary based on the architecture of the facility and individual needs of each assigned inmate. An inmate's adjustment and behavior while housed in the Intensive Management Unit will determine the inmate's service and activities program level. The schedule for programs and services are as follows:

(a) Level One basic services provided to Intensive Management Unit (IMU) inmates:

(A) Correspondence and photos (excluding publications): As received through the mail after assignment to level one.

(B) Commissary: Envelopes ordered every two weeks.

(C) Pen and paper.

(D) Legal services: As required in accordance with the department's rule on Legal Affairs (Inmate), OAR 291-139. Inmates are authorized to possess legal materials for active and pending cases in accordance with OAR 291-117-0100, Authorized Legal Property.

(E) Religious services and materials: As requested and meeting security requirements.

(F) Personal hygiene/shower: Three times per week.

(G) State issued personal care items (soap, tooth powder, toothbrush, comb, toilet paper).

(H) Bedding: One mattress, one pillow, one pillow case, two sheets, one towel, and blanket(s) as needed.

(I) Clothing: One set of undergarments, coverall and footwear.

(J) Address books.

(K) Treatment/Programming/Educational Services: As deemed appropriate to the individual treatment program and meeting security requirements.

(L) Library: Up to three paperback books on a scheduled exchange basis.

(b) Level Two services and activities available to IMU inmates: In addition to level one basic services:

(A) Recreation: 40 minutes per day, five days per week.

(B) Commissary: $25 worth of commissary items ordered every two weeks.

(C) Radio and headphones.

(D) One approved property storage container.

(E) Personal care items on the IMU commissary list from the inmate's personal property or purchased after placement.

(F) One pair of personal shower shoes.

(G) Educational material, treatment or psychological service program materials: As requested, approved and meeting security requirements.

(c) Level Three services and activities available to IMU inmates: In addition to level two services:

(A) Commissary: $30 of commissary items ordered every two weeks.

(B) One pair of personal shoes.

(C) Personal books, stored appropriately.

(D) Personal property on the IMU commissary list.

(G) One photo album.

(F) Telephone access one time per week up to 40 minutes.

(G) Work assignments.

(d) Level Four services and activities available to IMU inmates: In addition to level three services:

(A) Commissary: $40 worth of commissary items ordered every two weeks.

(B) Personal property: No more than two approved storage containers.

(e) Level Five services and activities available to IMU inmates in addition to level four services:

(A) Commissary: $50 worth of commissary items ordered every two weeks.

(B) Telephone access up to one hour per day.

(C) Televisions purchased through commissary or issued from the inmate's personal property.

(D) Personal electronic players as approved.

(3) Immediately following any action of self destruction, a medical or psychological services staff member will be consulted by the IMU Manager to determine if the inmate should be recommended for transfer to mental health special housing.

(4) IMU status inmates will be permitted to leave their cell as appropriate to their program level for visits, exercise, showers, medical, dental, or mental health services, hearings, interviews, or other reasons as authorized by the IMU Manager.

(a) The Assistant Superintendent of Security will assign escort supervision as deemed appropriate.

(b) IMU inmates will not be permitted to leave their cells without approval from the IMU Manager unless previously scheduled to do so for program participation. The inmate will be in restraints at all times while being escorted inside and outside the unit. Routine staff interviews may be accomplished at the inmate's cell.

(5) The IMU Manager or designee will conduct a tour of the Intensive Management Unit at least once per shift. Inmates may address questions to the IMU Manager at this time.

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

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

Hist.: CD 13-1991, f. & cert. ef. 6-7-91; CD 21-1994, f. 11-16-94, cert. ef. 12-1-94; DOC 20-2000, f. & cert. ef. 8-18-00; DOC 16-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; DOC 24-2014, f. & cert. ef. 12-29-14; DOC 4-2015(Temp), f. & cert. ef. 3-20-15 thru 9-15-15

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Department of Energy
Chapter 330

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

Adm. Order No.: DOE 1-2015(Temp)

Filed with Sec. of State: 3-23-2015

Certified to be Effective: 3-23-15 thru 9-18-15

Notice Publication Date:

Rules Amended: 330-090-0160, 330-230-0150

Subject: The temporary rule amends the transfer process for the Business Energy Tax Credit (BETC) and Energy Incentives Program (EIP). The temporary 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. The statute authorizing the sale of tax credits for these programs, ORS 469B.103 and 469B.112, is broad stating that the cash payment must equal the present value and the Oregon Department of Energy must establish a formula to be used in determining the prices of credits. The statute does not require the present value at which the credit is transferred equal the formula, but requires the department to provide by rule a formula to be used in determining the price of credits.

By rule, the Oregon Department of Energy provides two processes for BETC or EIP projects owner to sell a tax credit, the pass-through or transfer process. For the pass-through process, the department holds the credit's certificate until a partner is located, may provide assistance and prescribes by rule a set rate for the present value of the tax credit. For the transfer process, the credit is issued to the project owner, the department does not provide assistance and the department does not enforce a specific rate as the present value of the tax credit. However, the parties may use the present value rate in the department's rules as a guide for the transaction.

Project owners utilizing the pass-through or transfer process must meet all other requirements in statute and rule for the transfer, such as the requirement in ORS 315.052 that no portion of the tax credit be used prior to the transfer.

Rules Coordinator: Elizabeth Ross—(503) 373-8534

330-090-0160

Sunset of the Business Energy Tax Credit Program

(1) ORS 315.357 contains the sunset of the Business Energy Tax Credit Program. Applicants must meet the deadlines that apply to their project:

(a) Applicants with a preliminary certification that are unable to demonstrate evidence of beginning construction before April 15, 2011 must receive final certification before January 1, 2013. The Director does not guarantee that a complete final certification application received on or after November 1, 2012 will be processed before January 1, 2013.

(b) Applicants with a preliminary certification that are able to demonstrate evidence of beginning construction before April 15, 2011 must receive final certification before July 1, 2014. The Director does not guarantee that a complete final certification application received on or after May 1, 2014 will be processed before July 1, 2014.

(c) Applicants with a preliminary certification that expires before the July 1, 2014, sunset must request an extension for the preliminary certification pursuant to OAR 330-090-0130(9) or submit the final certification application before the expiration date of the preliminary certificate. There is no automatic extension or waiver for preliminary certifications that expire before the sunset date.

(2) Applicants with a preliminary certification may apply to the department to demonstrate that construction of the facility began before April 15, 2011.

(a) An application must include at least these items:

(A) A brief update on the progress of the facility.

(B) A construction schedule showing the anticipated completion date.

(C) A statement that the facility will be completed as approved in the preliminary certification.

(D) Evidence of beginning construction, including but not limited to:

(i) A copy of an approved building, grading or other permit issued for the facility, dated prior to April 15, 2011.

(ii) Evidence of site-specific construction activity, for the period on or after the later of preliminary certification or building permit approval and before April 15, 2011.

(iii) Evidence of facility-specific construction activity, for the period on or after preliminary certification and before April 15, 2011.

(b) Evidence of site-specific construction activity may include, but is not limited to:

(A) Paid invoices for completed construction activity.

(B) Timesheets for construction activities linked to the facility site.

(C) Paid rental documentation for construction equipment.

(D) A written report from the project engineer or installer signed under penalties of perjury describing the work that had commenced before April 15, 2011.

(c) Evidence of facility-specific construction activity may include, but is not limited to:

(A) Paid invoices for facility-specific assembly or manufacturing activity.

(B) Timesheets for assembly or manufacturing activities linked to the facility.

(C) A written report from the project engineer or manufacturer signed under penalties of perjury describing the work that had commenced before April 15, 2011.

(d) Applications must be received by the department before October 1, 2012.

(e) The Department will review the provided information and respond to the application within 60 days. As part of its determination, the department may request additional information from the applicant and may perform inspections.

(A) The department will issue a written acceptance letter to applicants who are able to demonstrate evidence of beginning construction. The acceptance letter will state the date by which the applicant must receive final certification to be allowed a credit under ORS 315.354.

(B) The department will issue a letter to applicants who have not provided sufficient evidence of beginning of construction providing reasons for the denial.

(3) Transfer of tax credits issued to an applicant. In this section, a transferee means an individual or business that pays the pass-through amount to an applicant that has been issued the tax credit certificate, and receives a re-issued tax credit certificate in place of the original applicant.

(a) An applicant who has been issued a tax credit certificate may transfer the tax credit to an eligible transferee through the department process provided by these rules, provided the transfer occurs within 24 months of the issuance of the original tax credit certificate and after the applicable sunset date for the related facility in ORS 315.357. Prior to the applicable sunset date for the related facility, applicants may use the pass-through to transfer their tax credit.

(b) If an applicant uses any portion of the tax credit it may not be transferred, in accordance with ORS 469B.167(3). For the purposes of transferring the tax credit, a tax credit is considered used when any portion of the tax credit reduces or offsets any portion of the applicant's tax liability.

(c) The department will provide assistance in locating a transferee, however the department does not guarantee that a transferee will be located or obtained.

(d) A tax credit certificate may only be re-issued once, upon a transfer from the applicant to the transferee.

(e) A tax credit certificate may be re-issued in the name of the individual or entity transferee only.

(f) The transferee may not claim the credit for a tax year prior to the year in which the transferee pays for the credit.

(g) The applicant holding the tax credit certificate must submit a complete tax credit transfer application and the required fee to the department. The tax credit transfer application must:

(A) Include an affidavit from the applicant holding the tax credit certificate affirming that no portion of the tax credit has been claimed and that the applicant has received a cash payment equal to the present value of the credit from the transferee.

(B) Provide power of attorney to authorize the department to confirm with the Oregon Department of Revenue that no portion of the tax credit has been claimed.

(C) Include the original tax credit certificate issued to the applicant or affidavit from the applicant on the application form.

(D) The amendment of OAR 330-090-0160 by temporary rule that became effective on March 23, 2015, applies to transactions occurring on or after July 10, 2012.

(h) Upon compliance with this rule and any other applicable requirements, the department will re-issue the tax credit certificate to the transferee.

Stat. Auth.: ORS 469.040 & 469B.161
Stats. Implemented: ORS 469B.130 – 469B.171 & 315.354 –315.357
Hist.: DOE 10-2011, f. & cert. ef. 11-30-11; DOE 8-2012, f. & cert. ef. 7-10-12; DOE 12-2012(Temp), f. & cert. ef. 11-16-12 thru 5-14-13; DOE 1-2013, f. & cert. ef. 5-13-13; DOE 1-2015(Temp), f. & cert. ef. 3-23-15 thru 9-18-15

330-230-0150
Transfer of Tax Credits Issued to an Applicant

(1) An applicant who has been issued a tax credit certificate may transfer the tax credit to an eligible transferee through the department process provided by these rules, provided the transfer occurs within 12 months of the issuance of the tax credit certificate to the applicant.

(2) If an applicant uses any portion of the tax credit it may not be transferred, in accordance with ORS 469B.297(2) or 469B.338(2).

(3) The department will not provide assistance in locating a transferee.

(4) A tax credit certificate may only be re-issued once, upon a transfer from the applicant to the transferee.

(5) Tax credit certificates may be re-issued only in the names of the individual or entity transferee in order to be able to claim the transferred credit.

(6) The transferee may not claim the credit for a tax year prior to the year in which the transferee pays for the credit. If the applicant has not received the payment when the application is submitted, the tax credit certificate will be dated to reflect that the tax credit period begins as of the date the applicant states payment is expected to be received.

(7) The applicant must submit a complete tax credit transfer application and the required fee to the department. The transfer application must:

(a) Include an affidavit from the project owner affirming that no portion of the tax credit has been claimed and that the project owner has received a cash payment equal to the present value of the credit from the transferee.

(b) Provide power of attorney to authorize the department to confirm with the Oregon Department of Revenue that no portion of the tax credit has been claimed.

(c) Include the original tax credit certificate issued to the applicant.

(d) The amendment of OAR 330-230-0150 by temporary rule that became effective on March 23, 2015, applies to transactions occurring on or after December 22, 2014.

(8) Upon compliance with this rule and any other applicable requirements, the department will re-issue the tax credit certificate to the transferee.

Stat. Auth.: OL 2011, Ch. 730, Sec. 34 - 51
Stats. Implemented: OL 2011, Ch. 730, Sec. 34 - 51
Hist.: DOE 7-2012, f. & cert. ef. 6-19-12; DOE 1-2015(Temp), f. & cert. ef. 3-23-15 thru 9-18-15

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Department of Environmental Quality
Chapter 340

Rule Caption: Resource Conservation and Recovery Act Rule Amendments
Adm. Order No.: DEQ 5-2015
Filed with Sec. of State: 4-15-2015
Certified to be Effective: 4-15-15
Notice Publication Date: 2-1-2015
Rules Amended: 340-100-0001, 340-100-0002, 340-100-0003, 340-100-0004, 340-100-0010, 340-101-0001, 340-101-0030, 340-102-0010, 340-102-0011, 340-102-0041, 340-102-0065, 340-102-0070, 340-103-0010, 340-104-0001, 340-104-0145, 340-104-0149, 340-105-0001, 340-105-0140, 340-106-0001, 340-109-0001, 340-111-0010, 340-111-0070
Subject: The Environmental Protection Agency delegates authority to DEQ to operate the federal Resource and Conservation Recovery Act hazardous waste program in Oregon. Oregon must periodically review and adopt new or amended federal rules to retain this delegated federal authority. DEQ last updated its rules in February 2009. In that rulemaking, DEQ incorporated by reference most federal rules enacted through June 30, 2007.

In this rulemaking, DEQ proposes to align its hazardous waste rules with federal rules. DEQ will do this by incorporating some previously adopted but subsequently amended federal rules, and incorporating some federal rules that have not been previously adopted into Oregon rules. These changes will enable Oregon to ask EPA to continue authorizing Oregon to operate its RCRA hazardous waste program.
Rules Coordinator: Meyer Goldstein—(503) 229-6478

340-100-0001
Purpose and Scope

(1) The Department of Environmental Quality finds that increasing quantities of hazardous waste are being generated in Oregon. That waste, without adequate safeguards, can create conditions that threaten public health and the environment. It is therefore in the public interest to establish a comprehensive program to provide for safely managing this waste.

(2) The purpose of the management program in OAR chapter 340 divisions 100 to 110, 120, 124 and 142 is to control hazardous waste from the time of generation through transportation, storage, treatment and disposal. Toxics use reduction, hazardous waste reduction, hazardous waste minimization, beneficial use, recycling and treatment are preferred over land disposal. To this end, the Department intends to minimize the number of disposal sites and to tightly control their operation.

(3) OAR chapter 340, divisions 100 to 106, 109, 111, 113, 120, 124 and 142 incorporate by reference, hazardous waste management regulations of the federal program, included in 40 C.F.R. Parts 260 to 268, 270, 273 and Subpart A and Subpart B of Part 124, into Oregon Administrative Rules. Therefore, a person must consult these parts of 40 C.F.R. in addition to OAR chapter 340, divisions 100 to 106, 109, 111, 113, 120, 124 and 142, to determine all applicable hazardous waste management requirements.

(4) A secondary purpose of this program is to obtain EPA Final Authorization to manage hazardous waste in Oregon in lieu of the federal program.

Stat. Auth.: ORS 466.020, 466.075, 466.105, 466.195 & 468.020
Stats. Implemented: ORS 466.010, 466.035 & 465.006
Hist.: DEQ 8-1985, f. & ef. 7-25-85; DEQ 4-1991, f. & cert. ef. 3-15-91 (and corrected 6-20-91); DEQ 11-1998, f. & cert. ef. 6-26-98; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 13-2002, f. & cert. ef. 10-9-02; DEQ 5-2015, f. & cert. ef. 4-15-15

340-100-0002
Adoption of United States Environmental Protection Agency Hazardous Waste and Used Oil Management Regulations

(1) Except as otherwise modified or specified by OAR 340, divisions 100 to 106, 109, 111, 113, 120, 124 and 142, the Environmental Quality Commission adopts by reference and requires every person subject to ORS 466.005 to 466.080 and 466.090 to 466.215 to comply with the rules and regulations governing the management of hazardous waste, including its generation, transportation, treatment, storage, recycling and disposal, as the United States Environmental Protection Agency prescribes in 40 C.F.R. Parts 260 to 268, 270, 273 and Subpart A and Subpart B of Part 124, as enacted through June 30, 2014.

(2) The Commission excludes from the rules adopted in Section (1) of this rule, and does not adopt by reference, 40 C.F.R. § 260.2 and the amendments to 40 C.F.R. Parts 124, 260 to 268, 270 and 273 as enacted at:

(a) 63 Federal Register 56710-56735 (c174), October 22, 1998;
(b) 65 Federal Register 30886-30913 (c186), May 15, 2000;
(c) 69 Federal Register 21737-21754 (c204), April 22, 2004;
(d) 69 Federal Register 62217-62224 (c204.1), October 25, 2004;
(e) 73 Federal Register 57-72 (c216), January 2, 2008;
(f) 73 Federal Register 64668-64788 (c219), October 30, 2008;
(g) 73 Federal Register 72912-72960 (c220), December 1, 2008;
(h) 73 Federal Register 77954-78017 (c221), December 19, 2008;
(i) 75 Federal Register 33712-33724 (c224), June 15, 2010;
(j) 75 Federal Register 79304-79308 (c226), December 20, 2010;
(k) 78 Federal Register 46448-46485 (c229), July 31, 2013; and
(l) 79 Federal Register 350-364 (c230), January 3, 2014.

(3) Except as otherwise modified or specified by OAR 340, division 111, the Commission adopts by reference and requires every person subject to ORS 466.005 to 466.080 and 466.090 to 466.215 to comply with the rules and regulations governing the standards for managing used oil, the United States Environmental Protection Agency prescribes in 40 C.F.R. Part 279, enacted through July 30, 2003.

COMMENT: The Department uses the federal preamble accompanying the federal regulations and federal guidance as a basis for regulatory decision-making.

Stat. Auth.: ORS 465.009, 466.020 & 465.505
Stat. Implemented: ORS 465.003, 465.009, 466.005, 466.075, 466.105 & 465.505
Hist.: DEQ 8-1985, f. & ef. 7-25-85; DEQ 10-1987, f. & ef. 6-11-87; DEQ 23-1987, f. & ef. 12-16-87; DEQ 19-1988, f. & cert. ef. 7-13-88; DEQ 12-1989, f. & cert. ef. 6-12-89; DEQ 4-1991, f. & cert. ef. 3-15-91 (and corrected 6-20-91); DEQ 24-1992, f. 10-23-92, cert. ef. 11-1-92; DEQ 11-1993, f. & cert. ef. 7-29-93; DEQ 6-1994, f. & cert. ef. 3-22-94; DEQ 31-1994(Temp), f. 12-6-94, cert. ef. 12-19-94; DEQ 11-1995, f. & cert. ef. 5-19-95; DEQ 12-1996, f. & cert. ef. 7-31-96; DEQ 14-1997, f. & cert. ef. 7-23-97; DEQ 11-1998, f. & cert. ef. 6-26-98; DEQ 26-1998(Temp), f. & cert. ef. 11-3-98 thru 3-19-99; DEQ 4-1999, f. & cert. ef. 3-19-99; DEQ 10-2000, f. & cert. ef. 7-21-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 13-2002, f. & cert. ef. 10-9-02; DEQ 13-2003, f. & cert. ef. 10-24-03; DEQ 8-2005, f. & cert. ef. 7-14-05; DEQ 2-2009, f. & cert. ef. 6-25-09; DEQ 5-2015, f. & cert. ef. 4-15-15

340-100-0003
Public Disclosure and Confidentiality

(1) The provisions of this rule replace the provisions of 40 C.F.R. § 260.2.

(2) All records, reports, and information submitted pursuant to the hazardous waste statutes, rules, and regulations are open for public inspection and copying except as provided in sections (3) to (7) of this rule. Provided however, that nothing in this rule is intended to alter any exemption from public disclosure or public inspection provided by any provision of ORS Chapter 192 or other Oregon law.

(3)(a) A person may claim the submitted records, reports, or information are a trade secret in accordance with ORS 192.410 through 192.505 and 466.090.

(b) The Department will designate a Document Control Officer for the purpose of receiving, managing, and securing confidential information. The Document Control Officer will secure the following information:

(A) Claimed trade secret information until the claim is withdrawn by the submitter, determined not to be confidential under section (6) of this rule, or invalidated;

(B) Information determined to be trade secret; and

(C) Any other information determined by court order or other process to be confidential.

(c) All Uniform Hazardous Waste Manifest information submitted on any required report under the hazardous waste statutes, rules, and regulations is publicly available and is not subject to trade secret confidentiality claims.

(d) The Department will deny confidentiality claims for the name and address of any permit applicant or permittee.

(4) The following procedures shall be followed when a claim of trade secret is made:

(a) A person claiming trade secret must clearly mark each individual page of any submission that contains the claimed trade secret information as "trade secret," "confidential," "confidential business information," or the equivalent. If no claim by appropriate marking is made at the time of submission, the submitter may not afterwards make a claim of trade secret.

(b) A late submission of the trade secret substantiation will invalidate the trade secret claim. Written substantiation in accordance with paragraph (4)(d) of this rule:

(A) Must accompany any information submitted pursuant to OAR 340-102-0012, 340-102-0041, 340-104-0075, 340-105-0010, 340-105-0013, 340-105-0014, 340-105-0020, 340-105-0021, 40 C.F.R. §§262.12, 264.11, 265.11 or 270.42, or

(B) For all other information submitted to the Department, written substantiation must be provided pursuant to subsection 5 of this rule.

(c) Trade secret information must meet the following criteria:

(A) Not the subject of a patent;

(B) Only known to a limited number of individuals within an organization;

(C) Used in a business which the organization conducts;

(D) Of potential or actual commercial value; and

(E) Capable of providing the user with a business advantage over competitors not having the information.

(d) Written substantiation of trade secret claims shall address the following:

(A) Identify which portions of information are claimed trade secret;

(B) Identify how long confidential treatment is desired for this information;

(C) Identify any pertinent patent information;

(D) Describe to what extent the information has been disclosed to others, who knows about the information, and what measures have been taken to guard against undesired disclosure of the information to others;

(E) Describe the nature of the use of the information in business;

(F) Describe why the information is considered to be commercially valuable;

(G) Describe how the information provides a business advantage over competitors;

(H) If any of the information has been provided to other government agencies, identify which one(s);

(I) Include any other information that supports a claim of trade secret.

(e) The person must submit a public version of the document containing the claimed trade secret information at the time the trade secret substantiation is required as provided in subsection (4)(c)(B)(b)(A) and subsection (5)(a) of this rule.

(5) Written trade secret substantiation as required under subsection (4)(b)(B) and a public version of the information as required by subsection (4)(e) shall be provided within 15 working days of receipt of any Department request for trade secret substantiation or the public version of the information. The Department may extend the time, either at the Department's initiative or the claimant's request, up to an additional 30 consecutive days in order to provide the substantiation and public version, if the complexity or volume of the claimed trade secret information is such that additional time is required for the claimant to complete the response. The Department shall request the written trade secret substantiation or the public information version if:

(a) A public records request is received which would reasonably include the information, if the information were not declared as trade secret, or

(b) It is likely that the Department eventually will be requested to disclose the information at some future time and thus the Department will have to determine whether the information is entitled to trade secret confidential-

ity. This includes information that relates to any permit, corrective action, or potential violation information.

(6) When evaluating a trade secret claim, the Department shall review all information in its possession relating to the trade secret claim to determine whether the trade secret claim meets the requirements for trade secret as specified in paragraphs (4)(c) and (4)(d) of this rule. The Department shall provide written notification of any final trade secret decision and the reason for it to the person submitting the trade secret claim within 10 working days of the decision date.

(a) If the Department or the Attorney General determines that the information meets the requirements for trade secret, the information shall be maintained as confidential.

(b) If the Department determines that the information does not meet the requirements for trade secret, the Department shall request a review by the Attorney General. If the Attorney General determines that the information does not meet the requirements for trade secret, the Department may make the information available to the public no sooner than 5 working days after the date the Department mails notification to the person submitting the trade secret claim.

(c) A person claiming information as trade secret may request the Department to make a trade secret determination. The person must submit the written substantiation in accordance with paragraph (4)(d) of this rule and the public version in accordance with paragraph (4)(e) of this rule. The Department shall make the determination within 30 days after receiving the request, written substantiation, and the public version.

(7) Records, reports, and information submitted under to these rules shall be made available to the Environmental Protection Agency (EPA) upon request. If the records, reports, or information has been submitted under a claim of confidentiality, the state shall make that claim of confidentiality to EPA for the requested records, reports or information. The federal agency shall treat the records, reports or information that is subject to the confidentiality claim as confidential in accordance with applicable federal law.

NOTE: It is suggested that claims of trade secret be restricted to that information considered absolutely necessary and that such information be clearly separated from the remainder of the submission.

Stat. Auth.: ORS 466.020, 468.020 & 646

Stats. Implemented: ORS 192.410-505, 466.015, 466.075 & 466.090

Hist.: DEQ 8-1985, f. & ef. 7-25-85; DEQ 4-1991, f. & cert. ef. 3-15-91 (and corrected 6-20-91); DEQ 6-1994, f. & cert. ef. 3-22-94; DEQ 12-1996, f. & cert. ef. 7-31-96; DEQ 5-2015, f. & cert. ef. 4-15-15

340-100-0004
Table of Contents, Divisions 100 to 120

The following Divisions including the incorporation of regulations in 40 C.F.R. Parts 260 to 268, 270 and 124, comprise the Oregon hazardous waste management program:

DIVISION — SUBJECT:

100 — Hazardous Waste Management System: General.
101 — Identification and Listing of Hazardous Waste.
102 — Standards Applicable to Generators of Hazardous Waste.
103 — Standards Applicable to Transporters of Hazardous Waste.
104 — Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities.
105 — Management Facility Permits.
106 — Permitting Procedures.
109 — Management of Pesticide Wastes.
110 — Polychlorinated Biphenyls (PCBs).
120 — Additional Siting and Permitting Requirements for Hazardous Waste and PCB Treatment and Disposal Facilities.
124 — Standards Applicable to Dry Cleaning Facilities and Dry Stores.
142 — Oil and Hazardous Materials Emergency Response Requirements.

Stat. Auth.: ORS 183, 459, 466.020, 466.075, 466.105, 466.195 & 468

Stats. Implemented: ORS 466.020, 466.075, 466.105 & 466.195

Hist.: DEQ 8-1985, f. & ef. 7-25-85; DEQ 4-1991, f. & cert. ef. 3-15-91 (and corrected 6-20-91); DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 13-2002, f. & cert. ef. 10-9-02; DEQ 13-2003, f. & cert. ef. 10-24-03; DEQ 5-2015, f. & cert. ef. 4-15-15

340-100-0010
Definitions

(1) The definitions in this rule modify, or are in addition to, the definitions contained in 40 C.F.R. § 260.10.

(2) When used in divisions 100 to 110 and 120 of this chapter, the following terms have the meanings given below:

(a) "Administrator" means:

(A) The "Department", except as specified in paragraph (2)(a)(B) or (C) of this rule;

(B) The "Commission," when used in 40 C.F.R. §§ 261.10 and 261.11; or

(C) The Administrator of the U.S. Environmental Protection Agency, when used in 40 C.F.R. § 262.50.

(b) "Aquatic LC50" (median aquatic lethal concentration) means that concentration of a substance which is expected in a specific time to kill 50 percent of an indigenous aquatic test population (e.g., fish, insects or other aquatic organisms). Aquatic LC50 is expressed in milligrams of the substance per liter of water.

(c) "Beneficiation of Ores and Minerals" means upgrading ores and minerals by purely physical processes (e.g., crushing, screening, settling, flotation, dewatering and drying) with the addition of other chemical products only to the extent that they are a non-hazardous aid to the physical process (such as flocculants and deflocculants added to a froth-flotation process).

(d) "Collection." See "Storage."

(e) "Commission" means the Environmental Quality Commission.

(f) "Demilitarization" means all processes and activities at the Umatilla Chemical Depot (OR 6213820917) and Umatilla Chemical Agent Disposal Facility (ORQ 000009431) from February 12, 1997, through Department approval of the closure of all permitted treatment, storage and disposal units and facility-wide corrective action.

(g) "Demilitarization Residue" means any solid waste generated by demilitarization processes and activities as defined in 340-100-0010(2)(f), except for:

(A) Waste streams generated from processes or activities prior to the introduction of nerve or blister agent into the treatment unit; and

(B) Waste steams generated from maintenance or operation of non-agent contaminated process utility systems.

(h) "Department" means the Department of Environmental Quality except it means the Commission when the context relates to a matter solely within the authority of the Commission such as: The adoption of rules and issuance of orders thereon pursuant to ORS 466.020, 466.075, and 466.510; the making of findings to support declassification of hazardous wastes pursuant to ORS 466.015(3); the issuance of exemptions pursuant to ORS 466.095(2); the issuance of disposal site permits pursuant to ORS 466.140(2); and the holding of hearings pursuant to ORS 466.130, 466.140(2), 466.170, 466.185, and 466.190.

(i) "Director" means:

(A) The "Department", except as specified in paragraph (2)(i)(B) of this rule; or

(B) The "permitting body", as defined in section (2) of this rule, when used in 40 C.F.R. §§ 124.5, 124.6, 124.8, 124.10, 124.12, 124.14, 124.15 and 124.17.

(j) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste or hazardous substance into or on any land or water so that the hazardous waste or hazardous substance or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters of the state as defined in ORS 468.700.

(k) "Dry Cleaning Facility" means any facility as defined by 40 C.F.R. § 260.10 and adopted under OAR 340-100-0002, located in this state that is or was engaged in dry cleaning apparel and household fabrics for the general public, and dry stores, other than:

(A) A facility located on a United States military base;

(B) A uniform service or linen supply facility;

(C) A prison or other penal institution; or

(D) A facility engaged in dry cleaning operations only as a dry store and selling less than $50,000 per year of dry cleaning services.

(l) "Dry Cleaning Operator" means a person who has, or had, a business license to operate a dry cleaning facility or a business operation that a dry cleaning facility is a part of or any person that owns the dry cleaning business, leases the operation of the dry cleaning business from the owner, or makes any other kind of agreement or arrangement whereby they operated the dry cleaning business.

(m) "Dry Cleaning Wastewater" means water from the solvent/water separation process of the dry cleaning machine.

(n) "EPA" or "Environmental Protection Agency" means the Department of Environmental Quality.

(o) "EPA Form 8700-12" means EPA Form 8700-12 as modified by the Department.

(p) "Existing Hazardous Waste Management (HWM) Facility" or "Existing Facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980, or is in existence on the effective date of statutory or regulatory changes under Oregon law that render the facility subject to the requirement to have a permit. A facility has commenced construction if:

(A) The owner or operator has obtained the federal, state, and local approvals or permits necessary to begin physical construction; and either

(B)(i) A continuous on-site, physical construction program has begun; or

(ii) The owner or operator has entered into contractual obligations — which cannot be canceled or modified without substantial loss — for physical construction of the facility to be completed within a reasonable time.

(q) "Extraction of Ores and Minerals" means the process of mining and removing ores and minerals from the earth.

(r) "Generator" means the person who, by virtue of ownership, management or control, is responsible for causing or allowing to be caused the creation of a hazardous waste.

(s) "Hazardous Substance" means any substance intended for use which may also be identified as hazardous under division 101.

(t) "Hazardous Waste" means a hazardous waste as defined in 40 C.F.R. § 261.3, OAR 340-101-0033 and 340-102-0011.

(u) "Identification Number" means the number assigned by DEQ to each generator, transporter, and treatment, storage and disposal facility.

(v) "License." See "Permit."

(w) "Management Facility" means a hazardous waste treatment, storage or disposal facility.

(x) "Off-site" means any site which is not on-site.

(y) "Oxidizer" means any substance such as a chlorate, permanganate, peroxide, or nitrate, that yields oxygen readily or otherwise acts to stimulate the combustion of organic matter (see 40 C.F.R. § 173.151).

(z) "Permitting Body" means:

(A) The Department of Environmental Quality, when the activity or action pertains to hazardous waste storage or treatment facility permits; or

(B) The Environmental Quality Commission, when the activity or action pertains to hazardous waste disposal facility permits.

(aa) "Permit" or "License" means the control document that contains the requirements of ORS Chapter 466 and OAR 340, divisions 104 to 106 and 120. Permit includes permit-by-rule and emergency permit. Permit does not include any permit which has not yet been the subject of final Department action, such as a draft permit or a proposed permit.

(bb) "RCRA" or "Resource Conservation and Recovery Act", when used to refer to a federal law, means Oregon law.

(cc) "RCRA Permit" means Oregon hazardous waste management facility permit.

(dd) "Regional Administrator" means:

(A) The "Department", except as specified in paragraph (2)(dd)(B) or (C) of this rule;

(B) The "permitting body", as defined in section (2) of this rule when used in 40 C.F.R. §§ 124.5, 124.6, 124.8, 124.10, 124.12, 124.14, 124.15 and 124.17;

(C) The "Commission", when used in 40 C.F.R. §§260.30 through 260.41.

(ee) "Residue" means solid waste as defined in 40 C.F.R. § 261.2.

(ff) "Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

(gg) "Spill" means unauthorized disposal.

(hh) "Storage" or "Collection" means the containment of hazardous waste either on a temporary basis or for a period of years, in a manner that does not constitute disposal of the hazardous waste.

(ii) "Waste Management Unit" means a contiguous area of land on or in which waste is placed. A waste management unit is the largest area in which there is a significant likelihood of mixing of waste constituents in the same area. Usually, but not always, this is because each waste management unit is subject to a uniform set of management practices (e.g., one liner and leachate collection and removal system). The provisions in the OAR 340, Division 104 regulations (principally the technical standards in Subparts K–N of 40 CFR Part 264) establish requirements that a person subject to these rules must implement on a unit-by-unit basis.

(3) When used in divisions 100 to 106, 109, 113 and 142 of this chapter, the following terms have the meanings given below:

(a) "Aeration" means a specific treatment for decontaminating an empty volatile substance container by removing the closure and placing the container in an inverted position for at least 24 hours.

(b) "Beneficial Use" means returning without processing unused pesticide product (e.g., pesticide equipment rinsings, excess spray mixture) or empty pesticide containers to the economic mainstream as a substitute for raw materials in an industrial process or as a commercial product (e.g., melting a container for scrap metal).

(c) "Department" means the Department of Environmental Quality.

(d) "Empty Container" means a container from which:

(A) All the contents have been removed that can be removed using the practices commonly employed to remove materials from that type of container; and

(B)(i) No more than one inch of residue remains on the bottom of the container; or

(ii) No more than three percent of the total capacity of the container remains in the container if the container is less than or equal to 110 gallons in size; or

(iii) No more than 0.3% of the total capacity of the container remains in the container or inner liner if the container is greater than 110 gallons in size; or

(iv) If the material is a compressed gas, the pressure in the container is atmospheric.

(e) "Household Use" means use by the home or dwelling owner in or around households (including single and multiple residences, hotels and motels).

(f) "Jet Rinsing" means a specific treatment for an empty container using the following procedure:

(A) A nozzle is inserted into the container, or the empty container is inverted over a nozzle such that all interior surfaces of the container can be rinsed; and

(B) The container is thoroughly rinsed using an appropriate solvent.

(g) "Multiple Rinsing" means a specific treatment for an empty container repeating the following procedure a minimum of three times:

(A) An appropriate solvent is placed in the container in an amount equal to at least 10% of the container volume; and

(B) The container is agitated to rinse all interior surfaces; and

(C) The container is opened and drained, allowing at least 30 seconds after drips start.

(h) "Pesticide" means any substance or combination of substances intended to defoliate plants or to prevent, destroy, repel, or mitigate insects, fungi, weeds, rodents, or predatory animals. Pesticide includes but is not limited to defoliants, desiccants, fungicides, herbicides, insecticides, and nematocides as defined by ORS 634.006.

(i) "Pesticide Equipment" means any equipment, machinery or device used in pesticide manufacture, repackaging, formulation, bulking and mixing, use, cleaning up spills, or preparation for use or application of pesticides, including but not limited to aircraft, ground spraying equipment, hoppers, tanks, booms and hoses.

(j) "Pesticide Residue" is a waste that is generated from pesticide operations and pesticide management, such as from pesticide use (except household use), manufacturing, repackaging, formulation, bulking and mixing, and spills.

(A) Pesticide residue includes, but is not limited to, unused commercial pesticides, tank or container bottoms or sludges, pesticide spray mixture, container rinsings and pesticide equipment washings, and substances generated from pesticide treatment, recycling, disposal, and rinsing spray and pesticide equipment.

(B) Pesticide residue does not include pesticide-containing materials that are used according to label instructions, and substances such as, but not limited to, treated soil, treated wood, foodstuff, water, vegetation, and treated seeds where pesticides were applied according to label instructions. Pesticide residue does not include wastes that are listed in 40 C.F.R. Part 261 Subpart D or that exhibit one or more of the characteristics identified in 40 C.F.R. Part 261 Subpart C.

(k) "Public-Use Airport" means an airport open to the flying public which may or may not be attended or have service available.

(l) "Reuse" means the return of a commodity to the economic mainstream for use in the same kind of application as before without change in its identity (e.g., a container used to repackage a pesticide formulation).

Stat. Auth.: ORS 465.009 & 466.020
Stat. Implemented: ORS 465.003, 465.009, 466.005, 466.075 & 466.105
Hist.: DEQ 7-1984, f. & cert. ef. 4-26-84; DEQ 8-1985, f. & ef. 7-25-85; DEQ 4-1991, f. & cert. ef. 3-15-91 (and corrected 6-20-91); DEQ 12-1996, f. & cert. ef. 7-31-96, Renumbered from 340-109-0002; DEQ 10-2000, f. & cert. ef. 7-21-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 13-2002, f. & cert. ef. 10-9-02; DEQ 13-2003, f. & cert. ef. 10-24-03; DEQ 5-2015, f. & cert. ef. 4-15-15

340-101-0001
Purpose and Scope

(1) This division identifies those residues which are subject to regulation as hazardous wastes under divisions 100 to 106, 109, 111, 113, 124 and 142 of this chapter.

(2) A person must also consult 40 C.F.R. Parts 124, 260 to 268, 270, 273, and 279, which are incorporated by reference in OAR 340-100-0002, to determine all applicable hazardous waste management requirements.

Stat. Auth.: ORS 183.325 - 183.337, 459, 465.009, 466.020 & 468.020
Stats. Implemented: ORS 465.009, 466.075 & 466.105
Hist.:DEQ 7-1984, f. & ef. 4-26-84; Superseded by DEQ 8-1985, f. & ef. 7-25-85 DEQ 8-1985, f. & ef. 7-25-85; DEQ 12-1996, f. & cert. ef. 7-31-96; DEQ 13-2002, f. & cert. ef. 10-9-02; DEQ 13-2003, f. & cert. ef. 10-24-03; DEQ 5-2015, f. & cert. ef. 4-15-15

340-101-0030
Chemical Agent Munitions and Chemical Agent Bulk Items

Notwithstanding any otherwise applicable provisions of 40 C.F.R. Parts 260 to 268, 270, or other provisions of these rules, chemical agent munitions and chemical agent bulk items in storage as of the effective date of this rule are residues, and listed hazardous wastes assigned the appropriate waste codes in OAR 340-102-0011(2)(c)(A)(i) and (ii)..

Stat. Auth: ORS 466.005, 466.010 - 466.035, 466.625 & 466.630
Stats. Implemented: ORS 466.205 - 466.225, 466.605 - 466.680, 468.005 - 468.075 & 468.090 - 468.140
Hist.: DEQ 3-2001, f. & cert. ef. 3-27-01; DEQ 5-2015, f. & cert. ef. 4-15-15

340-102-0010
Purpose, Scope and Applicability

(1) This division establishes standards for hazardous waste generators.

(2) A person must also consult 40 C.F.R. Parts 124, 260 to 268, 270, 273 and 279, which are incorporated by reference in OAR 340-100-0002, to determine all applicable hazardous waste management requirements.

(3) Any person identified in section (4) of this rule is exempt from compliance with Divisions 100 to 106 provided such person complies with the requirements of Division 109.

(4) A person is exempt under section (3) of this rule if that person produces an unwanted pesticide residue other than unused commercial chemical product pesticide from:

(a) Pesticide manufacturing, repackaging, formulating, bulking, mixing, application, use, and cleaning up spilled material;

(b) Agricultural pest control (for example, on crops, livestock, Christmas trees, commercial nursery plants or grassland);

(c) Industrial pest control (for example, in warehouses, grain elevators, tank farms or rail yards);

(d) Structural pest control (for example, in human dwellings);

(e) Ornamental and turf pest control (for example, on ornamental trees, shrubs, flowers or turf);

(f) Forest pest control;

(g) Recreational pest control (for example, in parks or golf courses);

(h) Governmental pest control (for example, for clearing a right-of-way or vector, predator, and aquatic pest control);

(i) Seed treatment;

(j) Pesticide demonstration and research; or

(k) Wood treatment (for example, lumber, poles, ties and other wood products).

(5) A person who generates a hazardous waste as defined by 40 C.F.R. § 261.3 must comply with this division's requirements. A person who fails to comply with these rules is subject to the compliance requirements and penalties prescribed by ORS 466.185 to 466.210, 459.992 and 466.995, 459.995, 466.880, 466.890, 466.895, 466.900 and OAR chapter 340, division 12.

Stat. Auth.: ORS 183.325-337, 459, 465.009, 466.020, 465.009 & 468.020
Stats.Implemented: ORS 466.010, 466.015, 466.020, 466.075 & 466.195
Hist.: DEQ 8-1985, f. & ef. 7-25-85; DEQ 4-1991, f. & cert. ef. 3-15-91 (and corrected 6-20-91); DEQ 12-1996, f. & cert. ef. 7-31-96; DEQ 5-2015, f. & cert. ef. 4-15-15

340-102-0011
Hazardous Waste Determination

(1) The provisions of this rule replace the requirements of 40 C.F.R. § 262.11.

(2) A person who generates a residue as defined in OAR 340-100-0010 must determine if that residue is a hazardous waste using the following method:

(a) Persons should first determine if the waste is excluded from regulation under 40 C.F.R. § 261.4 or OAR 340-101-0004;

(b) Persons must then determine if the waste is listed as a hazardous waste in Subpart D of 40 C.F.R. Part 261;

(c) Persons must then determine if the waste is listed under the following listings:

(A) The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products or manufacturing chemical intermediates identified in 340-102-0011(2)(c)(A)(i) and (ii) are added to and made a part of the list in 40 C.F.R. § 261.33(e).

(i) P998...Blister agents (such as Mustard agent)

(ii) P999…Nerve agents (such as GB (Sarin) and VX); or

(B) Hazardous waste identified in 340-102-0011(2)(c)(B)(i) and (ii) are added to and made a part of the list in 40 C.F.R. § 261.31.

(i) F998…Residues from demilitarization, treatment, and testing of blister agents (such as Mustard agent).

(ii) F999…Residues from demilitarization, treatment, and testing of nerve agents (such as GB (Sarin) and VX).

NOTE: Even if the waste is listed, the person still has an opportunity under OAR 340-100-0022 to demonstrate to the Commission that the waste from their particular facility or operation is not a hazardous waste.

(d) Regardless of whether a hazardous waste is listed through application of subsections (2)(b) or (2)(c) of this rule, persons must also determine whether the waste is hazardous under Subpart C of 40 C.F.R. Part 261 by either:

(A) Testing the waste according to the methods set forth in Subpart C of 40 C.F.R. Part 261, or according to an equivalent method the Department approves under OAR 340-100-0021, or

NOTE: In most instances, the Department will not consider approving a test method until the EPA approves it.

(B) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

(e) If the waste is determined to be hazardous, the person must refer to Divisions 100–106 and 40 C.F.R. Parts 264, 265, 268 and 273 for possible exclusions or restrictions pertaining to management of the specific waste.

NOTE: 40 C.F.R. § 268.3 prohibits diluting a hazardous waste to meet Land Disposal Restriction treatment standards. Diluting waste without a permit to meet any hazardous waste standard is prohibited.

(f) If the waste is not identified as hazardous by application of subsection (2)(b) or (2)(c), and/or (2)(d) of this rule, persons must determine if the waste is listed under OAR 340-101-0033.

(3) A person who generates a residue, as defined in OAR 340-100-0010(2)(ee), must keep a copy of all documentation used or createdin determining whether the residue is a hazardous waste, under section (2) of this rule, for a minimum of three years after the waste stream is no longer generated, or as prescribed in 40 C.F.R. § 262.40(c). The person is not required to create new documentation if no documentation is created in making the waste stream determination.

Stat. Auth.: ORS 466.020 & 466.180
Stats. Implemented: ORS 466.015 & 466.195
Hist.: DEQ 8-1985, f. & ef. 7-25-85; DEQ 4-1991, f. & cert. ef. 3-15-91 (and corrected 6-20-91); DEQ 24-1992, f. 10-23-92, cert. ef. 11-1-92; DEQ 6-1994, f. & cert. ef. 3-22-94; DEQ 10-2000, f. & cert. ef. 7-21-00; DEQ 13-2002, f. & cert. ef. 10-9-02; DEQ 13-2003, f. & cert. ef. 10-24-03; DEQ 6-2013(Temp), f. & cert. ef. 8-14-13 thru 2-10-14; Administrative correction, 2-24-14; DEQ 5-2015, f. & cert. ef. 4-15-15

340-102-0041
Generator Reporting

(1) The provisions of this rule replace the requirements of 40 CFR 262.41.

(2) A person producing at any time more than one kilogram of acutely hazardous waste, a total of more than 100 kilograms of hazardous waste in a calendar month, or who accumulates on-site at any time a total of more than 1,000 kilograms of hazardous waste, shall submit Quarterly Reports through the period ending December 31, 1991 to the Department. Effective January 1, 1992, and annually thereafter, a report shall be submitted to the Department, on a form provided by the Department, or by other means agreed to by the Department, by persons defined as small quantity hazardous waste generators, large quantity hazardous waste generators, and/or hazardous waste recyclers. The report shall contain information required by the Department covering activities from the preceding calendar year. Reports shall be submitted by March 1, or within 65 days of mailing by the Department, whichever is later. Upon written request and reasonable justification, the Department may grant an extension to the reporting deadline of up to 30 days. The annual report shall contain:

(a) Information required for purposes of notification of hazardous waste activity and/or annual verification of hazardous waste generator status;

(b) Information required for purposes of describing hazardous waste generator and waste management activity, including information pertaining to hazardous waste storage, treatment, disposal, and recycling efforts and practices;

(c) Information required for the assessment of fees; and

(d) Information required for the Department's preparation and completion of the Biennial Report and Capacity Assurance Plan.

(3) Quarterly Reports are due within 45 days after the end of each calendar quarter for 1991 (the final quarterly report will be due February 15, 1992). The quarterly reporting requirement will sunset on December 31, 1991:

(a) The Quarterly Report shall include, but not be limited to the following information:

(A) A copy of the completed manifest or a listing of the information from each manifest for each shipment made during the calendar quarter;

(B) A listing of all additional hazardous waste generated during the quarter that was sent off-site without a manifest or was used, reused or reclaimed on-site, on a form provided by the Department. The listing shall include, but not be limited to:

(i) The generator's name and address;

(ii) The generator's U.S. EPA/DEQ Identification Number;

(iii) Identification of the calendar quarter in which the waste was generated;

(iv) The type and quantity of each waste generated, by EPA code number; and

(v) The disposition of each waste, including the identity of the receiving party for wastes shipped off-site and handling method; and

(C) If no hazardous waste was generated during the quarter, a statement to that effect, on a form provided by the Department.

(b) Reports submitted to the Department must be accompanied by the following certification signed and dated by the generator or his/her authorized representative:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

(4) Any generator who is receiving hazardous waste from off-site, generating or managing hazardous waste on-site, including recycling, except closed-loop recycling must submit an annual report covering those wastes and activities in accordance with the provisions of OAR 340-104-0075 and of 40 CFR, Part 266.

(5) Dry cleaning operators of dry cleaning facilities must complete an annual dry cleaner hazardous waste and air quality compliance report pursuant to OAR 340-124.

Stat. Auth.: ORS 183, 466.020, 466.075, 466.105, 466.165, 466.195 & 468
Stats. Implemented: ORS 466.075 & 466.090
Hist.: DEQ 8-1985, f. & ef. 7-25-85; DEQ 10-1987, f. & ef. 6-11-87; DEQ 19-1988, f. & cert. ef. 7-13-88; DEQ 4-1991, f. & cert. ef. 3-15-91 (and corrected 6-20-91); DEQ 13-1991, f. & cert. ef. 8-5-91; DEQ 13-2002, f. & cert. ef. 10-9-02; DEQ 5-2015, f. & cert. ef. 4-15-15

340-102-0065
Hazardous Waste Generator Fees

(1)(a) A person must pay an annual hazardous waste generation fee if that person:

(A) Generates more than 100 kilograms (220 pounds) of hazardous waste in any calendar month, or

(B) Generates more than 1 kilogram (2.2 pounds) of acutely hazardous waste in any calendar month, or

(C) Accumulates more than 1,000 kilograms (2,200 pounds) of hazardous waste at any time in a calendar year.

(b) The Department will assess fees annually for hazardous waste management activities conducted in the previous year.

(2)(a) The Department will assess a late charge equal to ten percent of the fee due if the Department does not receive the fees by the due date on the invoice.

(b) The Department will assess an additional late charge of ten percent of the unpaid amount for each 30 days that the invoice remains unpaid.

(c) After 90 days no further Department late charges shall be assessed; however, such invoices may be referred to the Department of Revenue for collection or collected in Small Claims Court. Accounts referred to the Department of Revenue for collection or collected in Small Claims Court shall be increased by 20 percent of the unpaid amount or $100, whichever is greater, to recover a portion of the costs for referral or collection.

(3)(a) ORS 466.165 sets the base hazardous waste generation fee.

(b) In order to determine annual hazardous waste generation fees, the Department may use generator reports required by OAR 340-102-0041, facility reports required by OAR 340-104-0075, information derived from manifests required by 40 C.F.R. Section 262.20, and any other relevant information. Unless density information is reported, the Department will use the following conversion factors: one metric ton = 1,000 kilograms = 2,205 pounds = 1.10 short tons = 1.31 cubic yards = 264.23 gallons = 4.80 drums (55 gallon).

(c) The Department will calculate each person's hazardous waste generation fee by multiplying the base fee by the weight of each hazardous waste stream and by the fee factors listed below for the management method the person reports in the annual generation report (OAR 340-102-0041) as follows:

(A) Management Method — Fee Factor;

(B) Metals Recovery (For Reuse) — 0.50;

(C) Solvents Recovery — 0.50;

(D) Other Recovery — 0.50;

(E) Hazardous wastewater that is not managed immediately upon generation only in on-site elementary neutralization unit(s) (ENU) or wastewater treatment unit(s) (WWTU) — 0.50;

(F) Incineration — 1.00;

(G) Energy Recovery (Reuse as Fuel) — 0.75;

(H) Fuel Blending — 0.75;

(I) Aqueous Inorganic Treatment — 1.00;

(J) Aqueous Organic Treatment — 1.00;

(K) Aqueous Organic and Inorganic Treatment (Combined) — 1.00;

(L) Sludge Treatment — 1.00;

(M) Other Treatment — 1.00;

(N) Stabilization — 1.00;

(O) Neutralization (offsite) — 0.75;

(P) Land Disposal — 1.50;

(Q) Management method unknown or not reported — 2.00;

(R) RCRA-Exempt Management Elementary Neutralization Unit(s) on-site (Includes only corrosive characteristic hazardous waste that is managed immediately upon generation only in an on-site elementary neutralization unit(s)) — 0.00;

(S) Permitted Discharge under Clean Water Act Section 402 or 307b (Includes only hazardous wastewater that is managed immediately upon generation only in an on-site wastewater treatment unit(s)) — 0.00.

(4) Effective January 1, 1997, in addition to the annual hazardous waste generation fee, each hazardous waste generator shall be subject to an annual hazardous waste activity verification fee, upon billing by the Department, as follows:

(a) Large Quantity Generator: $525;

(b) Small Quantity Generator: $300;

(c) Conditionally Exempt Small Quantity Generator: No Fee.

Stat. Auth.: ORS 466.165 & 468.020
Stats. Implemented: ORS 466.165
Hist.: DEQ 8-1985, f. & ef. 7-25-85; DEQ 14-1987, f. & ef. 7-28-87; DEQ 11-1988, f. & cert. ef. 5-19-88; DEQ 19-1989(Temp), f. & cert. ef. 7-31-89 (and corrected 8-3-89); DEQ 33-1989, f. & cert. ef. 12-14-89; DEQ 13-1991, f. & cert. ef. 8-5-91; DEQ 11-1992, f. & cert. ef. 6-9-92; DEQ 2-1994, f. & cert. ef. 2-2-94; DEQ 14-1997, f. & cert. ef. 7-23-97; DEQ 11-1998, f. & cert. ef. 6-26-98; DEQ 8-2005, f. & cert. ef. 7-14-05; DEQ 2-2009, f. & cert. ef. 6-25-09; DEQ 5-2015, f. & cert. ef. 4-15-15

340-102-0070
Farmers

In addition to the provisions of 40 C.F.R. § 262.70, a farmer disposing of waste pesticides from the farmer's own use which are hazardous wastes must comply with the requirements of division 109 of these rules.

Stat. Auth.: ORS 183, 459, 466.020, 466.075, 466.105, 466.195 & 468
Stats. Implemented: ORS 466.020 & 466.075
Hist.: DEQ 8-1985, f. & ef. 7-25-85; DEQ 19-1988, f. & cert. ef. 7-13-88, Renumbered from 340-102-0051; DEQ 4-1991, f. & cert. ef. 3-15-91 (and corrected 6-20-91); DEQ 5-2015, f. & cert. ef. 4-15-15

340-103-0010
Purpose and Applicability

(1) This division establishes standards that apply to a person transporting hazardous waste by air or water if the transportation requires a manifest under division 102.

(2) Rail and highway transporters must comply with the regulations of the Public Utility Commissioner.

(3) A person must also consult 40 C.F.R. Parts 260 to 268, 270 and 124, which are incorporated by reference in rule 340-100-0002, to determine all applicable hazardous waste management requirements.

Stat. Auth.: ORS 183, 466 & 468
Stats. Implemented: ORS 466.020
Hist.: DEQ 8-1985, f. & ef. 7-25-85; DEQ 5-2015, f. & cert. ef. 4-15-15

340-104-0001
Purpose, Scope and Applicability

(1) This division establishes minimum State standards that define the acceptable management of hazardous waste.

(2) A person must also consult 40 C.F.R. Parts 260 to 268, 270 and 124, which are incorporated by reference in OAR 340-100-0002, to determine all applicable hazardous waste management requirements.

(3)(a) The provisions of subsection (3)(b) of this rule replace the requirements of 40 C.F.R. § 264.1(d).

(b) This division's requirements apply to a person disposing of hazardous waste by means of underground injection subject to a permit issued under an Underground Injection Control (UIC) program approved or promulgated under the Safe Drinking Water Act only to the following extent:

(A) 40 C.F.R. § 264.11 (identification number);

(B) 40 C.F.R. § 264.16 (personnel training);

(C) 40 C.F.R. § 264.71 (manifest system);

(D) 40 C.F.R. § 264.72 (manifest discrepancies);

(E) 40 C.F.R. § 264.73(a), (B)(1) and (B)(2) (operating record);

(F) 40 C.F.R. § 264.75 (periodic report); and

(G) 40 C.F.R. § 264.76 (unmanifested waste report).

(c) When abandonment is complete, the owner or operator must submit to the Department certification by the owner or operator and by an independent registered professional engineer. The certification must state that the facility has been closed in a manner that will ensure that plugging and abandoning the well will not allow the movement of fluids either into an underground source of drinking water or from one underground source of drinking water to another.

(4) The provisions of 40 C.F.R. § 264.1(f) are deleted.

(5) In addition to the requirements of 40 C.F.R. Section 264.1(g)(8)(iii), any person covered by 40 C.F.R. Section 264.1(g)(8)(iii) must comply with the applicable requirements of OAR 340, divisions 100 to 106 and 142.

(6) Persons receiving from off-site solid waste which becomes hazardous waste by virtue of federal or state statute or regulation and who treat or dispose of such waste must comply with the applicable requirements of OAR 340, divisions 100 to 106, 120, and 40 C.F.R. Parts 264 and 265 and must receive a final permit before managing the waste.

Stat. Auth.: ORS 183, 459, 466.020, 466.075, 466.105, 466.195 & 468
Stats. Implemented: ORS 466.020 & 466.095
Hist.: DEQ 8-1985, f. & ef. 7-25-85; DEQ 4-1991, f. & cert. ef. 3-15-91 (and corrected 6-20-91); DEQ 13-2003, f. & cert. ef. 10-24-03; DEQ 5-2015, f. & cert. ef. 4-15-15

340-104-0145
Financial Assurance for Post-Closure Care

(1) This rule amends the requirements of 40 C.F.R. § 264.145.

(2)(a) The owner or operator of a disposal facility may choose a cash bond as specified in ORS 466.150(6) or other equivalent financial assurance as specified in 40 C.F.R. § 264.145(a) through (h);

(b) The owner or operator of a treatment or storage facility subject to post-closure monitoring or maintenance requirements must establish financial assurance for post-closure care in accordance with the approved post-closure plan for the facility and must choose one of the options specified in 40 C.F.R. § 264.145(a) through (h).

(3)(a) If an owner or operator uses the trust fund option specified in 40 C.F.R. § 264.145(a) to establish financial assurance for post-closure care of a facility, the owner or operator must also comply with subsection (3)(b) of this rule;

(b) During the period the current post-closure cost estimate (CE) exceeds the current value of the trust fund (CV), the owner or operator must also establish supplemental financial assurance in the amount CE-CV by choosing one of the options specified in 40 C.F.R. §§ 264.145(b) to 264.145(f).

(4) The phrase "Except as may be required by 40 C.F.R. § 264.145(f)(11)", is added to the beginning of the first sentence of 40 C.F.R. § 264.145(f)(1).

(5) The phrase "An owner or operator that has a parent corporation may only meet . " replaces the phrase "An owner or operator may meet . " in the first sentence of 40 C.F.R. § 264.145(f)(11).

Stat. Auth.: ORS 183, 459, 466.020(1)&(2), 466.020(7) & 468
Stats. Implemented: ORS 466.020, 466.150 & 466.160
Hist.: DEQ 8-1985, f. & ef. 7-25-85; DEQ 11-1993, f. & cert. ef. 7-29-93; DEQ 5-2015, f. & cert. ef. 4-15-15

340-104-0149
Use of State-Required Mechanisms

The provisions of 40 CFR 264.149 are deleted.

Stat. Auth.: ORS 183, 459 & 468
Stats. Implemented: ORS 466.020
Hist.: DEQ 8-1985, f. & ef. 7-25-85; DEQ 5-2015, f. & cert. ef. 4-15-15

340-105-0001
Purpose, Scope and Applicability

(1) This division establishes basic permitting requirements, such as application requirements, standard permit conditions, monitoring and reporting requirements, and management requirements for existing facilities which have not been issued a RCRA permit.

(2) A person must also consult 40 C.F.R. Parts 260 to 268, 270 and 124, which are incorporated by reference in OAR 340-100-0002, to determine all applicable hazardous waste management requirements.

(3) The provisions of section (4) of this rule replace the contents of 40 C.F.R. §§ 270.1(a), 270.1(b) and 270.1(c) prior to paragraph (c)(1).

(4)(a) Technical regulations. The hazardous waste permit program has separate additional regulations that contain technical requirements. The Department uses these separate regulations to determine what requirements permits must include if they are issued. These separate regulations are located in 40 C.F.R. Part 264 and OAR Chapter 340, Division 104.

NOTE: Although the permit applicant or permittee will interface primarily with the Department as is indicated by these rules, hazardous waste disposal facility permits are technically issued by the Environmental Quality Commission while hazardous waste storage and treatment facility permits are issued by the Department.

(b)(A)Applicability. The state hazardous waste program requires a permit for the "treatment," "storage" or "disposal" of any "hazardous waste" as identified or listed in OAR Chapter 340, Division 101. The terms "storage," "disposal" and "hazardous waste" are defined in OAR 340-100-0010. The term "treatment" is defined in 40 C.F.R. § 260.010.

(B) Owners and operators of hazardous waste management units must have permits:

(i) During the active life (including the closure period) of the unit, and

(ii) For any unit which closes after the effective date of these rules, during any post-closure care period required under 40 C.F.R. § 264.117, and

(iii) During any compliance period specified under 40 C.F.R. § 264.96, including any extension of the compliance period under 40 C.F.R. § 264.96(c).

Stat. Auth.: ORS 183, 459, 466.020, 466.075, 466.105, 466.195 & 468
Stats. Implemented: ORS 466.095 & 466.215
Hist.: DEQ 8-1985, f. & ef. 7-25-85; DEQ 4-1991, f. & cert. ef. 3-15-91 (and corrected 6-20-91); DEQ 11-1995, f. & cert. ef. 5-19-95; DEQ 5-2015, f. & cert. ef. 4-15-15

340-105-0140
General Inspection Provisions

(1) The provisions of 40 C.F.R. § 265.15(b)(4) and (5) that reference Performance Track are deleted.

(2) The provisions of 40 C.F.R. § 265.174 that reference Performance Track are deleted.

(3) The provisions of 40 C.F.R. § 265.195(d) that reference Performance Track are deleted.

(4) The provisions of 40 C.F.R. § 265.201(e) that reference Performance Track are deleted.

(5) The requirements of 40 C.F.R. § 270.42 that reference Performance Track are deleted.

Stat. Auth.: ORS 183, 459, 466 & 468
Stats. Implemented: ORS 466.020, 466.105 & 466.150
Hist.: DEQ 2-2009, f. & cert. ef. 6-25-09; DEQ 5-2015, f. & cert. ef. 4-15-15

340-106-0001
Purpose and Scope

(1) This division establishes the procedures for issuing, modifying, revoking and reissuing, or terminating, all hazardous waste permits other than hazardous waste emergency permits and hazardous waste permits by rule.

NOTE: Although the permit applicant or permittee will interface primarily with the Department as is indicated by these rules, hazardous waste disposal facility permits are issued by the Environmental Quality Commission while hazardous waste storage and treatment facility permits are issued by the Department.

(2) A person must also consult 40 C.F.R. Parts 260 to 268, 270, and 124, which are incorporated by reference in OAR 340-100-0002, to determine all applicable hazardous waste management requirements.

NOTE: 40 C.F.R. Part 124 includes requirements applicable to several programs, including UIC, NPDES, 404, etc. Only the provisions of 40 C.F.R. Part 124 Subparts A and B which are applicable to hazardous waste or "RCRA" permits are incorporated by reference in OAR 340-100-0002, as modified by Division 106.

Stat. Auth.: ORS 4465.009 & 466.020
Stats. Implemented: ORS 465.003, 465.009, 466.075 & 466.105
Hist.: DEQ 8-1985, f. & ef. 7-25-85; DEQ 4-1991, f. & cert. ef. 3-15-91 (and corrected 6-20-91); DEQ 10-2000, f. & cert. ef. 7-21-00; DEQ 5-2015, f. & cert. ef. 4-15-15

340-109-0001
Purpose and Applicability

(1) This division specifies procedures for managing pesticide residues and empty pesticide containers. This division does not apply to any federally regulated pesticide waste, including waste regulated under 40 C.F.R. Part 273.

NOTE: Although the permit applicant or permittee will interface primarily with the Department as is indicated by these rules, hazardous waste disposal facility permits are issued by the Environmental Quality Commission while hazardous waste storage and treatment facility permits are issued by the Department.

(2) A person must also consult 40 C.F.R. Parts 260 to 268, 270, and 124, which are incorporated by reference in OAR 340-100-0002, to determine all applicable hazardous waste management requirements.

NOTE: 40 C.F.R. Part 124 includes requirements applicable to several programs, including UIC, NPDES, 404. Only the provisions of 40 C.F.R. Part 124 Subparts A and B that apply to hazardous waste or "RCRA" permits are incorporated by reference in OAR 340-100-0002, as modified by division 106.

Stat. Auth.: ORS 183.325 - 183.335, 466.02 & 468.020
Stats Implemented: ORS 466.005 & 466.075,
Hist.: DEQ 7-1984, f. & ef. 4-26-84; DEQ 17-1984, f. & ef. 8-22-84; DEQ 12-1996, f. & cert. ef. 7-31-96; DEQ 13-2003, f. & cert. ef. 10-24-03; DEQ 5-2015, f. & cert. ef. 4-15-15

340-111-0010
Applicability

(1) In addition to provisions under 40 C.F.R. § 279.10, the following provisions under sections (2) through (5) of this rule shall apply.

(2) Mixtures and residues of used oil and other wastes:

(a) Used oil or materials containing used oil destined for disposal are subject to hazardous waste determination as require by OAR 340-102-0011;

(b) No person may mix hazardous or non-hazardous substances or waste with used oil to render the substances or wastes non-hazardous except as provided in 40 C.F.R. § 279.10(b)(2)(iii) and (b)(3). Wastes that will reduce the recyclability of used oil shall not purposely be mixed with used oil;

(c) Wastes containing oils that do not meet the definition of used oil as defined in OAR 340-111-0020 may be subject to 40 C.F.R. Part 279 provided the waste would not be a hazardous waste if disposed and it contains sufficient oil to allow it to be managed in a manner similar to used oil provided state air quality and solid waste regulations are satisfied.

(3) Burning for Energy Recovery:

(a) Any person who burns used oil for energy recovery must comply with applicable air emission requirements of the state or local air pollution authority.

(b) A person may only burn a mixture of used oil and non-hazardous solid waste as a fuel for energy recovery if the mixture has a minimum energy value of 5,000 Btus per pound.

(c) A person may burn a mixture of used oil and non-hazardous waste with energy values of less than 5,000 Btus per pound for treatment or incineration if the mixture is not a hazardous waste under OAR 340-102-0011 and if the person satisfiesOregon solid waste and air quality regulations.

(d) Residues that burning used oil for energy recovery produce are subject to the hazardous waste regulations in OAR Chapter 340, Divisions 100 to 110, 120 and 40 C.F.R. Parts 260 to 268, 270 and 124 if the materials are listed or identified as hazardous waste.

(4) A person may manage oil removed from a non-halogenated parts cleaning media as used oil if the person:

(a) Cleans parts primarily to remove an oil that would meet the definition of a used oil as defined in OAR 340-111-0020; and

(b) Does not mix listed or characteristic hazardous waste with the parts cleaning media.

(5) Any person may petition the Department in writing following the procedures in OAR chapter 183; OAR chapter 137, division 2; and OAR chapter 340, division 11, for a declaratory ruling whether a material is a used oil under OAR 340-111-0020.

Stat. Auth.: ORS 192, 465.009, 466.015, 466.020, 466.075, 466.090, 468.020 & 646
Stats. Implemented: ORS 459A.590 & 466.075
Hist.: DEQ 33-1990, f. & cert. ef. 8-15-90; DEQ 6-1994, f. & cert. ef. 3-22-94; DEQ 5-2015, f. & cert. ef. 4-15-15

340-111-0070
Disposal

(1) In addition to provisions under 40 C.F.R. § 279.81(b), used oils that are not hazardous wastes and cannot be recycled under 40 C.F.R. Part 279 must be managed according to Oregon solid waste regulations in OAR chapter 340, divisions 93–97.

(2) In addition to provisions under 40 C.F.R. § 279.81, unless permitted under ORS 468B.050, no person shall dispose of used oil by discharge into sewers, drainage systems, or waters of the state as defined by 468.005(8).

Stat. Auth.: ORS 192, 465.009, 466.015, 466.020, 466.075, 466.090, 468.020 & 646
Stats. Implemented: ORS 459A.580
Hist.: DEQ 6-1994, f. & cert. ef. 3-22-94; DEQ 5-2015, f. & cert. ef. 4-15-15

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Department of Fish and Wildlife
Chapter 635

Rule Caption: Temporary Waivers To Retrieve Dungeness Crab Gear From the Pacific Ocean.
Adm. Order No.: DFW 20-2015(Temp)
Filed with Sec. of State: 3-16-2015
Certified to be Effective: 3-16-15 thru 8-14-15
Notice Publication Date:
Rules Amended: 635-005-0480
Subject: This amended rule allows retrieval of Dungeness crab pots which have become stranded in the Pacific ocean due to extraordinary circumstances whereby the vessel which originally placed them in the ocean is no longer in possession of the necessary permit required for retrieval.
Rules Coordinator: Michelle Tate—(503) 947-6044

635-005-0480
Dungeness Crab Buoy Tag and Gear Marking Requirements

It is unlawful for commercial purposes to:

(1) Use commercial Dungeness crab gear in the Columbia River or Pacific Ocean unless the gear is individually marked with a surface buoy bearing, in a visible, legible and permanent manner, the brand of the owner and the Department buoy tag, provided that:

(a) The brand is a number registered with and approved by the Department;

(b) Only one unique buoy brand shall be registered to any one permitted vessel;

(c) All Dungeness crab gear fished by a permitted vessel must use only the Oregon buoy brand number registered to that vessel in the area off of Oregon;

(d) The Department shall issue crab buoy tags to the owner of each commercial crab permit in the amount determined by OAR 635-005-0405(5);

(e) All buoy tags eligible to a permit holder must be purchased from the Department at cost and attached to the gear prior to setting gear;

(f) Buoys attached to Dungeness crab gear must have the buoy tag securely attached to the buoy closest to the gear at the end away from the buoy line; and

(g) Additional buoy tags to replace lost tags will be issued by the Department as follows:

(A) As of the first business day after 30 days following the season opening in the area fished, up to ten percent of the tags initially issued for that season; or

(B) For a catastrophic loss, as defined in ORS 635-005-0240; or

(C) If the Director finds that the loss of buoy tags was:

(i) Due to an extraordinary event;

(ii) The loss was minimized with the exercise of reasonable diligence; and

(iii) Reasonable efforts were taken to recover lost buoy tags and associated fishing gear.

(D) Upon receipt of the declaration of loss required by subsection (1)(g)(E) of this rule, and a request for replacement tags under sub-subsection (1)(g)(C) of this rule, the Director or the Director's designee may provide an opportunity for the permit holder requesting the replacement tags to describe why the buoy tag loss meets the criteria for replacement under subsection (1)(g)(C) of this rule. The Director or the Director's designee shall provide the Director's order to the permit holder and to the Department's License Services. The permit holder may appeal the Director's findings to the Fishery Permit Review Board under OAR 635-005-0425.

(E) Permit holders (or their alternative designated on the buoy tag order form) must obtain, complete, and sign a declaration of loss under penalty of perjury in the presence of an authorized Department employee. The declaration shall state the number of buoy tags lost, the location and date where lost gear or tags were last observed, and the presumed cause of the loss.

(2) Possess on a vessel, use, control, or operate any Dungeness crab gear which does not have a tag affixed to the individual pot or ring identifying the gear as belonging to that vessel, a surface buoy bearing the Department buoy brand registered to that vessel, and a Department buoy tag issued by the Department to that vessel, as pursuant to ORS 509.415, except:

(a) To set gear as allowed under OAR 635-005-0405; or

(b) Under a waiver granted by the Department to allow one time retrieval of permitted Dungeness crab gear to shore by another crab permitted vessel provided that:

(A) The vessel is incapacitated due to major mechanical failure or destroyed due to fire, capsizing, or sinking;

(B) Circumstances beyond the control of the permit holder as defined by undue hardship in OAR 635-005-0240;

(C) A Request must be in writing and a waiver approved and issued prior to retrieval; and

(D) A copy of the waiver must be on board the vessel making the retrieval (Contact Department of Fish and Wildlife Licensing Services, Salem for guidelines).

(c) Under a waiver granted by the Department to allow one time retrieval of permitted Dungeness crab gear to shore by another licensed vessel provided that:

(A) The Director finds that the retrieval is necessary due to an extraordinary circumstance;

(B) A Request must be in writing and a waiver approved and issued prior to retrieval;

(C) A copy of the waiver must be on board the vessel making the retrieval (Contact Department of Fish and Wildlife Licensing Services, Salem for guidelines); and

(D) No crab may be landed under this waiver.

(d) Under a waiver granted by the Department to allow one time change of buoy tags associated with a Dungeness crab permit transfer under OAR 635-005-0440 provided that:

(A) A request must be in writing and a waiver approved and issued prior to change of buoy tags; and

(B) A copy of the waiver must be on board the vessel making the change of buoy tags (Contact Department of Fish and Wildlife Licensing Services, Salem for guidelines).

(e) When retrieving derelict Dungeness crab gear as pursuant to OAR 635-005-0490 or 635-005-0491;

(f) A vessel may transit through the Columbia River and the Pacific Ocean adjacent to Oregon while possessing Dungeness crab gear not bearing Oregon buoy tags or Oregon buoy branded surface buoys, provided that the vessel is authorized and en-route to participate or returning from participating in the Dungeness crab fishery of an adjacent state; or

(g) When operating crab rings in bays or estuaries, only a tag affixed to the individual ring is required.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109 & 506.129
Hist.: DFW 76-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 151-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 113-2014, f. 8-5-14, cert. ef. 8-15-14; DFW 20-2015(Temp), f. & cert. ef. 3-16-15 thru 8-14-15

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Rule Caption: Commercial Winter Fisheries for Youngs Bay Select Area of the Columbia River Modified.
Adm. Order No.: DFW 21-2015(Temp)
Filed with Sec. of State: 3-24-2015
Certified to be Effective: 3-24-15 thru 7-30-15
Notice Publication Date:
Rules Amended: 635-042-0145
Rules Suspended: 635-042-0145(T)
Subject: This amended rule rescinds three four hour commercial fishing periods previously authorized for the winter commercial Chinook salmon and shad season in the Youngs Bay Select Area of the Columbia River. The rescinded periods were scheduled to occur on March 25 (4 hours), March 26 (4 hours) and March 30, 2015 (4 hours).
Rules Coordinator: Michelle Tate—(503) 947-6044

635-042-0145
Youngs Bay Salmon Season

(1) Salmon and shad may be taken for commercial purposes during open 2015 fishing periods in waters of Youngs Bay as described below. Retention and sale of white sturgeon is prohibited.

(a) The 2015 open fishing periods are established in three segments categorized as the winter fishery, subsection (1)(a)(A); the spring fishery, subsection (1)(a)(B); and summer fishery, subsection (1)(a)(C), as follows:

(A) Winter Season: Open Mondays, Wednesdays, and Thursdays from February 9 through March 9 (13 days). Open hours are from 6:00 a.m. to midnight (18 hours) on Mondays and Thursdays, and 6:00 a.m. to 6:00 p.m. (12 hours) on Wednesdays. Beginning March 11 the following open periods apply:

Wednesday, March 11, 8:00 a.m.–4:00 p.m. (8 hrs.);
Thursday, March 12, 8:00 a.m. –4:00 p.m. (8 hrs.);
Monday, March 16 , noon–8:00 p.m. (8 hrs.);
Wednesday, March 18, 6:00 p.m. –10:00 p.m. (4 hrs.);
Thursday, March 19, 7:00 p.m. –11:00 p.m. (4 hrs.); and
Monday, March 23, 9:00 a.m. –1:00 p.m. (4 hrs.).
(B) Spring Season: Open during the following periods:
Tuesday, April 21, 8:00 p.m. –Midnight (4 hrs.);
Thursday, April 23, 9:00 p.m. –3:00 a.m. Friday, April 24 (6 hrs.);
Tuesday, April 28, 7:00 p.m. –7:00 a.m. Wednesday, April 29 (12 hrs.);
Thursday, April 30, 7:00 p.m. –7:00 a.m. Friday, May 1 (12 hrs.);
Monday, May 4, 9:00 a.m. –3:00 a.m. Tuesday, May 5 (18 hrs.);
Wednesday, May 6, 9:00 a.m. –9:00 p.m. (12 hrs.);
Thursday, May 7, 9:00 a.m. –3:00 a.m. Friday, May 8 (18 hrs.); and
Noon Monday through Noon Friday (4 days/week) from May 11 through June 12 (20 days).

(C) Summer Season: Beginning June 16 the following open periods apply:

Noon Tuesday, June 16 through Noon Friday, June 19 (3 days);
Noon Mondays through Noon Fridays, June 22–July 3 (8 days);
Noon Monday, July 6 through Noon Thursday, July 9 (3 days); and
Noon Tuesdays through Noon Thursdays, July 14 through July 30 (6 days).

(b) For the winter fisheries, the waters of Youngs Bay from the Highway 101 Bridge upstream to the upper boundary markers at the confluence of the Klaskanine and Youngs rivers including the lower Walluski River upstream to the Highway 202 Bridge are open. Those waters southerly of the alternate Highway 101 Bridge (Lewis and Clark River) are closed. For the spring and summer fisheries the fishing area is identified as the waters of Youngs Bay from the Highway 101 Bridge upstream to the upper boundary markers at the confluence of the Klaskanine and Youngs rivers and includes th lower Walluski River upstream to Highway 202 Bridge and the lower Lewis and Clark River upstream to the overhead power lines immediately upstream of Barrett Slough.

(2) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom except the use of additional weights and/or anchors attached directly to the leadline is allowed upstream of markers located approximately 200 yards upstream of the mouth of the Walluski River during all Youngs Bay commercial fisheries and upstream of the alternate Highway 101 Bridge in the Lewis and Clark River during the spring and summer seasons. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net.

(a) It is unlawful to use a gill net having a mesh size that is less than 7 inches during the winter season. It is unlawful to use a gill net having a mesh size that is more than 9.75 inches during the spring and summer seasons.

(b) Nets not specifically authorized for use in these areas may be onboard a vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

(3) Non-resident commercial fishing and boat licenses are not required for Washington fishers participating in Youngs Bay commercial fisheries. A valid fishing and boat license issued by the state of Washington is considered adequate for participation in this fishery. The open area for non-resident commercial fishers includes all areas open for commercial fishing.

Stat. Auth.: ORS 183.325, 506.109 & 506.119
Stats. Implemented: ORS 506.129 & 507.030
Hist.: FWC 32-1979, f. & ef. 8-22-79; FWC 28-1980, f. & ef. 6-23-80; FWC 42-1980(Temp), f. & ef. 8-22-80; FWC 30-1981, f. & ef. 8-14-81; FWC 42-1981(Temp), f. & ef. 11-5-81; FWC 54-1982, f. & ef. 8-17-82; FWC 37-1983, f. & ef. 8-18-83; FWC 61-1983(Temp), f. & ef. 10-19-83; FWC 42-1984, f. & ef. 8-20-84; FWC 39-1985, f. & ef. 8-15-85; FWC 37-1986, f. & ef. 8-11-86; FWC 72-1986(Temp), f. & ef. 10-31-86; FWC 64-1987, f. & ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; DFW 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. ef. 3-3-98; DFW 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; DFW 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; 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 3-2001, f. & cert. ef. 2-6-01; DFW 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; DFW 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; 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 37-2003(Temp), f. & cert. ef. 5-7-03 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 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 15-2005(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 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 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; DFW 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; DFW 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; 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 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; DFW 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; DFW 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 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 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 50-2007(Temp), f. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; 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 30-2008(Temp), f. 3-27-08, cert. ef. 3-30-08 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 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 24-2009(Temp), f. 3-10-09, cert. ef. 3-11-09 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 17-2010(Temp), f. & cert. ef. 2-22-10 thru 7-31-10; DFW 20-2010(Temp), f. & cert. ef. 2-26-10 thru 7-31-10; DFW 30-2010(Temp), f. 3-11-10, cert. ef. 3-14-10 thru 7-31-10; DFW 35-2010(Temp), f. 3-23-10, cert. ef. 3-24-10 thru 7-31-10; DFW 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; 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 35-2011(Temp), f. & cert. ef. 4-28-11 thru 7-29-11; DFW 46-2011(Temp), f. & cert. ef. 5-12-11 thru 7-29-11; DFW 52-2011(Temp), f. & cert. ef. 5-18-11 thru 7-29-11; DFW 76-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 7-29-11; DFW 106-2011(Temp), f. 8-2-11, cert. ef. 8-3-11 thru 10-31-11; DFW 121-2011(Temp), f. 8-29-11, cert. ef. 9-5-11 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 24-2012(Temp), f. 3-15-12, cert. ef. 3-18-12 thru 7-31-12; DFW 26-2012(Temp), f. 3-20-12, cert. ef. 3-21-12 thru 7-31-12; DFW 27-2012(Temp), f. 3-27-12, cert. ef. 3-29-12 thru 7-31-12; DFW 28-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-31-12; DFW 30-2012(Temp), f. 4-4-12, cert. ef. 4-5-12 thru 7-31-12; DFW 36-2012(Temp), f. 4-16-12, cert. ef. 4-19-12 thru 7-31-12; DFW 82-2012(Temp), f. 6-29-12, cert. ef. 7-2-12 thru 7-31-12; DFW 96-2012(Temp), f. 7-30-12, cert. ef. 8-1-12 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 22-2013(Temp), f. 3-12-13, cert. ef. 3-13-13 thru 7-31-13; DFW 34-2013(Temp), f. 5-14-13, cert. ef. 5-15-13 thru 7-31-13; DFW 36-2013(Temp), f. & cert. ef. 5-22-13 thru 7-31-13; DFW 44-2013(Temp), f. & cert. ef. 5-29-13 thru 7-31-13; DFW 82-2013(Temp), f. 7-29-13, cert. ef. 7-31-13 thru 10-31-13; DFW 87-2013(Temp), f. & cert. ef. 8-9-13 thru 10-31-13; DFW 109-2013(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 18-2014(Temp), f. 3-7-14, cert. ef. 3-10-14 thru 7-30-14; DFW 25-2014(Temp), f. 3-13-14, cert. ef. 3-17-14 thru 7-31-14; DFW 32-2014(Temp), f. 4-21-14, cert. ef. 4-22-14 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 45-2014(Temp), f. 5-14-14, cert. ef. 5-20-14 thru 7-31-14; DFW 51-2014(Temp), f. & cert. ef. 5-28-14 thru 7-31-14; DFW 55-2014(Temp), f. 6-3-14, cert. ef. 6-4-14 thru 7-31-14; DFW 104-2014(Temp), f. 8-4-14, cert. ef. 8-5-14 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 17-2015(Temp), f. 3-5-15, cert. ef. 3-9-15 thru 7-30-15; DFW 21-2015(Temp), f. & cert. ef. 3-24-15 thru 7-30-15

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Rule Caption: Columbia River Commercial Spring Chinook Drift Net Fishery Set for March 31, 2015.
Adm. Order No.: DFW 22-2015(Temp)
Filed with Sec. of State: 3-30-2015
Certified to be Effective: 3-31-15 thru 4-1-15
Notice Publication Date:
Rules Amended: 635-042-0022
Subject: This amended rule allows a non-Indian commercial spring Chinook fishery in the mainstem Columbia River to commence on March 31, 2015 from the mouth of the Columbia River upstream to Beacon Rock (Zones 1 thru 5). The authorized fishing period is from 7:00 a.m. to 2:00 p.m. Tuesday March 31, 2015 (7 hours). Modifications are consistent with action taken March 30, 2015 by the Oregon and Washington Departments of Fish and Wildlife in a meeting of the Columbia River Compact.
Rules Coordinator: Michelle Tate—(503) 947-6044

635-042-0022
Spring Chinook Gillnet and Tangle Net Fisheries

(1) Adipose fin-clipped Chinook salmon and shad may be taken by drift tangle net for commercial purposes from the mouth of the Columbia River upstream to Beacon Rock (Zones 1–5 during the period: Tuesday March 31, 2015 from 7:00 a.m. to 2:00 p.m. (7 hours).

(2) An adipose fin clip salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. The adipose fin is the small fatty fin on salmonids located between the dorsal fin and tail.

(3) During the spring Chinook tangle net fishery:

(a) It is unlawful to use other than a single-wall multi-filament net. Monofilament tangle nets are not allowed. Maximum mesh size is 4 1/4 inches stretched taut. 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.

(b) Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one vertical knot to the inside of the opposite vertical knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact.

(4) Nets shall not exceed 900 feet (150 fathoms) in length. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25 fathom intervals must be in color contrast to the corks used in the remainder of the net.

(5) On tangle nets, an optional steelhead excluder panel of mesh may be hung between the corkline and the 4 1/4 inch maximum mesh size tangle net. The excluder panel web must be a minimum mesh size of 12 inches when stretched taut under hand tension. Monofilament mesh is allowed for the excluder panel. The excluder panel (including any associated hangings) must be a minimum of 5 linear feet in depth and not exceed 10 linear feet in depth, as measured from the corkline to the upper margin of the tangle net mesh as the net hangs naturally from a taut corkline. Weedlines or droppers (bobber-type) may be used in place of the steelhead excluder panel. A weedline-type excluder means the net is suspended below the corkline by lines of no less than five feet in length between the corkline and the upper margin of the tangle net. A dropper-type excluder means the entire net is suspended below the surface of the water by lines of no less than five feet in length extending from individual surface floats to a submersed corkline. The corkline cannot be capable of floating the net in its entirety (including the leadline) independent of the attached floats. Weedlines or droppers must extend a minimum of 5 feet above the 4-1/4 inch maximum mesh size tangle net.

(a) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, may extend to a maximum length of 1,050 feet (175 fathoms).

(b) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, along with a red cork every 25 fathoms as required in section (5) above, must have two red corks at each end of the net.

(6) There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline.

(7) There are no restrictions on the use of slackers or stringers to slacken the net vertically.

(8) Nets shall be fished for no longer than 45 minutes per set. The time of fishing is measured from when the first mesh of the net is deployed into the water until the last mesh of the net is fully retrieved from the water.

(9) Sturgeon, nonadipose fin-clipped Chinook salmon, and steelhead must be released immediately with care and the least possible injury to the fish to the river without violence or into an operating recovery box.

(a) One operating recovery box with two chambers or two operating recovery boxes with one chamber each to aid survival of released fish must be on board each fishing vessel participating in the fishery. Recovery boxes shall be operating during any time that a net is being retrieved or picked.

(b) Non-adipose fin-clipped salmon and all steelhead that are bleeding, in lethargic condition, or appearing dead must be placed in the recovery box for rehabilitation purposes prior to release to the river.

(c) Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39-1/2 to 48 inches, the inside width measurement must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

(d) Each chamber of the recovery box must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute not to exceed 20 gallons per minute of fresh river water into each chamber. The fisher must demonstrate to the Department and Washington Department of Fish and Wildlife employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

(e) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1-3/4 inches from the floor of the chamber.

(f) Each chamber of the recovery box must include a water outlet that is at least 1 1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber, on either the same or opposite end as the inlet.

(g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

(10) At least one fisher on each boat engaged in the fishery must have attended a one-day workshop hosted by the Department or Washington Department of Fish and Wildlife to educate fishers on regulations and best methods for conduct of the fishery.

(11) Nothing in this section sets any precedent for any future spring Chinook fishery. The fact that an individual has attended a live capture training workshop does not entitle the individual to participate in any other fishery. If the Department authorizes a Live Capture fishery in the spring or at any other time, the Department may establish qualifications and requirements that are different from those already established. In particular, the Department may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future Live Capture fisheries.

(12) As authorized by OAR-635-006-0140 owners or operators of commercial fishing vessels must cooperate with Department fishery observers, or observers collecting data for the Department, when asked by the Department to carry and accommodate an observer on fishing trips for observation and sampling during an open fishery. In addition, cooperation with department personel prior to a fishing period is expected.

(13) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomin-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B, Sandy and Washougal sanctuaries are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 12-2004(Temp), f. & cert. ef. 3-1-04, thru 7-31-04; DFW 13-2004(Temp), f. & cert. ef. 3-3-04 thru 7-31-04; DFW 16-2004(Temp), f. & cert. ef. 3-8-04 thru 7-31-04; DFW 18-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 20-2004(Temp) f. & cert. ef. 3-15-04 thru 7-31-04; DFW 21-2004(Temp), f. & cert. ef. 3-18-04 thru 7-31-04; DFW 25-2004(Temp), f. 3-22-04, cert. ef. 3-23-04 thru 7-31-04; DFW 26-2004(Temp), f. & cert. ef. 3-25-04 thru 7-31-04; DFW 27-2004(Temp), f. & cert. ef. 3-29-04 thru 7-31-04; Administrative correction 8-19-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 9-2005(Temp), f. & cert. ef. 3-1-05 thru 7-31-05; DFW 11-2005(Temp), f. 3-2-05, cert. ef. 3-3-05 & 7-31-05; DFW 13-2005(Temp), f. & cert. ef. 3-7-05 thru 7-31-05; DFW 14-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; DFW 20-2005(Temp), f. & cert. ef. 3-29-05 thru 3-30-05; DFW 21-2005(Temp), f. & cert. ef. 3-31-05 thru 4-1-05; Administrative correction, 4-20-05; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 7-2006(Temp), f. & cert. ef. 2-23-06 thru 7-31-06; DFW 9-2006(Temp), f. 3-1-06, cert. ef. 3-2-06 thru 7-31-06; DFW 10-2006(Temp), f. 3-6-06, cert. ef. 3-7-06 thru 7-31-06; DFW 11-2006(Temp), f. & cert. ef. 3-9-06 thru 7-31-06; DFW 12-2006(Temp), f. 3-13-06, cert. ef. 3-14-06 thru 7-31-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 30-2006(Temp), f. & cert. ef. 5-18-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; Administrative correction 8-22-06; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 17-2007(Temp), f. & cert. ef. 3-20-07 thru 9-15-07; DFW 19-2007(Temp), f. & cert. ef. 3-22-07 thru 9-17-07; DFW 44-2007(Temp), f. & cert. ef. 6-14-07 thru 9-17-07; Administrative correction 9-18-07; DFW 31-2008(Temp), f. 3-31-08, cert. ef. 4-1-08 thru 9-27-08; DFW 33-2008(Temp), f. 4-7-08, cert. ef. 4-8-08 thru 9-27-08; DFW 34-2008(Temp), f. 4-14-08, cert. ef. 4-15-08 thru 9-27-08; Suspended by DFW 71-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; Administrative correction 10-21-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 30-2009(Temp), f. 3-23-09, cert. ef. 3-27-09 thru 4-30-09; DFW 34-2009(Temp), f. 4-6-09, cert. ef. 4-7-09 thru 4-30-09; DFW 36-2009(Temp), f. 4-13-09, cert. ef. 4-14-09 thru 4-30-09; Administrative correction 5-20-09; DFW 38-2010(Temp), f. & cert. ef. 3-30-10 thru 4-30-10; DFW 41-2010(Temp), f. 4-6-10, cert. ef. 4-7-10 thru 4-30-10; Administrative correction 5-19-10; DFW 25-2011(Temp), f. & cert. ef. 3-29-11 thru 4-1-11; DFW 27-2011(Temp), f. 4-5-11, cert. ef. 4-6-11 thru 4-10-11; Administrative correction, 4-25-11; DFW 45-2011(Temp), f. & cert. ef. 5-12-11 thru 6-30-11; DFW 51-2011(Temp), f. & cert. ef. 5-18-11 thru 6-30-11; Administrative correction 7-22-11; DFW 29-2012(Temp), f. 4-2-12, cert. ef. 4-3-12 thru 4-30-12; DFW 32-2012(Temp), f. 4-9-12, cert. ef. 4-10-12 thru 4-30-12; Administrative correction, 5-25-12; DFW 27-2013(Temp), f. 4-8-13, cert. ef. 4-9-13 thru 4-30-13; DFW 34-2013(Temp), f. 5-14-13, cert. ef. 5-15-13 thru 7-31-13; DFW 37-2013(Temp), f. & cert. ef. 5-22-13 thru 5-31-13; DFW 45-2013(Temp), f. & cert. ef. 5-29-13 thru 6-15-13; Administrative correction, 7-18-13; DFW 28-2014(Temp), f. 3-31-14, cert .ef. 4-1-14 thru 7-31-14; DFW 38-2014(Temp), f. & cert. ef. 5-7-14 thru 7-31-14; DFW 43-2014(Temp), f. 5-14-14, cert. ef. 5-20-14 thru 7-31-14; DFW 50-2014(Temp), f. & cert. ef. 5-28-14 thru 7-31-14; DFW 55-2014(Temp), f. 6-3-14, cert. ef. 6-4-14 thru 7-31-14; Administrative correction, 8-28-14; DFW 22-2015(Temp), f. 3-30-15, cert. ef. 3-31-15 thru 4-1-15

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Rule Caption: 2015 Chinook Salmon Seasons on the Siletz River.
Adm. Order No.: DFW 23-2015(Temp)
Filed with Sec. of State: 4-1-2015
Certified to be Effective: 4-1-15 thru 7-31-15
Notice Publication Date:
Rules Amended: 635-014-0090

Subject: This amended rule clarifies the regulations for recreational harvest of Chinook salmon on the Siletz River beginning April 1, 2015. The daily bag limit is one non fin-clipped spring Chinook salmon per day and 2 per year. 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, (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) 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

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Rule Caption: Columbia River Commercial Spring Chinook Drift Net Fishery Set for April 7, 2015.
Adm. Order No.: DFW 24-2015(Temp)
Filed with Sec. of State: 4-6-2015
Certified to be Effective: 4-7-15 thru 4-8-15
Notice Publication Date:
Rules Amended: 635-042-0022
Subject: This amended rule allows a non-Indian commercial spring Chinook fishery in the mainstem Columbia River to commence on April 7, 2015 from the mouth of the Columbia River upstream to Beacon Rock (Zones 1 thru 5). The authorized fishing period is from 8:00 a.m. to 6:00 p.m. Tuesday, April 7, 2015 (10 hours). Modifications are consistent with action taken April 6, 2015 by the Oregon and Washington Departments of Fish and Wildlife in a meeting of the Columbia River Compact.
Rules Coordinator: Michelle Tate—(503) 947-6044

635-042-0022
Spring Chinook Gillnet and Tangle Net Fisheries

(1) Adipose fin-clipped Chinook salmon and shad may be taken by drift tangle net for commercial purposes from the mouth of the Columbia River upstream to Beacon Rock (Zones 1 5 during the periods: Tuesday, March 31, from 7:00 a.m. to 2:00 p.m. (7 hours); and Tuesday, April 7, 2015 from 8:00 a.m. to 6:00 p.m. (10 hours).

(2) A maximum of 8 adipose fin-clipped adult Chinook may be possessed or sold by each participating vessel. The first 8 adult hatchery fish must be retained and no additional drifts may be conducted once the Chinook limit has been retained. Jack Chinook (Chinook less than 24-inches in total length) are not included in the landing limit. An adipose fin-clipped salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin. The adipose fin is the small fatty fin on salmonids located between the dorsal fin and tail.

(3) During the spring Chinook tangle net fishery:

(a) It is unlawful to use other than a single-wall multi-filament net. Monofilament tangle nets are not allowed. Maximum mesh size is 4 1/4 inches stretched taut. 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.

(b) Mesh size is determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one vertical knot to the inside of the opposite vertical knot of the center mesh. Hand tension means sufficient linear tension to draw opposing knots of meshes into contact.

(4) Nets shall not exceed 900 feet (150 fathoms) in length. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25 fathom intervals must be in color contrast to the corks used in the remainder of the net.

(5) On tangle nets, an optional steelhead excluder panel of mesh may be hung between the corkline and the 4 1/4 inch maximum mesh size tangle net. The excluder panel web must be a minimum mesh size of 12 inches when stretched taut under hand tension. Monofilament mesh is allowed for the excluder panel. The excluder panel (including any associated hangings) must be a minimum of 5 linear feet in depth and not exceed 10 linear feet in depth, as measured from the corkline to the upper margin of the tangle net mesh as the net hangs naturally from a taut corkline. Weedlines or droppers (bobber-type) may be used in place of the steelhead excluder panel. A weedline-type excluder means the net is suspended below the corkline by lines of no less than five feet in length between the corkline and the upper margin of the tangle net. A dropper-type excluder means the entire net is suspended below the surface of the water by lines of no less than five feet in length extending from individual surface floats to a submersed corkline. The corkline cannot be capable of floating the net in its entirety (including the leadline) independent of the attached floats. Weedlines or droppers must extend a minimum of 5 feet above the 4 1/4 inch maximum mesh size tangle net.

(a) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, may extend to a maximum length of 1,050 feet (175 fathoms).

(b) Tangle nets constructed with a steelhead excluder panel, weedlines, or droppers, along with a red cork every 25 fathoms as required in section (5) above, must have two red corks at each end of the net.

(6) There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline.

(7) There are no restrictions on the use of slackers or stringers to slacken the net vertically.

(8) Nets shall be fished for no longer than 45 minutes per set. The time of fishing is measured from when the first mesh of the net is deployed into the water until the last mesh of the net is fully retrieved from the water.

(9) Sturgeon, nonadipose fin-clipped Chinook salmon, and steelhead must be released immediately with care and the least possible injury to the fish to the river without violence or into an operating recovery box.

(a) One operating recovery box with two chambers or two operating recovery boxes with one chamber each to aid survival of released fish must be on board each fishing vessel participating in the fishery. Recovery boxes shall be operating during any time that a net is being retrieved or picked.

(b) Non-adipose fin-clipped salmon and all steelhead that are bleeding, in lethargic condition, or appearing dead must be placed in the recovery box for rehabilitation purposes prior to release to the river.

(c) Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39 1/2 to 48 inches, the inside width measurement must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches.

(d) Each chamber of the recovery box must include an operating water pumping system capable of delivering a minimum flow of 16 gallons per minute not to exceed 20 gallons per minute of fresh river water into each chamber. The fisher must demonstrate to the Department and Washington Department of Fish and Wildlife employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

(e) Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber.

(f) Each chamber of the recovery box must include a water outlet that is at least 1 1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber, on either the same or opposite end as the inlet.

(g) All fish placed in recovery boxes must be released to the river prior to landing or docking.

(10) At least one fisher on each boat engaged in the fishery must have attended a one-day workshop hosted by the Department or Washington Department of Fish and Wildlife to educate fishers on regulations and best methods for conduct of the fishery.

(11) Nothing in this section sets any precedent for any future spring Chinook fishery. The fact that an individual has attended a live capture training workshop does not entitle the individual to participate in any other fishery. If the Department authorizes a Live Capture fishery in the spring or at any other time, the Department may establish qualifications and requirements that are different from those already established. In particular, the Department may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future Live Capture fisheries.

(12) As authorized by OAR-635-006-0140 owners or operators of commercial fishing vessels must cooperate with Department fishery observers, or observers collecting data for the Department, when asked by the Department to carry and accommodate an observer on fishing trips for observation and sampling during an open fishery. In addition, cooperation with department personel prior to a fishing period is expected.

(13) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomin-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B, Sandy and Washougal sanctuaries are in effect during the open fishing periods identified.

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162, 506.129 & 507.030
Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 12-2004(Temp), f. & cert. ef. 3-1-04, thru 7-31-04; DFW 13-2004(Temp), f. & cert. ef. 3-3-04 thru 7-31-04; DFW 16-2004(Temp), f. & cert. ef. 3-8-04 thru 7-31-04; DFW 18-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 20-2004(Temp) f. & cert. ef. 3-15-04 thru 7-31-04; DFW 21-2004(Temp), f. & cert. ef.

3-18-04 thru 7-31-04; DFW 25-2004(Temp), f. 3-22-04, cert. ef. 3-23-04 thru 7-31-04; DFW 26-2004(Temp), f. & cert. ef. 3-25-04 thru 7-31-04; DFW 27-2004(Temp), f. & cert. ef. 3-29-04 thru 7-31-04; Administrative correction 8-19-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 9-2005(Temp), f. & cert. ef. 3-1-05 thru 7-31-05; DFW 11-2005(Temp), f. 3-2-05, cert. ef. 3-3-05 & 7-31-05; DFW 13-2005(Temp), f. & cert. ef. 3-7-05 thru 7-31-05; DFW 14-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; DFW 20-2005(Temp), f. & cert. ef. 3-29-05 thru 3-30-05; DFW 21-2005(Temp), f. & cert. ef. 3-31-05 thru 4-1-05; Administrative correction, 4-20-05; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 7-2006(Temp), f. & cert. ef. 2-23-06 thru 7-31-06; DFW 9-2006(Temp), f. 3-1-06, cert. ef. 3-2-06 thru 7-31-06; DFW 10-2006(Temp), f. 3-6-06, cert. ef. 3-7-06 thru 7-31-06; DFW 11-2006(Temp), f. & cert. ef. 3-9-06 thru 7-31-06; DFW 12-2006(Temp), f. 3-13-06, cert. ef. 3-14-06 thru 7-31-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 30-2006(Temp), f. & cert. ef. 5-18-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; Administrative correction 8-22-06; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 17-2007(Temp), f. & cert. ef. 3-20-07 thru 9-15-07; DFW 19-2007(Temp), f. & cert. ef. 3-22-07 thru 9-17-07; DFW 44-2007(Temp), f. & cert. ef. 6-14-07 thru 9-17-07; Administrative correction 9-18-07; DFW 31-2008(Temp), f. 3-31-08, cert. ef. 4-1-08 thru 9-27-08; DFW 33-2008(Temp), f. 4-7-08, cert. ef. 4-8-08 thru 9-27-08; DFW 34-2008(Temp), f. 4-14-08, cert. ef. 4-15-08 thru 9-27-08; Suspended by DFW 71-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; Administrative correction 10-21-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 30-2009(Temp), f. 3-23-09, cert. ef. 3-27-09 thru 4-30-09; DFW 34-2009(Temp), f. 4-6-09, cert. ef. 4-7-09 thru 4-30-09; DFW 36-2009(Temp), f. 4-13-09, cert. ef. 4-14-09 thru 4-30-09; Administrative correction 5-20-09; DFW 38-2010(Temp), f. & cert. ef. 3-30-10 thru 4-30-10; DFW 41-2010(Temp), f. 4-6-10, cert. ef. 4-7-10 thru 4-30-10; Administrative correction 5-19-10; DFW 25-2011(Temp), f. & cert. ef. 3-29-11 thru 4-1-11; DFW 27-2011(Temp), f. 4-5-11, cert. ef. 4-6-11 thru 4-10-11; Administrative correction, 4-25-11; DFW 45-2011(Temp), f. & cert. ef. 5-12-11 thru 6-30-11; DFW 51-2011(Temp), f. & cert. ef. 5-18-11 thru 6-30-11; Administrative correction 7-22-11; DFW 29-2012(Temp), f. 4-2-12, cert. ef. 4-3-12 thru 4-30-12; DFW 32-2012(Temp), f. 4-9-12, cert. ef. 4-10-12 thru 4-30-12; Administrative correction, 5-25-12; DFW 27-2013(Temp), f. 4-8-13, cert. ef. 4-9-13 thru 4-30-13; DFW 34-2013(Temp), f. 5-14-13, cert. ef. 5-15-13 thru 7-31-13; DFW 37-2013(Temp), f. & cert. ef. 5-22-13 thru 5-31-13; DFW 45-2013(Temp), f. & cert. ef. 5-29-13 thru 6-15-13; Administrative correction, 7-18-13; DFW 28-2014(Temp), f. 3-31-14, cert .ef. 4-1-14 thru 7-31-14; DFW 38-2014(Temp), f. & cert. ef. 5-7-14 thru 7-31-14; DFW 43-2014(Temp), f. 5-14-14, cert. ef. 5-20-14 thru 7-31-14; DFW 50-2014(Temp), f. & cert. ef. 5-28-14 thru 7-31-14; DFW 55-2014(Temp), f. 6-3-14, cert. ef. 6-4-14 thru 7-31-14; Administrative correction, 8-28-14; DFW 22-2015(Temp), f. 3-30-15, cert. ef. 3-31-15 thru 4-1-15; DFW 24-2015(Temp), f. 4-6-15, cert. ef. 4-7-15 thru 4-8-15

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Rule Caption: Establishes Rules Regarding Western Oregon and Rocky Mountain Elk Regulations for 2015
Adm. Order No.: DFW 25-2015
Filed with Sec. of State: 4-8-2015
Certified to be Effective: 4-8-15
Notice Publication Date: 9-1-2014
Rules Amended: 635-070-0000, 635-070-0020, 635-071-0000
Subject: Establishes 2015 seasons dates, bag limits, areas and restrictions for Western Oregon elk and Rocky Mountain elk as outlined in the 2015 Big Game Regulations.
Rules Coordinator: Michelle Tate—(503) 947-6044

635-070-0000
Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting Cascade and Coast elk pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2014 are listed in Tables 1 and 2 and are adopted and incorporated into OAR chapter 635, division 70 by reference.

(3) OAR chapter 635, division 70 incorporates, by reference, the requirements for hunting western Oregon elk set out in the document entitled "**2015 Oregon Big Game Regulations**," into Oregon Administrative Rules. Therefore, persons must consult the "2015 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for hunting western Oregon elk. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

(4) Additional regulation information is available on the Oregon Department of Fish and Wildlife website at www.odfw.com.

[ED. NOTE: Tables referenced are available from the agency.]
[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 41-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 119-2003, f. 12-4-03, cert. ef. 4-1-04; DFW 130-2003(Temp), f. & cert. ef. 12-24-03 thru 3-1-04; DFW 8-2004(Temp), f. & cert. ef. 2-2-04 thru 7-31-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 107-2004(Temp), f. & cert. ef 10-18-04 thru 11-27-04; DFW 131-2004, f. 12-21-04, cert. ef. 4-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 132-2005, f. 12-1-05, cert. ef. 4-1-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 126-2006, f. 12-7-06, cert. ef. 4-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 115-2007, f. 10-31-07, cert. ef. 4-1-08; DFW 60-2008, f. & cert. 6-12-08; DFW 31-2009, f. 3-23-09, cert. ef. 4-1-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 22-2010, f. 3-1-10, cert. ef. 4-1-10; DFW 31-2010, f. 3-12-10, cert. ef. 4-1-10; DFW 83-2010, f. & cert. ef. 6-15-10; DFW 62-2011, f. & cert. ef. 6-3-11; DFW 22-2012, f. 3-14-12, cert. ef. 4-1-12; DFW 58-2012, f. & cert. ef. 6-11-12; DFW 21-2013, f. 3-11-13, cert. ef. 4-1-13; DFW 53-2013, f. & cert. ef. 6-10-13; DFW 19-2014, f. & cert. ef. 3-11-14; DFW 63-2014, f. & cert. ef. 6-10-14; DFW 25-2015, f. & cert. ef. 4-8-15

635-070-0020
Controlled Western Oregon Elk Rifle Hunts

Tags shall be issued by a controlled hunt drawing following the procedures established in OAR chapter 635, division 60. A person successful in drawing a tag for a controlled elk season shall not hunt in any other elk season, except as provided in OAR chapter 635, division 90, or they may hunt in any controlled elk season for which they possess a "left over" tag obtained through the first-come, first-serve process.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 9-1997, f. & cert. ef. 2-27-97; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 10-2013, f. & cert. ef. 2-7-13; DFW 123-2013(Temp), f. 10-29-13, cert. ef. 11-1-13 thru 2-15-14; DFW 11-2014(Temp), f. & cert. ef. 2-12-14 thru 3-31-14; DFW 19-2014, f. & cert. ef. 3-11-14; DFW 63-2014, f. & cert. ef. 6-10-14; DFW 25-2015, f. & cert. ef. 4-8-15

635-071-0000
Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting Rocky Mountain elk pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2014 are listed in Tables 1 and 2 and are adopted and incorporated in OAR chapter 635, division 71 by reference.

(3) OAR chapter 635, division 71 incorporates, by reference, the requirements for hunting Rocky Mountain elk set out in the document entitled "2015 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2015 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for hunting Rocky Mountain elk. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

(4) Additional regulation information is available on the Oregon Department of Fish and Wildlife website at www.odfw.com.

[ED. NOTE: Tables referenced are available from the agency.]
[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 42-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 1-2004(Temp), f. & cert. ef. 1-13-04 thru 7-9-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 105-2004(Temp), f. & cert. ef. 10-13-04 thru 11-15-04, Administrative correction 11-22-04; DFW 131-2004, f. 12-21-04, cert. ef. 4-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 132-2005, f. 12-1-05, cert. ef. 4-1-06; DFW 22-2006(Temp), f. & cert. ef. 4-7-06 thru 10-4-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 126-2006, f. 12-7-06, cert. ef. 4-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 115-2007, f. 10-31-07, cert. ef. 4-1-08; DFW 60-2008, f. & cert. 6-12-08; DFW 31-2009, f. 3-23-09, cert. ef. 4-1-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 22-2010, f. 3-1-10, cert. ef. 4-1-10; DFW 31-2010, f. 3-12-10, cert. ef. 4-1-10; DFW 83-2010, f. & cert. ef. 6-15-10; DFW 62-2011, f. & cert. ef. 6-3-11; DFW 22-2012, f. 3-14-12, cert. ef. 4-1-12; DFW 58-2012, f. & cert. ef. 6-11-12; DFW 21-2013, f. 3-11-13, cert. ef. 4-1-13; DFW 53-2013, f. & cert. ef. 6-10-13; DFW 19-2014, f. & cert. ef. 3-11-14; DFW 63-2014, f. & cert. ef. 6-10-14; DFW 25-2015, f. & cert. ef. 4-8-15

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Rule Caption: Columbia River Recreational Season for Salmon, Steelhead and Shad Extended.
Adm. Order No.: DFW 26-2015(Temp)
Filed with Sec. of State: 4-8-2015
Certified to be Effective: 4-10-15 thru 6-15-15
Notice Publication Date:
Rules Amended: 635-023-0125
Rules Suspended: 635-023-0125(T)
Subject: This amended rule extends the season for recreational spring Chinook, steelhead and shad on the Columbia River mainstem downstream of Bonneville Dam with the addition of two fishing periods, Saturday, April 11 and Thursday, April 16, 2015. Descriptions of areas and bag limits for harvest of adipose fin-clipped Chinook

salmon and adipose fin-clipped steelhead remain unchanged from those already adopted by the Departments of Fish and Wildlife for the States of Oregon and Washington on January 28, 2015.
Rules Coordinator: Michelle Tate—(503) 947-6044

635-023-0125
Spring 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) The Columbia River recreational salmon and steelhead fishery downstream of Bonneville Dam is open from the mouth at Buoy 10 upstream to Beacon Rock (boat and bank) plus bank angling only from Beacon Rock upstream to the Bonneville Dam deadline from Sunday, March 1 through Saturday, April 11, 2015, and Thursday, April 16, 2015 (40 retention days) except closed Tuesday, March 24, Tuesday, March 31, and Tuesday, April 7, 2015 with the following restrictions:

(a) No more than two adult adipose fin-clipped salmonids, of which only one may be a Chinook, may be retained per day. All non-adipose fin-clipped salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(b) All other permanent **2015 Oregon Sport Fishing Regulation**s apply.

(c) The upstream boat boundary at Beacon Rock is defined as: "a deadline marker on the Oregon bank (approximately four miles downstream from Bonneville Dam Powerhouse One) in a straight line through the western tip of Pierce Island to a deadline marker on the Washington bank at Beacon Rock."

(3) The Columbia River recreational salmon and steelhead fishery upstream of the Tower Island power lines (approximately 6 miles below The Dalles Dam) to the Oregon/Washington border, plus the Oregon and Washington banks between Bonneville Dam and the Tower Island power lines is open for retention of adipose fin-clipped Chinook and adipose fin-clipped steelhead from Monday, March 16 through Wednesday, May 6, 2015 (52 retention days) with the following restrictions:

(a) No more than two adult adipose fin-clipped salmonids, of which only one may be a Chinook, may be retained per day. All non-adipose fin-clipped salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(b) All other permanent **2015 Oregon Sport Fishing Regulations** apply.

(4) During March 1 through June 15, the Columbia River Select Area recreational salmon and steelhead fisheries are subject to the following restrictions:

(a) On days when the recreational fishery below Bonneville Dam is open to retention of Chinook, the salmonid daily bag limit in Select Areas will be the same as mainstem Columbia River bag limits; and

(b) On days when the mainstem Columbia River fishery is closed to Chinook retention, the permanent salmonid bag limit regulations for Select Areas apply.

(5) The mainstem Columbia River will be open March 1 through May 15, 2015 for retention of adipose fin-clipped steelhead and shad only during days and in areas open for retention of adipose fin-clipped spring Chinook.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162 & 506.129
Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 17-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 29-2004(Temp), f. 4-15-04, cert. ef. 4-22-04 thru 7-31-04; DFW 30-2004(Temp), f. 4-21-04, cert. ef. 4-22-04 thru 7-31-04; DFW 36-2004(Temp), f. 4-29-04, cert. ef. 5-1-04 thru 7-31-04; DFW 39-2004(Temp), f. 5-5-04, cert.ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 51-2004(Temp), f. 6-9-04, cert. ef. 6-16-04 thru 7-31-04; Administrative correction 8-19-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 35-2005(Temp), f. 5-4-05, cert. ef. 5-5-05 thru 10-16-05; DFW 38-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 44-2005(Temp), f. 5-17-05, cert. ef. 5-22-05 thru 10-16-05; DFW 51-2005(Temp), f. 6-3-05, cert. ef. 6-4-05 thru 7-31-05; Administrative correction 11-18-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 21-2006(Temp), f. 4-13-06, cert. ef. 4-14-06 thru 5-15-06; DFW 27-2006(Temp), f. 5-12-06, cert. ef. 5-13-06 thru 6-15-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 33-2007(Temp), f. 5-15-07, cert. ef. 5-16-07 thru 7-30-07; DFW 37-2007(Temp), f. & cert. ef. 5-31-07 thru 7-30-07; DFW 39-2007(Temp), f. 6-5-07, cert. ef. 6-6-07 thru 7-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 13-2008(Temp), f. 2-21-08, cert. ef. 2-25-08 thru 8-22-08; DFW 17-2008(Temp), f. & cert. ef. 2-27-08 thru 8-22-08; DFW 35-2008(Temp), f. 4-17-08, cert. ef. 4-21-08 thru 8-22-08; DFW 49-2008(Temp), f. & cert. ef. 5-13-08 thru 6-15-08; Administrative correction 7-22-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 10-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 6-15-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 48-2009(Temp), f. 5-14-09, cert. ef. 5-15-09 thru 6-16-09; DFW 68-2009(Temp), f. 6-11-09, cert. ef. 6-12-09 thru 6-16-09; Administrative correction 7-21-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 19-2010(Temp), f. 2-26-10, cert. ef. 3-1-10 thru 8-27-10; DFW 23-2010(Temp), f. & cert. ef. 3-2-10 thru 8-27-10; DFW 45-2010(Temp), f. 4-21-10, cert. ef. 4-24-10 thru 7-31-10; DFW 49-2010(Temp), f. 4-27-10, cert. ef. 4-29-10 thru 7-31-10; DFW 55-2010(Temp), f. 5-7-10, cert. ef. 5-8-10 thru 7-31-10; Suspended by DFW 88-2010(Temp), f. 6-25-10, cert. ef. 6-26-10 thru 7-31-10; Administrative correction 8-18-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 13-2011(Temp), f. & cert. ef. 2-14-11 thru 6-15-11; DFW 28-2011(Temp), f. 4-7-11, cert. ef. 4-8-11 thru 6-15-11; DFW 30-2011(Temp), f. 4-15-11, cert. ef. 4-16-11 thru 6-15-11; DFW 33-2011(Temp), f. & cert. ef. 4-21-11 thru 6-15-11; DFW 39-2011(Temp), f. 5-5-11, cert. ef. 5-7-11 thru 6-15-11; DFW 48-2011(Temp), f. 5-13-11, cert. ef. 5-15-11 thru 6-15-11; DFW 55-2011(Temp), f. 5-25-11, cert. ef. 5-27-11 thru 6-15-11; DFW 59-2011(Temp), f. & cert. ef. 6-2-11 thru 6-15-11; Administrative correction 6-28-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 8-2012(Temp), f. 2-6-12, cert. ef. 2-15-12 thru 6-15-12; DFW 31-2012(Temp), f. 4-5-12, cert. ef. 4-6-12 thru 6-15-12; DFW 33-2012(Temp), f. 4-12-12, cert. ef. 4-14-12 thru 6-15-12; DFW 45-2012(Temp), f. 5-1-12, cert. ef. 5-2-12 thru 7-31-12; DFW 47-2012(Temp), f. 5-15-12, cert. ef. 5-16-12 thru 7-31-12; DFW 49-2012(Temp), f. 5-18-12, cert. ef. 5-19-12 thru 7-31-12; DFW 51-2012(Temp), f. 5-23-12, cert. ef. 5-26-12 thru 7-31-12; Suspended by DFW 85-2012(Temp), f. 7-6-12, cert. ef. 7-9-12 thru 8-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 12-2013(Temp), f. 2-12-13, cert. ef. 2-28-13 thru 7-31-13; DFW 26-2013(Temp), f. 4-4-13, cert. ef. 4-5-13 thru 7-1-13; DFW 38-2013(Temp), f. 5-22-13, cert. ef. 5-25-13 thru 7-1-13; DFW 49-2013(Temp), f. 6-7-13, cert. ef. 6-8-13 thru 6-30-13; Administrative correction, 7-18-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 12-2014(Temp), f. 2-13-14, cert. ef. 3-1-14 thru 6-15-14; DFW 29-2014(Temp), f. 4-3-14, cert. ef. 4-4-14 thru 6-15-14; DFW 31-2014(Temp), f. 4-17-14, cert. ef. 4-19-14 thru 7-31-14; DFW 40-2014(Temp), f. 5-7-14, cert. ef. 5-9-14 thru 6-30-14; DFW 44-2014(Temp), f. 5-14-14, cert. ef. 5-15-14 thru 6-15-14; DFW 52-2014(Temp), f. 5-28-14, cert. ef. 5-31-14 thru 6-30-14; Administrative correction, 7-24-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 12-2015(Temp), f. 2-3-15, cert. ef. 3-1-15 thru 6-15-15; DFW 16-2015(Temp), f. & cert. ef. 3-5-15 thru 6-15-15; DFW 26-2015(Temp), f. 4-8-15, cert. ef. 4-10-15 thru 6-15-15

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Rule Caption: 2015 Spring Chinook Season on the Hood River.
Adm. Order No.: DFW 27-2015(Temp)
Filed with Sec. of State: 4-9-2015
Certified to be Effective: 4-15-15 thru 6-30-15
Notice Publication Date:
Rules Amended: 635-018-0090
Subject: This amended rule allows the recreational harvest of adipose fin-clipped spring Chinook salmon in the Hood River from April 15 through June 30, 2015. The Hood River open area extends from the mouth to the mainstem confluence with the East Fork, and the West Fork from the confluence with the mainstem upstream to the angling deadline 200 feet downstream of Punchbowl Falls. The daily bag limit is 2 adult adipose fin-clipped salmon per day and 5 adipose fin-clipped jack salmon per day. All salmon that do not have a healed clipped adipose fin must be released unharmed. All other limits and restrictions remain unchanged from those listed in the 2015 Oregon Sport Fishing Regulations for the Hood River.
Rules Coordinator: Michelle Tate—(503) 947-6044

635-018-0090
Inclusions and Modifications

(1) The **2015 Oregon Sport Fishing Regulations** provide requirements for the Central 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) Hood River from the mouth to the mainstem confluence with the East Fork, and the West Fork from the confluence with the mainstem upstream to tha angling deadline 200 feet downstream of Punchbowl Falls is open to angling for adipose fin-clipped Chinook salmon from April 15 through June 30, 2015.

(a) The catch limit is two (2) adult adipose fin-clipped Chinook salmon per day, and five (5) adipose fin-clipped jack salmon per day. All non adipose fin-clipped Chinook salmon must be released unharmed.

(b) All other catch limits and restrictions remain unchanged from those listed for Hood River in the **2015 Oregon Sport Fishing Regulations**.

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 20-1994(Temp), f. & cert. ef. 4-11-94; FWC 24-1994(Temp), f. 4-29-94, cert. ef. 4-30-94; FWC 34-1994(Temp), f. 6-14-94, cert. ef. 6-16-94; FWC 54-1994, f. 8-25-94, cert. ef. 9-1-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 67-1994(Temp), f. & cert. ef. 9-26-94; FWC 70-1994, f. 10-4-95, cert. ef. 11-1-94; FWC 18-1995, f. 3-2-95, cert. ef. 4-1-95; FWC 60-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 11-1996(Temp), f. 3-8-96, cert. ef. 4-1-96; FWC 32-1996(Temp), f. 6-7-96, cert. ef. 6-16-96, FWC 38-1996(Temp), f. 6-14-96, cert. ef. 7-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 20-1997, f. & cert. ef. 3-24-97; FWC 21-1997, f. & cert. ef. 4-1-97; FWC 27-1997(Temp) f. 5-2-97, cert. ef. 5-9-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 25-1998(Temp), f. & cert. ef. 3-25-98 thru 8-31-98; DFW 56-1998(Temp), f. 7-24-98, cert. ef. 8-1-98 thru 10-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 96-1999, f. 12-27-99, cert.

ef. 1-1-00; DFW 12-2000(Temp), f. 3-20-00, cert. ef. 4-15-00 thru 7-31-00; DFW 27-2000(Temp), f. 5-15-00, cert. ef. 8-1-00 thru 10-31-00; DFW 28-2000, f. 5-23-00, cert. ef. 5-24-00 thru 7-31-00; 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 13-2001(Temp), f. 3-12-01, cert. ef. 4-7-01 thru 7-31-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 44-2001(Temp), f. 5-25-01, cert. ef. 6-1-01 thru 7-31-01; 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 23-2002(Temp), f. 3-21-02, cert. ef. 4-6-02 thru 7-31-02; DFW 25-2002(Temp), f. 3-22-02, cert. ef. 4-6-02 thru 7-31-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 62-2002, f. 6-14-02, cert. ef. 7-11-02; DFW 74-2002(Temp), f. 7-18-02, cert. ef. 8-1-02 thru 10-31-02; 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 97-2002(Temp), f. & cert. ef. 8-29-02 thru 10-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 26-2003(Temp), f. 3-28-03, cert. ef. 4-15-03 thru 7-31-03; DFW 66-2003(Temp), f. 7-17-03, cert. ef. 8-1-03 thru 10-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 23-2004(Temp), f. 3-22-04, cert. ef. 4-1-04 thru 7-31-04; DFW 77-2004(Temp), f. 7-28-04, cert. ef. 8-1-04 thru 10-31-04, Administrative correction 11-22-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 19-2005(Temp), f. 3-16-05, cert. ef. 4-15-05 thru 7-31-05; DFW 41-2005(Temp), f. 5-13-05, cert. ef. 5-15-05 thru 7-31-05; DFW 83-2005(Temp), f. 7-29-05, cert. ef. 8-1-05 thru 10-31-05; DFW 84-2005(Temp), f. & cert. ef. 8-1-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 59-2006(Temp), f. 7-10-06, cert. ef. 8-1-06 thru 10-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 18-2007(Temp), f. 3-22-07, cert. ef. 4-15-07 thru 7-31-07; DFW 55-2007(Temp), f. 7-6-07, cert. ef. 8-1-07 thru 10-31-07; Administrative correction 11-17-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 26-2008(Temp), f. 3-17-08, cert. ef. 4-15-08 thru 7-31-08; DFW 27-2008(Temp), f. 3-24-08, cert. ef. 5-1-08 thru 10-27-08; Administrative correction 11-18-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 16-2009(Temp), f. 2-25-09, cert. ef. 4-15-09 thru 6-30-09; DFW 61-2009(Temp), f. 6-1-09, cert. ef. 8-1-09 thru 10-31-09; DFW 104-2009(Temp), f. 8-28-09, cert. ef. 9-1-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 7-2010(Temp), f. 1-25-10, cert. ef. 4-1-10 thru 7-31-10; DFW 27-2010(Temp), f. 3-8-10, cert. ef. 4-15-10 thru 7-31-10; DFW 66-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 10-31-10; DFW 86-2010(Temp), f. 6-23-10, cert. ef. 7-1-10 thru 10-31-10; DFW 106-2010(Temp), f. 7-26-10, cert. ef. 8-1-10 thru 12-31-10; DFW 164-2010(Temp), f. 12-28-10, cert. ef. 1-1-11 thru 6-29-11; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 16-2011(Temp), f. 2-16-11, cert. ef. 4-15-11 thru 7-31-11; DFW 17-2011(Temp), f. 2-17-11, cert. ef. 4-15-11 thru 7-31-11; DFW 42-2011(Temp), f. & cert. ef. 5-10-11 thru 10-31-11; DFW 93-2011(Temp), f. 7-13-11, cert. ef. 8-1-11 thru 10-31-11; DFW 123-2011(Temp), f. 9-2-11, cert. ef. 9-3-11 thru 12-31-11; DFW 160-2011(Temp), f. 12-20-11, cert. ef. 1-1-12 thru 4-30-12; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 21-2012, f. & cert. ef. 3-12-12; DFW 34-2012(Temp), f. 4-13-12, cert. ef. 4-15-12 thru 7-31-12; DFW 55-2012(Temp), f. & cert. 6-4-12 thru 6-30-12; Administrative correction, 8-1-12; DFW 88-2012(Temp), f. 7-16-12, cert. ef. 8-1-12 thru 10-31-12; Administrative correction 11-23-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 16-2013(Temp), f. 2-25-13, cert. ef. 4-15-13 thru 6-30-13; DFW 75-2013(Temp), f. 7-15-13, cert. ef. 8-1-13 thru 10-31-13; Administrative correction, 11-22-13; DFW 137-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 13-2014(Temp), f. 2-18-14, cert. ef. 4-15-14 thru 7-31-14; DFW 83-2014(Temp), f. 7-1-14, cert. ef. 8-1-14 thru 10-31-14; Administrative correction 11-24-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 27-2015(Temp), f. 4-9-15, cert. ef. 4-15-15 thru 6-30-15

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Rule Caption: Commercial Sales of Dressed Salmon and Steelhead by Columbia River Treaty Tribal Fishers Allowed.
Adm. Order No.: DFW 28-2015(Temp)
Filed with Sec. of State: 4-9-2015
Certified to be Effective: 5-1-15 thru 10-27-15
Notice Publication Date:
Rules Amended: 635-006-0212, 635-006-0215, 635-006-0225
Subject: These amended rules allow commercial sales of gilled and gutted Columbia River salmon and steelhead caught by Treaty tribal members to wholesale fish dealers, canners, and buyers. Modifications also require wholesale fish dealers, canners, and buyers to report totals of fish purchased in round eights on the Fish Receiving Ticket using a conversion factor of 1.17.
Rules Coordinator: Michelle Tate—(503) 947-6044

635-006-0212
Fish Receiving Ticket — Salmon

(1) This regulation is in addition to, and not in lieu of the provisions contained in OAR 635-006-0210.

(2) Fish receiving tickets shall be completed at time of landing and the original copy forwarded within four consecutive days following the landing to the Oregon Department of Fish and Wildlife.

(3) For troll-caught salmon, fish receiving tickets shall show the number of days fished during the trip in which the salmon were caught.

(4) It is lawful for licensed wholesale fish dealers, canners, or buyers to purchase from tribal fishers, referred to in OAR 635-041-0005, gilled and gutted Columbia River salmon lawfully taken by treaty Indians during commercial fishing seasons. The licensed wholesale dealer must submit round weights on the Fish Receiving Ticket by multiplying the weights of gilled and gutted salmon by the conversion factor listed in 635-006-0215 for tribal Columbia River salmon and steelhead.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129, 508.530 & 508.535
Stats. Implemented: ORS 506.109, 506.129, 508.025, 508.040 & 508.550
Hist.: FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; DFW 63-2003, f. & cert. ef. 7-17-03; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 44-2006(Temp), f. & cert. ef. 6-19-06 thru 12-15-06; Administrative correction 12-16-06; DFW 79-2008(Temp) f. & cert. ef. 7-10-08 thru 12-31-08; Administrative correction 1-23-09; DFW 70-2009(Temp), f. 6-15-09, cert. ef. 6-16-09 thru 12-12-09; DFW 47-2010(Temp), f. 4-26-10, cert. ef. 4-27-10 thru 10-23-10; DFW 102-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 77-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 83-2012(Temp), f. & cert. ef. 7-5-12 thru 12-31-12; Administrative correction, 2-1-13; DFW 68-2013(Temp), f. & cert. ef. 7-3-13 thru 12-30-13; Administrative correction, 2-5-14; DFW 106-2014(Temp), f. 7-30-14, cert. ef. 8-1-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 28-2015(Temp), f. 4-9-15, cert. ef. 5-1-15 thru 10-27-15

635-006-0215
Monthly Remittance Report

(1) A monthly report is required of all licensed:

(a) Wholesale fish dealers, wholesale fish bait dealers, food fish canners, or shellfish canners receiving food fish or shellfish from licensed commercial fishers or bait fishers;

(b) Limited Fish Sellers selling food fish or shellfish.

(2) Except as provided in OAR 635-006-0220, the report is required even though no food fish or shellfish are received or sold during the calendar month covered by the report.

(3) The following information shall be included on the report:

(a) Fish dealer's name, license number, and address;

(b) Calendar month of the report;

(c) Serial numbers of all Fish Receiving Tickets issued during the month;

(d) Total pounds of all salmon and steelhead received or sold during the calendar month on which poundage fees are due. Salmon and steelhead may be reported as round weight, dressed head on or dressed head off;

(e) Total value of salmon and steelhead received or sold during the calendar month including fish eggs and parts;

(f) Total value of all other food fish and shellfish including eggs and parts;

(g) Total pounds in the round of all other species of food fish or shellfish received or sold during the calendar month on which taxes are due. When landed in a dressed condition, the following listed species may be converted to round weight for the purposes of completing monthly reports, by multiplying each applicable below-listed factor by the dressed weight of that species:

(A) Troll salmon:

(i) Gilled and gutted 1.15.

(ii) Gilled, gutted, and headed 1.30.

(B) Tribal Columbia River salmon and steelhead trout: Gilled and gutted 1.17.

(C) Halibut:

(i) Gilled and gutted 1.15.

(ii) Gilled, gutted, and headed 1.35.

(D) Sablefish, gutted and headed 1.60.

(E) Pacific whiting:

(i) Fillet 2.86.

(ii) Headed and gutted 1.56.

(F) Thresher shark 2.0.

(G) Lingcod:

(i) Gilled and gutted 1.1.

(ii) Gilled, gutted and headed 1.5.

(H) Spot prawn, tails 2.24.

(I) Rockfish (including thornyheads), except Pacific Ocean Perch:

(i) Gutted and headed 1.75.

(ii) Gutted and headed, with collarbone still attached to body (western cut) 1.66.

(iii) Gutted and headed, with collarbone removed from body (eastern cut) 2.0.

(J) Pacific Ocean Perch, gutted and headed 1.6.

(K) Pacific Cod, gutted and headed 1.58.

(L) Dover sole, English sole, and "other flatfish" as defined in Title 50 of the Code of Federal Regulations, part 660 Subpart C, gutted and headed 1.53.

(M) Petrale sole, gutted and headed 1.51.

(N) Arrowtooth flounder, gutted and headed 1.35.

(O) Starry flounder, gutted and headed 1.49.

(P) Groundfish, glazed:

(i) Conversion factors must be calculated for each landing for each species or species group categorized in OAR 635-006-0209 when there are 60 or greater individuals of a category in a single landing as follows:

(I) Weigh a sample of at least 20 glazed fish to obtain the glazed weight;

(II) Completely remove glaze from individual fish making up the sample;

(III) Re-weigh the sample to obtain the non-glazed weight;

(IV) Divide the non-glazed weight by the glazed weight to obtain the conversion factor;

(V) A separate conversion factor may be calculated for each size grade of a species, but may only be applied to landings of that size grade;

(VI) Documentation of this calculation must be retained with the dock receiving ticket.

(ii) A conversion factor of 0.95 must be applied when there are fewer than 60 individuals of any species or species group categorized in OAR 635-006-0209 in a single landing.

(h) Total value of food fish landed in another state but not taxed by that state;

(i) Total pounds in the round of all food fish landed in another state but not taxed by that state;

(j) Total fees due - in accordance with ORS 508.505 the fees are the value of the food fish at the point of landing multiplied by the following rates:

(A) All salmon and steelhead, 3.15 percent;

(B) Effective January 1, 2005, all black rockfish, blue rockfish and nearshore fish (as defined by ORS 506.011), 5.00 percent.

(C) Effective January 1, 2010, all other food fish (except tuna, as defined by ORS 508.505), 2.25 percent.

(D) All tuna (as defined by ORS 508.505), 1.09 percent.

(k) Signature of the individual completing the report.

(4) The monthly report and all landing fees due shall be sent to the Department on or before the 20th of each month for the preceding calendar month. Landing fees are delinquent if not received or postmarked within 20 days after the end of the calendar month. A penalty charge of $5 or five percent of the landing fees due, whichever is larger, shall be assessed along with a one percent per month interest charge on any delinquent landing fee payments.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129 & 508.530
Stats. Implemented: ORS 506.109, 506.129, 508.535, 508.505 & 508.550
Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FC 274(74-6), f. 3-20-74, ef. 4-11-74; FWC 28, f. 11-28-75, ef. 1-1-76, Renumbered from 625-040-0140; FWC 48-1978, f. & ef. 9-27-78, Renumbered from 635-036-0585; FWC 17-1981(Temp), f. & ef. 5-22-81; FWC 25-1981(Temp), f. 7-8-81, ef. 7-15-81; FWC 27-1981, f. & ef. 8-14-81; FWC 1-1986, f. & ef. 1-10-86; FWC 4-1987, f. & ef. 2-6-87; FWC 99-1987, f. & ef. 11-17-87; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 22-1992(Temp), f. 4-10-92, cert. ef. 4-13-92, FWC 53-1992, f. 7-17-92, cert. ef. 7-20-92; FWC 5-1993, f. 1-22-93, cert. ef. 1-25-93; DFW 38-1999, f. & cert. ef. 5-24-99; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 118-2005(Temp), f. & cert. ef. 10-10-05 thru 12-31-05; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2008(Temp) f. & cert. ef. 7-10-08 thru 12-31-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 70-2009(Temp), f. 6-15-09, cert. ef. 6-16-09 thru 12-12-09; DFW 73-2009(Temp), f. 6-24-09, cert. ef. 6-25-09 thru 12-21-09; Administrative correction 12-23-09; DFW 39-2010(Temp), f. 3-30-10, cert. ef. 4-1-10 thru 9-27-10; DFW 47-2010(Temp), f. 4-26-10, cert. ef. 4-27-10 thru 10-23-10; Administrative correction 11-23-10; DFW 157-2010, f. 12-6-10, cert. ef. 1-1-11; DFW 102-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 164-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 77-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 83-2012(Temp), f. & cert. ef. 7-5-12 thru 12-31-12; DFW 151-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 68-2013(Temp), f. & cert. ef. 7-3-13 thru 12-30-13; Administrative correction, 2-5-14; DFW 106-2014(Temp), f. 7-30-14, cert. ef. 8-1-14 thru 12-31-14; DFW 4-2015, f. 1-13-15, cert. ef. 1-15-15; DFW 28-2015(Temp), f. 4-9-15, cert. ef. 5-1-15 thru 10-27-15

635-006-0225
Purchase, Record, Report, and Sale of Steelhead Trout and Walleye from Treaty Indian Fisheries

(1) Steelhead trout and walleye lawfully taken by treaty Indians during commercial fishing seasons may be purchased by licensed wholesale fish dealers, canners, or buyers pursuant to restrictions set forth in sections (2) through (5) of this rule. In addition, steelhead trout and walleye taken lawfully by treaty Indians during commercial fishing seasons may be purchased and/or possessed by any individual pursuant to restrictions set forth in section (6) of this rule.

(2) The wholesale fish dealer, canner, or buyer, shall at the time of purchase, enter the purchase of steelhead trout and walleye on a Department Columbia River Fish Receiving Ticket. Information required to be entered on the Fish Receiving Ticket shall be the same as required by OAR 635-006-0210 through 635-006-0212 for each purchase of food fish.

(3) The record keeping and reporting requirements for food fish as set forth in OAR 635-006-0200 through 635-006-0215 shall apply to all steelhead trout and walleye purchases. The round weights of all gilled and gutted steelhead trout must be converted by the licensed wholesale fish dealer, canner, or buyer by using the conversion factor of 1.17 listed in 635-006-0215 for Tribal Columbia River salmon and steelhead trout.

(4) In addition to the records required in connection with the purchase of steelhead trout, and walleye, a record of all sales of steelhead trout and walleye shall be maintained by licensed wholesale fish dealers, canners, or buyers for a period of three years and shall be subject to inspection by the Department, the Director's authorized agent or the Oregon State Police. Such record of sales shall include as a minimum:

(a) Name and address of each person to whom either steelhead or walleye are sold;

(b) Quantity in pounds of each sale identified as whole or round weight; and

(c) Date of each delivery.

(5) Steelhead trout and walleye taken lawfully by treaty Indians during commercial fishing seasons may be purchased from a treaty Indian and/or possessed by any individual so long as said fish are accompanied by a written document listing treaty Indian taker's name, tribal enrollment number, number of fish, approximate weight of each fish, date and location where taken, date of sale, and purchaser's name. It is unlawful for any individual other than a treaty Indian to sell steelhead trout or walleye. The provisions in this section (5) apply to individuals other than licensed wholesale fish dealers, canners and buyers.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 508.530 & 509.031
Stats. Implemented: ORS 498.022, 506.109, 506.129, 508.535 & 508.550
Hist.: FWC 39, f. & ef. 1-23-76, Renumbered from 625-040-0150, Renumbered from 635-036-0595; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 41-1995, f. 5-23-95, cert. ef. 5-24-95; FWC 51-1997(Temp), f. & cert. ef. 8-27-97; DFW 73-1998, f. & cert. ef. 8-28-98; DFW 32-2008(Temp), f. & cert. ef. 4-1-08 thru 9-27-08; DFW 79-2008(Temp) f. & cert. ef. 7-10-08 thru 12-31-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 70-2009(Temp), f. 6-15-09, cert. ef. 6-16-09 thru 12-12-09; Administrative correction 12-23-09; DFW 47-2010(Temp), f. 4-26-10, cert. ef. 4-27-10 thru 10-23-10; Administrative correction 11-23-10; DFW 102-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 77-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 83-2012(Temp), f. & cert. ef. 7-5-12 thru 12-31-12; DFW 101-2012, f. & cert. ef. 8-6-12; DFW 68-2013(Temp), f. & cert. ef. 7-3-13 thru 12-30-13; Administrative correction, 2-5-14; DFW 106-2014(Temp), f. 7-30-14, cert. ef. 8-1-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 28-2015(Temp), f. 4-9-15, cert. ef. 5-15-1 thru 10-27-15

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

Rule Caption: Eligibility for Medicaid K-State Plan in Long-Term Care Service Priorities; K-State Plan; and In-Home Services
Adm. Order No.: APD 9-2015
Filed with Sec. of State: 3-30-2015
Certified to be Effective: 4-3-15
Notice Publication Date: 3-1-2015
Rules Amended: 411-015-0100, 411-030-0040, 411-035-0015, 411-035-0025, 411-035-0040, 411-035-0055, 411-035-0070, 411-035-0085
Rules Repealed: 411-015-0100(T), 411-030-0040(T), 411-035-0015(T), 411-035-0025(T), 411-035-0040(T), 411-035-0055(T), 411-035-0070(T), 411-035-0085(T)
Subject: The Department of Human Services (Department) is permanently updating the rules in OAR 411-015, 030, and 035 to make permanent changes from the January 1, 2015 temporary rulemaking, which puts the Department in compliance with mandates from the Center for Medicare and Medicaid Services (CMS).

CMS requires that individuals applying for Medicaid State Plan K-option with an underlying Medicaid OHP Plus benefit package under 410-200 through the Medicaid for Modified Adjusted Gross Income (MAGI) are eligible only if certain other eligibility criteria are met, including the equity value of an individual's home as established in OAR 461-145-0220. These individuals are subject to requirements of OAR 461-145-0220 regarding the equity value of the home in the same manner as if they were requesting these services under OSIPM. This criteria was added to the rules as it was not in them prior to the temporary rulemaking.

As part of this amendment, stronger language was added to emphasize "requirements of the rules" for transfer of assets to be applied in the same manner as if they were requesting these services under OSIPM. The wording "requirements of the rules" is then consistent with the rule pertaining to the equity value of the home.

The in-home service rules in division 030 and K-Plan division 035 are required to use all the eligibility criteria as the 411-015 rules, as well as eligibility criteria specific to each of the program rules in divisions 030 and 035. This means all mutual eligibility criteria were tied back to the 411-015 eligibility criteria.

Minor punctuation, grammar, and formatting changes were made to the rules as well.
Rules Coordinator: Kimberly Colkitt-Hallman—(503) 945-6398

411-015-0100
Eligibility for Nursing Facility or Medicaid Home and Community-Based Services

(1) To be eligible for nursing facility services or Medicaid home and community-based services, a person must:

(a) Be age 18 or older.

(b) Be eligible for the Medicaid OHP Plus benefit package.

(A) Individuals receiving Medicaid OHP Plus under OAR 410-200 coverage for services in a nonstandard living arrangement as defined in 461-001-0000 are subject to the requirements in the same manner as if they were requesting these services under OSIPM, including the rules regarding:

(i) The transfer of assets as set forth in OAR 461-140-0210 to 461-140-0300; and

(ii) The equity value of a home which exceeds the limits as set forth in OAR 461-145-0220.

(B) When an individual is disqualified for a transfer of assets, a notice for transfer of assets is required in accordance with OAR 461-175-0310.

(C) When an individual is determined ineligible for the equity value of a home, a notice for being over resources is required in accordance with 461-175-0200.

(c) Meet the functional impairment level within the service priority levels currently served by the Department as outlined in OAR 411-015-0010 and the requirements in 411-015-0015.

(2) To be eligible for services paid through the Spousal Pay Program, an individual must meet the requirements listed above in section (1) of this rule in addition to the requirements in OAR 411-030-0080.

(3) Individuals who are age 17 or younger and reside in a nursing facility, are eligible for nursing facility services only and are not eligible to receive Medicaid home and community-based services administered by the Department's Aging and People with Disabilities.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.060, 410.070 & 414.065
Hist.: SSD 7-1991(Temp), f. & cert. ef. 4-1-91; SSD 13-1991, f. 6-28-91, cert. ef. 7-1-91; SDSD 11-2002(Temp), f. 12-5-02, cert. ef. 12-6-02 thru 6-3-03; SPD 1-2003(Temp), f. 1-7-03, cert. ef. 2-1-03 thru 6-3-03; SPD 12-2003, f. 5-30-03, cert. ef. 6-4-03; SPD 17-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 4-28-04; SPD 8-2004, f. & cert. ef. 4-27-04; SPD 29-2004(Temp), f. & cert. ef. 8-6-04 thru 1-3-05; SPD 1-2005, f. & cert. ef. 1-4-05; SPD 19-2005, f. & cert. ef. 12-29-05; SPD 19-2006, f. 5-26-06, cert. ef. 6-1-06; SPD 14-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SPD 45-2013, f. 12-13-13, cert. ef. 12-15-13; APD 9-2014(Temp), f. 4-17-14, cert. ef. 4-21-14 thru 10-18-14; APD 35-2014, f. & cert. ef. 10-1-14; APD 49-2014(Temp), f. 12-30-14, cert. ef. 1-1-15 thru 6-29-15; APD 9-2015, f. 3-30-15, cert. ef. 4-3-15

411-030-0040
Eligibility Criteria

(1) In-home services are provided to individuals who meet the established priorities for service as described in OAR chapter 411, division 015 who have been assessed to be in need of in-home services.

(a) Payments for in-home services are not intended to replace the resources available to an individual from the individual's natural supports.

(b) An individual whose service needs are sufficiently and appropriately met by available natural supports is not eligible for in-home services.

(2) An individual receiving Medicaid in-home services must:

(a) Meet the established priorities for service as described in OAR chapter 411, division 015;

(b) Meet all the eligibility requirements in 411-015-0010 through 411-015-0100; and(c) Reside in a living arrangement described in OAR 411-030-0033;

(3) An individual receiving services through the Independent Choices Program must:

(a) Meet the established priorities for service as described in OAR chapter 411, division 015;

(b) Be a current recipient of OSIPM (Oregon Supplemental Income Program Medical).

(c) Reside in a living arrangement described in OAR 411-030-0033; and

(d) Be 18 years of age or older.

(4) To be eligible for Medicaid in-home services, an individual must employ an enrolled homecare worker or contracted in-home care agency. To be eligible for ICP, a participant must employ an employee provider.

(5) Initial eligibility for Medicaid in-home services, or the ICP, does not begin until an individual's service plan has been authorized by the Department or the Department's designee. The service plan must identify the provider who delivers the authorized services, include the date when the provision of services begins, and include the maximum number of hours authorized. Service plans must be based upon the least costly means of providing adequate services.

(6) If, for any reason, the employment relationship between an individual and provider is discontinued, an enrolled homecare worker or contracted in-home care agency must be employed within 14 business days for the individual to remain eligible for in-home services. A participant of ICP must employ an employee provider within 14 business days to remain eligible for ICP services. The individual's case manager has the authority to waive the 14 business day restriction if the individual is making progress towards employing a provider.

(7) An eligible individual who has been receiving in-home services who temporarily enters a nursing facility or medical institution must employ an enrolled homecare worker or contracted in-home care agency within 14 business days of discharge from the facility or institution for the individual to remain eligible for in-home services. A participant of ICP must employ an employee provider within 14 business days of discharge to remain eligible for ICP services.

(8) EMPLOYER RESPONSIBILITIES.

(a) In order to be eligible for in-home services provided by a homecare worker, an individual must be able to, or designate a representative to:

(A) Locate, screen, and hire a qualified homecare worker;

(B) Supervise and train the homecare worker;

(C) Schedule the homecare worker's work, leave, and coverage;

(D) Track the hours worked and verify the authorized hours completed by the homecare worker;

(E) Recognize, discuss, and attempt to correct any performance deficiencies with the homecare worker; and

(F) Discharge an unsatisfactory homecare worker.

(b) Individuals who are unable to meet the responsibilities in subsection (a) of this section are ineligible for in-home services provided by a homecare worker. Except as set forth in subsection (f) of this section, individuals ineligible for in-home services provided by a homecare worker may designate a representative to manage the individual's responsibilities as an employer on the individual's behalf. A representative of an individual may not be a homecare worker providing homecare worker services to the individual. Individuals must also be offered other available community-based service options to meet the individual's service needs, including contracted in-home care agency services, nursing facility services, or other community-based service options.

(c) An individual determined ineligible for in-home services provided by a homecare worker and who does not have a representative may request in-home services provided by a homecare worker at the individual's next re-assessment, but no sooner than 12 months from the date the individual was determined ineligible. To reestablish eligibility for in-home services provided by a homecare worker, an individual must attend training and acquire, or otherwise demonstrate, the ability to meet the employer responsibilities in subsection (a) of this section. Improvements in health and cognitive functioning, for example, may be factors in demonstrating the individual's ability to meet the employer responsibilities in subsection (a) of this section. If the Department determines an individual may not meet the individual's employer responsibilities, the Department may require the individual appoint an acceptable representative.

(d) The Department retains the right to approve the representative selected by an individual. Approval may be based on, but is not limited to, the representative's criminal history, protective services history, or credible allegations of fraud or collusion in fraudulent activities involving a public assistance program.

(e) If an individual's designated representative is unable to meet the employer responsibilities of subsection (a) of this section, or the Department does not approve the representative, the individual must designate a different representative or select other available services.

(f) An individual with a history of credible allegations of fraud or collusion in fraud with respect to in-home services is not eligible for in-home services provided by a homecare worker.

(9) REPRESENTATIVE.

(a) The Department, or the Department's designee, may deny an individual's request for any representative if the representative has a history of a substantiated adult protective service complaint as described in OAR chapter 411, division 020. The individual may select another representative.

(b) An individual with a guardian must have a representative for service planning purposes. A guardian may designate themselves as the representative.

(10) Additional eligibility criteria for Medicaid in-home services exist for individuals eligible for:

(a) The Consumer-Employed Provider Program as described in OAR chapter 411, division 031;

(b) The Independent Choices Program as described in OAR 411-030-0100 of these rules; and

(c) The Spousal Pay Program as described in OAR 411-030-0080 of these rules.

(11) Residents of licensed community-based care facilities, nursing facilities, prisons, hospitals, and other institutions that provide assistance with ADLs, are not eligible for in-home services.

(12) Individuals with excess income must contribute to the cost of service pursuant to OAR 461-160-0610 and 461-160-0620.

Stat. Auth.: ORS 409.050, 410.070 & 410.090
Stats. Implemented: ORS 410.010, 410.020 & 410.070
Hist.: SSD 3-1985, f. & ef. 4-1-85; SSD 4-1993, f. 4-30-93, cert. ef. 6-12-93, Renumbered from 411-030-0001; SPD 2-2003(Temp), f. 1-31-03, cert. ef. 2-1-03 thru 7-30-03; SPD 14-2003, f. & cert. ef. 7-31-03; SPD 15-2003 f. & cert. ef. 9-30-03; SPD 18-2003(Temp), f. & cert. ef. 12-11-03 thru 6-7-04; SPD 15-2004, f. 5-28-04, cert. ef. 6-7-04; SPD 18-2005(Temp), f. 12-20-05, cert. ef. 12-21-05 thru 6-1-06; SPD 1-2006(Temp), f. & cert. ef. 1-13-06 thru 6-1-06; SPD 20-2006, f. 5-26-06, cert. ef. 6-1-06; SPD 4-2008(Temp), f. & cert. ef. 4-1-08 thru 9-24-08; SPD 13-2008, f. & cert. ef. 9-24-08; SPD 15-2008, f. 12-26-08, cert. ef. 1-1-09; SPD 10-2013(Temp), f. & cert. ef. 5-23-13 thru 11-19-13; SPD 43-2013, f. 10-31-13, cert. ef. 11-1-13; APD 9-2014(Temp), f. 4-17-14, cert. ef. 4-21-14 thru 10-18-14; APD 35-2014, f. & cert. ef. 10-1-14; APD 49-2014(Temp), f. 12-30-14, cert. ef. 1-1-15 thru 6-29-15; APD 9-2015, f. 3-30-15, cert. ef. 4-3-15

411-035-0015
Eligibility for Supplemental K State Plan Services

To be eligible for any Medicaid Supplemental K State Plan services defined in this division, consumers must:

(1) Be eligible for Medicaid long term care services and supports as described in OAR 411-015-0010 through 411-015-0100.

(2) Not have natural supports or other services available in the community that would meet the identified need.

(3) Not be eligible for the item through Medicare, other Medicaid programs, or other medical coverage.

(4) Have an identified need in their person-centered service plan that:

(a) Supports the desires and goals of the consumer receiving services and increases a consumer's independence;

(b) Reduces a consumer's need for assistance from another person; or

(c) Maintains a consumer's health and safety.

(5) Be provided the choice to accept or deny the service being offered.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 409.050, 410.040, 410.090, 410.210 to 410.300, 441.520
Hist.: APD 16-2014, f. & cert. ef. 6-4-14; APD 49-2014(Temp), f. 12-30-14, cert. ef. 1-1-15 thru 6-29-15; APD 9-2015, f. 3-30-15, cert. ef. 4-3-15

411-035-0025
Eligibility for Consumer Electronic Back-up Systems and Assistive Technology

(1) To be eligible for electronic back-up systems or mechanisms, a consumer must not be receiving community-based care in a licensed care setting.

(2) Electronic back-up systems and assistive technologies must be appropriate and cost effective to meet the service needs of the consumer and:

(a) For new equipment:

(A) Are limited to a maximum of $5000 for purchasing of a device.

(B) Monthly rentals or lease fee limits are posted on the APD rate table.

(b) For repairs:

(A) Repair of purchased devices may be done if the repair is more cost effective than purchasing a new device.

(B) Repairs of rented or leased equipment are the responsibility of the provider.

(c) Monthly maintenance, fees, or service charges are not included in the maximums described in (a) or (b).

(3) Exceptions to the $5000 limitation may be granted if the consumer has service needs that warrant an exception for payment and no alternative is available to meet the needs of the consumer.

(4) Expenditures over $500 must be approved by the Department.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 409.050, 410.040, 410.090, 410.210 - 410.300, 441.520
Hist.: APD 16-2014, f. & cert. ef. 6-4-14; APD 49-2014(Temp), f. 12-30-14, cert. ef. 1-1-15 thru 6-29-15; APD 9-2015, f. 3-30-15, cert. ef. 4-3-15

411-035-0040
Eligibility Criteria for Chore Services

(1) To be eligible for chore services, a consumer must not be receiving community-based care in a licensed care setting.

(2) An eligible consumer may receive chore services under any of the following circumstances:

(a) The consumer is the owner, buyer, or renter of the premises in which the consumer lives.

(A) If a renter, the consumer must have received an eviction notice, written warning, or deficiency notice from the landlord or a public housing agency related to cleanliness or health issues of the unit; or

(B) If an owner or buyer, the consumer must have received a written notice from a government agency or a lender concerning health, safety, or public nuisance deficiencies or violations.

(b) The consumer needs garbage pick-up and removal, or payment of previous garbage bills, in order to continue or resume receiving services to ensure the home is safe for the consumer and their service providers.

(c) The consumer's premises requires heavy cleaning to remove hazardous debris or dirt in the home to ensure the consumer's home is safe and allows for independent living.

(d) The consumer's premises require the removal of outside debris (for example, trees, leaves, clutter) which is endangering the structure of the home or the ability of the consumer to enter or exit safely.

(e) The services must be completed to enable the consumer to move from one residence to another and to establish services in the new home.

(3) If the service is done in a rental location, the service must be a service that is not required of the landlord under applicable landlord-tenant law.

(4) Chore services are not part of the consumer's on-going service plan. Once the chore service is complete, homecare workers may begin or continue ongoing housekeeping.

(5) Chore services must be appropriate and cost effective to meet the service need of the consumer.

(a) If feasible, three bids are required from companies or vendors who provide chore services. A bid is not comparative pricing through the Internet.

(b) Bids over $500.00 require a state licensed contractor.

(6) The consumer must sign a written agreement to:

(a) Have a vendor clean their home;

(b) Remove hazardous debris; or

(c) To haul off agreed upon items that may pose a health and safety risk to the consumer or others.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 409.050, 410.040, 410.090, 410.210 to 410.300, 441.520
Hist.: APD 16-2014, f. & cert. ef. 6-4-14; APD 49-2014(Temp), f. 12-30-14, cert. ef. 1-1-15 thru 6-29-15; APD 9-2015, f. 3-30-15, cert. ef. 4-3-15

411-035-0055
Eligibility for Consumer Environmental Modifications

(1) To be eligible for environmental modifications, a consumer must not be receiving community-based care in a licensed care setting.

(2) An eligible consumer may receive environmental modification under any of the following circumstances:

(a) The consumer is the owner, buyer, or renter of premises in which the consumer lives.

(b) If in a rental location, the consumer must have a written and signed agreement between the consumer receiving services and the owner or landlord of the rental property.

(A) The agreement must include:

(i) The scope of work provided;

(ii) That the modification is permissible; and

(iii) That the Department shall not restore the rental unit to its former condition.

(B) Environmental modifications in rental locations must not be for services that are required of the landlord under applicable landlord-tenant law.

(3) Environmental modifications are not part of the consumer's on-going service plan. Once the environmental modification is complete, environmental modification services shall cease and a reduction notice must not be issued.

(4) Environmental modifications must be appropriate, cost effective, and meet the service need of the consumer.

(a) Environmental modifications are limited to a maximum of $5000 per environmental modification.

(b) If feasible, three bids are required from companies or vendors. A bid is not comparative pricing through the Internet.

(5) Exceptions to the $5000 limitation may be granted if the consumer has service needs that warrant an exception for payment and no alternative is available to meet the needs of the consumer.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 409.050, 410.040, 410.090, 410.210 to 410.300, 441.520
Hist.: APD 16-2014, f. & cert. ef. 6-4-14; APD 49-2014(Temp), f. 12-30-14, cert. ef. 1-1-15 thru 6-29-15; APD 9-2015, f. 3-30-15, cert. ef. 4-3-15

411-035-0070
Eligibility for Consumer Transition Services

(1) Eligibility for transition services covered through the K-State Plan are restricted to consumers transitioning from a nursing facility or the Oregon State Hospital, as defined in OAR 309-091-0005(16), into a community-based or in-home program.

(2) Consumers transitioning from an acute care hospital directly to a community-based or in-home program are not eligible for transition services under this rule.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 409.050, 410.040, 410.090, 410.210 to 410.300, 441.520
Hist.: APD 16-2014, f. & cert. ef. 6-4-14; APD 49-2014(Temp), f. 12-30-14, cert. ef. 1-1-15 thru 6-29-15; APD 9-2015, f. 3-30-15, cert. ef. 4-3-15

411-035-0085
Consumer Eligibility Criteria for Voluntary Consumer Training Services

(1) To be eligible for K-State Plan Voluntary Consumer Training Services, consumers must be or be expected to, receive services in a setting described in OAR 411-030-0033, In-Home Service Living Arrangement.

(2) Services are voluntary in nature.

(3) Services may be provided to designated representatives performing the duties of a consumer-employer on behalf of the consumer.

(4) Natural supports and designated representatives may receive services in addition to the eligible consumer.

(5) All in-home consumers participating in the Consumer-Employed Provider Program must be offered the voluntary training during the in-home service planning process. Case managers must make a referral to an approved training provider.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 409.050, 410.040, 410.090, 410.210 to 410.300, 441.520
Hist.: APD 16-2014, f. & cert. ef. 6-4-14; APD 49-2014(Temp), f. 12-30-14, cert. ef. 1-1-15 thru 6-29-15; APD 9-2015, f. 3-30-15, cert. ef. 4-3-15

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Rule Caption: ODDS — Children's Intensive In-Home Services (Behavior Program and Medically Fragile Children's Services)
Adm. Order No.: APD 10-2015(Temp)
Filed with Sec. of State: 4-2-2015
Certified to be Effective: 4-10-15 thru 10-6-15
Notice Publication Date:
Rules Amended: 411-300-0120, 411-350-0030
Subject: To meet the expectations of the Centers for Medicare and Medicaid Services (CMS), the Department of Human Services, Office of Developmental Disability Services (ODDS) is immediately amending:

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.

Rules Coordinator: Kimberly Colkitt-Hallman—(503) 945-6398

411-300-0120
Eligibility for CIIS

(1) ELIGIBILITY. In order to be eligible for CIIS, a child must:

(a) Be under the age of 18;

(b) Be an Oregon resident who meets the citizenship and alien status requirements of OAR 461-120-0110;

(c) Be receiving Medicaid Title XIX benefits under OSIPM or OHP Plus. This does not include CHIP Title XXI benefits;

(d) For a child with excess income, contribute to the cost of services pursuant to OAR 461-160-0610 and OAR 461-160-0620;

(e) Be determined eligible for developmental disability services by the CDDP of the county of origin as described in OAR 411-320-0080;

(f) Meet the level of care as defined in OAR 411-320-0020;

(g) Be accepted by the Department by scoring 200 or greater on the behavior criteria within two months prior to starting services and maintain an eligibility score of 200 or greater as determined by reassessment annually;

(h) Reside in the family home; and

(i) Be safely served in the family home. This includes, but is not limited to, a qualified primary caregiver demonstrating the willingness, skills, and ability to provide direct care as outlined in an ISP in a cost effective manner, as determined by a services coordinator within the limitations of OAR 411-300-0150, and participate in planning, monitoring, and evaluation of the CIIS provided.

(2) TRANSFER OF ASSETS.

(a) As of October 1, 2014, a child receiving medical benefits under OAR chapter 410, division 200 requesting Medicaid coverage for services in a nonstandard living arrangement (see 461-001-0000) is subject to the requirements of the rules regarding transfer of assets (see 461-140-0210 to 461-140-0300) in the same manner as if the child was requesting these services under OSIPM. This includes, but is not limited to, the following assets:

(A) An annuity evaluated according to OAR 461-145-0022;

(B) A transfer of property when a child retains a life estate evaluated according to OAR 461-145-0310;

(C) A loan evaluated according to OAR 461-145-0330; or

(D) An irrevocable trust evaluated according to OAR 461-145-0540.

(b) When a child is considered ineligible for CIIS due to a disqualifying transfer of assets, the parent or guardian and child must receive a notice meeting the requirements of OAR 461-175-0310 in the same manner as if the child was requesting services under OSIPM.

(3) INELIGIBILITY. A child is not eligible for CIIS if the child:

(a) Resides in a medical hospital, psychiatric hospital, school, sub-acute facility, nursing facility, intermediate care facility for individuals with intellectual or developmental disabilities, foster home, or other 24-hour residential setting;

(b) Does not require waiver services or Community First Choice state plan services as evidenced by a functional needs assessment;

(c) Receives sufficient family, government, or community resources available to provide for his or her care; or

(d) Cannot be safely served in the family home as described in section (1)(i) of this rule.

(4) TRANSITION. A child whose reassessment score on the behavior criteria is less than 200 is transitioned out of CIIS within 30 days. The child must exit from CIIS at the end of the 30 day transition period.

(a) When possible and agreed upon by the parent or guardian and the services coordinator, CIIS may be incrementally reduced during the 30 day transition period.

(b) The services coordinator must coordinate and attend a transition planning meeting prior to the end of the transition period. The transition planning meeting must include a CDDP representative, the parent or guardian, and any other person at the request of the parent or guardian.

(5) EXIT.

(a) CIIS may be terminated:

(A) At the oral or written request of a parent or guardian to end the service relationship; or

(B) In any of the following circumstances:

(i) The child no longer meets the eligibility criteria in section (1) of this rule;

(ii) The child does not require waiver services or Community First Choice state plan services;

(iii) There are sufficient family, government, community, or alternative resources available to provide for the care of the child;

(iv) The child may not be safely served in the family home as described in section (1)(i) of this rule;

(v) The parent or guardian either cannot be located or has not responded after 30 days of repeated attempts by a services coordinator to complete ISP development and monitoring activities and does not respond to a notice of intent to terminate;

(vi) The services coordinator has sufficient evidence that the parent or guardian has engaged in fraud or misrepresentation, failed to use resources as agreed upon in the ISP, refused to cooperate with documenting expenses of CIIS funds, or otherwise knowingly misused public funds associated with CIIS.

(vii) The child is incarcerated or admitted to a medical hospital, psychiatric hospital, sub-acute facility, nursing facility, intermediate care facility for individuals with intellectual or developmental disabilities, foster home, or other 24-hour residential setting and it is determined that the child is not returning to the family home or is not returning to the family home after 90 consecutive days; or

(viii) The child does not reside in Oregon.

(b) In the event CIIS are terminated, a written Notification of Planned Action must be provided as described in OAR chapter 411, division 318.

(6) WAIT LIST. If the maximum number of children allowed on the ICF/ID Behavioral Model Waiver are enrolled and being served, the

Department may place a child eligible for CIIS on a wait list. A child on the wait list may access other Medicaid-funded services or General Fund services for which the child is determined eligible through the CDDP.

(a) The date of the initial completed application for CIIS determines the order on the wait list. A child, who previously received CIIS that currently meets the criteria for eligibility as described in section (1) of this rule, is put on the wait list as of the date the original application for CIIS was complete.

(b) The date the application for CIIS is complete is the date that the Department has the required demographic data for the child and a statement of eligibility for developmental disability services.

(c) Children on the wait list are served on a first come, first served basis as space on the ICF/ID Behavioral Model Waiver allows. A re-evaluation is completed prior to entry to determine current eligibility.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 427.005, 427.007 & 430.215

Hist.: SDSD 12-2002, f. 12-26-02, cert. ef. 12-28-02; SPD 11-2009, f. 7-31-09, cert. ef. 8-1-09; SPD 20-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SPD 53-2013, f. 12-27-13. cert. ef. 12-28-13; APD 31-2014(Temp), f. & cert. ef. 8-20-14 thru 2-16-15; APD 4-2015, f. 2-13-15, cert. ef. 2-16-15; APD 8-2015, f. & cert. ef. 3-12-15; APD 10-2015(Temp), f. 4-2-15, cert. ef. 4-10-15 thru 10-6-15

411-350-0030
Eligibility for MFC Services

(1) ELIGIBILITY.

(a) In order to be eligible for MFC services, a child must:

(A) Be under the age of 18;

(B) Be an Oregon resident who meets the citizenship and alien status requirements of OAR 461-120-0110;

(C) Be receiving Medicaid Title XIX benefits under OSIPM or OHP Plus. This does not include CHIP Title XXI benefits;

(D) For a child with excess income, contribute to the cost of services pursuant to OAR 461-160-0610 and OAR 461-160-0620;

(E) Meet the level of care as defined in OAR 411-350-0020;

(F) Be accepted by the Department by scoring 45 or greater on the clinical criteria prior to starting services and have a status of medical need that is likely to last for more than two months and maintain a score of 45 or greater on the clinical criteria as assessed every six months;

(G) Reside in the family home; and

(H) Be safely served in the family home This includes, but is not limited to, a qualified primary caregiver demonstrating the willingness, skills, and ability to provide direct care as outlined in an ISP in a cost effective manner, as determined by a services coordinator within the limitations of OAR 411-300-0150, and participate in planning, monitoring, and evaluation of the MFC services provided.

(b) A child that resides in a foster home that meets the eligibility criteria in subsection (a)(A) to (E) of this section is eligible for private duty nursing as described in OAR 411-350-0050.

(c) A child that resides in a foster home is eligible for only private duty nursing as described in OAR 411-350-0050;

(d) TRANSFER OF ASSETS.

(A) As of October 1, 2014, a child receiving medical benefits under OAR chapter 410, division 200 requesting Medicaid coverage for services in a nonstandard living arrangement (see 461-001-0000) is subject to the requirements of the rules regarding transfer of assets (see 461-140-0210 to 461-140-0300) in the same manner as if the child was requesting these services under OSIPM. This includes, but is not limited to, the following assets:

(i) An annuity evaluated according to OAR 461-145-0022;

(ii) A transfer of property when a child retains a life estate evaluated according to OAR 461-145-0310;

(iii) A loan evaluated according to OAR 461-145-0330; or

(iv) An irrevocable trust evaluated according to OAR 461-145-0540.

(B) When a child is considered ineligible for MFC services due to a disqualifying transfer of assets, the parent or guardian and child must receive a notice meeting the requirements of OAR 461-175-0310 in the same manner as if the child was requesting services under OSIPM.

(2) INELIGIBILITY. A child is not eligible for MFC services if the child:

(a) Resides in a medical hospital, psychiatric hospital, school, subacute facility, nursing facility, intermediate care facility for individuals with intellectual or developmental disabilities, residential facility, or other 24-hour residential setting;

(b) Does not require waiver services or Community First Choice state plan services as evidenced by a functional needs assessment;

(c) Receives sufficient family, government, or community resources available to provide for his or her care; or

(d) Cannot be safely served in the family home as described in section (1)(a)(H) of this rule.

(3) REDETERMINATION. The Department redetermines the eligibility of a child for MFC services using the clinical criteria at least every six months, or as the status of the child changes.

(4) TRANSITION. A child whose reassessment score on the clinical criteria is less than 45 is transitioned out of MFC services within 30 days. The child must exit from MFC services at the end of the 30 day transition period.

(a) When possible and agreed upon by the parent or guardian and the services coordinator, MFC services may be incrementally reduced during the 30 day transition period.

(b) The services coordinator must coordinate and attend a transition planning meeting prior to the end of the transition period. The transition planning meeting must include a CDDP representative if eligible for developmental disability services, the parent or guardian, and any other person at the request of the parent or guardian.

(5) EXIT.

(a) MFC services may be terminated:

(A) At the oral or written request of a parent or legal guardian to end the service relationship; or

(B) In any of the following circumstances:

(i) The child no longer meets the eligibility criteria in section (1) of this rule;

(ii) The child does not require waiver services or Community First Choice state plan services;

(iii) There are sufficient family, government, community, or alternative resources available to provide for the care of the child;

(iv) The child cannot be safely served in the family home as described in section (1)(a)(G) of this rule;

(v) The parent or guardian either cannot be located or has not responded after 30 days of repeated attempts by a services coordinator to complete ISP development and monitoring activities and does not respond to a notice of intent to terminate;

(vi) The services coordinator has sufficient evidence that the parent or guardian has engaged in fraud or misrepresentation, failed to use resources as agreed upon in the ISP, refused to cooperate with documenting expenses of MFC funds, or otherwise knowingly misused public funds associated with MFC services;

(vii) The child is incarcerated or admitted to a medical hospital, psychiatric hospital, sub-acute facility, nursing facility, intermediate care facility for individuals with intellectual or developmental disabilities, or other 24-hour residential setting and it is determined that the child is not returning to the family home or is not returning to the family home after 90 consecutive days; or

(viii) The child does not reside in Oregon.

(b) In the event MFC services are terminated, a written Notification of Planned Action must be provided as described in OAR chapter 411, division 318.

(6) WAIT LIST. If the maximum number of children allowed on the Hospital Model Waiver are enrolled and being served, the Department may place a child eligible for MFC services on a wait list. A child on the wait list may access other Medicaid-funded services or General Fund services for which the child is determined eligible.

(a) The date of the initial completed application for MFC services determines the order on the wait list. A child who previously received MFC services that currently meets the criteria for eligibility as described in section (1) of this rule is put on the wait list as of the date the original application for MFC services was complete.

(b) Children on the wait list are served on a first come, first served basis as space on the Hospital Model Waiver allows. A re-evaluation is completed prior to entry to determine current eligibility.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 427.005, 427.007, 430.215

Hist.: MHD 21-1998(Temp), f. 11-25-98, cert. ef. 12-1-98 thru 5-29-99; MHD 3-1999, f. 5-17-99, cert. ef. 5-28-99; MHD 8-2003(Temp) f. & cert. ef. 12-11-03 thru 6-7-04; Renumbered from 309-044-0120, SPD 14-2004, f. & cert. ef. 6-1-04; SPD 1-2009, f. 2-24-09, cert. ef. 3-1-09; SPD 28-2013(Temp), f. & cert. ef. 7-2-13 thru 12-29-13; SPD 55-2013, f. 12-27-13, cert. ef. 12-28-13; APD 31-2014(Temp), f. & cert. ef. 8-20-14 thru 2-16-15; APD 4-2015, f. 2-13-15, cert. ef. 2-16-15; APD 8-2015, f. & cert. ef. 3-12-15; APD 10-2015(Temp), f. 4-2-15, cert. ef. 4-10-15 thru 10-6-15

Department of Human Services,
Child Welfare Programs
Chapter 413

Rule Caption: Amending Child Welfare rules relating to Differential Response
Adm. Order No.: CWP 10-2015
Filed with Sec. of State: 4-1-2015
Certified to be Effective: 4-1-15
Notice Publication Date: 3-1-2015
Rules Amended: 413-015-9000, 413-015-9020
Subject: The Department of Human Services, Office of Child Welfare Programs, is amending its rules relating to Oregon's Differential Response (DR) system. DR will ultimately be implemented statewide, but is currently being implemented on a county-by-county basis. OAR 413-015-9000 is being amended to specify the implementation dates for additional counties, specifically April 6, 2015, for Benton, Lincoln, and Linn counties; and April 20, 2015, for Washington County. OAR 413-015-9020 is also being amended to clarify that the Department will utilize both community partners and support persons when conducting an alternative response assessment. Statutory references were also updated in these rules.
Rules Coordinator: Kris Skaro—(503) 945-6067

413-015-9000
Authority, Responsibility, and Applicability

(1) ORS 418.005 provides that, in order to establish, extend, and strengthen welfare services for the protection and care of dependent or neglected children, the Department of Human Services may make all necessary rules and regulations for administering child welfare services. Among other duties outlined by ORS 409.010, the Department is responsible for the delivery and administration of programs and services relating to children and families, including child protective services (CPS).

(2) The Department has determined that in order to effectively administer child protective services it is necessary to adopt a child abuse assessment system that allows CPS to respond differently to reports of child abuse and neglect that meet the criteria to assign for CPS assessment. This system is called "differential response" and includes two types of CPS assessments, traditional response assessments and alternative response assessments. These changes in the Department's practice will be implemented, over time, on a county-by-county basis.

(3) Only the Department local offices in those counties identified by the Department to implement the Differential Response system must comply with the requirements outlined in these rules, OAR 413-015-9000 through 413-015-9040. Those counties will be referred to as DR implementation counties and are listed in subsections (a) through (c) of this section. Department local offices in all other counties must comply with the rules in OAR chapter 413, but are not responsible for OAR 413-015-9000 through 413-015-9040.

(a) Benton County, effective April 6, 2015;
(b) Klamath County, effective May 27, 2014;
(c) Lake County, effective May 27, 2014;
(d) Lane County, effective May 29, 2014;
(e) Lincoln County, effective April 6, 2015;
(f) Linn County, effective April 6, 2015; and
(g) Washington County, effective April 20, 2015.

(4) Except as provided in OAR 413-015-9000 through 413-015-9040, employees in the DR implementation counties remain responsible for all other rules in OAR chapter 413.

Stat. Auth: ORS 409.027, 409.050, 418.005, 418.598
Stats. Implemented: ORS 409.010, 409.185, 418.005, 418.015, 418.580, 419B.020
Hist.: CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 10-2015, f. & cert. ef. 4-1-15

413-015-9020
Definitions

In addition to the terms defined in OAR 413-015-0115, these terms are defined for use in these rules, OAR 413-015-9000 through 413-015-9040:

(1) "Alternative response assessment" means a type of CPS assessment that, in addition to the other requirements of a CPS assessment, utilizes community partners and support persons and assesses the strengths and needs of the family and child, but does not require a formal determination of whether there is reasonable cause to believe child abuse or neglect occurred.

(2) "Strengths and needs assessment" means a tool used to assess the strengths and needs, including service needs, of a family determined to have moderate to high needs.

(3) "Strengths and needs assessment provider" means an individual or organization trained to complete a strengths and needs assessment.

(4) "Traditional response assessment" means a type of CPS assessment used to assess reports of child abuse and neglect that require a formal determination of whether there is reasonable cause to believe child abuse or neglect occurred.

Stat. Auth: ORS 409.027, 409.050, 418.005, 418.598
Stats. Implemented: ORS 409.010, 409.185, 418.005, 418.015, 418.580, 419B.020
Hist.: CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 10-2015, f. & cert. ef. 4-1-15

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Department of Human Services,
Self-Sufficiency Programs
Chapter 461

Rule Caption: Amending rules governing public assistance programs, including APD and TANF
Adm. Order No.: SSP 12-2015
Filed with Sec. of State: 3-16-2015
Certified to be Effective: 4-1-15
Notice Publication Date: 2-1-2015
Rules Amended: 461-145-0120, 461-145-0530, 461-165-0030, 461-175-0210
Rules Repealed: 461-165-0030(T), 461-175-0210(T)
Subject: OAR 461-145-0120 about the definition of earned income is being amended to state that in-kind income (i.e. noncash net earnings) from self-employment is considered earned income.

OAR 461-145-0530 about tax refunds is being amended to remove an obsolete provision. Previously, federal tax refunds received between December 31, 2009, and January 1, 2013, were not counted as a resource. The time period referenced has passed and is therefore no longer applicable.

OAR 461-165-0030 about concurrent and duplicate program benefits is being amended to make permanent a temporary rule adopted on November 3, 2014, to allow Chafee Grant recipients to apply for and receive Temporary Assistance for Needy Families (TANF) benefits simultaneously if all other eligibility requirements are met. The change also prevents recipients from incurring overpayments based on receipt of both benefits as of January 1, 2013. Chafee benefits are administered by the Office of Child Welfare Programs and provide assistance to young adults transitioning from substitute care to independent living. (See OAR 413-030-0400 to 413-030-0455.)

OAR 461-175-0210 regarding notices required when a client has moved out of state or their whereabouts are unknown is being amended to make permanent a temporary rule adopted on November 14, 2014, to allow the Department to close Job Participation Incentive (JPI) benefits without sending a decision notice when the Department determines the benefit group has moved out of state or when mail is returned with no forwarding address. JPI is a $10.00 monthly incentive paid to employed SNAP clients and is issued as a monthly food benefit on the Oregon Trail Card (EBT).
Rules Coordinator: Kris Skaro—(503) 945-6067

461-145-0120
Earned Income; Defined

Earned income is income received in exchange for an individual's physical or mental labor. Earned income includes all of the following:

(1) Compensation for services performed, including wages, salaries, commissions, tips, sick leave, vacation pay, draws, or the sale of blood or plasma.

(2) Income from on-the-job-training, paid job experience, JOBS Plus work experience, or Welfare-to-Work work experience.

(3) In-kind income, when an individual is an employee of the person providing the in-kind income and the income is in exchange for work performed by the individual, or when received as compensation from self-employment.

(4) For self-employment, gross receipts and sales, including mileage reimbursements, before costs.

(5) In:

(a) The SNAP program, cafeteria plan (see OAR 461-001-0000) benefits, and funds placed in a flexible spending account.

(b) All programs except the SNAP program, cafeteria plan benefits that an employee takes as cash, and funds placed in a flexible spending account.

(6) Income from work-study.

(7) Income from profit sharing that the individual receives monthly or periodically.

(8) The fee for acting as an individual's representative payee, when that individual is not included in the filing group (see OAR 461-110-0310).

(9) In the OSIP, OSIPM, QMB, and SNAP programs, expenditure by a business entity that substantially benefits a principal (see OAR 461-145-0088).

Stat. Auth.: ORS 409.050, 411.060, 411.816, 414.042, 412.049
Stats. Implemented: ORS 411.060, 411.816, 414.042, 412.049
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 28-1992, f. & cert. ef. 10-1-92; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; 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 10-2007, f. & cert. ef. 10-1-07; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 12-2015, f. 3-16-15, cert. ef. 4-1-15

461-145-0530
Tax Refund

Income tax refunds and property tax refunds, including Elderly Rental Assistance (ERA), are counted as a resource.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 414.042, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.816, 414.042, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 9-2008(Temp), f. & cert. ef. 4-1-08 thru 9-26-08; Administrative correction 10-21-08; SSP 4-2011(Temp), f. & cert. ef. 2-4-11 thru 8-3-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 12-2015, f. 3-16-15, cert. ef. 4-1-15

461-165-0030
Concurrent and Duplicate Program Benefits

(1) Except as noted in this rule, an individual may not receive benefits from the Department of the same type (that is, cash, medical, or SNAP benefits) for the same period as a member of two or more different benefit groups (see OAR 461-110-0750) or from two or more separate programs. Except as allowed in subsection (g) of this section, this provision includes a prohibition against an individual receiving TANF concurrently with another cash assistance program funded under Title IV-E of the Social Security Act.

(a) An individual may receive EA, HSP, and TA-DVS benefits and cash payments from other programs for the same time period.

(b) If a GA recipient becomes eligible for the TANF program, benefits are supplemented during the first month of eligibility (see OAR 461-001-0000) for TANF to the TANF payment standards.

(c) An REF or TANF recipient may receive ERDC for a child (see OAR 461-001-0000) in the household group (see 461-110-0210), but who may not be included in the REF or TANF filing group (see 461-110-0310).

(d) A child who is a member of an ERDC benefit group may also be a member of one of the following benefit groups:

(A) An OSIP-AB benefit group.

(B) A TANF benefit group when living with a nonneedy caretaker relative (see OAR 461-001-0000), if the caretaker relative is not the parent (see OAR 461-001-0000) of the child.

(C) A TANF benefit group when living with a needy caretaker relative receiving SSI.

(e) An individual in the SNAP program who leaves a filing group (see OAR 461-110-0370) that includes an individual who abused them and enters a domestic violence shelter (see 461-001-0000) or safe home (see 461-001-0000) for victims of domestic violence (see 461-001-0000) may receive SNAP benefits twice during the month the individual enters the domestic violence shelter or safe home.

(f) A QMB recipient may also receive medical benefits from OSIPM, REFM, or an OCCS medical program with the exception of OHP-OPC, OHP-OPU, OHP-OP6, OHP-CHIP, MAGI Adult, and MAGI CHIP.

(g) An individual may receive Chafee (see OAR 413-030-0400 to 413-030-0455) and TANF benefits during the same time period. As of January 1, 2013, receipt of both Chafee and TANF benefits will not result in an overpayment.

(2) An individual may not receive benefits of the same type (that is, cash, medical, or SNAP benefits) for the same period from both Oregon and another state or tribal food distribution program, except as follows:

(a) Medical benefits may be authorized for an eligible individual if the individual's provider refuses to submit a bill to the Medicaid agency of another state and the individual would not otherwise receive medical care.

(b) Cash benefits may be authorized for an individual in the Pre-TANF program if benefits from another state will end by the last day of the month in which the individual applied for TANF.

(3) In the SNAP program, each individual who has been included as a member of the filing group in Oregon or another state is subject to all of the restrictions in section (2) of this rule.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.049, 412.124, 414.826
Stats. Implemented: ORS 411.060, 411.070, 411.117, 411.404, 411.704, 411.706, 411.816, 412.049, 412.124, 414.025, 414.826, 414.839
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 29-2014(Temp), f. & cert. ef. 11-3-14 thru 5-1-15; SSP 12-2015, f. 3-16-15, cert. ef. 4-1-15

461-175-0210
Notice Situation; Client Moved or Whereabouts Unknown

(1) To end benefits for an individual who has moved out of Oregon, the Department sends the following decision notice (see OAR 461-001-0000):

(a) In the ERDC, GA, GAM, OSIP, OSIPM, QMB, REF, REFM, and TANF programs:

(A) The Department sends a timely continuing benefit decision notice (see OAR 461-001-0000) to the individual who has moved out of Oregon.

(B) The Department sends a basic decision notice (see OAR 461-001-0000) if the individual becomes eligible for benefits in another state.

(b) In the JPI and SNAP programs, no decision notice is required if the Department determines that the benefit group (see OAR 461-110-0750) has moved out of Oregon.

(2) If Department mail or benefits have been returned with no forwarding address, the Department gives the individual the benefits if the individual's whereabouts become known during the period covered by the returned benefits. See OAR 461-165-0130 for when SNAP benefits may be sent out of Oregon. If the individual's whereabouts are unknown, the Department ends benefits by sending the following decision notice to their last known address:

(a) In all programs except the JPI and SNAP programs, a basic decision notice.

(b) In the JPI and SNAP programs, no decision notice is required.

Stat. Auth.: ORS 411.060, 411.095, 411.404, 411.816, 412.049
Stats. Implemented: ORS 411.060, 411.095, 411.404, 411.816, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 37-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 6-29-12; SSP 22-2012, f. 6-29-12, cert. ef. 6-30-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 33-2013(Temp), f. & cert. ef. 10-3-13 thru 3-30-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 30-2014(Temp), f. & cert. ef. 11-14-14 thru 5-12-15; SSP 12-2015, f. 3-16-15, cert. ef. 4-1-15

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Rule Caption: Amending OAR relating to availability of income in the GA, GAM, OSIPM, and QMB programs
Adm. Order No.: SSP 13-2015
Filed with Sec. of State: 3-19-2015
Certified to be Effective: 3-19-15
Notice Publication Date: 2-1-2015
Rules Amended: 461-140-0040
Subject: OAR 461-140-0040 about availability of income is being amended to more closely align with federal policy regarding disregarding a portion of certain income sources withheld to repay a previous overpayment of that same source of income, if double-counting will occur. A previous amendment to this rule became effective 7/1/14; however, it may not allow an adequate length of unavailability and may therefore result in double-counting. This revision allows the Department to consider the same amount of withheld funds unavailable as was originally counted in determining eligibility for GA, GAM, OSIPM, and QMB rather than simply considering the

number of months an overpaid benefit was counted. This amendment was previously adopted as a temporary rule on September 19, 2014.
Rules Coordinator: Kris Skaro—(503) 945-6067

461-140-0040
Determining Availability of Income

(1) This rule describes the date income is considered available, what amount of income is considered available, and situations in which income is considered unavailable.

(2) Income is considered available the date it is received or the date a member of the financial group (see OAR 461-110-0530) has a legal right to the payment and the legal ability to make it available, whichever is earlier, except as follows:

(a) Income usually paid monthly or on some other regular payment schedule is considered available on the regular payment date if the date of payment is changed because of a holiday or weekend.

(b) Income withheld or diverted at the request of an individual is considered available on the date the income would have been paid without the withholding or diversion.

(c) An advance or draw of earned income is considered available on the date it is received.

(d) Income that is averaged, annualized, converted, or prorated is considered available throughout the period for which the calculation applies.

(e) A payment due to a member of the financial group, but paid to a third party for a household expense, is considered available when the third party receives the payment.

(f) In prospective budgeting, income is considered available in the month the income is expected to be received (see OAR 461-150-0020).

(3) The following income is considered available even if not received:

(a) Deemed income.

(b) In the ERDC, REF, REFM, and TANF programs, the portion of a payment from an assistance program, such as public assistance, unemployment compensation, or Social Security, withheld to repay an overpayment.

(c) In the GA, GAM, OSIPM, and QMB programs, the portion of a payment from an assistance program (such as public assistance, unemployment compensation, or Social Security) withheld to repay an overpayment of the same source:

(A) If withheld prior to July 1, 2014.

(B) If withheld on or after July 1, 2014 and:

(i) No member of the financial group was receiving GA, GAM, OSIP, OSIPM, or QMB during the period the benefit was overpaid; or

(ii) The withheld amount is not excluded under section (5)(e)(A).

(d) In the SNAP program, the portion of a payment from the TANF program counted as disqualifying income under OAR 461-145-0105.

(4) The amount of income considered available is the gross before deductions, such as garnishments, taxes, or other payroll deductions including flexible spending accounts.

(5) The following income is not considered available:

(a) Wages withheld by an employer in violation of the law.

(b) Income received by another individual who does not pay the client his or her share.

(c) Income received by a member of the financial group after the individual has left the household.

(d) Moneys withheld from or returned to the source of the income to repay an overpayment from that source unless the repayment is countable (see OAR 461-001-0000):

(A) In the SNAP program, under OAR 461-145-0105.

(B) In the ERDC, REF, REFM, and TANF programs, under subsection (3)(b) of this rule.

(e) In the GA, GAM, OSIP, OSIPM, and QMB programs:

(A) The portion of a payment from an assistance program, such as public assistance, unemployment compensation, or Social Security withheld on or after July 1, 2014 to repay an overpayment from the same source if at least one member of the financial group was receiving GA, GAM, OSIPM, or QMB during the period the benefit was overpaid. The amount considered unavailable cannot exceed the amount of the overpaid benefit previously counted in determining eligibility (see OAR 461-001-0000) for GA, GAM, OSIP, OSIPM, or QMB.

(B) Monies withheld from or returned to a source of income, when the source is not an assistance program, to repay an overpayment of the same source.

(f) For an individual who is not self-employed, income required to be expended on an ongoing, monthly basis on an expense necessary to produce the income, such as supplies or rental of work space.

(g) Income received by the financial group but intended and used for the care of an individual not in the financial group as follows:

(A) If the income is intended both for an individual in the financial group and an individual not in the financial group, the portion of the income intended for the care of the individual not in the financial group is considered unavailable.

(B) If the portion intended for the care of the individual not in the financial group cannot readily be identified, the income is prorated evenly among the individuals for whom the income is intended. The prorated share intended for the care of the individual not in the financial group is then considered unavailable.

(h) In the ERDC, REF, REFM, SNAP, and TANF programs, income controlled by the client's abuser if the client is a victim of domestic violence (see OAR 461-001-0000), the client's abuser controls the income and will not make the money available to the filing group (see 461-110-0310), and the abuser is not in the client's filing group.

(i) In the OSIP, OSIPM, and QMB programs, unearned income not received because a payment was reduced to cover expenses incurred by a member of the financial group to secure the payment. For example, if a retroactive check is received from a benefit program other than SSI, legal fees connected with the claim are subtracted. Or, if payment is received for damages received as a result of an accident the amount of legal, medical, or other expenses incurred by a member of the financial group to secure the payment are subtracted.

(j) In the REFM program, any income used for medical or medical-related purposes.

(6) The availability of lump-sum income (see OAR 461-001-0000) is covered in OAR 461-140-0120.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 411.816, 412.049
Stats. Implemented: ORS 411.060, 411.117, 411.404, 411.816, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 1-2005(Temp), f. & cert. ef. 2-1-05 thru 6-30-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 5-2005(Temp), f. & cert. ef. 4-1-05 thru 6-30-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 23-2014(Temp), f. & cert. ef. 9-19-14 thru 3-18-15; SSP 13-2015, f. & cert. ef. 3-19-15

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Rule Caption: Correcting an error in the ERDC copayment standard that applies to some applicants
Adm. Order No.: SSP 14-2015(Temp)
Filed with Sec. of State: 3-23-2015
Certified to be Effective: 3-23-15 thru 9-18-15
Notice Publication Date:
Rules Amended: 461-155-0150
Subject: OAR 461-155-0150 about eligibility standards, payment rates, and copayments for child care assistance is being amended to correct an inadvertent error. The rule incorrectly stated the standard used to calculate the ERDC (Employment Related Day Care) copayment for families with more than 8 individuals. The amendment corrects the error.
Rules Coordinator: Kris Skaro—(503) 945-6067

461-155-0150
Child Care Eligibility Standard, Payment Rates, and Copayments

The following provisions apply to child care in the ERDC, JOBS, JOBS Plus, and TANF programs:

(1) The following definitions apply to the rules governing child care rates:

(a) Infant: For all providers other than licensed (registered or certified) care, a child aged newborn to 1 year. For licensed care, an infant is a child aged newborn to 2 years.

(b) Toddler: For all providers other than licensed (registered or certified) care, a child aged 1 year to 3 years. For licensed care, a toddler is a child aged 2 years to 3 years.

(c) Preschool: A child aged 3 years to 6 years.

(d) School: A child aged 6 years or older.

(e) Special Needs: A child who meets the age requirement of the program (ERDC or TANF) and who requires a level of care over and above the norm for his or her age due to a physical, behavioral or mental disability.

The need for a higher level of care must be determined by the provider and the disability must be verified by one of the following:

(A) A physician, nurse practitioner, clinical social worker, or any additional sources in OAR 461-125-0830.

(B) Eligibility for Early Intervention and Early Childhood Special Education Programs, or school-age Special Education Programs.

(C) Eligibility for SSI.

(2) The following definitions apply to the types of care specified in the child care rate charts in subsections (4)(a) through (4)(c) of this rule:

(a) The Standard Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider does not qualify for the enhanced rate allowed by subsection (b) of this section.

(b) The Enhanced Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider meets the training requirements of the Oregon Registry, established by the Oregon Center for Career Development in Childhood Care and Education.

(c) The Registered Family Rate applies to child care provided in the provider's own home when the provider meets criteria established by the Office of Child Care.

(d) The Certified Family Rate applies to child care provided in a residential dwelling that is certified by the Office of Child Care as a Certified Family Home. To earn this designation, the facility must be inspected, and both provider and facility are required to meet certain standards not required of a registered family provider.

(e) The Standard Center Rate applies to child care provided in a facility that is not located in a residential dwelling and is exempt from Office of Child Care Certification rules (see OAR 414-300-0000).

(f) The Enhanced Center Rate applies to child care provided in an exempt center whose staff meet the training requirements of the Oregon Registry established by the Oregon Center for Career Development in Childhood Care and Education. Eligibility to receive the enhanced center rate for care provided in an exempt center is subject to the following requirements:

(A) A minimum of one staff member for every 20 children in care must meet the Oregon Registry training requirements noted in paragraph (2)(b) of this rule.

(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 (2)(b), (f), or (g) of this rule.

(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, the rates are 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 need groups (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 size of eight applies to any need group larger than eight.

(b) The minimum monthly ERDC copay is $25.

(c) For filing groups (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 filing groups whose countable income is over 50 percent of the 2007 FPL, the copay amount is determined with the following percentage of monthly income:

(A) Determine filing group's countable income as a percent of FPL (rounding to the nearest hundredth of the percentage), subtract 50, and multiply this difference by 0.12.

(B) Add 1.5 to the amount in paragraph (A) of this subsection. This sum is the percentage of monthly income to determine the copay amount.

(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 (1)(e) 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; and

(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 co-payment amount set under section (5) of this rule.

(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, 409.610, 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

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Rule Caption: Amending rules relating to DHS and OHA estate recovery and personal injury liens

Adm. Order No.: SSP 15-2015

Filed with Sec. of State: 3-30-2015

Certified to be Effective: 4-1-15

Notice Publication Date: 2-1-2015

Rules Amended: 461-135-0834, 461-195-0301, 461-195-0303, 461-195-0321

Subject: OAR 461-135-0834 about delivery of required notices to the Estate Administration Unit is being amended to clarify that Notices of Disallowance of Claim to the Department of Human Services (DHS) or the Oregon Health Authority (OHA) must be delivered to the Estate Administration Unit.

OAR 461-195-0301 about definitions is being amended to: clarify that compensation received under Oregon Laws 2013, chapter 5, is subject to the personal injury lien program; state that the Personal Injury Liens Unit is designated to administer the personal injury lien program for both DHS and OHA; add definitions for 'loan receipts' and 'trust agreements'; and make other non-substantive edits to clarify definitions, correct formatting and punctuation, and update statutory and rule references.

OAR 461-195-0303 is being amended to: add a provision that the Personal Injury Liens Unit is designated to administer the personal injury lien program for DHS and OHA; enumerate the authority granted to the Personal Injury Liens Unit to administer the program; add references to OHA and DHS rules regarding the duty of public assistance recipients to pursue tort claims against third parties when DHS or OHA paid for injury-related services; add a requirement that public assistance recipients cooperate with the Personal Injury Liens Unit and the recipient's prepaid managed care health services organization in obtaining reimbursement from third parties when DHS, OHA, or a prepaid managed care health services organization paid for injury-related services, and enumerate specific duties to cooperate; add sanctions for assistance recipients who fail to cooperate, unless the recipient has "good cause" not to cooperate; and make other non-substantive edits to clarify language, correct formatting and punctuation, and update statutory and rule references.

OAR 461-195-0321 is being amended to: clarify the time period that a prepaid managed care health services organization has to request an assignment of lien; prohibit the use of loan receipts, trust agreements, or similar arrangements to guarantee reimbursement for medical costs paid by a prepaid managed care health services organization arising from a personal injury; and make other non-substantive edits to clarify language, correct formatting and punctuation, and update statutory and rule references.

Rules Coordinator: Kris Skaro—(503) 945-6067

461-135-0834

Delivery of Required Notices to the Estate Administration Unit

(1) A person required by ORS 93.268, 113.145, 114.525, or 130.370 to send notice to the Department of Human Services must send or deliver the notice to the Estate Administration Unit, Office of Payment Accuracy and Recovery, Department of Human Services.

(2) If a claim submitted by the Estate Administration Unit is disallowed, the notice of the disallowance, required by ORS 114.540, 115.135, or 130.400, shall be mailed to the Estate Administration Unit, unless the claim directs that the notice of disallowance be mailed to a person or entity other than the Estate Administration Unit.

(3) The mailing address for the Estate Administration Unit is:

Estate Administration Unit
PO Box 14021
Salem OR 97309-5024

Stat Auth: ORS 410.070

Stats. Implemented: ORS 113.145, 114.525 & 130.370

Hist.: AFS 5-2002, f. & cert. ef. 4-1-02; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 15-2015, f. 3-30-15, cert. ef. 4-1-15

461-195-0301

Definitions

For purposes of OAR 461-195-0301 to 461-195-0350, the following definitions apply:

(1) "Action" means an action, suit, or proceeding.

(2) "Applicant" means an applicant for assistance (see section (3) of this rule).

(3) "Assistance" means moneys for the needs of a recipient (see section (12) of this rule) and for the needs of other individuals living with the recipient whom the recipient has an obligation to support which are paid by the Department (see section (7) of this rule), CCO (see section (4) of this rule), or prepaid managed care health services organization (see section (11) of this rule) either directly to the recipient or to others for the benefit of the recipient. "Assistance" includes both cash and medical assistance programs. "Assistance" does not include SNAP benefits. The "assistance" must be directly related to the personal injury (see section (10) of this rule). "Assistance" is received by the recipient on the date of issuance of a check

for cash assistance and the date of service for medical assistance, regardless of the actual payment date by the Department, CCO, or prepaid managed care health services organization.

(4) "CCO" means a Coordinated Care Organization as defined in OAR 410-141-0000.

(5) "Claim" means a legal action or a demand by, or on behalf of, a recipient for damages for or arising out of a personal injury which is against any person or public body, agency or commission other than the State Accident Insurance Fund Corporation or Workers' Compensation Board.

(6) "Compromise" means a compromise between a recipient and any person or public body, agency or commission against whom the recipient has a claim (see section (5) of this rule).

(7) "Department" means the Department of Human Services, the Oregon Health Authority, or both.

(8) "Judgment" means a judgment in any action (see section (1) of this rule) or proceeding brought by a recipient to enforce the claim of the recipient.

(9) "Loan receipts" means an arrangement in which a CCO or prepaid managed care health services organization pays medical costs for or to the recipient, and the recipient agrees to repay the CCO or prepaid managed care health services organization from a recovery the recipient receives from a third party that injured the recipient, or any similar arrangement.

(10) "Personal injury" means a physical or emotional injury to an individual, for which the individual has a claim including, but not limited to, injuries arising from assault, battery, or medical malpractice.

(11) "Prepaid managed care health services organization" means a managed health, dental, or mental health care organization that contracts with the Department on a prepaid basis under the Oregon Health Plan (OHP) (see OAR 410-200-0015). A "prepaid managed care health services organization" may be a dental care organization, fully capitated health plan, mental health organization, physician care organization, chemical dependency organization, or CCO.

(12) "Recipient" means an individual who receives or received assistance or whose needs are or were included in a public assistance grant.

(13) "Settlement" means a settlement between a recipient and any person or public body, agency or commission against whom the recipient has a claim, and includes any agreement to pay, or payment of or compensation received by a recipient under Oregon Laws 2013, chapter 5.

(14) "Trust agreements" means an arrangement in which a CCO or prepaid managed care health services organization pays medical expenses for or to the recipient, and the recipient agrees to hold in trust for the prepaid managed care health services organization money from a recovery the recipient receives from a third party that injured the recipient, or any similar arrangement.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 412.049, 413.033, 413.042, OLs 2013 Ch 14 sec. 10
Stats. Implemented: ORS 409.010, 411.060, 411.070, 412.049, 413.033, 413.042, 416.510 - 416.610
Hist.: AFS 62-1989, f. 10-5-89, cert. ef. 10-15-89; AFS 26-1993, f. 10-29-93, cert. ef. 11-1-93; Renumbered from 461-010-0100; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2015, f. 3-30-15, cert. ef. 4-1-15

461-195-0303
Personal Injury Claim

(1) The Personal Injury Liens Unit is designated and authorized to administer the personal injury lien program for the Oregon Heath Authority (the Authority) and the Department of Human Services (the Department) (see OAR 461-195-0301). To administer the program, the Personal Injury Liens Unit is also authorized to:

(a) Prepare and file liens;

(b) Assign lien authority to a CCO (see OAR 461-195-0301) or a prepaid managed care health services organization (see 461-195-0301) for medical costs paid by a CCO or prepaid managed care health services organization to or on behalf of an applicant (see 461-195-0301) or recipient (see 461-195-0301) arising from any personal injury (see 461-195-0301);

(c) Assert any rights or remedies, including filing a complaint in court, arising from an assignment of right to payment acquired by the Authority in accordance with ORS 659.830 and 743.847, from an applicant or recipient; and

(d) Assert any rights or remedies granted in ORS 416.580 or 416.610.

(2) An applicant or recipient of medical assistance, as a condition of eligibility, must assign to the Authority any rights to payment from any third party liable for medical costs paid by medical assistance to or on behalf of an applicant or recipient arising from any personal injury.

(3) An applicant or recipient of assistance (see OAR 461-195-0301), except OCCS Medical Programs (see 410-200-0015), must pursue a personal injury claim (see 461-195-0301) in accordance with 461-120-0330 (Requirement to Pursue Assets).

(4) An applicant or recipient of OCCS Medical Programs assistance must pursue a personal injury claim in accordance with OAR 410-200-0220 (Requirement to Pursue Assets).

(5) An applicant or recipient must cooperate with the Personal Injury Liens Unit, CCO, or prepaid managed care health services organization to:

(a) Identify any third party liable or potentially liable for medical costs paid by the Department, the Authority, CCO, or prepaid managed care health services organization to or on behalf of an applicant or recipient arising from any personal injury;

(b) Provide information about liability or other insurance that may cover or pay for medical costs paid by the Department, the Authority, CCO, or prepaid managed care health services organization to or on behalf of an applicant or recipient arising from any personal injury;

(c) Complete a MSC 0451, MSC 0451NV, or similar online form as required by the Personal Injury Liens Unit, CCO, or prepaid managed care health services organization;

(d) Provide other information as required by the Personal Injury Liens Unit, CCO, or prepaid managed care health services organization to assist in pursuing payment from any third party who may be liable for medical costs paid by the Department, the Authority, CCO, or prepaid managed care health services organization to or on behalf of an applicant or recipient arising from any personal injury;

(e) Appear as a witness in court, administrative hearing, or other proceeding arising from any personal injury; and

(f) Pay to the Department any medical damages received by the recipient that are subject to the Department's lien or assignment of rights to payments.

(6) An applicant or recipient of OCCS Medical Programs assistance who fails to comply with section (5) of this rule is ineligible for benefits until the individual meets the requirements of section (5) of this rule, or has good cause (see OAR 410-200-0220) not to comply.

(7) An applicant or recipient of assistance, other than OCCS Medical Programs, who fails to comply with section (5) of this rule is ineligible for benefits until the individual meets the requirements of section (5) of this rule, or has good cause (see OAR 461-120-0330) not to comply.

(8) For all programs, the existence of a claim for damages for a personal injury does not make an applicant or recipient ineligible for program benefits.

Stat. Auth.: ORS 409.050, 411.060 & 416.510 - 416.610
Stats. Implemented: ORS 411.620, 411.630, 411.632, 411.635 & 411.640
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 26-1993, f. 10-29-93, cert. ef. 11-1-93; Renumbered from 461-195-0300; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 15-2015, f. 3-30-15, cert. ef. 4-1-15

461-195-0321
Assigning a Lien

(1) The Personal Injury Liens Unit may assign a lien to a CCO (see OAR 461-195-0301) or prepaid managed care health services organization (see 461-195-0301) for the amount of covered health services (as defined in Oregon Health Plan Rules, OAR Division 410-141 and the General Rules, OAR Division 410-120, or other Department (see 461-195-0301) rules establishing covered medical assistance) for a recipient (see 461-195-0301) arising from a personal injury (see 461-195-0301) during the period the Department paid a CCO or prepaid managed care health services organization to provide covered health services to a recipient.

(2) A CCO or prepaid managed care health services organization, within 30 days of receiving notice that an applicant (see OAR 461-195-0301) or recipient has a claim (see 461-195-0301) or action (see 461-195-0301), must give notice to the Personal Injury Liens Unit, and provide additional information as requested by the Personal Injury Liens Unit.

(3) A CCO or prepaid managed care health services organization shall not use loan receipts (see OAR 461-195-0301), trust agreements (see 461-195-0301), or similar arrangements to seek reimbursement from an applicant, recipient, or third party.

(4) The assignment described in section (1) of this rule is made only if the CCO or prepaid managed care health services organization makes a request for an assignment from the Personal Injury Liens Unit, after giving the notice required in section (2) of this rule.

(5) The amount of the lien that may be assigned does not include amounts excluded from a lien according to OAR 461-195-0305(3) and (4), 461-195-0320, or 461-195-0350.

(6) For purposes of ORS 416.510 to 416.610, assignment of the lien establishes the CCO or prepaid managed care health services organization

as a designee of the Department in relation to the lien, pursuant to ORS 416.540(5), which designation shall include the following:

(a) As the Department's designee, the CCO or prepaid managed care health services organization is subject to these rules in the pursuit of the assigned lien and any actions taken by the CCO or prepaid managed care health services organization to settle, compromise (see OAR 461-195-0301), or release the assigned lien.

(b) The CCO or prepaid managed care health services organization shall copy the Personal Injury Liens Unit on all documentation related to the assigned lien, including communications with the person or public body, agency or commission against whom a claim is made or an action is brought in relation to settlement (see OAR 461-195-0301), compromise, or release of the assigned lien. This requirement may be met by listing the Personal Injury Liens Unit on the "cc" portion of the documentation or certificate of service, and sending a copy to the Personal Injury Liens Unit when the document is sent or filed.

(c) The Personal Injury Liens Unit may require the use of forms and procedures related to the assignment of liens and notices and the efficient administration of these rules to minimize redundancy in communications with a recipient and the parties to a claim or action.

(7) The form of notice of lien that may be assigned to a CCO or prepaid managed care health services organization shall comply with ORS 416.560, with the CCO or prepaid managed care health services organization assigned as the designee. Upon receiving assignment of a lien from the Personal Injury Liens Unit, the CCO or prepaid managed care health services organization shall perfect the lien as required by ORS 416.550. A CCO or prepaid managed care health services organization with an assigned lien shall notify the Personal Injury Liens Unit no later than 10 calendar days after filing the notice of the lien.

(8) A CCO or prepaid managed care health services organization with an assigned lien shall perfect the lien and document actions taken to recover under the lien. Consequences for failure to comply with requirements for perfecting the lien and recovering under the lien are the responsibility of the CCO or prepaid managed care health services organization and shall not prevent the Personal Injury Liens Unit from recovering amounts due the Department pursuant to the lien or from the statutory assignment of right to payment from the recipient.

(9) Immediately after a judgment (see OAR 461-195-0301) has been rendered in favor of a recipient or a settlement or compromise has been agreed upon, the person or public body, agency or commission bound by such judgment, settlement, or compromise shall notify the Personal Injury Liens Unit. If a CCO or prepaid managed care health services organization perfected a lien, the person or public body, agency or commission shall notify the CCO or prepaid managed care health services organization.

(a) If the CCO or prepaid managed care health services organization receives such notification on an assigned lien, the CCO or prepaid managed care health services organization shall provide a copy to the Personal Injury Liens Unit within 10 calendar days of receipt.

(b) After notification, the Personal Injury Liens Unit shall send a statement of the amount of the lien to the person or public body, agency or commission by certified mail with return receipt.

(c) After notification, if a CCO or prepaid managed care health services organization filed a notice of lien, the CCO or prepaid managed care health services organization shall send a statement of the amount of the lien to the person or public body, agency or commission.

(10) A lien assigned by the Department to a CCO or prepaid managed care health services organization is subject to release or compromise as described in OAR 461-195-0325.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 413.033, 413.042, 416.350, 416.351, Or Laws 2013, ch 14, sec. 10

Stats. Implemented: ORS 409.050, 411.060, 411.070, 413.033, 413.042, 416.350, 416.351, 416.510, 416.540, 416.560, 416.570, Or Laws 2013, ch 14, sec. 10

Hist.: AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 15-2015, f. 3-30-15, cert. ef. 4-1-15

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Rule Caption: Amending rules relating to child care assistance programs

Adm. Order No.: SSP 16-2015

Filed with Sec. of State: 4-1-2015

Certified to be Effective: 4-1-15

Notice Publication Date: 2-1-2015

Rules Amended: 461-115-0050, 461-135-0405, 461-135-0407

Rules Repealed: 461-115-0050(T)

Subject: OAR 461-115-0050 about when an application must be filed is being amended to make permanent a temporary rule adopted on October 29, 2014 that allows the Department to reopen families in the Employment Related Day Care (ERDC) program without requiring a new application when the family meets certain conditions. Under this amendment, the Department may reopen ERDC without a new application when all the following conditions are met:

- The case closed during the certification period.
- The family reports a change in circumstances prior to the end of the month following the closure.
- The reported change will make them eligible for ERDC.

OAR 461-135-0405 about children receiving child care under a contract between a Head Start agency and the Department and 461-135-0407 about children receiving child care under a contract between an Oregon Program of Quality (OPQ) provider and the Department are being amended to prohibit a family participating in a contracted child care slot from continuing to receive Oregon child care benefits after they move out of state.

In addition, non-substantive edits are being made to these rules to correct formatting and punctuation, make general edits for ease of reading, and update statutory and rule references.

Rules Coordinator: Kris Skaro—(503) 945-6067

461-115-0050

When an Application Must Be Filed

(1) An individual must file an application, or may amend a completed application, as a prerequisite to receiving benefits as follows:

(a) An individual may apply for the TA-DVS program as provided in OAR 461-135-1220.

(b) In all programs except the TA-DVS program:

(A) Except as provided otherwise in this rule, to apply for program benefits, an individual must submit a complete application on a form approved by the Department.

(B) An application is complete if all of the following requirements are met:

(i) All information necessary to determine eligibility (see OAR 461-001-0000) and benefit amount is provided on the application for each individual in the filing group (see 461-110-0310).

(ii) The applicant, even if homeless, provides a valid mailing address.

(iii) The application is signed by the individual, the authorized representative (see OAR 461-115-0090 and 461-115-0140) of the individual, or another individual applying for benefits on behalf of the individual, and received by the Department.

(I) An individual required but unable to sign the application may sign with a mark, witnessed by another individual.

(II) An individual submitting an electronic application (see OAR 461-001-0000) must submit the application with an electronic signature.

(2) A new application is not required in the following situations:

(a) In the SNAP program, when a single application can be used both to determine an individual is ineligible in the month of application and to determine the individual is eligible the next month. This may be done when:

(A) Anticipated changes make the filing group (see OAR 461-110-0370) eligible the second month; or

(B) The filing group provides verification between 30 and 60 days following the filing date (see OAR 461-115-0040), under 461-180-0080.

(b) In all programs except the SNAP program, when a single application can be used both to determine an individual is ineligible on the date of request (see OAR 461-115-0030) and to determine the individual is eligible when anticipated changes make the filing group eligible within 45 days from the date of request.

(c) When the case is closed and reopened during the same calendar month.

(d) When benefits were suspended for one month because of the level of income, and the case is reopened the month following the month of suspension.

(e) When reinstating medical benefits for a pregnant woman covered by OAR 461-135-0950, notwithstanding subsection (g) of this section.

(f) In the ERDC program, when a case closed during the certification period (see OAR 461-001-0000) and the individual reports a change in circumstances prior to the end of the month following the closure and the reported change will make the individual eligible.

(g) In the GAM, OSIPM, and QMB programs, when the medical benefits of an individual are suspended because the individual lives in a public institution (see OAR 461-135-0950), if the inmate is released within 12

months of admission and the inmate provides notification to the Department within 10 days of the release.

(3) When an individual establishes a new date of request prior to the end of the month following the month of case closure, unless the Department determines a new application is required, a new application is not required in the following situations:

(a) In the OSIPM program, when the individual's case closed due to failure to make a liability payment required under OAR 461-160-0610.

(b) In the OSIPM-EPD program, when the individual's case closed due to failure to make a participant fee payment required under OAR 461-160-0800.

(4) A new application is required to add a newborn child (see OAR 461-001-0000) to a benefit group (see 461-110-0750) according to the following requirements:

(a) In the ERDC and SNAP programs, an application is not required to add the child to the benefit group.

(b) In the GAM, OSIPM, QMB, and REFM programs, an additional application is not required to add an assumed eligible newborn (see OAR 461-135-0010) to a benefit group currently receiving Department medical program benefits.

(c) In the REF and TANF programs:

(A) A new application is not required if the child is listed on the application as "unborn" and there is sufficient information about the child to establish its eligibility.

(B) A new application is required if the child is not included on the application as "unborn."

(d) In the REFM program, an additional application is not required to add a newborn to a benefit group receiving benefits from one of the listed programs if eligibility can be determined without submission of a new application.

(e) In all programs other than ERDC, GAM, QMB, REF, REFM, SNAP, and TANF, an application is required.

(5) A new application is required to add an individual, other than a newborn child, to a benefit group according to the following requirements:

(a) In the ERDC and SNAP programs, a new application is not required.

(b) In the REF, REFM, and TANF programs, an individual may be added by amending a current application if the information is sufficient to determine eligibility; otherwise a new application is required.

(c) In all programs other than the ERDC, REF, REFM, SNAP, and TANF programs, a new application is required.

(6) An individual whose TANF grant is closing may request ERDC orally or in writing.

(7) Except for an applicant for the OSIPM, QMB, or SNAP program, an individual may change between programs administered by the Department using the current application if the following conditions are met:

(a) The individual makes an oral or written request for the change.

(b) The Department has sufficient evidence to determine eligibility and benefit level for the new program without a new application.

(c) The program change can be effected while the individual is eligible for the first program.

(8) In the OSIP, OSIPM, and QMB programs, a new application is not required to redetermine eligibility if the following conditions are met:

(a) The individual is currently receiving benefits from one of these programs.

(b) The Department has sufficient evidence to redetermine eligibility for the same program or determine eligibility for the new program without a new application or by amending the current application.

Stat. Auth: ORS 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025, 414.231, 414.826, 414.839

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.117, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025, 414.231, 414.826, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 3-1991(Temp), f. & cert. ef. 1-17-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 27-1996, f. 6-27-1996, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; AFS 21-2001(Temp), f. & cert. ef. 10-1-01 thru 12-31-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 2-2008(Temp), f. & cert. ef. 1-28-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 17-2009(Temp), f. 7-29-09, cert. ef. 8-1-09 thru 1-28-10; SSP 22-2009(Temp), f. & cert. ef. 8-28-09 thru 1-28-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 19-2013(Temp), f. 7-31-13, cert. ef. 8-1-13 thru 1-28-14; SSP 28-2013(Temp), f. & cert. ef. 10-1-13 thru 1-28-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 28-2014(Temp), f. & cert. ef. 10-29-14 thru 4-26-15; SSP 16-2015, f. & cert. ef. 4-1-15

461-135-0405

Children in the Head Start Program; ERDC and TANF

(1) Initial eligibility (see OAR 461-001-0000) for the ERDC program (see 461-135-0400) or the TANF program (OAR 461-135-0070) must be met prior to receiving child care under a contract between a Head Start agency and the Department.

(2) The following subsections apply when a child (see OAR 461-001-0000) in the ERDC or TANF programs receives child care under a contract between a Head Start agency and the Department.

(a) The Head Start agency is considered the provider of child care.

(b) If the Head Start agency uses another provider for the child care, that provider must meet the requirements in OAR 461-165-0160 and following.

(c) The payment made by the Department on behalf of the child is made only to the Head Start agency. The child is ineligible for child care payments for care not provided under the contract between the Head Start agency and the Department.

(d) Once the Department makes a child care payment for the child under the contract, the child may not lose child care benefits until the next August 31, unless any of the following paragraphs apply:

(A) The child's caretaker (see OAR 461-001-0000) has been found ineligible for ERDC program benefits under OAR 461-135-0415 for failure to make a copayment.

(B) The caretaker was found ineligible because of inaccurate information provided to the Department or because information was withheld from the Department when eligibility was determined.

(C) The caretaker fails to meet the requirements of the locally-prepared agreement among the client and the Head Start program.

(D) In the ERDC program, the caretaker is found ineligible for ERDC program benefits under OAR 461-160-0040(5) unless the caretaker is:

(i) Continuing to actively seek employment (other than self-employment) during the hours the contracted Head Start program is operating; and

(ii) Available to work (other than self-employment) during the operating hours of the contracted Head Start program.

(E) The child is no longer attending a Head Start contracted program.

(F) The caretaker of the child voluntarily quits their job or causes their own dismissal and does not meet the "good cause" criteria set out in OAR 461-135-0070(2).

(G) The caretaker of the child enrolls in school, unless the caretaker is:

(i) Continuing to actively seek employment during the hours the contracted Head Start program is operating; and

(ii) Available to work during the operating hours of the contracted Head Start program.

(H) In the TANF program:

(i) The case closes due to disqualification (see OAR 461-130-0330); or

(ii) The caretaker is not actively participating in an open case plan (see OAR 461-001-0025).

(I) The filing group (see OAR 461-110-0350) no longer meets Oregon residency requirements under OAR 461-120-0010.

(e) For any month in which the child is eligible to be served under a contract and the client complies with a plan developed jointly by the client, the Head Start agency, and the Department (plan), the Department waives the client's copayment for the child, in whole or in part, if the waiver is provided for in the contract.

(f) For any month in which the client's child is eligible to be served under a contract and the client complies with a plan, the Department waives the copayment with respect to the child's siblings, in whole or in part, if the waiver is provided for in the contract.

(3) The Department will not make a child care payment for a child in a Head Start program if the child's caretaker has been found ineligible for ERDC program under OAR 461-135-0415 for failure to make a copayment.

Stat. Auth: ORS 409.050, 411.060, 411.116, 412.049

Stats. Implemented: ORS 409.010, 409.050, 409.610, 411.060, 411.116, 411.122, 412.049

Hist.: AFS 33-2000(Temp), f. 12-22-00, cert. ef. 1-1-01 thru 3-31-01; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 9-2009(Temp), f. & cert. ef. 5-1-09 thru 10-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 11-2014(Temp), f. & cert. ef. 4-10-14 thru 10-7-14; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 16-2015, f. & cert. ef. 4-1-15

461-135-0407
Children in Oregon Program of Quality Contracted Child Care; ERDC and TANF

(1) Initial eligibility (see OAR 461-001-0000) for the ERDC program (see 461-135-0400) or the TANF program (see 461-135-0070) must be met prior to receiving child care under a contract between an Oregon Program of Quality (OPQ) provider and the Department.

(2) The following subsections apply when a child (see OAR 461-001-0000) in the ERDC or TANF programs receives child care under a contract between an OPQ provider and the Department.

(a) The payment made by the Department on behalf of the child is made only to the OPQ provider. The child is ineligible for child care payments for care not provided under the contract between the OPQ provider and the Department.

(b) Once the Department makes a child care payment for the child under the contract, the child may not lose child care benefits until the next August 31, unless any of the following paragraphs apply:

(A) The child is no longer attending an OPQ contracted provider.

(B) The filing group (see OAR 461-110-0350) was found ineligible because of inaccurate information provided to the Department or because information was withheld from the Department when eligibility was determined.

(C) The filing group fails to meet the requirements of the agreement between the client and the OPQ provider.

(D) The caretaker (see OAR 461-001-0000) of the child voluntarily quits their job or causes their own dismissal, and does not meet the "good cause" criteria set out in 461-135-0070(2).

(E) The caretaker of the child enrolls in school, unless the caretaker is:

(i) Continuing to actively seek employment during the hours the OPQ contracted child care program is operating; and

(ii) Available to work during the operating hours of the OPQ provider.

(F) In the ERDC program:

(i) The caretaker of the child has been found ineligible under OAR 461-135-0415 for failure to make a copayment.

(ii) The caretaker of the child is found ineligible due to self-employment (see OAR 461-160-0040(5)), unless during the operating hours of the OPQ contracted provider, the caretaker is:

(I) Continuing to actively seek employment (other than self-employment); and

(II) Available to work (other than self-employment).

(G) In the TANF program:

(i) The case closes due to disqualification (see OAR 461-130-0330); or

(ii) The caretaker is not actively participating in an open case plan (see OAR 461-001-0025).

(H) The filing group (see OAR 461-110-0350) no longer meets Oregon residency requirements under 461-120-0010.

(3) Except as provided in section (4) of this rule, for any month in which a child is eligible to be served under a contract covered by this rule, the client's copayment is established under OAR 461-155-0150(12)(a).

(4) For any month in which a child in an OPQ contracted slot is eligible for and receiving TANF, the copay is zero.

Stat. Auth.: ORS 409.050, 411.060, 411.116, 412.049
Stats. Implemented: ORS 409.010, 409.610, 411.060, 411.116, 411.121, 411.122, 411.135, 412.049
Hist.: SSP 29-2012(Temp), f. 8-31-12, cert. ef. 9-1-12 thru 2-28-13; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 11-2013(Temp), f. & cert. ef. 5-15-13 thru 11-11-13; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 12-2014(Temp), f. & cert. ef. 5-1-14 thru 10-28-14; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 16-2015, f. & cert. ef. 4-1-15

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Department of Justice
Chapter 137

Rule Caption: Social Security or Veterans Benefits dollar for dollar reduction in support
Adm. Order No.: DOJ 5-2015
Filed with Sec. of State: 3-30-2015
Certified to be Effective: 3-30-15
Notice Publication Date: 3-1-2015
Rules Amended: 137-050-0740
Rules Repealed: 137-050-0740(T)
Subject: OAR 137-050-0740 is amended to emphasize the dollar for dollar reduction in support for Social Security or Veterans Benefits.
Rules Coordinator: Carol Riches—(503) 947-4700

137-050-0740
Social Security and Veterans Benefits; Dollar-for-Dollar Reduction in Support Obligation

(1) For the purposes of this rule:

(a) "Apportioned Veterans benefits" means the amount the U.S. Department of Veterans Affairs deducts from an obligated parent's Veterans benefits and disburses to the child or to the child's representative payee; and

(b) "Social Security benefits" refer to those benefits paid on behalf of a disabled or retired obligated parent to a child or a child's representative payee.

(2) The child support obligation may be reduced dollar for dollar in consideration of any Social Security or apportioned Veterans benefits; and

(3) The child support obligation must be reduced dollar for dollar in consideration of any Survivors' and Dependents' Educational Assistance (Veterans benefit) under 38 U.S.C. chapter 35.

(4) A parent is not entitled to a reduction in support for Veterans or Social Security benefits:

(a) That result from the child's own disability,

(b) For which the obligated parent is the representative payee, or

(c) That do not result from the obligated parent's own disability or retirement, or, in the case of subsection (3), from that parent's military service.

Stat. Auth: ORS 25.270 – 25.290 & 180.345
Stats. Implemented: ORS 25.270 – 25.290
Hist.: DOJ 16-2009, f. 12-1-09, cert. ef. 1-4-10; DOJ 3-2013, f. 5-15-13, cert. ef. 7-1-13; DOJ 8-2014, f. & cert. ef. 5-22-14; DOJ 3-2015(Temp), f. & cert. ef. 2-4-15 thru 8-2-15; DOJ 5-2015, f. & cert. ef. 3-30-15

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Rule Caption: Amending actions, redirecting support, accepting payments in court, child attending school compliance
Adm. Order No.: DOJ 6-2015
Filed with Sec. of State: 3-30-2015
Certified to be Effective: 3-30-15
Notice Publication Date: 3-1-2015
Rules Adopted: 137-055-3495
Rules Amended: 137-055-2160, 137-055-3500, 137-055-5030, 137-055-5110
Subject: OAR 137-055-2160 is amended to authorize the Program to amend a legal action, if necessary, following a dismissal of the hearing when the requesting party fails to appear.

OAR 137-055-3495 is adopted to implement the Program's policy and procedures regarding redirection of support.

OAR 137-055-3500 is amended to update cite references and to clarify the process when joining a party to the order.

OAR 137-055-5030 is amended to put procedures in place to specifically allow Child Support Program staff to accept child support payments in court if the payment is received as a result of a court hearing for nonpayment of support.

OAR 137-055-5110 is amended to simplify the process for submitting documentation of compliance with the requirements in ORS 107.108 when the Child Attending School has filed a Claim of Risk. The Program will seek documentation from the Child Attending School as provided in ORS 107.108(8)(c).
Rules Coordinator: Carol Riches—(503) 947-4700

137-055-2160
Requests for Hearing

(1) A request for hearing must be in writing and signed by the party, the party's authorized representative, or the administrator. The signature may be handwritten, typed or electronic.

(2) A request for hearing may be made on a form provided by the Child Support Program (CSP).

(3) A request for hearing must be received by the CSP office which issued the action within the time provided by law or notice in order to be considered timely.

(4) A new or amended request for hearing is not required from the requesting party to obtain a hearing if the administrator amends the order being appealed, unless the administrator notifies the requesting party that an additional request is required.

(5) Notwithstanding OAR 137-003-0530, 137-003-0672(3), and section 4 of this rule, if OAH dismisses a hearing because the requesting party failed to appear, the CSP may issue an amended notice instead of issuing a

final order by default. The amended order will be referred to OAH only if a party submits a new request for a hearing.

(6) When a party requests a hearing after the time specified by the administrator, the administrator will handle the request pursuant to OAR 137-003-0528, except that the administrator may accept the late request only if:

(a) The request is received before or within 60 days after entry of a final order by default;

(b) There is no appeal of the final order pending with the circuit court, and

(c) The cause for failure to timely request the hearing was beyond the reasonable control of the party, unless other applicable statutes or Oregon Child Support Program administrative rules provide a different time frame or standard.

(7) Notwithstanding the provisions of section (6) of this rule, a request for hearing is not considered a late hearing request when:

(a) Parentage testing has been conducted pursuant to ORS 109.252 and 416.430 which includes the man as the biological father of the child, and a request for hearing has been received from a party 30 days from the date of service of the Notice of Intent to Enter Order/Judgment establishing paternity and the notice of parentage testing results; or

(b) A party has denied paternity and failed to appear for parentage tests, an order establishing paternity has been entered, and a request for hearing has been received from a party within 30 days from the date the order establishing paternity was mailed to the parties.

(8) For the purpose of computing any period of time under this rule, except as otherwise provided, any response period begins to run on the following date:

(a) If service is by certified mail, on the date the party signs a receipt for the mailing;

(b) If service is by regular mail:

(A) Three days after the mailing date if mailed to an address in Oregon;

(B) Seven days after the mailing date if mailed to an address outside Oregon; or

(c) The date evidence shows the party received the mailing.

(9) Except as provided in subsection (10)(b) the dates in section (8) are computed based on calendar days, not business days.

(10)(a) In computing any period of time under this rule, do not count the date of mailing as the first day; and

(b) If the last day falls on a Saturday, Sunday or legal holiday, do not count that day as a calendar day.

(11) The provisions of sections (8) through (10) do not apply to service on a party by regular mail to complete substitute service. For substitute service, the service date is the date the document is mailed.

Stat. Auth.: ORS 180.345
Stats. Implemented: ORS 183.415
Hist.: AFS 5-1995, f. & ef. 2-6-95; AFS 26-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 21-2000, f. & cert. ef. 8-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0830; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-2160; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-2160; DOJ 2-2006(Temp), f. & cert. ef. 1-3-06 thru 6-30-06; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06; DOJ 6-2006, f. & cert. ef. 10-2-06; DOJ 10-2008, f. & cert. ef. 7-1-08; DOJ 2-2010(Temp), f. & cert. ef. 1-4-10 thru 7-1-10; DOJ 11-2010, f. & cert. ef. 7-1-10; DOJ 13-2011, f. 12-30-11, cert. ef. 1-3-12; DOJ 5-2013, f. & cert. ef. 7-8-13; DOJ 13-2014(Temp), f. & cert. ef. 10-1-14 thru 3-30-15; DOJ 6-2015, f. & cert. ef. 3-30-15

137-055-3495
Redirection of Support

(1) "Redirect" or "redirection of support" means:

(a) The process of distributing support that would otherwise be paid to the judgment creditor to a person who has physical custody of one or more minor children covered by a child support order; or

(b) The process of distributing to the obligee any support that would otherwise be paid to a child attending school pursuant to OAR 137-055-5110(5)(b).

(2) The administrator will redirect support to a person with physical custody of one or more minor children covered by a child support order under the following circumstances:

(a) The judgment creditor submits a notarized authorization for support to be redirected to a person with physical custody of one or more minor children covered by a child support order; or

(b) The administrator has joined a person with physical custody of one or more minor children to a child support order pursuant to OAR 137-055-3500 and the order is not being modified.

(3) If the order is a class order as defined in OAR 137-055-1020(7) and current support is redirected under this rule for less than all of the children for whom support is ordered, the administrator will determine the amount of support to attribute to each child by dividing the monthly support amount by the number of children for whom support is ordered,

(4) If the order is a class order as defined in OAR 137-055-1020(7) and arrears are redirected under this rule for less than all of the children, collections for arrears will be split equally between the judgment creditor and the person to whom support is redirected.

Stat. Auth.: ORS 180.345 and 416.455
Stats. Implemented: ORS 416.407
Hist.: DOJ 6-2015, f. & cert. ef. 3-30-15

137-055-3500
Joinder of a New Party to a Child Support Proceeding

(1) In any proceeding under ORS 416.400 to 416.465 to modify a child support obligation or to redirect support, any party may join any other person who has physical custody of a child in the proceeding.

(2) Before a person may be joined as a party, the administrator shall determine who has physical custody of the child. The determination of who has physical custody of a child is not affected by who may have legal custody of the child. A person has physical custody when that person is responsible for the care, control and supervision of the child. The administrator shall make this determination upon reliable objective information including one or more of, but not limited to, the following:

(a) Written agreement of all parties to the proceeding and of the person having physical custody of the child;

(b) Current school or day care records of the child, indicating the child's name, address and primary caretaker;

(c) Notarized statements by persons who are knowledgeable about the child's primary place of residence and primary physical custodian;

(d) Letters of guardianship or other court records;

(e) Current state or federal agency records.

(3) The administrator shall send written notification of the determination of physical custody and joinder to all parties and the person proposed to be joined as a party. The notice shall inform the parties and the person proposed to be joined that:

(a) A determination of physical custody will result in joining the person with physical custody as a party to the action;

(b) A person who is joined as a party has the rights of a party, including the right to receive current child support;

(c) An objection to the determination of who has physical custody must be made to the administrator in writing within 30 days of the date that the determination was served.

(4) The notice described in section (3) may be served on the parties and the person proposed to be a party as part of an action to modify a support order or to redirect support in the same manner that service is required in ORS 416.425. If the proposed modification or redirection of support has already been served, the action may be amended to include the notice of determination of physical custody and joinder and shall be served on the parties and the person proposed to be added or removed as a party in the same manner that service is required in ORS 416.425. If no objection is received within the time allotted in section (3) the person determined to have physical custody of the child shall be joined as a party to the action.

(5) If a written objection is filed pursuant to section (3) of this rule, the matter shall proceed as follows:

(a) The administrator shall attempt to resolve the dispute with the persons involved and, if the dispute is resolved, issue an order reflecting how the matter is resolved;

(b) If the dispute cannot be resolved, the written objection shall be considered a request for a hearing and the issues of physical custody and joinder shall then be heard and determined by an administrative law judge, pursuant to procedures established under ORS 416.400 to ORS 416.465. The issues of physical custody and joinder may be determined at the hearing to establish or modify a support obligation. The administrative law judge=s determination of physical custody and joinder shall be included in the order to modify support and may be appealed pursuant to ORS 416.427;

(c) If the issues of physical custody and joinder are raised for the first time during a hearing to modify or establish support, the administrative law judge has authority to postpone the hearing and to order the administrator to serve a person alleged or claiming to have physical custody of the child. After service is accomplished, the administrative law judge may proceed with the hearing and has authority to make a determination of physical custody in accordance with section (2) of this rule. The administrative law judge's determination of physical custody and joinder shall be included in the order to modify or establish support and may be appealed pursuant to ORS 416.427.

(6) Any person who has been previously joined as a party, pursuant to this rule, shall be removed as a party after the administrator has determined that the child is no longer in the custody of that person. In making this determination, the administrator may use the criteria specified in subsections (2)(a) through (2)(e) of this rule.

Stat. Auth.: ORS 180.345, 416.455
Stats. Implemented: ORS 416.407
Hist.: AFS 13-1999, f. 10-29-99, cert. ef. 11-1-99; AFS 2-2000, f. 1-28-00, cert. ef. 2-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1065; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3500; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3500; DOJ 8-2005(Temp), f. & cert. ef. 9-1-05 thru 2-17-06; Administrative correction 3-20-06; DOJ 6-2015, f. & cert. ef. 3-30-15

137-055-5030
Receipting of Support Payments

(1) For purposes of this rule, "receipt" means to officially acknowledge and credit a payment to an account.

(2) For purposes of this rule, "authorized representative" means an employee of the Division of Child Support, employees of a District Attorney Child Support office, and Assistant Attorneys General and Deputy District Attorneys representing the Child Support Program.

(3) When support payments are made to the Department of Justice in accordance with ORS 25.020, the State Disbursement Unit (SDU) is the official receipting unit of the Child Support Program. All payments will be disbursed after receipt by the SDU pursuant to 45 CFR 302.32.

(4) Support payments will only be receipted by the SDU.

(5) Physical access to all areas where support payments are stored or processed will be limited to employees assigned to handle, accept or receipt support payments.

(6) Support payments received by the receipting unit must be physically secured. At least two employees must be present when support payments are not secured in a locked area or in a safe.

(7) Support payments will be properly recorded and tracked in accordance with 45 CFR Ch. III.

(8) Support payments which have been receipted by the SDU will be reconciled daily.

(9) Support payments will be receipted and deposited within 48 hours.

(10) Pursuant to ORS 73.0114, if there are contradictory terms on a negotiable instrument, the amount receipted will be the amount written in words.

(11) Pursuant to ORS 73.0401, if a negotiable instrument is not signed, the person is not liable for the instrument.

(12) Under limited circumstances, offices of the Oregon Child Support Program, other than the facility which houses the SDU, may accept child support payments in person or by mail and authorized representatives may accept payments in court. If a payment is made in person, in court, or by mail the employee or authorized representative shall provide written acknowledgment to the payor that the payment has been accepted.

(13) Payments for support may be accepted by an employee of an office of the Oregon Child Support Program or by an authorized representative of the Child Support Program when:

(a) The payment is received in court as a result of a court hearing for nonpayment of support; or

(b) The payment is received in an office that employs strict internal currency handling standards;

(c) The office has the payment deposited to an approved bank account; and

(d) The office ensures the payment and remittance details are transmitted to the SDU immediately for receipting and disbursement.

(A) The office or authorized representative may transmit the payment to the SDU by an electronic fund transfer (EFT) through an approved bank account; or

(B) The office may mail a check to the SDU for the total amount of the payment(s).

Stat. Auth.: ORS 180.345
Stats. Implemented: ORS 25.020, 73.0114 & 73.0401
Hist.: DOJ 10-2004, f. & cert. ef. 7-1-04; DOJ 13-2014(Temp), f. & cert. ef. 10-1-14 thru 3-30-15; DOJ 6-2015, f. & cert. ef. 3-30-15

137-055-5110
Child Attending School

The purpose of this rule is to provide additional information as to how the Child Support Program (CSP) will apply the provisions of ORS 107.108 when the order or modification provides for support until the child is age 21, so long as the child is a child attending school in accordance with ORS 107.108.

(1) In addition to the definitions found in ORS 107.108, as used in OAR chapter 137, division 55, the following terms have the meanings given below:

(a) "Active member of the military" means:

(A) A member of the Army, Navy, Air Force, Marine Corps, or Coast Guard (collectively known as the "armed forces"), who is serving on active duty; or

(B) A member of the National Guard who is serving full-time National Guard state or federal active duty; or

(C) A cadet at a federal service academy.

(b) "Adult child" means a child over the age of 18 and under the age of 21, who is not married or otherwise emancipated, and is not currently a child attending school.

(c) "Child attending school" has the meaning given in ORS 107.108, except a child attending school does not include an active member of the military.

(d) "Satisfactory academic progress" means:

(A) For a child attending high school who is over age 18 but under age 21, enrollment in school and meeting attendance requirements or as defined by the school; or

(B) For a child attending post high school classes, as defined by the higher educational institution.

(2) If the obligor has not provided the child attending school with mailing address for the documents required by ORS 107.108, the administrator, pursuant to OAR 137-055-1140(8), may release the contact address of the obligor to the child attending school. If the obligor does not provide an address to the CSP or to the child, the obligor's failure to receive required documents is not a basis for objecting that a child does not qualify as a child attending school.

(3) If there has been a finding and order of nondisclosure on behalf of the child attending school pursuant to ORS 25.020, the child may send the obligor's copy of any documents required by ORS 107.108 to the administrator for the administrator to forward to the obligor. The child must submit a copy of the documents to the administrator within the time periods set out in ORS 107.108. The administrator will redact the following information prior to sending a copy of the documents otherwise required to be provided to the obligor:

(a) Residence, mailing or contact address including the school name and address;

(b) Social security number;

(c) Telephone number including the school telephone number;

(d) Driver's license number;

(e) Employer's name, address and telephone number; and

(f) Name of registrar or school official.

(4) If a child attending school is in the care of the Oregon Youth Authority (OYA), any and all reporting duties of the child attending school will be the duty of OYA.

(5) The Department of Justice will distribute and disburse support directly to the child attending school, unless good cause is found to distribute and disburse support in some other manner. For purposes of this section "good cause" may include:

(a) The child is in the care of OYA;

(b) The child provides written notarized authorization for distribution and disbursement to the obligee;

(c) The court, administrative law judge or administrator orders otherwise; or

(d) The administrator is enforcing the Oregon order at the request of another state and that state has indicated they are unable to distribute and disburse support directly to the child.

(6)(a) If the administrator makes a finding that the support payment should be distributed and disbursed to the obligee under subsection (5)(b), the administrator will send a notice of redirection of support to the parties.

(b) A party may contest the administrator's finding as provided in ORS 183.484.

(7) An objection based on the requirements of ORS 107.108 may be made by any party to the support order.

(a) Unless new supporting documentation can be provided, an objection can only be made once per semester or term as defined by the school, or three months from the date of a previous objection if the school does not have semesters or terms.

(b) A party may contest the administrator's finding from the objection as provided in ORS 183.484.

(8) When support has been suspended under 107.108, if the case has been closed pursuant to OAR 137-055-1120 and the adult child subsequently complies with the requirements for reinstatement, the adult child

must submit the written confirmation of compliance, proof of written consent and an application for services as described in 137-055-1060. The written confirmation and application for services may be combined as one document.

(9) When the administrator has suspended or reinstated a support obligation pursuant to ORS 107.108, a party may request an administrative review of the action within 30 days after the date of the notice of suspension or reinstatement.

(a) The only issues which may be considered in the review are whether:

(A) The child meets the requirements of a child attending school;

(B) The written notice of the child's intent to attend or continue to attend school was sent to the parent ordered to pay support;

(C) The written consent was sent or proof of written consent was received.

(b) The burden of proof for the administrative review is on the requesting party to provide documentation supporting the allegation(s).

(10) When support has been suspended under ORS 107.108, the adult child may request to receive notice of future modifications and may request to be a party to the modification as outlined in ORS 107.108 and OAR 137-055-3430. The adult child does not have any party status on the case until the request has been received by the administrator.

(11) In addition to the rights afforded under ORS 107.108, if the obligee claims good cause under OAR 137-055-1090, the child attending school may apply for services to enforce the existing support obligation on behalf of the child attending school only.

(a) The application will be handled in the same manner as outlined in OAR 137-055-1090(10)(a)–(c).

(b) If the child attending school applies for services, and services are provided under ORS 25.080, all arrears for that child will accrue to the child attending school as provided for in OAR 137-055-6021, until the child's 21st birthday or is otherwise emancipated and then will be file credited off the case.

(12) If a court orders payment from a higher education savings plan in lieu of support under ORS 107.108;

(a) The administrator will cease collection and billing actions on behalf of that child at age 18. If the support order is for a single or last remaining child the department will close the case unless there are arrears on the case.

(b) If payments are ordered from a higher education savings plan and the court has not provided for a modification of the support amount for any remaining children of the order, this is a substantial change of circumstances for purposes of modifying the support order.

(c) If payment from a higher education savings plan has been ordered, the administrator will not take action to subsequently modify the support order to include child attending school support provisions for that child.

(13) Except for support orders originally issued by a state other than Oregon and being enforced under the provisions of ORS 110.303 to 110.452, if the most recent order or modification for support cites 107.108 or otherwise provides for support of a "child attending school," the administrator will follow the provisions of 107.108 and this rule, regardless of other child attending school provisions that may be in the support order.

Stat. Auth.: ORS 25.020, 107.108 & 180.345
Stats. Implemented: ORS 25.020, 25.080, 107.108 & 416.407
Hist.: AFS 23-2001, f. 10-2-01, cert. 10-6-01; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-5110; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-5110; DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 10-2004, f. & cert. ef. 7-1-04; DOJ 5-2005, f. & cert. ef. 7-15-05; DOJ 8-2005(Temp), f. & cert. ef. 9-1-05 thru 2-17-06; DOJ 1-2006, f & cert. ef. 1-3-06; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06; DOJ 6-2006, f. & cert. ef. 10-2-06; DOJ 8-2007, f. 9-28-07, cert. ef. 10-1-07; DOJ 10-2008, f. & cert. ef. 7-1-08; DOJ 1-2010, f. & cert. ef. 1-4-10; DOJ 13-2014(Temp), f. & cert. ef. 10-1-14 thru 3-30-15; DOJ 6-2015, f. & cert. ef. 3-30-15

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Department of Public Safety Standards and Training
Chapter 259

Rule Caption: Updates effective date of CJC reference (OAR 213-003-0001); adds patronizing a prostitute to OAR 259-060-0300.
Adm. Order No.: DPSST 5-2015
Filed with Sec. of State: 3-24-2015
Certified to be Effective: 3-24-15
Notice Publication Date: 3-1-2015
Rules Amended: 259-060-0300, 259-061-0300
Subject: This rule change updates the private security and private investigator Oregon Administrative Rules (OAR) to reflect the current date of the Criminal Justice Commission's OAR changes to the list of person felonies and person class A misdemeanors. Further, this proposed rule change adds patronizing a prostitute (ORS 167.008) to the list of misdemeanors in OAR 259-060-0300.
Rules Coordinator: Sharon Huck—(503) 378-2432

259-060-0300
Denial/Suspension/Revocation

(1) It is the responsibility of the Board, through the Private Security and Investigator Policy Committee, to set the standards, and of the Department to uphold them, to ensure the highest level of professionalism and discipline. The Board will uphold these standards at all times unless the Board determines that neither the safety of the public or respect of the profession is compromised.

(2) Mandatory Grounds for Denying, Suspending or Revoking Private Security Certification or Licensure. The Department must deny or revoke a certification or license of any applicant or private security provider after written notice and hearing, if requested, upon a finding that the applicant or private security provider:

(a) Has been convicted of a person felony as defined by the Criminal Justice Commission in OAR 213-003-0001 in effect on February 3, 2014 or any crime with similar elements in any other jurisdiction;

(b) Is required to register as a sex offender under ORS 181.595, 181.596, 181.597 or 181.609; or

(c) Has, within a period of ten years prior to application or during certification or licensure, been convicted of the following:

(A) Any felony other than those described in subsection (a) above or any crime with similar elements in any other jurisdiction;

(B) A person class A misdemeanor as defined by the Criminal Justice Commission in OAR 213-003-0001 in effect on February 3, 2014 or any crime with similar elements in any other jurisdiction;

(C) Any crime involving any act of domestic violence as defined in ORS 135.230 or any crime with similar elements in any other jurisdiction;

(D) Any misdemeanor or felony conviction involving the unlawful use, possession, delivery or manufacture of a controlled substance, narcotic, or dangerous drug in this or any other jurisdiction;

(E) Any misdemeanor arising from conduct while on duty as a private security provider; or

(F) Any of the following misdemeanors:

161.405(2)(d) (Attempt to Commit a Class C Felony or Unclassified Felony);
161.435(2)(d) (Solicitation of a Class C Felony);
161.450(2)(d) (Conspiracy to Commit a Class A misdemeanor);
162.075 (False Swearing);
162.085 (Unsworn Falsification);
162.145 (Escape III);
162.235 (Obstructing Governmental or Judicial Administration);
162.247 (Interfering with a Peace Officer);
162.295 (Tampering with Physical Evidence);
162.335 (Compounding a Felony);
162.365 (Criminal Impersonation);
162.369 (Possession of a False Law Enforcement Identification Card);
162.375 (Initiating a False Report);
162.385 (Giving False Information to Police Officer for a Citation or Arrest on a Warrant);
162.415 (Official Misconduct I);
163.435 (Contributing to the Sexual Delinquency of a Minor);
164.043 (Theft III);
164.045 (Theft II);
164.125 (Theft of Services);
164.140 (Criminal Possession of Rented or Leased Personal Property);
164.235 (Possession of Burglar's Tools);
164.255 (Criminal Trespass I);
164.265 (Criminal Trespass while in Possession of a Firearm);
164.335 (Reckless Burning);
164.354 (Criminal Mischief II);
164.369 (Interfering with Police Animal);
164.377(4) (Computer Crime);
165.007 (Forgery II);
165.055(4)(a) (Fraudulent Use of a Credit Card);
165.065 (Negotiating a Bad Check);
165.570 (Improper Use of Emergency Reporting System);
166.116 (Interfering with Public Transportation);
166.240 (Carrying of Concealed Weapons);
166.250 (Unlawful Possession of Firearms);
166.350 (Unlawful Possession of Armor Piercing Ammunition);
166.425 (Unlawful Purchase of Firearm);
167.007 (Prostitution);
167.008 (Patronizing a Prostitute);
167.062 (Sadomasochistic Abuse or Sexual Conduct in a Live Show);
167.075 (Exhibiting an Obscene Performance to a Minor);
167.080 (Displaying Obscene Material to Minors);
167.262 (Adult Using Minor in Commission of Controlled Substance Offense);
167.320 (Animal Abuse I);
167.330 (Animal Neglect I);
471.410 (Providing Liquor to a Person Under 21 or Intoxicated Person);
807.620 (Giving False Information to a Police Officer/Traffic);
811.540(3)(b) (Fleeing or Attempting to Elude Police Officer);

(G) Any crime with similar elements in any other jurisdiction.

(3) Emergency Suspension Order: The Department may issue an emergency suspension order pursuant to OAR 137-003-0560 immediately suspending a private security provider's certification or licensure upon finding that a person has been charged with any of the mandatory disqualifying crimes listed in section (2) of this rule. The report may be in any form and from any source.

(a) The Department may combine the hearing on the Emergency Suspension Order with any underlying proceeding affecting the license or certificate.

(b) The sole purpose of the emergency suspension hearing will be to determine whether the individual was charged with a mandatory disqualifying crime. Upon showing that an individual was not charged with a mandatory disqualifying crime, the suspension of the individual's certification or licensure will be rescinded, otherwise the suspension will remain in effect until final disposition of the charges.

(4) Discretionary Grounds for Denying, Suspending or Revoking Private Security Certification or Licensure. The Department may deny or revoke the certification or licensure of any applicant or private security provider after written notice and hearing, if requested, upon finding that an applicant or private security provider:

(a) Fails to meet the minimum standards for certification or licensure as a private security provider as defined in OAR 259-060-0020;

(b) Has falsified any information submitted on the application for certification or licensure or any documents submitted to the Department pertaining to private security certification or licensure;

(c) Has violated any of the temporary assignment provisions of OAR 259-060-0120(1);

(d) Has failed to submit properly completed forms or documentation in a time frame as designated by the Department;

(e) Has failed to pay a civil penalty or fee imposed by the Department when due;

(f) Has failed to comply with any provisions found in the Act or these rules; or

(g) Lacks moral fitness. For the purposes of this standard, the Department, through the Policy Committee and Board, has defined lack of moral fitness as:

(A) Dishonesty. Lack of honesty includes, but is not limited to, untruthfulness, dishonesty by admission or omission, deception, misrepresentation or falsification;

(B) Lack of Good Character. Lack of good character includes, but is not limited to, failure to be faithful and loyal to the employer's charge and failure to use discretion and compassion;

(C) Mistreatment of Others. Mistreatment of others includes, but is not limited to, violating another person's rights and failure to respect others;

(D) Lack of Public Trust. Failure to maintain public trust and confidence includes, but is not limited to, acting in an unlawful manner or not adhering to recognized industry standards; or

(E) Lack of Respect for the Laws of this State or Nation. Lack of respect for the laws of this state and nation includes a pattern of behavior which leads to three or more arrests or convictions within a ten-year period prior to application or during certification or licensure.

(5) Scope of Revocation. Whenever the Department revokes the certification or licensure of a private security provider under the provisions of this rule, the revocation will encompass all private security certificates and licenses the Department has issued to that person.

(6) Denial and Revocation Procedure.

(a) Employer Request: When the employer of the private security provider requests that certification or licensure be denied or revoked, the employer must submit in writing to the Department the reason for the requested action and include all factual information supporting the request.

(b) Department Initiated Request: Upon receipt of factual written information from any source other than an employer, and pursuant to ORS 181.878, the Department may request that the Board deny, revoke or suspend the private security provider's certification or licensure.

(c) Department Staff Review: When the Department receives information from any source that a private security provider may not meet the established standards for Oregon private security providers, the Department will review the request and the supporting factual information to determine if a sufficient factual basis exists to support the request for denial, suspension, or revocation of a private security license or certification under the Act or these administrative rules. If the Department determines that a private security provider may have engaged in discretionary disqualifying misconduct;

(A) The Department will seek input from the affected private security provider by allowing the individual to provide, in writing, information for review.

(B) The Department may take action upon discovery of discretionary disqualifying misconduct when consensus is reached that the nature of the discretionary disqualifying misconduct is appropriate for summary staff disposition or administrative closure.

(C) If Department staff believes that a private security provider may have engaged in discretionary disqualifying misconduct, Department staff will review the conduct, including aggravating and mitigating circumstances. If Department staff is unable to reach a consensus to summarily dispose of or administratively close the case, the case will be presented to the Board, through the Policy Committee.

(d) In making a decision to authorize initiation of proceedings under subsection (e) of this rule based on discretionary disqualifying misconduct, Department staff, the Policy Committee and Board will consider mitigating and aggravating circumstances.

(e) Initiation of Proceedings: Upon determination that a sufficient factual basis exists to support the request for denial, suspension, or revocation of a private security license or certification under the Act or these administrative rules, the Department will prepare and serve a contested case notice on the private security provider.

(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) In discretionary cases heard by a policy committee, the contested case notice will be served on the private security provider prior to Board review. If the Board disapproves the Policy Committee's recommendation, the Department will withdraw the contested case notice.

(C) Applicants who choose to withdraw their application forfeit their application fees.

(f) Response Time:

(A) A party who has been served with an Emergency Suspension Order has 90 days from the date of mailing or personal service of the Order in which to file a written request for hearing with the Department.

(B) A party who has been served with a Contested Case Notice of Intent to Deny Certification or Licensure has 60 days from the date of mailing or personal service of the notice in which to file a written request for hearing or a written request withdrawing their application from consideration with the Department.

(C) A party who has been served with a Contested Case Notice of Intent to Revoke Certification or Licensure has 20 days from the date of the mailing or personal service of the notice in which to file a written request for hearing with the Department.

(g) Default Orders:

(A) If a timely request for a hearing is not received, the Contested Case Notice will become a final order denying or revoking certification pursuant to OAR 137-003-0672.

(B) If a timely request for a hearing is not received in cases heard by a policy committee, the Contested Case Notice will become a final order denying or revoking certification pursuant to OAR 137-003-0672, pending Board affirmation.

(h) Final Order:

(A) A final order will be issued pursuant to the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015 if a private security provider fails to file exceptions and arguments within 20 days of issuance of the proposed order.

(B) Department-proposed amendments to the proposed order in a case that was originally heard by a policy committee must be considered and approved by the policy committee that originally reviewed the case before a final order is issued.

(i) Stipulated Order Revoking Certification or Licensure: The Department may enter a stipulated order revoking certification or licensure of a private security provider upon the person's voluntary agreement to terminate an administrative proceeding to revoke a certification or license, or to surrender a certification or license, under the terms and conditions provided in the stipulated order.

(7) Appeal Procedure. Private security applicants and providers aggrieved by the findings and Order of the Department may file an appeal with the Court of Appeals from the Final Order of the Department, as provided in ORS 183.480.

(8) Notwithstanding section (9) of this rule, any private security applicant or provider whose certification or licensure is denied or revoked will be ineligible to hold any private security certification or licensure for a period of ten years from the date of the final order issued by the Department.

(9) Reconsideration Process. Any individual whose certification or license has been denied or revoked for discretionary grounds may apply for reconsideration of the denial or revocation after a minimum four-year ineligibility period from the date of the final order.

(a) All applicants for reconsideration are required to submit a new application packet along with a Form PS- 30 Application for Reconsideration. The applicant may provide any mitigating information for the consideration of DPSST, Policy Committee, and Board.

(b) In reconsidering the application of an applicant whose certification or licensure was previously denied or revoked for discretionary grounds, DPSST, the Policy Committee and the Board may consider mitigating and aggravating circumstances.

(c) The Board's decision to deny an application for reconsideration will be subject to the contested case procedure described under subsection (6) of this rule.

(d) If an application for reconsideration is denied, the original ineligibility date remains in effect as described in subsection (8) of this rule.

Stat. Auth.: ORS 181.878, 181.882 & 181.885

Stats. Implemented: ORS 181.878 & 181.885

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 4-2003, f. & cert. ef. 1-22-03; 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 5-2005(Temp), f. & cert. ef. 8-3-05 thru 1-1-06; DPSST 10-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 25-2012, f. 10-26-12, cert. ef. 11-1-12; DPSST 12-2013, f. & cert. ef. 6-24-13; DPSST 3-2014, f. & cert. ef. 1-2-14; DPSST 4-2014, f. & cert. ef. 1-28-14; DPSST 8-2014(Temp), f. & cert. ef. 3-6-14 thru 8-1-14; DPSST 15-2014, f. & cert. ef. 6-24-14; DPSST 20-2014, f. & cert. ef. 7-30-14; DPSST 5-2015, f. & cert. ef. 3-24-15

259-061-0300
Denial/Suspension/Revocation

(1) It is the responsibility of the Board, through the Private Security and Investigator Policy Committee, to set the standards, and of the Department to uphold them, to ensure the highest level of professionalism and discipline. The Board will uphold these standards at all times unless the Board determines that neither the safety of the public or respect of the profession is compromised.

(2) Mandatory Grounds for Denying, Suspending or Revoking Private Investigator Licensure. The Department must deny or revoke the license of any applicant or private investigator after written notice and hearing, if requested, upon finding that the applicant or private investigator has been convicted of a person felony as defined by the Criminal Justice Commission in OAR 213-003-0001 in effect on February 3, 2014 or any crime with similar elements in any other jurisdiction;

(3) Emergency Suspension Order: The Department may issue an emergency suspension order pursuant to OAR 137-003-0560 immediately suspending a private investigator's licensure upon finding that a person has been charged with any of the mandatory disqualifying crimes listed in section (2) of this rule. The report may be in any form and from any source.

(a) The Department may combine the hearing on the Emergency Suspension Order with any underlying proceeding affecting the license.

(b) The sole purpose of the emergency suspension hearing will be to determine whether the individual was charged with a mandatory disqualifying crime. Upon showing that an individual was not charged with a mandatory disqualifying crime, the suspension of the individual's license will be rescinded, otherwise the suspension will remain in effect until final disposition of the charges.

(4) Discretionary Grounds for Denying, Suspending or Revoking Private Investigator Licensure. The Department may deny or revoke the licensure of any applicant or private investigator after written notice and hearing, if requested, upon finding that an applicant or private investigator:

(a) Fails to meet the minimum standards for licensure as a private investigator as defined in OAR 259-061-0040;

(b) Has falsified any information submitted on the application for licensure, including failing to disclose any criminal convictions, or any other documents submitted to the Department pertaining to private investigator licensure;

(c) Has violated any of the conditions of a temporary or provisional license as described in ORS 703.401-703.995 and these rules;

(d) Has failed to submit properly completed forms or documentation in a time frame as designated by the Department;

(e) Has failed to pay a civil penalty or fee imposed by the Department when due;

(f) Has failed to comply with any provisions found in ORS 703.401-703.995 or these rules;

(g) Has engaged in any of the conduct described in ORS 703.450; or

(h) Lacks moral fitness. For the purposes of this standard, the Department, through the Policy Committee and Board, has defined lack of moral fitness as:

(A) Lack of Character. Lack of character includes, but is not limited to, being disrespectful, failing to be faithful and diligent to an investigative charge, and failing to use discretion or compassion;

(B) Dishonesty. Lack of honesty includes, but is not limited to, untruthfulness, dishonesty by admission or omission, deception, misrepresentation or falsification;

(C) Failure to strive for justice. Failing to strive for justice includes, but is not limited to, unjust treatment or being partial, unfair or discriminatory;

(D) Lack of Public Trust. Failure to maintain public trust and confidence includes, but is not limited to, acting in an unlawful manner or not adhering to industry standards; or

(E) Lack of Respect for the Laws of this State or Nation. Lack of respect for the laws of this state and nation includes behavior which leads to an arrest or conviction within a ten-year period prior to application or during licensure.

(5) Procedure for Denial or Revocation of Licensure. Scope of Revocation. Whenever the Department revokes the licensure of a private investigator under the provisions of this rule, the revocation will encompass all private investigator licenses the Department has issued to that person.

(6) Denial and Revocation Procedure.

(a) Department Initiated Review: Upon receipt of factual written information from any source the Department may request that the Board deny, revoke or suspend the private investigator's licensure.

(b) Department Staff Review: When the Department receives information from any source that a private investigator may not meet the established standards for Oregon private investigators, the Department will review the request and supporting factual information to determine if a sufficient factual basis exists to support the request for denial, suspension or revocation of a private investigator license under ORS 703.401-703.995 and these rules.

(A) If the Department determines that a private investigator may have engaged in discretionary disqualifying misconduct:

(i) The Department will seek input from the affected private investigator by allowing the individual to provide, in writing, information for review.

(ii) The Department may take action upon discovery of discretionary disqualifying misconduct when consensus is reached that the nature of the discretionary disqualifying misconduct is appropriate for summary staff disposition or administrative closure.

(iii) If Department staff believes that a private investigator may have engaged in discretionary disqualifying misconduct, Department staff will review the conduct, including aggravating and mitigating circumstances. If Department staff is unable to reach a consensus to summarily dispose of or administratively close the case, the case will be presented to the Board, through the Private Investigator Subcommittee and the Policy Committee.

(B) In making a decision to authorize initiation of proceedings under section (4) of this rule based on discretionary disqualifying misconduct, Department staff, the Private Investigator Subcommittee, the Policy Committee and Board will consider mitigating and aggravating circumstances.

(c) Initiation of Proceedings: Upon determination that a sufficient factual basis exists to support the request for denial, suspension, or revocation of a private investigator license under ORS 703.401–703.995 or these administrative rules, the Department will prepare and serve a contested case notice on the private investigator.

(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) In discretionary cases heard by a policy committee, the contested case notice will be served on the private investigator prior to Board review. If the Board disapproves the Policy Committee's recommendation, the Department will withdraw the contested case notice.

(C) Applicants who choose to withdraw their application forfeit their application fees.

(d) Response Time:

(A) A party who has been served with an Emergency Suspension Order has 90 days from the date of mailing or personal service of the Order in which to file a written request for hearing with the Department.

(B) A party who has been served with a Contested Case Notice of Intent to Deny Licensure has 60 days from the date of mailing or personal service of the notice in which to file a written request for a hearing or a written request withdrawing their application from consideration with the Department.

(C) A party who has been served with a Contested Case Notice of Intent to Revoke Licensure has 20 days from the date of the mailing or personal service in which to file a written request for hearing with the Department.

(e) Default Orders:

(A) If a timely request for a hearing is not received, the Contested Case Notice will become a final order denying or revoking licensure pursuant to OAR 137-003-0672.

(B) If a timely request for a hearing is not received in cases heard by a policy committee, the Contested Case Notice will become a final order denying or revoking certification pursuant to OAR 137-003-0672, pending Board affirmation.

(f) Final Order:

(A) A final order will be issued pursuant to the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015 if a private investigator fails to file exceptions and arguments within 20 days of issuance of the proposed order.

(B) Department-proposed amendments to the proposed order in a case that was originally heard by a policy committee must be considered and approved by the policy committee that originally reviewed the case before a final order is issued.

(g) Stipulated Order Revoking Licensure: The Department may enter a stipulated order revoking licensure of a private investigator upon the person's voluntary agreement to terminate an administrative proceeding to revoke a license, or to surrender a license, under the terms and conditions provided in the stipulated order.

(7) Appeals, Ineligibility Period and Reconsideration. Appeal Procedure: Applicants and private investigators aggrieved by the findings and Order of the Department may file an appeal with the Court of Appeals from the Final Order of the Department, as provided in ORS 183.480.

(8) Upon denial or revocation of a licensure, an individual is ineligible to reapply for future licensure for a period of three years from the date of the final order issued by the Department.

(a) Any applicant reapplying for licensure must reapply in accordance OAR 259-061-0020.

(b) Pursuant to ORS 703.465(4), an applicant reapplying for licensure must prove by a preponderance of the evidence that the grounds for the denial or revocation no longer exist.

(c) In reconsidering the application of an applicant whose certification or licensure was previously denied or revoked for discretionary grounds, the Department, the Policy Committee and the Board may consider mitigating and aggravating circumstances.

(d) The Board's decision to deny an application for reconsideration will be subject to the contested case procedure described under subsection (6) of this rule.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 11-2014, f. & cert. ef. 5-5-14; DPSST 20-2014, f. & cert. ef. 7-30-14; DPSST 5-2015, f. & cert. ef. 3-24-15

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Rule Caption: To repeal OAR 259-061-0190.
Adm. Order No.: DPSST 6-2015
Filed with Sec. of State: 3-24-2015
Certified to be Effective: 3-24-15
Notice Publication Date: 3-1-2015
Rules Repealed: 259-061-0190
Subject: This rule change removes the Private Investigator Code of Ethical Conduct from rule, leaving it as a component of the application process in OAR 259-061-0020. This will negate the need for an administrative rule change every time the Private Investigator Code of Ethical Conduct is updated.
Rules Coordinator: Sharon Huck—(503) 378-2432

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Rule Caption: Adds "limited duration, administrative positions"; CPR/First Aid certification to all levels; updates military leave; housekeeping.
Adm. Order No.: DPSST 7-2015
Filed with Sec. of State: 3-24-2015
Certified to be Effective: 3-24-15
Notice Publication Date: 3-1-2015
Rules Adopted: 259-008-0078
Rules Amended: 259-008-0005, 259-008-0010, 259-008-0011, 259-008-0025, 259-008-0060
Subject: This permanent rule filing combines two proposed rules that were filed on January 27, 2015.

One rule filing amended OAR 259-008-0005 and 259-008-0060. OAR 259-008-0005 was amended to update the definition of "leave." OAR 259-008-0060 was amended to add to rule that all levels of certification require current CPR/first aid certification. Additionally, crediting service time for military leave was updated to reflect current federal standards. The sections of rule applicable to the Intermediate and Advanced Certification charts were re-worded for clarity and extensive housekeeping was performed for consistency.

The other rule filing added OAR 259-008-0078. OAR 259-008-0078 adds to rule a new certification status of "limited duration, administrative position." This certification status is available to officers filling non-elected, certifiable public safety positions where the primary duties relate to the administration, operation, and accountability of a public safety agency. Additionally, this rule change updated all other affected areas of DPSST's rules and provided housekeeping for consistency.
Rules Coordinator: Sharon Huck—(503) 378-2432

259-008-0005
Definitions

(1) "Academy Training Division" means the division of the Department which coordinates and facilitates criminal justice training courses to include the development, evaluation, and validation of curriculum and training.

(2) "Assistant Department Head" means a public safety officer employed in the first position subordinate to a Department Head who is primarily responsible for supervision of middle managers and supervisors.

(3) "Board" means the Board on Public Safety Standards and Training.

(4) "Casual employment" means employment that is occasional, irregular, or incidental for which the employee does not receive seniority rights or fringe benefits.

(5) "Certified Reserve Officer" means a reserve officer who has been designated by a local law enforcement unit, has received training necessary for certification and has met the minimum standards and training requirements established under ORS 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, and parole and probation officers 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) "Middle Manager" means a public safety officer working in a position that is between a first-level supervisor and a department head, who is primarily responsible for management and command duties. A middle manager position does not include a position with limited or acting middle management duties.

(23) "Part-time Employment" means the employment of a person who has the responsibility for, and is paid to perform the duties of a public safety professional for 80 hours or less per month for a period of more than 90 consecutive calendar days.

(24) "Parole and Probation Officer" means:

(a) An officer who is employed full-time by the Department of Corrections, a county or a court and who is charged with and performs the duty of:

(A) Community protection by controlling, investigating, supervising, and providing or making referrals to reformative services for adult parolees or probationers or offenders on post-prison supervision; or

(B) Investigating adult offenders on parole or probation or being considered for parole or probation; or

(b) Any officer who:

(A) Is certified and has been employed as a full-time parole and probation officer for more than one year;

(B) Is employed part-time by the Department of Corrections, a county or a court; and

(C) Is charged with and performs the duty of:

(i) Community protection by controlling, investigating, supervising, and providing or making referrals to reformative services for adult parolees or probationers or offenders on post-prison supervision; or

(ii) Investigating adult offenders on parole or probation or being considered for parole or probation; or

(c) A full-time employee of the Department who possesses requisite qualifications and is so certified pursuant to ORS 181.652.

(25) "Police Officer" means:

(a) An officer, member or employee of a law enforcement unit employed full-time as a peace officer who is:

(A) Commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in section 1, chapter 644, Oregon Laws 2011, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under 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.

(26) "Public or private safety agency" means:

(a) A law enforcement unit; or

(b) A unit of state or local government, a special purpose district or a private firm that provides, or has authority to provide, police, ambulance or emergency medical services.

(27) "Public Safety Personnel" and "Public Safety Officer" include corrections officers, emergency medical dispatchers, parole and probation officers, police officers, certified reserve officers, telecommunicators and liquor enforcement inspectors.

(28) "Public Safety Professional" includes public safety personnel, public safety officers, and instructors.

(29) "Regulations" mean written directives established by the Department or its designated staff describing training activities and student procedures at the Oregon Public Safety Academy.

(30) "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.

(31) "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.

(32) "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.

(33) "Staff" means those employees occupying full-time, part-time, or temporary positions with the Department.

(34) "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.

(35) "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.

(36) "Telecommunicator" means:

(a) A person employed as an emergency telephone worker as defined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, processing and transmitting public safety information received through a 9-1-1 emergency reporting system as defined in 403.105; or

(b) A full-time employee of the Department who possesses requisite qualifications and is so certified pursuant to ORS 181.652.

(37) "Temporary employment" means employment that lasts no more than 90 consecutive calendar days and is not permanent.

(38) "The Act" refers to the Public Safety Standards and Training Act (ORS 181.610 to 181.715).

(39) "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

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 or parole and probation officer for more than 18 months unless the person is a citizen of the United States.

(2) Age. No law enforcement unit in this state may employ any person under the age of 21 years as a police officer, corrections officer or parole and probation officer.

(3) Fingerprints. Within 90 days of the date of employment in a certifiable position, each police, corrections, or parole and probation 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 police, corrections, or parole and probation 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) Except as provided in (e) 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.

(d) Notwithstanding subsection (c), a medical examination may be required by a hiring agency at its discretion.

(e) Notwithstanding subsection (c), 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.

(f) Police, Corrections, and Parole and Probation 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.

(g) Applicants for the position of police or corrections 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 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.

(h) 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.

(i) If amplification device(s) is (are) necessary to meet the criteria in (g) or (h) 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) Police, corrections and parole and probation officers 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.

(j) Applicants for the position of police, corrections, or parole and probation officer must be able to use vocal chords and have significant speaking ability to perform speaking-related essential tasks. For police and corrections officers abnormalities of the nose, throat or mouth must not interfere with the applicant's breathing or proper fitting of gas mask or similar device.

(k) Applicants for the position of police, corrections, or parole and probation officer who have a history of organic cardio-vascular 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.

(l) 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.

(m) 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.

(n) 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.

(o) 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.

(p) 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, 181.644 & 183.341

Stats. Implemented: ORS 181.640, 181.644 & 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

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 54-002 (June 10, 2006).

(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

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, and emergency medical dispatchers.

(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) 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.

(d) 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.

(e) 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.

(f) 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.

(g) Previously employed police officers, corrections officers and parole and probation officers who are required to attend the Basic Course may not challenge the Basic Course.

(h) 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.

(i) 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).

(j) 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.

(k) 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 complete 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 police, corrections, parole and probation, telecommunications, and emergency medical dispatch 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 identified 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 train-

ing, 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

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, and emergency medical dispatchers 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 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, parole and probation, or police officer 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 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.

(18) 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

259-008-0078

Eligibility Requirements for Limited Duration, Administrative Positions

(1) To be employed in a limited duration, administrative position, a person must:

(a) Have been certified as a public safety officer in Oregon;

(b) Have honorably retired or left a certifiable position in good standing;

(c) Have 20 or more years of public safety experience;

(d) Have and maintain current First Aid/CPR certification;

(e) Have been employed as a full-time middle manager, assistant department head or department head for a minimum of three years immediately prior to honorably retiring or leaving a certifiable position; and

(f) Have satisfactorily completed Middle Management or Supervisory training.

(2) Employment in a limited duration, administrative position must begin within five years of honorably retiring or leaving a certifiable public safety position in good standing.

(3) A public safety officer, other than a corrections officer, may serve in a limited duration, administrative position for a period of no more than 18 months with any one agency.

(4) A corrections officer may serve in a limited duration, administrative position for a period of no more than 12 months with any one agency.

(5) Agencies employing an individual in a limited duration, administrative position must submit to the Department:

(a) An F-4 (Personnel Action Report) as outlined in OAR 259-008-0020; and

(b) A written request outlining the primary duties and duration of the position. The request must be on official letterhead and signed by the Department Head or individual directly responsible for the administration of the agency.

(6) If a public safety officer carries or is expected to carry a firearm at any time while employed in a limited duration, administrative position, the public safety officer must meet their employing agency's firearms qualification requirements.

(7) A public safety officer employed in a limited duration, administrative position will be required to be certified and meet all the minimum standards for employment found in OAR 259-008-0010, 259-008-0011 and the minimum training requirements found in 259-008-0025 if DPSST determines:

(a) A public safety officer, other than a corrections officer, has been employed in a limited duration, administrative position for longer than 18 consecutive months;

(b) A corrections officer has been employed in a limited duration, administrative position for longer than 12 consecutive months;

(c) The public safety officer's primary duties do not meet the definition of a limited duration, administrative position, as defined in OAR 259-008-0005;

(d) The public safety officer fails to maintain current CPR/first aid certification; or

(e) The public safety officer is or has carried a firearm on duty and has failed to meet their employing agency's firearms qualification requirements.

(8) Certification requirements are calculated from the date an individual left a certified position.

(9) Experience gained in a limited duration, administrative position will not accrue as creditable service time.

Stat. Auth.: ORS 181.640
Stats. Implemented: ORS 181.640
Hist.: DPSST 7-2015, f. & cert. ef. 3-24-15

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Rule Caption: Clarifies civil penalties. Increases private security professional basic course hours. Eliminates tamper proof bag requirement.
Adm. Order No.: DPSST 8-2015
Filed with Sec. of State: 3-24-2015
Certified to be Effective: 3-24-15
Notice Publication Date: 3-1-2015
Rules Amended: 259-060-0010, 259-060-0060, 259-060-0120, 259-060-0130, 259-060-0135, 259-060-0145, 259-060-0450
Subject: This permanent rule filing combines three proposed rules that DPSST filed on January 27th, 2015.

The first permanent rule change updates the minimum number of hours required for the basic training course required for initial certification as an unarmed private security professional from 12 hours (8 hours of classroom and 4 hours of assessments) to 14 hours total. Housekeeping changes were made for clarity.

The second permanent rule change corrects an error in the former rule language regarding civil penalties to show that any violations subject to civil penalty will be taken against an individual or owner/owners of a business or entity, rather than the business or entity itself.

Additionally, minor housekeeping changes were made for consistency.

The final permanent rule change eliminated the requirement to have the Form PS-6 sent in a sealed, tamper-proof bag.
Rules Coordinator: Sharon Huck—(503) 378-2432

259-060-0010
Definitions

(1) "Accreditation Program Manager" means a person who is designated as the administrator of an employer accredited training program and is primary liaison with the Department.

(2) "Alarm Monitor" means an individual whose primary duties are the processing of alarms in an alarm monitoring facility.

(3) "Alarm Monitoring Facility" mean any organization, contract or proprietary, with the primary responsibility of reviewing incoming traffic transmitted to alarm receiving equipment and follows up with actions that may include notification of public agencies to address imminent threats related to public safety. This does not include:

(a) Facilities that monitor only production or environmental signals not directly impacting public safety;

(b) Proprietary alarm systems being monitored by Department-certified private security professionals that generate an internal response by another Department-certified private security professional;

(c) Facilities that monitor Personal Emergency Response Systems (PERS) only; or

(d) Facilities utilizing alarms that never generate a response from a public safety agency.

(4) "Applicant" means an individual who is applying for or renewing certification or licensure as a private security provider.

(5) "Armed Private Security Professional" means a private security professional who is certified to possess or has access to a firearm at any time while performing private security services.

(6) "Assessments means a Department-approved curriculum given to private security providers that includes, but is not limited to, the demonstration of task-related skills learned in the classroom instruction as applied to hypothetical situations.

(7) "Board" means the Board on Public Safety Standards and Training.

(8) "Certification" means recognition by the Department that a private security professional meets all the qualifications listed in ORS 181.875 and these rules.

(9) "Consideration" means something of value promised, given or done that has the effect of making an agreement to provide private security services.

(10) "De Minimis" means non-monetary compensation received by a volunteer performing private security services for a non-profit organization as defined in ORS 181.871. The compensation may not exceed a fair market value of $125 per day.

(11) "Denial" or "Deny" means the Department's refusal to grant private security certification or issue a license to an applicant who fails to meet the minimum standards for certification or licensure as identified in OAR 259-060-0020, including the mandatory and discretionary disqualifying misconduct identified in OAR 259-060-0300.

(12) "Department" and "DPSST" means the Department of Public Safety Standards and Training.

(13) "Director" means the Director of the Department of Public Safety Standards and Training.

(14) "Employer" means:

(a) An individual who employs persons to provide private security services;

(b) An owner or owners of a business or entity that provides private security services; or

(c) An owner or owners of a business or entity who employs persons to provide private security services.

(15) "Executive Manager" means a person:

(a) Who is authorized to act on behalf of a company or business in matters of licensure and certification;

(b) Who is authorized to hire and terminate personnel;

(c) Whose primary responsibility is the management of certified private security professionals; and

(d) Who has final responsibility for a company's or business's compliance with the ORS 181.870 to 181.991.

(16) "Flagrant Violation" means an act by a provider, contractor, owner or manager who, after being notified of a violation, intentionally continues or repeats the violation within a 36 month period after the initial violation.

(17) "Fundamental" means a duty that is a basic task or function and may be low frequency, but is an essential component of a job.

(18) "Instructor" means any person who has been certified by the Department as meeting the requirements to provide instruction to private security providers or applicants.

(19) "License" means recognition by the Department that executive manager or supervisory manager meets the requirements listed in ORS 181.875 and these rules.

(20) "Policy Committee" means the Private Security and Investigator Policy Committee.

(21) "Primary Responsibility" means an activity that is fundamental to, and required or expected in, the regular course of employment and is not merely incidental to employment.

(22) "Private" as used in the Act means those activities intended for or restricted to the use of a particular person, group or interest, or belonging to or concerning an individual person, company or interest.

(23) "Private Security Professional" means an individual who performs, as the individual's primary responsibility, private security services for consideration, regardless of whether the individual, while performing private security services, is armed or unarmed or wears a uniform or plain clothes, and regardless of whether the individual is employed part-time or full-time to perform private security services. A private security professional is not authorized to independently contract with businesses or entities to provide services as a private security professional.

(24) "Private Security Provider" means any individual who performs the functions of a private security professional, executive manager, supervisory manager or instructor.

(25) "Private Security Services" means the performance of at least one of the following activities:

(a) Observing and reporting unlawful activity;

(b) Preventing or detecting theft or misappropriation of any goods, money or other items of value;

(c) Protecting individuals or property, including, but not limited to proprietary information, from harm or misappropriation;

(d) Controlling access to premises being protected or, with respect to a licensee of the Oregon Liquor Control Commission, controlling access to premises at an entry to the premises or any portion of the premises where minors are prohibited;

(e) Securely moving prisoners;

(f) Taking enforcement action by detaining persons or placing persons under arrest under ORS 133.225; or

(g) Providing canine services for guarding premises or for the detection of unlawful devices or substances.

(26) "Private Security Services Providers Act" or "The Act" means the Private Security Providers Act (ORS Chapter 181.870 through 181.991).

(27) "Revocation" or "Revoke" means action taken by the Department to rescind the certification or licensure of a private security provider who fails to meet the minimum standards for certification or licensure as identified in OAR 259-060-0020, including the mandatory and discretionary disqualifying misconduct identified in OAR 259-060-0300.

(28) "Supervisory Manager" means an employee of or a person supervised by an executive manager who has as a primary responsibility the supervision of certified private security professionals. A supervisory manager is not authorized to independently contract with businesses or entities to provide services as a supervisory manager.

(29) "Surrender" means the voluntary relinquishment of private security certification or licensure to the Department.

(30) "Suspension" or "Suspend" means action taken by the Department in temporarily depriving the holder of a license or certificate that authorizes the individual to provide private security services.

(31) "Temporary Work Permit" means a temporary certification or licensure issued by an employing, licensed manager to allow a company to employ and deploy a private security professional, executive or supervisory manager while the application for certification or licensure is being processed. A temporary work permit will not be issued for armed security professionals.

(32) "Unarmed Private Security Professional" means a private security professional who is not in possession of, or has access to, a firearm at any time while performing private security services.

(33) "Violation" means an act or omission that is prohibited under the Act or these rules.

(34) "Withdraw" means action taken by the applicant or private security provider to remove an application from consideration.

Stat. Auth.: ORS 181.870 & 181.878

Stats. Implemented: ORS 181.870 & 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 4-2003, f. & cert. ef. 1-22-03; DPSST 11-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 4-2007, f. & cert. ef. 2-15-07; DPSST 11-2007, f. & cert. ef. 10-15-07; DPSST 6-2008, f. & cert. ef. 4-15-08; DPSST 25-2012, f. 10-26-12, cert. ef. 11-1-12; DPSST 28-2012, f. & cert. ef. 12-24-12; DPSST 12-2013, f. & cert. ef. 6-24-13; DPSST 3-2015, f & cert. ef. 1-5-15; DPSST 8-2015, f. & cert. ef. 3-24-15

259-060-0060

Minimum Standards for Training

(1) All private security courses and examinations will be based upon a curriculum approved by the Board.

(2) All required training and testing must be conducted by a certified private security instructor as defined in OAR 259-060-0010 or by a Department designee.

(3) All required firearms courses must be administered by a certified private security firearms instructor.

(4) Only the Department or a designee will deliver instructor courses, firearms private security instructor courses and manager courses.

(5) All training must be delivered in English and assessments and written exams must be completed in English, without assistance.

(6) The Department website will provide names of instructors who have requested on a Department-approved form that their names be available to applicants.

(7) Only a certified private security instructor delivering the training on-site may sign a Form PS-6 (Affidavit of Instructor and Private Security Provider Testing Results).

(8) It is the responsibility of the applicant or private security provider to submit the original Form PS-6 to the Department upon completion of courses as specified in these rules. The Form PS-6 must be signed by the certified instructor who administered the course.

(9) To satisfy the training requirements for private security certification or licensure, training must be submitted to the Department within 180 days of the training being completed.

(10) Private Security Course Descriptions.

(a) Basic Classroom Instruction. Basic classroom consists of live classroom instruction which may include use of a subject matter expert, audio and visual instruction. Instructors must provide individuals with a manual of the basic curriculum. Applicants must complete a closed-book written examination.

(b) Assessments. Assessments are hands-on, practical exercises given to private security professionals that will reinforce the knowledge and techniques presented during classroom instruction. Assessments consist of evaluations and include, but are not limited to, scenarios requiring application of task-related skills learned in the basic classroom instruction.

(c) Basic Firearms Course. Basic Firearms course must include:

(A) A minimum of 24 hours of instruction and an open-book written examination covering firearms instruction materials;

(B) A safe gun handling test; and

(C) A marksmanship qualification using firearms qualification standards and targets.

(d) Instructor Course. The instructor course teaches curriculum, instructing techniques, and Department policies and procedures. The course includes classroom instruction, assessments and a written examination. Instructor applicants must use a Board-approved manual to review the course in a self-study environment; and

(e) Firearms Private Security Instructor Course. The firearms private security instructor course teaches armed professional curriculum instruction, instructing techniques, practical application and Department policies and procedures. The course includes classroom instruction, marksmanship qualification, safe handgun handling and a written examination. Instructor applicants must use a Board-approved manual to review the course in a self-study environment.

(f) Manager Course. The manager course trains on Department policies and procedures. The course includes classroom instruction, assessments and a written examination.

(11) Private Security Certification and Licensure Maintenance Course Descriptions.

(a) Annual Firearms Marksmanship Requalification and Refresher Course includes an annual firearms marksmanship requalification and the annual armed 4-hour classroom refresher course and closed-book written examination.

(b) Biennial Renewal Training includes a four-hour biennial renewal course related to the current level of certification and in accordance with OAR 259-060-0120, 259-060-0130, and 259-060-0135.

(c) Annual Firearms Instructor Marksmanship Qualification includes an annual firearms marksmanship requalification.

(12) Applicants must achieve a score of 100 percent on all examinations and assessments with remediation in accordance with OAR 259-060-0135(9).

(13) All private security providers who have previously been certified or licensed by the Department as a private security provider whose certification or licensure has been expired for over four years from must reapply and complete all required training again in accordance with OAR 259-060-0025(2)(a).

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 181.878 & 181.883

Stats. Implemented: ORS 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 6-2006, f. & cert. ef. 5-15-06; DPSST 4-2007, f. & cert. ef. 2-15-07; DPSST 6-2008, f. & cert. ef. 4-15-08; DPSST 25-2012, f. 10-26-12, cert. ef. 11-1-12; DPSST 12-2013, f. & cert. ef. 6-24-13; DPSST 8-2015, f. & cert. ef. 3-24-15

259-060-0120

Private Security Professional Certification and Responsibilities

(1) All private security professional applicants must complete an application in accordance with OAR 259-060-0025.

(2) All private security professionals must be in compliance with the minimum standards for certification as listed in OAR 259-060-0020.

(3) Alarm Monitor Private Security Professional.

(a) A certified private security alarm monitor professional is authorized to perform the duties defined in OAR 259-060-0010.

(b) Basic training consists of successful completion of eight hours of alarm monitor basic classroom instruction and exam and a four-hour alarm monitor assessment.

(c) Biennial alarm monitor renewal training consists of a four-hour alarm monitor renewal course and exam.

(4) Unarmed Private Security Professional.

(a) A certified unarmed private security professional is authorized to perform the duties defined in OAR 259-060-0010.

(b) Basic training consists of successful completion of 14 hours of unarmed basic classroom instruction, exam and assessments.

(c) Biennial unarmed renewal training consists of a four-hour unarmed renewal course and exam.

(5) Armed Private Security Professional.

(a) A certified armed private security professional is authorized to perform the duties defined in OAR 259-060-0010.

(b) In addition to the minimum standards for unarmed certification, armed professionals must also be in compliance with the firearms standards listed in OAR 259-060-0020.

(c) Basic training consists of successful completion of:

(A) Fourteen hours of unarmed basic classroom instruction, exam and assessments; and

(B) Basic firearms course as defined in OAR 259-060-0060 which consists of a minimum 24 hours of basic armed instruction, a written examination, safe gun handling test and marksmanship qualification.

(d) Armed annual refresher course consists of a minimum of four hours including the armed refresher course and exam and firearms marksmanship requalification.

(e) In addition to the annual refresher course, armed private security professionals must complete an unarmed renewal training biennially.

(f) Armed private security professionals who fail to complete the armed annual refresher course must complete the 24-hours of basic firearms instruction before reissuance of certification.

(6) Department-accredited courses may satisfy the training requirements listed above.

(7) Failure to complete any training requirements as prescribed by this rule may result in denial or revocation of private security certification or licensure as prescribed in OAR 259-060-0300 and civil penalties as prescribed in OAR 259-060-0450.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 181.873 - 181.878 & 181.883 - 181.885

Stats. Implemented: ORS 181.873 - 181.878 & 181.883 - 181.885

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 4-2003, f. & cert. ef. 1-22-03; DPSST 3-2005(Temp), f. 4-25-05, cert. ef. 5-1-05 thru 10-28-05; DPSST 9-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 4-2007, f. & cert. ef. 2-15-07; DPSST 6-2008, f. & cert. ef. 4-15-08; DPSST 25-2012, f. 10-26-12, cert. ef. 11-1-12; DPSST 12-2013, f. & cert. ef. 6-24-13; DPSST 14-2014, f. & cert. ef. 6-24-14; DPSST 8-2015, f. & cert. ef. 3-24-15

259-060-0130

Private Security Executive Manager and Supervisory Manager Licensure and Responsibilities

(1) All private security executive or supervisory manager applicants must complete an application in accordance with OAR 259-060-0025.

(2) All private security executive or supervisory manager applicants must be in compliance with the minimum standards for licensure as listed in OAR 259-060-0020.

(3) Private security executive managers are responsible for ensuring compliance of all private security providers employed by businesses or entities by which the executive manager is employed or contracted. An executive manager is authorized to perform the duties defined in OAR 259-060-0010.

(4) Private security supervisory managers have the responsibility and authority of supervising persons providing security services. A supervisory manager is authorized to perform the duties defined in OAR 259-060-0010.

(5) Basic training for executive and supervisory private security managers consists of successful completion of the following:

(a) Eight-hour basic classroom instruction and exam; and

(b) Manager course, exam and assessments.

(6) Biennial renewal training consists of the manager course, exam and assessments.

(7) Each business, employer or entity with private security professional staff of at least one person must designate an individual to perform the duties of an executive manager as described in these rules. This provision applies to any business, employer or entity that provides private security services within this state, regardless of whether the business, employer or entity is located in or out of this state.

(a) An employer may obtain licensure for more than one executive manager.

(b) In the event of a staff change of executive managers or supervisory managers, the business, employer or entity must select a replacement manager and immediately notify the Department of the staff change on the Form PS-23 (Change of Information.)

(8) Employing, licensed managers may issue temporary work permits to private security applicants upon verification that all application requirements have been completed.

(9) An executive manager is authorized to contract with businesses or entities to provide services as an executive manager.

(a) An executive manager is required to notify the Department in writing of the names, addresses and contact information of each business or entity with which they contract within two days of beginning the contract.

(b) An executive manager must notify the Department within two days of the termination or completion of a contract with a business or entity.

(c) For the purposes of this rule, an executive manager who contracts with businesses or entities to provide services as an executive manager is considered an employing, licensed manager.

(10) A licensed manager who performs private security services must complete the full training required for that classification and be certified.

(11) Failure to complete any training requirements as prescribed by this rule may result in denial or revocation of private security certification or licensure as prescribed in OAR 259-060-0300 and civil penalties as prescribed in OAR 259-060-0450.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 181.878

Stats. Implemented: ORS 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 4-2003, f. & cert. ef. 1-22-03; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 6-2008, f. & cert. ef. 4-15-08; DPSST 25-2012, f. 10-26-12, cert. ef. 11-1-12; DPSST 3-2015, f & cert. ef. 1-5-15; DPSST 8-2015, f. & cert. ef. 3-24-15

259-060-0135

Private Security Instructor Certification and Responsibilities

(1) The Department will certify instructors deemed qualified to instruct any required private security professional training courses.

(2) All private security instructor applicants must complete an application in accordance with OAR 259-060-0025.

(3) All private security instructor applicants must be in compliance with the minimum standards for certification as listed in OAR 259-060-0020. In addition, applicants must:

(a) Have a minimum three years of work experience in private security services, military police, or law enforcement fields; and

(b) Applicants for certification as a firearms private security instructor must be in compliance with the firearms standards listed in OAR 259-060-0020.

(4) Private security instructors are authorized to instruct and deliver private security professional courses based on the approved or accredited private security professional course content and materials provided by the Department.

(a) Private security instructors must remediate or fail applicants as necessary.

(b) Private security instructors must provide all applicants with appropriate printed training manuals for the applicant to retain upon completion of the course.

(c) Only a certified private security instructor delivering the training on-site may sign a Form PS-6 (Affidavit of Instructor and Private Security Provider Testing Results).

(d) Certified private security instructors are responsible for verifying the identity of all applicants using government-issued identification.

(e) Only private security firearms instructors are authorized to instruct and administer basic and renewal firearms courses.

(f) All private security instructors must instruct courses in a manner that is consistent with the minimum requirements of the Department, including safety provisions. Training facilities must be an environment conducive to learning.

(5) Alarm monitor private security instructor.

(a) Basic training consists of the successful completion of:

(A) Alarm monitor basic classroom instruction and exam;

(B) Alarm monitor assessment; and

(C) Alarm monitor private security instructor course.

(b) Biennial alarm monitor private security instructor renewal training consists of the successful completion of:

(A) Alarm monitor private security instructor course; and

(B) A minimum of eight hours of coursework relating to any of the specific subjects being taught or a minimum of eight hours of coursework relating to improving instructor skills. Coursework must be submitted on a form PS-8 (Private Security Instructor Continuing Education), including proof of at least eight hours of continuing education taken within the last certification period. Proof can be in the form of a grade or certificate, minutes, a roster, or receipt of course payment.

(6) Unarmed private security instructor.

(a) Basic training consists of the successful completion of:

(A) Unarmed basic classroom instruction and exam;

(B) Unarmed assessments; and

(C) Unarmed private security instructor course and exam.

(b) Biennial unarmed private security instructor renewal training consists of the successful completion of:

(A) Unarmed private security instructor course and exam; and

(B) A minimum of eight hours of coursework relating to any of the specific subjects being taught or a minimum of eight hours of coursework relating to improving instructor skills. Coursework must be submitted on a form PS-8 (Private Security Instructor Continuing Education), including proof of at least eight hours of continuing education taken within the last certification period. Proof can be in the form of a grade or certificate, minutes, a roster, or receipt of course payment.

(7) Firearms Private Security Instructor.

(a) Basic training consists of the successful completion of:

(A) Basic unarmed classroom instruction and exam;

(B) Basic unarmed assessments;

(C) Basic firearms course;

(D) Department-administered firearms private security instructor course and Department-approved marksmanship qualification; and

(E) Proof of successful completion of training from one or more of the following sources no more than five years prior to the time of application:

(i) The National Rifle Association Law Enforcement Firearms Instructor Development School;

(ii) A firearms instructor through the Federal Law Enforcement Training Center;

(iii) A Department-certified law enforcement or criminal justice firearms instructor course;

(iv) A firearms instructor through the Federal Bureau of Investigation;

(v) A private security firearms instructor through the Washington Criminal Justice Training Center; or

(vi) A qualified instructor certification course as determined by the Department.

(b) Firearms private security instructors must successfully complete annual firearms instructor marksmanship qualifications. Instructors must qualify on a target authorized by the Department, within three attempts in one day.

(c) Biennial renewal consists of:

(A) Successful completion of the firearms private security instructor course, written exam, and marksmanship qualifications; and

(B) A minimum of eight hours of coursework relating to any of the specific subjects being taught or a minimum of eight hours of coursework relating to improving instructor skills. Coursework must be submitted on a form PS-8 (Private Security Instructor Continuing Education), including proof of at least eight hours of continuing education taken within the last certification period. Proof can be in the form of a grade or certificate, minutes, a roster, or receipt of course payment.

(8) Certified private security instructors who simultaneously hold certification as a private security professional are exempt from the required private security professional renewal training if they deliver the basic curriculum of the discipline for which they are certified at least one time per year.

(9) Applicant Remediation/Failure. When an applicant fails to successfully complete any portion of the required training the instructor must remediate or fail the applicant as follows:

(a) If a test score is between 85 and 99 percent, the instructor must remediate the incorrect test responses by reviewing each incorrect test question with the applicant, explaining the principle behind the question, the correct answer, and the basis for the correct answer. The instructor must assess whether oral responses from the applicant indicate that the applicant understands the underlying principles. An inappropriate answer may result in the termination of training and indication on the training affidavit that the applicant has failed to successfully complete the required training.

(b) If a test score is below 85 percent correct, the instructor must fail the applicant or require the applicant repeat the deficient section missed of the curriculum and retake the exam.

(c) The instructor may remediate and re-test an applicant who fails to score 100% on the firearms marksmanship qualification course. Re-qualification attempts are limited to three in a single session.

(d) An applicant who is unable to successfully achieve a training standard must be failed. Any instructor who fails an applicant must:

(A) Fully document the reason for failure;

(B) Retain documentation of failure in the instructor's file for a minimum period of two years; and

(C) Notify the Department within 48 hours of the failure by submitting a Form PS-6 indicating that an individual has failed.

(10) Instructors may terminate training if, in the instructor's opinion, the applicant is unfit to proceed, taking into consideration the applicant's poor judgment, unsafe practices, abnormal behavior or other relevant factors. The instructor must immediately notify the applicant of the reason for termination of training and must also notify the Department within 48 hours in writing, using a Form PS-6.

(11) Training Records.

(a) Instructors must maintain the following documents in separate class files for a period of two years:

(A) A Form PS-6 (Affidavit of Instructor and Private Security Provider Testing Results) for each applicant;

(B) All written exams, assessments and any applicable qualification records;

(C) A training outline for the curriculum used, including any references to any resources used; and

(D) A class roster, including the name and address of each applicant.

(b) Upon successful completion of all requirements, the instructor must provide the applicant the accurately-completed, original Form PS-6. The instructor will also supply the applicant with a colored carbon copy of the Form PS-6.

(c) Instructors will provide additional copies of the Form PS-6 to applicants at any time during the life of their training at reasonable expense to the applicant.

(12) Failure to complete any training requirements as prescribed by this rule may result in denial or revocation or private security certification or licensure as prescribed in OAR 259-060-0300 and civil penalties as prescribed in OAR 259-060-0450.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 181.878 & 181.883

Stats. Implemented: ORS 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 11-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 4-2007, f. & cert. ef. 2-15-07; DPSST 6-2008, f. & cert. ef. 4-15-08; DPSST 25-2012, f. 10-26-12, cert. ef. 11-1-12; DPSST 12-2013, f. & cert. ef. 6-24-13; DPSST 26-2014, f. & cert. ef. 10-1-14; DPSST 8-2015, f. & cert. ef. 3-24-15

259-060-0145

Crowd Management, Event or Guest Services

(1) A person performing crowd management, event or guest services who is armed, permitted to initiate confrontational activities, hired with the primary responsibility of taking enforcement action as described in ORS 181.870(8)(f), or performing any other private security service must be certified or licensed as described in the Act and these rules.

(2) Crowd Management, Event Services, or Guest Service managers, contractors or employers who employ individuals to provide private security services must:

(a) Employ or contract with a licensed executive manager;

(b) Require individuals performing or expected to perform private security services obtain certification;

(c) Require all individuals who supervise certified private security professionals or crowd management, event or guest services staff to be licensed in accordance to OAR 259-060-0130;

(d) Provide one certified private security professional on-site for every 10 or fewer crowd management or event staff;

(e) Provide documentation confirming private security certifications, licenses and appropriate staffing ratio found in (1)(d) upon request; and

(f) Provide crowd management staff technological communication or visibility of a certified private security professional when action is needed as required in ORS 181.871.

(3) Pursuant to ORS 181.871, non-certified and non-licensed staff performing crowd management can only be used during a time when a crowd has assembled for the purpose of attending or taking part in an organized event, including pre-event assembly, event operation hours and post-event departure activities.

(4) Civil penalties may be assessed for violation of these rules in accordance with OAR 259-060-0450.

Stat. Auth.: ORS 181.873 - 181.878 & 181.883 - 181.885
Stats. Implemented: ORS 181.873 - 181.878 & 181.883 - 181.885
Hist.: DPSST 25-2012, f. 10-26-12, cert. ef. 11-1-12; DPSST 8-2015, f. & cert. ef. 3-24-15

259-060-0450
Compliance

(1) The Department may cause administrative proceedings or court action to be initiated to enforce compliance with the Act and these rules.

(2) Violations. The Department may find violation and recommend assessment of civil penalties upon finding that a private security provider, individual, or employer has previously engaged in or is currently engaging in any of the following acts:

(a) Providing private security services without valid certification or licensure or Temporary Work Permit;

(b) Failure to submit properly completed forms or documentation in a time frame as designated by the Department;

(c) The falsification of any documents submitted to the Department;

(d) Failure to cease providing private security services upon issuance of a cease and desist order, expiration of certification or licensure, notice of termination, suspension, denial or revocation;

(e) Failure to complete required training as prescribed in OAR 259-060-0060;

(f) Failure to report criminal charges as required in ORS 181.885;

(g) Providing training without a valid certification;

(h) Failure of a private security instructor to instruct the full Department-approved curriculum;

(i) Failure to terminate employment as a private security provider of an individual whose application has been terminated, or whose certification or licensure has been suspended, denied or revoked, upon notice from the Department to do so;

(j) Employing private security providers who have not completed the training and application process required under the Act and these rules;

(k) Failure to employ a licensed executive manager;

(l) Failure to provide technological communication or visibility of a certified security professional to crowd management staff;

(m) Failure to provide documentation of one certified security professional to ten crowd management staff;

(n) Expecting crowd management staff to perform security services duties other than the duties incidental to crowd management; or

(o) Any other violation of requirements of the Act or these rules.

(3) The Department may issue a Demand to Examine Books and Records (DEBR) to obtain any record or document related to compliance.

(a) The Department may cause inspection or audits of the records of any private security provider or employer. Records inspected may include any document relating to the requirements of the Act and these rules.

(b) Failure to cooperate or respond to any investigative inquiries or DEBR may result in issuance of a civil penalty as described in this rule and the revocation or denial of certification or licensure as described in OAR 259-060-0300.

(4) The Department may issue a Cease and Desist Order when an individual or employer is not in compliance with these rules. The order requires the individual or employer cease and desist providing private security services in the state of Oregon and will remain in effect until the individual or employer gains compliance.

(5) Complaints and Allegations of Violations.

(a) All complaints or allegations of violations must be submitted on a Department-approved complaint form before an investigation can be initiated, unless the Department grants an exception. The Department may consider additional credible sources of information to determine non-compliance.

(b) A preliminary administrative review of the complaint or allegation will be conducted by the Department to ensure there is sufficient information to proceed. Staff may conduct a fact-finding preliminary investigation.

(A) If sufficient information is determined to support the compliant or allegation, the Department may open and conduct an investigation and gather relevant information.

(B) Private security providers, applicants, or other involved parties will respond to any questions or requests with 20 days after a request is mailed by the Department, unless an extension is requested and approved by the Department.

(6) Procedures for Proposing a Civil Penalty.

(a) The Department may issue an Allegation of Non-Compliance when there is a reason to believe a violation has occurred. The purpose of this document is to provide education and allow an opportunity to gain compliance within 30 days without penalty.

(b) The Department will issue a Notice of Violation upon discovery of violation as described in this rule. The Notice will include a statement of found violations and proposed sanctions. An individual or employer may be given the opportunity to remedy the violation and pay a penalty within 10 days of the mailing of the notice.

(c) The Department, through the Policy Committee and Board, will issue a Notice of Intent to Propose a Civil Penalty upon the failure to remedy a violation or request an extension within 10 days of the mailing of the Notice of Violation.

(A) The Department may extend the time to remedy a violation upon a showing of good cause.

(B) An individual or employer will be given the opportunity to provide mitigation to the Department.

(7) Hearing Request.

(a) If the Department issues a Notice of Intent to Propose Civil Penalty, an individual, business or entity is entitled to a contested case hearing in accordance with the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.

(b) The Department must receive a request for hearing in writing within 20 days of the date the Notice of Intent to Propose Civil Penalty was served on the individual or employer.

(8) Default Order. If a timely request for a hearing is not received, the Notice of Intent to Impose a Civil Penalty will become a Final Order Imposing Civil Penalty.

(9) Resolution by Stipulation. The Department is authorized to seek resolution by stipulation, subject to acceptance and approval by the Board or Director, if:

(a) The matter is resolved before entry of a final order assessing penalty;

(b) The respondent satisfies all terms set forth by the Department within the time allowed; and

(c) Any stipulated penalty amount is received by the Department.

(10) Civil Penalty Amounts.

(a) Unarmed private security providers and alarm monitors will be charged a penalty of not less than $250 for the first violation and a maximum of $1,500 for each flagrant violation.

(b) Armed private security providers will be charged a penalty of not less than $500 for the first violation and a maximum of $1,500 for each flagrant violation.

(c) Private security instructors will be charged a penalty of not less than $750 for the first violation and a maximum of $1,500 for each flagrant violation.

(d) Private security managers, contract executive managers and employers that employ private security staff will be charged a penalty of not less than $1,000 for the first violation and a maximum of $1,500 for each flagrant violation.

(e) For the purposes of imposing civil penalties, each 30 day period in violation of the same statute or rule may be considered a separate violation by the Department.

(11) The Department may reduce or waive civil penalties from the amounts set in this rule in situations where further mitigation is warranted or the matter is resolved by stipulation at any time prior to the entry of a final order.

(12) Staff will recommend the full civil penalty amount for individuals, businesses or entities that fail to satisfy the terms as stipulated. The recommendation will be reviewed by the Policy Committee and Board.

Stat. Auth.: ORS 181.878
Stats. Implemented: ORS 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 4-2003, f. & cert. ef. 1-22-03; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 11-2007, f. & cert. ef. 10-15-07; DPSST 6-2008, f. & cert. ef. 4-15-08; DPSST 25-2012, f. 10-26-12, cert. ef. 11-1-12; DPSST 12-2013, f. & cert. ef. 6-24-13; DPSST 8-2015, f. & cert. ef. 3-24-15

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Department of Veterans' Affairs
Chapter 274

Rule Caption: Clarifies the department's contracting rules for bond counsel and financial advisory services.
Adm. Order No.: DVA 1-2015(Temp)
Filed with Sec. of State: 3-26-2015
Certified to be Effective: 3-26-15 thru 9-21-15
Notice Publication Date:
Rules Adopted: 274-005-0045
Rules Amended: 274-005-0040
Subject: The temporary rules clarifies the department's process for contracting for bond counsel and financial advisory services under ORS 286.130. The process has been moved from existing rule OAR 274-005-0040 to a new and more comprehensive rule in OAR 274-005-0045
Rules Coordinator: Laurie Skillman—(503) 373-2016

274-005-0040
Formal Process (Over $75,000)

(1) Except as provided under subsection (3)(b) and section (4) of this rule or OAR 274-005-0045, the Director of Veterans' Affairs (director) shall make a public announcement to obtain a list of contractors interested in providing professional services to the director. The director will request statements of qualifications or proposals, or both, for either single projects or groups of projects. The announcement will be made in trade periodicals or newspapers of general circulation, and electronically through the Department of Administrative Services on-line Vendor Information Program (VIP) and may include the following:

(a) Description of project type(s);

(b) Typical project(s) scope;

(c) Anticipated project start and completion dates;

(d) Any special requirements;

(e) Closing date by which statements of interest and qualifications must be received; and

(f) Evaluation criteria and selection procedure.

(2) Initial screening:

(a) The director shall establish an evaluation committee. The committee shall, for each proposed project, evaluate statements of qualifications and performance data. The committee shall evaluate each firm on areas including, but not limited to:

(A) Approach to the project;

(B) Capability;

(C) Credentials;

(D) Experience;

(E) Performance data (when applicable); and

(F) Proposed project cost.

(b) Based on the established evaluation criteria, the committee shall select, in order of preference, a list of at least three firms (short list) deemed to be most highly qualified to provide the required services;

(c) The evaluation committee will interview the short listed firms and make a recommendation to the director on which one should be hired. When a proposal is requested, the evaluation committee may elect to eliminate the interview step and recommend the most qualified firm to the director.

(3) Final Selection:

(a) The director or designee shall select the most qualified firm and negotiate a contract with that firm. In making the final selection, the director shall consider the estimated value of the services to be rendered, the project scope, and complexity:

(A) Should the director be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, negotiations with that firm will be formally terminated. The director will then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the director will terminate negotiations. The director will then undertake negotiations with the third most qualified firm.

(B) Should the director be unable to negotiate a satisfactory contract with any of the selected firms, he shall select additional firms in order of their competence and qualifications and continue negotiations in accordance with this section until an agreement is reached or a decision not to contract for professional services is made.

(b) When the director determines that only one firm exists that is capable of performing the required services, within the required time frame, the director may negotiate a sole source contract with that firm. "Sole source" means a consultant providing professional or technical expertise of such a unique nature that the consultant is clearly and justifiably the only practicable source to provide the service. The justification shall be based on either the uniqueness of the service or sole availability at the location required. A sole source designation eliminates the necessity for a selection process.

(4) Special Services. In cases where the service needed is one performed only by a specialized group such as Certified Public Accountants and other similar specialties (and a list of qualified persons, companies, or firms interested in providing this service is maintained by a state or federal agency, a company specializing in maintaining such a list, or is available from another source) the director may obtain and use such a list in lieu of making a public announcement. The director may also include on any such list persons, companies, or firms known by the director to be interested or qualified to provide the needed services. The director will utilize the process set out in sections (2) and (3) of this rule to select the contractor.

Stat. Auth.: ORS 279.051, 279.712, 406.030, 407.115, 407.169, 407.177, 407.179, 407.181 & 407.275
Stats. Implemented: ORS 279.051, 279.712, 406.030, 407.115, 407.169, 407.177, 407.179, 407.181, 407.275, 407.377, 407.465 & 408.360
Hist.: DVA 4-1992(Temp), f. & cert. ef. 4-1-92; DVA 8-1992, f. & cert. ef. 8-3-92; DVA 7-1993, f. 5-18-93, cert. ef. 5-21-93; DVA 5-1996, f. & cert. ef. 7-22-96; DVA 5-2000, f. & cert. ef. 4-24-00; DVA 2-2005, f. & cert. ef. 4-22-05; DVA 1-2015(Temp), f. & cert. ef. 3-26-15 thru 9-21-15

274-005-0045
Bond Counsel and Financial Advisor Procurement and Contracting

(1) Pursuant to ORS 286A.130 (7), the Public Contracting Code does not apply to procurement processes and contracts for bond counsel or financial advisor services of the Department of Veterans' Affairs.

(2) Subject to review and approval of the terms and conditions of bond counsel contracts by the State Treasurer and the Attorney General, the department is authorized to establish its own procedures for procurement of and contracting for the services of bond counsel so long as such contracts:

(a) Are for a period of not less than one year during any biennium in which there are bonds outstanding that were issued for the department or during any biennium in which the department expects the State Treasurer to issue bonds for a department program; and

(b) Do not authorize bond counsel to advise or represent the state on matters that are committed by statute to the Attorney General, except as allowed under ORS 286A.130 (3).

(3) Subject to the approval of financial advisor contracts by the State Treasurer, the department is authorized to establish its own procedures for procurement of and contracting for the services of financial advisors.

(4) The department chooses to maintain maximum reasonable discretion in the procurement of services from bond counsel and financial advisors and the execution of contracts with same given the statutorily-recognized complex and often unique factors that may be relevant over time in such relationships. Neither the model rules of the Attorney General adopted pursuant to ORS 279A.065 nor OAR 274-005-0040 nor other rules of this division govern the department's procurement and contracting under this section. The department may act in such manner as is deemed by the department to best serve the purposes of the department and will consider the Attorney General's model rules and the processes and standards identified in OAR 274-005-0040 and other rules of this division for guidance in exercising its procurement and contracting discretion under this section. The department may consider other factors and employ other procedures as they may be deemed appropriate by the department in the procurement of or contracting for such services, including, but are not limited to factors and procedures such as :

(a) The value or importance of continuity of services;

(b) Unique or additive knowledge or experience of specific firms or persons;

(c) The subject matter of the proposed contract and appropriate means to ensure successful performance at competitive costs where practical;

(d) Specificity with respect to communication and reservation of rights in any procurement;

(e) Clarity in the naming and description of parties as well as consideration of appropriate preferences;

(f) Ascertaining and obtaining appropriate representations and warranties as to the qualifications of parties;

(g) Specificity with respect to consideration and applicable time periods;

(h) Specificity with respect to terms and covenants, particularly as to standards applicable to the performance of all work or delivery of goods;

(i) Identification of remedies and their suitability to protect Department and program interests; and

(j) Use of appropriate terms with respect to standard provisions such as governing law, venue, waiver, exhibits, merger, etc.

(5) As a general standard, the department will seek to employ procedures as are practical to introduce competitive efficiencies and sound selections given the particular circumstances, complex regulations and governing law applicable to such legal and financial considerations.

Stat. Auth: ORS 406.050, 406.115
Stats. Implemented: ORS 279A.065, 286A.130
Hist.: DVA 1-2015(Temp), f. & cert. ef. 3-26-15 thru 9-21-15

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Economic Recovery Review Council
Chapter 966

Rule Caption: Relating to the Economic Recovery Review Council's new designation of two Regionally Significant Industrial Areas.
Adm. Order No.: ERRC 1-2015
Filed with Sec. of State: 3-31-2015
Certified to be Effective: 4-1-15
Notice Publication Date: 3-1-2015
Rules Adopted: 966-100-0700, 966-100-0800
Subject: The Economic Recovery Review Council met on January 28, 2015. Two new Regionally Significant Industrial Areas were adopted by the Council. The two new RISA's are the North Coast Business Park located in the City of Warrenton and Malheur County Regionally Significant Industrial Area located in the cities of Ontario, Nyssa and Vale. Both rules consist of descriptions of each new area.
Rules Coordinator: Mindee Sublette—(503) 986-0036

966-100-0700
North Coast Business Park

(1) The North Coast Business Park Industrial Area was approved by the ERRC as a designated RSIA on January 28, 2015.

(2) The North Coast Business Park Industrial Area located in the City of Warrenton, consists of 162 acres and is comprised of the following parcel acres: The 2 parcels at the designated area are as follows:

(a) Tax Lot — 206.
(A) Acres — 10.5.
(B) Address —Township: 8, Range: 10, Section: 27, Tax Lot: 206.
(b) Tax Lot — 207.
(A) Acres — 151.5.
(B) Address —Township: 8, Range: 10, Section: 27, Tax Lot: 207.

Stats Auth: ORS 197.723
Stats Implemented: ORS 197.723
Hist.: ERRC 1-2015, f. 3-31-15, cert. ef. 4-1-15

966-100-0800
Malheur County Regionally Significant Industrial Area

(1) The Malheur County Industrial Area was approved by the ERRC as a designated RSIA on January 28, 2015.

(2) The Malheur County Park Industrial Area located in the cities of Ontario, Nyssa, and Vale consists of 1021.79 acres and is comprised of the following parcel acres:

(a) There are 1 parcels at the Wada Industrial Site, as follows: Industrial Site 1 — Wada Industrial Site:
(A) Tax Map — 18S4706D:
(B) Tax Lots — 100:
(C) Total Acres — 75.03.

(b) There are 3 parcels at the Stelling Industrial Site, as follows: Industrial Site 1 — Stelling Industrial Site:
(A) Tax Map — 18S4705:
(B) Tax Lots — 3601, 3603, 3604:
(C) Total Acres — 77.04.

(c) There are 3 parcels at the Treasure 200 Industrial Site, as follows: Industrial Site 2: Treasure 200 Industrial Site:
(A) Tax Map — 18S4708:
(B) Tax Lots — 3500, 3501, 3600:
(C) Total Acres — 200.

(d) There are 7 parcels at the Rail Dependent Industrial Site, as follows: Industrial Site — Rail Dependent Industrial Site:
(A) Tax Map — 18S4716:
(B) Tax Lots — 1100, 1200, 1300, 1400, 1500, 1600, 1800:
(C) Total Acres — 275.

(e) There are 1 parcels at the Vale East Industrial Site, as follows: Industrial Site 1 — Vale East Industrial Site:
(A) Tax Map — 18S4521:
(B) Tax Lots — 100:
(C) Total Acres — 117.82.

(f) There are 2 parcels at the Vale West Industrial Site, as follows: Industrial Site 1 — Vale West Industrial Site:
(A) Tax Map — 18S4530:
(B) Tax Lots — 100, 300:
(C) Total Acres — 99.9.

(g) There are 9 parcels at the Nyssa North Industrial Site, as follows: Industrial Site 1 — Nyssa North Industrial Site:
(A) Tax Map — 19S4720:
(B) Tax Lots — 200, 205, 500, 2700, 2701, 2702, 2703, 3700, 3800:
(C) Total Acres — 177.

Stats Auth: ORS 197.723
Stats Implemented: ORS 197.723
Hist.: ERRC 1-2015, f. 3-31-15, cert. ef. 4-1-15

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Higher Education Coordinating Commission
Chapter 715

Rule Caption: Relating to allotment authority and university program approval requirements.
Adm. Order No.: HECC 2-2015
Filed with Sec. of State: 3-16-2015
Certified to be Effective: 3-16-15
Notice Publication Date: 2-1-2015
Rules Adopted: 715-013-0005, 715-013-0020
Subject: 715-013-0005 (Allotment Authority): Effective July 1, 2014, the Higher Education Coordinating Commission (the Commission) became responsible for determining the allocation of state funds appropriated for public university support between the three universities with governing boards and the four universities that remain governed by the State Board of Higher Education / Oregon University System until July 1, 2015. While the Commission determines on an annual basis the overall allocation by institution, this rule is necessary to ensure that the Commission can instruct the Department of Administrative Services (DAS) as to the precise timing, regularity and amount of intermediate allotments. The proposed OAR allows for this operational authority to be vested in the Commission Executive Director, or designee, for ease of operations.

715-013-0020 (General Public University Program Approval Requirements): Establishes basic process and standards for the Higher Education Coordinating Commission (the Commission) approval of significant changes to academic programs at public universities. Defines "significant change."
Rules Coordinator: Kelly Dickinson—(503) 378-5690

715-013-0005
Allotment Authority

Effective December 23, 2014, the Higher Education Coordinating Commission delegates to the Executive Director, or designee, authority in all areas of fiscal and administrative responsibility necessary for the execution of Commission policy relating to the allotment of funds to public universities.

Stat. Auth.: ORS 351.738
Stats. Implemented: ORS 351.735(3)(f), ORS 351.054(2)
Hist.: HECC 2-2015, f. & cert. ef. 3-16-15

715-013-0020
General Public University Program Approval Requirements

Effective December 23, 2014:

(1) Definition: "Significant change" to a university's academic program includes, but is not limited to, any new undergraduate or graduate degree program, or any existing undergraduate or graduate degree program that will be offered more than 40 miles from the site at which it is currently offered. "Significant change" to a university's academic program does

not mean a new undergraduate or graduate certificate program, new minor, or a new name for an existing degree program.

(2) The Higher Education Coordinating Commission has responsibility for approval of significant changes to public university programs.

(3) The Higher Education Coordinating Commission shall provide the governing boards of public universities with the standards, criteria and procedures the Commission will utilize to approve significant changes to a university's academic programs. These criteria will include consideration of the recommendation of the public university seeking to make the change and will ensure that approved programs:

(a) Are consistent with the mission statement of the public university;

(b) Do not unnecessarily duplicate academic programs offered by Oregon's other community colleges or public universities;

(c) Are not located in a geographic area that will cause undue hardship to Oregon's other community colleges or public universities; and

(d) Are allocated among Oregon's community colleges and public universities to maximize the achievement of statewide needs and requirements.

(4) Requests for approval of significant changes to a university's academic program must be submitted by the governing board of the university to the Higher Education Coordinating Commission prior to commencement of the program.

Stat. Auth.: ORS 351.728
Stats. Implemented: ORS 352.089, ORS 351.735(3)(g)
Hist.: HECC 2-2015, f. & cert. ef. 3-16-15

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Rule Caption: Establish procedure for the allocation and allotment of Public University Support Fund.
Adm. Order No.: HECC 3-2015
Filed with Sec. of State: 4-15-2015
Certified to be Effective: 7-1-15
Notice Publication Date: 2-1-2015
Rules Adopted: 715-013-0025
Subject: Establishes procedure for the allocation and allotment of the Public University Support Fund. This rule prescribes the components of the allocation calculation, called the Student Success and Completion Model, and the data elements that feed the model.
Rules Coordinator: Kelly Dickinson—(503) 378-5690

715-013-0025
Public University Support Fund Distribution

(1) Definitions:

(a) "Baccalaureate degree" is a degree that generally represents four years of college study, or its equivalent in depth and quality of learning experience, or as promulgated by the Northwest Commission on Colleges and Universities.

(b) "Classification of Instructional Programs" or "CIP" code is a numerical identifier assigned by the National Center for Education Statistics to an academic discipline to support tracking and reporting data at the field-of-study level.

(c) "Doctoral course" is a course completed by Ph.D. level students.

(d) "Doctoral degree" or "Ph.D." is a degree that generally indicates the recipient has done, and is prepared to do, original research in a major discipline. Doctoral degrees usually require three years or more of graduate-level coursework requiring an original research thesis or project, or as promulgated by the Northwest Commission on Colleges and Universities.

(e) "Dual credit" course is that which awards secondary and postsecondary credit as determined by both the granting secondary institution and granting public university.

(f) "Graduate certificate" is an official recognition of less than one year of post-baccalaureate study, or its equivalent in depth and quality, or as promulgated by the Northwest Commission on Colleges and Universities.

(g) "Higher Education Coordinating Commission" or "HECC" is the body established by ORS 351.715 and appointed by the Governor.

(h) "Lower division undergraduate course" is a course completed by freshman, sophomore, or nonadmitted undergraduate level students.

(i) "Master's course" is a course completed by master's degree, other graduate, or nonadmitted graduate level students.

(j) "Master's degree" is a degree that generally represents a first graduate degree, including about one year of post-baccalaureate study, or its equivalent in depth and quality. Professional masters degrees generally require up to two years or equivalent of coursework beyond the baccalaureate level, or as promulgated by the Northwest Commission on Colleges and Universities.

(k) "Outcomes" is an indicator of student achievement or educational attainment for state funding purposes, as determined by the HECC.

(l) "Professional course" is a course completed by first professional degree students.

(m) "Professional degree" is a degree that emphasizes application of knowledge in the field, including three or more years of carefully prescribed graduate level coursework, or as promulgated by the Northwest Commission on Colleges and Universities.

(n) "Public university" is any institution as defined in ORS 352.002, including; University of Oregon, Oregon State University, Portland State University, Oregon Institute of Technology, Western Oregon University, Southern Oregon University, and Eastern Oregon University.

(o) "Public University Support Fund" or "PUSF" is the general fund appropriation to the HECC intended for distribution by HECC to public universities as defined in ORS 352.002.

(p) "Resident" student is a student classified as such by a public university's Residency Classification Officer, reviewed by the Inter-institutional Residency Committee, or students granted resident tuition under ORS 351.641 and all doctoral students for SSCM purposes.

(q) "Settle up" is the process by which allocations created using estimated completion data are reconciled with finalized allocations created using actual year end data.

(r) "Student credit hour" or "SCH" is defined by the public university, in accordance with definitions promulgated by Northwest Commission on Colleges and Universities.

(s) "Student Success and Completion Model" or "SSCM" is a calculation-driven mechanism for determining the proportion of PUSF allocated to each public university.

(t) "Upper division undergraduate course" is a course completed by junior, senior, or postbaccalaureate undergraduate level students.

(2) Effective beginning with the 2015–16 fiscal year, the Student Success and Completion Model shall be the method for determining a public university's allocation of the PUSF.

(3) The SSCM will incorporate a public university's outcomes and SCH information for the three most recently completed fiscal years, or projections thereof, in determining allocation amounts. Projections will be completed before the third quarter of the prior fiscal year for the subsequent fiscal year that begins July 1st of that same calendar year.

(4) The Student Success and Completion Model consists of three components, Base Allocation, Activity-Based Allocation and Outcomes-Based Allocation:

(a) Base Allocation is determined by the HECC with deference to any legislative designation of specific resources as part of a public university's base allocation. It supports a public university's activities consistent with, but not limited to, any of three categories:

(A) Regional Support — Provides an allocation that contributes to the financial stability of public universities and ensures geographic access to public higher education for Oregonians.

(B) Mission Support — Provides an allocation to support public university programming consistent with the mission of public higher education as articulated in ORS 351.001. This section may support efforts relating to public services, cross-sector or cross-institutional programs, undergirding of university operations support, specific academic programs or other efforts by public universities.

(C) Research Support — Provides an allocation to support research activities conducted by the public universities.

(b) Activity-Based Allocation is determined by the total, cost weighted, completed, resident SCH at a public university consistent with the following methodology.

(A) The most recent 3-year average of resident SCH produced by each public university will be used to determine the Activity-Based Allocation.

(B) Relative cost values, by academic program and level will be utilized to differentiate appropriations by completed SCH. Relative values will be determined by the HECC for programs by CIP-identified discipline and by level, including lower division undergraduate, upper division undergraduate, Master's, and Doctoral levels.

(C) The combined relative value of completed SCH at a public university will determine the proportional share of Activity-Based Allocation allocated to each institution.

(c) Outcomes-Based Allocation is determined by the total cost weighted degrees produced, student type and priority area consistent with the following methodology.

(A) The most recent 3-year average of degrees conferred by public universities to resident students will be used to determine the Outcomes-

Based Allocation. Degrees are categorized by level, including Baccalaureate, Masters, Doctoral, Professional, and Graduate Certificates. The HECC will determine the relative weighting of degree levels.

(B) The HECC may set the relative value of degrees of particular priority to the state, including emphasis on those that are high demand, high reward or those that fill a particular need of the state. The HECC will solicit input from applicable state agencies, public universities and stakeholders to evaluate the expected labor force needs and select what priority degree types, if any, exist.

(C) The allocation calculation counts a degree awarded with multiple majors to one student as a single degree in the discipline with the greatest relative value.

(D) Degrees awarded to resident graduates who represented one or more targeted population characteristics identified as having lower completion rates, lower participation rates or other unique needs or qualifications may be prioritized by the HECC. The HECC will solicit input from applicable state agencies, public universities and stakeholders to identify what priority student populations, if any, exist.

(E) The combined relative values of degree level, academic discipline, and targeted population group representation determines the Outcomes-Based Allocation allocated to each public university.

(5) The cumulative results of the Base Allocation, Activity-Based Allocation and Outcomes-Based Allocation may be adjusted by the HECC during a four year phase-in period beginning in the 2015–2016 fiscal year and concluding in the 2019–2020 fiscal year, or until discontinued by the HECC, in order to reduce the rate of change in the absolute value of PUSF allocations to a public university and maintain relative stability and predictability throughout the transition period. At least two operations may be performed in determining any such adjustment: Stop loss and stop gain. These calculations compare the allocation calculation to the prior year allocation on a university-by-university basis to determine the level of change, as a percentage. For the 2015–16 fiscal year, the 2014–15 allocation shall be the baseline for any stop loss or stop gap operations. The HECC may establish thresholds of change that trigger a stop loss redistribution of allocation, a stop gain redistribution of allocation, or both.

(6) When projections are used to determine a public university's allocation, a settle up procedure may be used to prorate unallotted payments to adjust for finalized data. The settle up procedure may alter the funding allocation of a public university from that which was originally allocated by the HECC. A settle up procedure, if used will be executed in the second quarter, or as soon as practicable of every fiscal year, and approved by vote of the HECC. If necessary, a settle up may take place in subsequent fiscal years but will, in general, be avoided.

(7) Allotments are made quarterly with timing and amounts determined by agreement between the HECC and the Department of Administrative Services.

(8) Pursuant to ORS 351.735(6) the HECC delegates administrative authority to the Executive Director to operationalize the Student Success and Completion Model and the procedures outlined in this Administrative Rule.

Stat. Auth.: ORS 351.735(3)(d) & 351.735(6)
Stats. Implemented: 2013 SB 270, 2013 HB 3120, 2014 HB 4018 2014 SB 1525
Hist.: HECC 3-2015, f. 4-15-15, cert. ef. 7-1-15

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Rule Caption: Relative weights and standards to be used in calculations of Student Success and Completion Model.
Adm. Order No.: HECC 4-2015
Filed with Sec. of State: 4-15-2015
Certified to be Effective: 7-1-15
Notice Publication Date: 3-1-2015
Rules Adopted: 715-013-0040
Subject: The Higher Education Coordinating Commission (the Commission), in consultation with Oregon public universities, has developed the Student Success and Completion Model (SSCM), which allocates the Public University Support Fund by incorporating measures of student credit hour and degree completions. The major components of the SSCM calculation methodology were determined with assistance from representatives of the public universities and other stakeholder groups. This rule codifies the metrics and weights that will be utilized in making this calculation.
Rules Coordinator: Kelly Dickinson—(503) 378-5690

715-013-0040
Public University Support Fund Distribution Factors

(1) The purpose of this rule is to list the relative weights and values of factors to be used in calculations of the Student Success and Completion Model as defined in OAR 715-013-0025. All terms are defined as they are in Section 1 of OAR 715-013-0025.

(2) The Base Allocation for 2014-15 is as follows. Table 1 serves as the basis for the Base Allocation portion of the PUSF. Base Allocation will be recalculated on a yearly basis, with the following table serving as the reference year, by the minimum of inflation as promulgated by the Department of Administrative Services or the yearly proportional change in the Public University Support Fund. [Table not included. See ED. NOTE.]

(3) The allocation per Dual Credit Student Credit Hour (SCH) for 2014-15 is as follows. Table 2 serves as the basis for the allocation of funds for Dual Credit Student Credit Hours. Subsequently, it will be recalculated on a yearly basis, with the following table serving as the reference year, by the minimum of inflation as promulgated by the Department of Administrative Services or the yearly proportional change in the Public University Support Fund. [Table not included. See ED. NOTE.]

(4) The relative cost weights for SCH calculations shall be as follows for all institutions. [Table not included. See ED. NOTE.]

(5) The relative weighting of Degrees, by level, shall be as follows. [Table not included. See ED. NOTE.]

(6) The additional weights given to degrees granted to undergraduate resident students who are members of one or more targeted student populations shall be as follows. [Table not included. See ED. NOTE.]

(7) The additional weights given to degree types of particular interest to the state are defined as follows, by Classification of Instructional Program code or Teacher Education Licensure Program Code, and shall be as follows. [Table not included. See ED. NOTE.]

(8) Degree weights shall be adjusted to account the relative cost of instruction. The cost weighting factors for degree completion are determined by Classification of Instructional Program code and degree level and shall be as follows. [Table not included. See ED. NOTE.]

(9) The HECC shall allocate non-Base PUSF between Outcomes-Based Allocation and Activity-Based Allocation, for Fiscal Year 2016 through Fiscal Year 2019 as follows. All subsequent fiscal years will be allocated as in Fiscal Year 2019. [Table not included. See ED. NOTE.]

(10) This rule shall become effective on July 1, 2015.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 351.735(3)(d), 351.735(6)
Stats. Implemented: 2013 SB 270, 2013 HB 3120, 2014 HB 4018 2014 SB 1525
Hist.: HECC 4-2015, f. 4-15-15, cert. ef. 7-1-15

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Higher Education Coordinating Commission, Office of Degree Authorization
Chapter 583

Rule Caption: Update rules to reflect transfer to commission, correct citations, clarify language, and adopt procedural rules.
Adm. Order No.: ODA 1-2015
Filed with Sec. of State: 3-17-2015
Certified to be Effective: 3-17-15
Notice Publication Date: 2-1-2015
Rules Adopted: 583-001-0015
Rules Amended: 583-001-0000, 583-001-0005, 583-030-0005, 583-030-0009, 583-030-0010, 583-030-0011, 583-030-0015, 583-030-0016, 583-030-0020, 583-030-0025, 583-030-0030, 583-030-0032, 583-030-0035, 583-030-0036, 583-030-0038, 583-030-0039, 583-030-0041, 583-030-0042, 583-030-0043, 583-030-0044, 583-030-0045, 583-030-0046, 583-030-0049, 583-050-0006, 583-050-0011, 583-050-0014, 583-050-0016, 583-050-0026, 583-050-0027, 583-050-0028, 583-050-0036, 583-050-0040, 583-070-0002, 583-070-0011, 583-070-0015, 583-070-0020
Rules Repealed: 583-040-0005, 583-040-0010, 583-040-0025
Subject: The Higher Education Coordinating Commission (commission) is proposing to adopt a new temporary rule, OAR 581-010-0010, establishing a procedure for adopting fees for the purpose of recovering expenses incurred by staff responding to public records requests.

The commission is proposing to suspend OAR 583-040-0005, 583-040-0010, and 583-040-0025, which implemented the "adverse impact process" of ORS 348.603 because chapter 658, Oregon Laws

2013, amended ORS 348.603 and removed the "adverse impact process" from statute.

The Legislative Assembly transferred the duties, functions, and staff of the Office of Degree Authorization (ODA), Oregon Student Access Commission (OSAC), to the commission. Chapter 637(9), Oregon Laws 2011. The commission is amending the former ODA's administrative rules to replace references in those rules to the ODA, ODA's director, OSAC, and OSAC's director with references to the commission and its executive director.

The commission is amending OAR 583-010-0000 and 583-001-0005, the former ODA's procedural rules, so that they conform to the commission's procedural rules in OAR 715-001-0020 and 715-001-0025.

The commission is amending rules throughout OAR chapter 583 to correct and update references in those rules to statutes and administrative rules, clarify obtuse language, update the commission's contact information, and conform to the Attorney General's Model Rules of Procedure.

The commission is amending OAR 583-030-0015, 583-050-0011, and 583-070-0011 so that the definitions established in those rules are presented alphabetically.

Rules Coordinator: Kelly Dickinson—(503) 378-5690

583-001-0000
Notice of Proposed Rule

Effective January 13, 2015:

(1) Before permanently adopting, amending, or repealing any permanent rule, the Higher Education Coordinating Commission shall give notice of the proposed adoption, amendment, or repeal:

(a) In the Secretary of State's Bulletin, referred to in ORS 183.360, at least 21 days prior to the effective date of the rule;

(b) By mailing or e-mailing, at least 28 days before the effective date of the rule, a copy of the notice to persons on the Commission's mailing and e-mailing lists established pursuant to ORS 183.335(8);

(c) By mailing or e-mailing a copy of the notice to the legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule; and,

(d) By mailing or e-mailing a copy of the notice to persons, organizations, and publications identified by the Commission and established educational, student, and parent organizations that have submitted mailing or e-mailing addresses to the Commission.

(2) Persons who wish to receive written or e-mailed copies of notices of proposed rulemaking from the Commission may write or e-mail the Commission and request that they be placed on the Commission's mailing or e-mailing lists.

(3) The Commission may update the mailing and e-mailing lists described in this rule annually by requesting persons to confirm that they wish to remain on the lists. If a person does not respond to a request for confirmation within 28 days of the date the Commission sends the request, the Commission will remove the person from the Commission's mailing and e-mailing lists. Any person removed from the mailing or e-mailing lists will be returned to the mailing or e-mailing list upon request, provided that the person provides a mailing address or e-mailing address to which notice may be sent.

Stat. Auth.: ORS 183.335, 183.341(4), 348.606, & 351.728
Stats. Implemented: ORS 183.335
Hist: ECC 21, f. & ef. 11-28-75; ECC 1-1984, f. & ef. 11-28-84; ODA 2-2000, f. 7-7-00, cert. ef. 7-20-00; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-001-0005
Model Rules of Procedure

Effective January 13, 2015. Pursuant to the provisions of ORS 183.341, the Higher Education Coordinating Commission adopts the Attorney General's Model and Uniform Rules of Procedure under the Administrative Procedure Act in effect on January 1, 2012..

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the Office of Degree Authorization.]
Stat. Auth.: ORS 183 & 348
Stats. Implemented: ORS 183.341
Hist: ECC 22, f. & ef. 1-13-76; ECC 4-1978, f. & ef. 4-12-78; ECC 1-1980, f. & ef. 2-19-80; ECC 2-1981, f. & ef. 12-16-81; ECC 2-1983, f. & ef. 11-7-83; ECC 1-1986, f. & ef. 9-20-86; ODA 2-2000, f. 7-7-00, cert. ef. 7-20-00; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-001-0015
Establishing Fees for Public Record

Effective January 13, 2015. A fee may be imposed on any school or person requesting services or information from the Higher Education Coordinating Commission pertaining to the administration of its functions under ORS 348.594 to 348.615. The amount of the fee shall be established by the manager to whom the commission has delegated the responsibility to manage the commission's functions under ORS 348.594 to 348.615. The amount of the fee shall be sufficient to recover designated expenses incurred by the commission in carrying out the administration of ORS 348.594 to 348.615. Any fees collected by the commission, for services that are the responsibility of the manager, shall be deposited in the Degree Authorization Account established under ORS 348.601 and used exclusively for purposes directly related to the duties and functions of the commission under the authority of the manager as delegated by the commission.

Stat. Auth.: ORS 348.603
Stats. Implemented: ORS 348.603
Hist.: ODA 1-2015, f. & cert. ef. 3-17-15

583-030-0005
Purpose and Scope

Effective January 13, 2015:

(1) This rule implements ORS 348.594 to 348.615 and 348.992 insofar as each section therein relates to ORS 348.606, which provides that a school must meet state standards and be approved by the Higher Education Coordinating Commission before it may confer or offer to confer any academic degree, or provide services purporting to lead to a degree, by establishing the standards and the procedures to implement the standards or to verify any exemption or exclusion.

(2) This rule applies to any school offering degrees and credits from within Oregon to recipients anywhere, and it applies to any person assisting such a school. The rule further applies to any school offering degrees and credits from outside of Oregon, in connection with learning or evaluation meant to occur within this state, if there is any person assisting the school from within this state in any way. Assisting the school includes, but is not limited to:

(a) Maintaining an office or mailing address in the state or

(b) Conducting any part of the instruction program or support activities from or in the state.

(3) Exclusions to the rule are described in OAR 583-030-0009.

(4) Complete and partial exemptions and modifications are described in OAR 583-030-0010 and 583-030-0011.

Stat. Auth.: ORS 348.594 & 348.606
Stats. Implemented: ORS 348.594, 348.603 & 348.606
Hist.: ECC 22, f. & ef. 12-22-75; ECC 2-1980, f. & ef. 4-14-80; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1993, f. & cert. ef. 6-28-93; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; SSC 1-1997(Temp), f. & cert. ef. 8-25-97; ODA 2-1998 f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-030-0009
Exclusions

Effective January 13, 2015. These rules do not apply to:

(1) A school that offers degrees or credits from outside of Oregon and is unassisted within the state, so that any concomitant learning or evaluation occurring within Oregon is accomplished exclusively through interstate communication (e.g., internet, mail, telephone, fax) in which the student acts entirely alone within this state.

(2) Postsecondary schools that do not offer degrees or credits viable toward a degree, absent an articulation agreement with an authorized school, but do confer certificates and diplomas in instructional programs for the purpose of instructing, training, or preparing students for any profession. Such schools are subject to ORS chapter 345.

Stat. Auth.: ORS 348.594 - 348.615, 2005 SB 1039 enrolled (2005 Laws 546)
Stats. Implemented: ORS 348.594 - 348.615
Hist.: ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-030-0010
Exemptions

Effective January 13, 2015. The standards and procedures in this rule shall not apply to a school that is exempt.

(1) A school in the public postsecondary educational system of the State of Oregon is exempt when offering degrees and credits exclusively in its own name and under its own control as the Oregon University System or constituent unit thereof, an Oregon community college, or the Oregon Health and Science University.

(2) A school is exempt on religious grounds if the school meets the requirements of ORS 348.604 and 348.608. No rules in this division are applicable to a religious-exempt school, except as permitted by ORS chapter 348.

(3) A regionally accredited nonprofit school or separately regionally accredited campus of a nonprofit school that has operated at least one program approved by the Higher Education Coordinating Commission, or its predecessor agencies, in Oregon for at least five consecutive years is exempt.

Stat. Auth.: ORS 348.604 & 348.606

Stats. Implemented: ORS 348.597, 348.604, 348.605

Hist.: ECC 22, f. & ef. 12-22-75; ECC 2-1980, f. & ef. 4-14-80; ECC 3-1981, f. & ef. 12-16-81; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; SSC 1-1997(Temp), f. & cert. ef. 8-25-97; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2003, f. & cert. ef. 4-16-03; ODA 4-2003, f. 10-29-03, cert. ef. 11-1-03; ODA 2-2004(Temp), f. & cert. ef. 2-11-04 thru 7-30-04; Administrative correction 8-19-04; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2010, f. & cert. ef. 11-16-10; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-030-0011

Modification for Schools Having Separate Regional Accreditation

Effective January 13, 2015:

(1) The standards of a U.S. regional accrediting association shall be substituted for the standards in these rules for all Oregon operations of a school that has conferred degrees under the same control for five years in Oregon from at least one operationally separate unit accredited as a separate institution by such association, provided the school submits for arbitration by the Higher Education Coordinating Commission any unresolved dispute in which a person alleges detrimental violation of a standard guaranteed by the accreditor but which the accreditor has declined to arbitrate. An "operationally separate unit" is a complete and semi-autonomous institution that has a core of full-time teachers, a separate student body, local administration for all educational functions, and academic programs comprising the totality of educational experience. The unit must be separately evaluated by the appropriate accreditor following regular procedures for the accreditation of an autonomous institution, and it must be listed as separately accredited in all regional and national directories.

(2) Upon substitution of standards, the commission will waive application requirements and apply abbreviated reporting requirements.

(3) Arbitration will be as informal as possible, including a sustained effort at compromise through mediation, and will occur only after all of the school's internal procedures for dispute resolution have been exhausted.

(4) Arbitration decisions will be based on the standards published by the accreditor as interpreted through continual consultation with the accreditor, and the commission will not substitute its judgment for that of school officials in the ordinary interpretation of factual evidence or the exercise of managerial discretion. In the absence of any obvious factual error that changes the decision record as a whole, the question for arbitration will be whether institutional procedures have been as promised and have led to an action consistent with the accreditation standards as interpreted reasonably and fairly.

(5) The commission, at its discretion, may refuse or discontinue arbitration in any case where the dispute is trivial in that it does not involve a significant question of standards, where a complaint is frivolous or indicates harassment of an institution by a complainant, where the issue is managerial judgment rather than an objective standard or of value preference rather than justice, where the matter falls within the more appropriate jurisdiction of another state agency to which appeal is readily available, or where a decision involves fundamentally the academic judgment of expert professionals on the faculty. No case that has entered litigation may be accepted for arbitration unless there is a binding suspension of litigious activities.

(6) Judicial review of an arbitration decision is available to either party under the Administrative Procedure Act, ORS chapter 183, which provides for review of agency orders in other than contested cases. A petition for judicial review of an order in other than a contested case may be made to the Circuit Court for Marion County or circuit court in the county where the petitioner resides, as provided in ORS 183.484.

Stat. Auth.: ORS 348.606

Stats. Implemented: ORS 348.603 & 348.606

Hist.: EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; Renumbered from 583-030-0037, ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-030-0015

Definitions of Terms

Effective January 13, 2015. The following definitions have particular application to one or more provisions of this division.

(1) "Academic year" means approximately nine months, conventionally during fall, winter, and spring.

(2) "Accredited" means approved to offer degrees at a specified level by an agency or association recognized as an accreditor in the U.S. by the U.S. Secretary of Education or having candidacy status with an agency or association whose pre-accreditation category is recognized specifically by the U. S. Secretary of Education as an assurance of future accreditation.

(3) "At risk" means the school demonstrates one or more of the following conditions that the Higher Education Coordinating Commission determines may cause potential serious problems for the continued successful operation of the organization: Failure to meet the standards of financial responsibility; Misrepresentation; Frequent substantiated complaints filed with the commission; Significant decrease in enrollment from the previous reporting year; or Significant staff turnover from the previous reporting year.

(4) "Certificate" means a formal academic award that signifies, purports, or may generally be taken to signify completion of a course of instruction for which college or university-level academic credit is given but which is shorter or more limited than that leading to a degree. Certificate includes the term "diploma" if used to mean a similar award. A certificate may be at the undergraduate or graduate level.

(5) "Class hour" or "contact hour" means approximately one hour of direct communication between a teacher and one or more students, minus time for rest or change of classes. Conventionally this has been a fifty-minute period.

(6) "Confer a degree" means give, grant, award, bestow, or present orally or in writing any symbol or series of letters or words that would lead the recipient to believe a degree had been obtained.

(7) "Credit," when the full term is "postsecondary or college credit," means indication or certification by a school that a student has completed a unit of study, demonstrated achievement or proficiency, or manifested measured learning outside of school so as to have satisfied a portion of the requirements for a degree or for any other academic recognition offered by the school.

(8) "Credit hour" means one postsecondary credit resulting from one of the following intended to result from at least 2 hours of student work out of class (or in equivalent lab time) for each contact hour in class, totaling:

(a) Approximately 45 hours of student work in a semester;

(b) Approximately 30 hours of student work in a quarter;

(c) An equivalent amount of student work under an alternate term calendar schedule approved by ODA; or

(d) Equivalent student work demonstrated by student performance on a nationally recognized examination or evaluation acceptable to the commission.

(9)(a) "Degree" means any academic or honorary title, rank, or status that may be used for any purpose, which is designated by a symbol or series of letters or words such as, but not limited to, associate, bachelor, master, or doctor, and forms or abbreviations thereof that signifies, purports, or may generally be taken to signify:

(A) Completion of a course of instruction at the college or university level;

(B) Demonstration of achievement or proficiency comparable to such completion; or

(C) Recognition for nonacademic learning, public service, or any other reason of distinction comparable to such completion.

(b) "Degree" does not refer to a certificate or diploma signified by a series of letters or words unlikely to be confused with a degree, clearly intended not to be mistaken for a degree, and represented to students and the public in ways that prevent such confusion or error.

(10) "Executive Director" means the executive director of the Higher Education Coordinating Commission, or the executive director's designee.

(11) "External degree" means a degree that can be earned mostly or entirely through correspondence, electronic recordings, or subscription telecommunications, rather than by resident instruction, except that some assistance may be provided for students face-to-face by school adjuncts in capacities such as advisor, mentor, tutor, clinic or practicum supervisor, topical speaker, occasional seminar leader, evaluator, or member of a thesis or study committee.

(12) "First-professional degree" means master's or doctor's degree conferred upon completion of a course of study for which admission into some schools may be gained with less than a baccalaureate, but for which

pre-admission and professional study together invariably require more time than is required for a bachelor's degree alone, regardless of how many matriculants already have a bachelor's degree.

(13) "Full-time equivalent" or "FTE" means the imaginary number of students, teachers, or other personnel, any member of which may be engaged full time or part time, who in combined time expended would be the equivalent of one full-time unit of the kind being described.

(14) "Full-time student" means a student who is engaged in academic study as the student's primary occupation, thus ordinarily requiring 35 to 45 hours per week divided between interaction with teachers and independent preparation.

(15) "Graduate degree" or "post-baccalaureate degree" means a master's or doctor's degree conferred upon completion of a course of study for which admission can be gained only through possession of a bachelor's degree satisfactory to the school offering the graduate instruction.

(16) "General Education" is a term that includes liberal education and other nonvocational courses outside a student' major field.

(17) "Liberal Arts and Sciences courses" means courses in the following subjects:

(a) The humanities, such as language, literature, philosophy, religious thought, and fine arts (not emphasizing performance skills);

(b) The social sciences, such as anthropology, cultural geography, general history, religious history and culture, economics, political science, general psychology, and sociology; and

(c) The natural sciences, such as Biology, biological psychology, chemistry, physics, geology and physical geography, mathematics.

(18) "Limited resident instruction" means instruction by an accredited school consisting of less than 50 percent of a degree or certificate program offered to more than one student at a physical site in Oregon, when the providing school is not otherwise authorized to offer degrees in Oregon.

(19) "Lower-division instruction" means course content and teaching at a level appropriate for first- and second-year postsecondary students generally (including all community college and associate degree instruction), but available to more advanced students who have no prior experience in the subject.

(20) "Non-Oregon school" means any school controlled from outside the state.

(21) "Offer a degree" means announce, advertise, declare, or imply orally or in writing the willingness or intention to confer a degree directly or to cause a degree to be conferred by agreement or arrangement with any person or school.

(22) "Oregon school" means any postsecondary school or organized group of postsecondary schools that has its principal executive offices in Oregon or is otherwise controlled effectively from within this state, regardless of the number of students served in various locations.

(23)(a) "Person assisting a school" means any person or organization helping the school or its students or clients by acting as educator or intermediary or provider of communication technology or by acting in any other way that helps the school offer or effectuate its services in Oregon, regardless of whether the person assisting has a contract or compensation.

(b) "Person assisting a school" includes, but is not limited to, school personnel employed as an advertiser, recruiter, admissions agent, course registerer, advisor , teacher, mentor, tutor, supervisor of an internship or practicum, occasional speaker, seminar leader, informal discussion leader, student host for group activity, evaluator, member of a thesis or study committee, publisher of educational materials, or operator of a radio station, internet service provider, or a cable or broadcast television station.

(24) "Practicum" means that portion of a degree program that involves a supervised field placement in a professional or workplace environment. For purposes of these rules, also includes "internship."

(25) "Professional and vocational courses" include, but are not limited to, courses in the following subjects: agriculture and forestry (or wildlife management), architecture and design, business and public administration, broadcasting or journalism, computer technology, education, engineering and related technologies, health professions, home economics, law, library science, military science, parks and leisure studies, physical education and recreation, protective services, religious services, artistic performance or physical activity courses, or practical and general information courses such as personal health, career planning, human relations, public speaking, elementary writing, elementary mathematics, and computer fundamentals.

(26) "Quarter" means one third of an academic year, typically 9-12 weeks in length and divided among fall, winter and spring.

(27) "Regionally accredited" means approved to offer degrees at a specified level by a regional institutional accreditor recognized for that purpose by the U.S. Secretary of Education.

(28) "Religious degree" means a degree with a title in theology or religious occupation(s).

(29) "Residential degree" means a degree earned primarily through resident instruction.

(30) "Resident instruction" means face-to-face teaching and learning at a school's main campus or other major facility with a regularity designed to accommodate full-time students and others who need continuous access to teachers and related resources on site.

(31)(a) "Restricted degree" means an external or semi-residential degree offered exclusively to employees or members of contracting organizations, which receive on their own premises services that may include direct or televised teaching by regular or adjunct faculty members of the school.

(b) "Restricted degree" does not mean a degree program that is open to all members of the general public who are qualified for admission.

(32) "School" means any person or persons and any organization or group of organizations, whether incorporated or not, engaging or appearing to engage in the activities of an educational entity or institution of learning, whether or not naming itself a school, college, university, institute, academy, seminary, conservatory, or similar term. The activities attributable to a school include but are not limited to teaching, measurement of achievement or proficiency, or recognition of educational attainment or comparable public distinction.

(33) "Semester" means half an academic year, typically 15-16 weeks in length, conventionally including a fall semester from September through December and a spring semester from January through May.

(34) "Semi-residential degree" means a degree that can be earned through a combination of residential and external methods but requires a substantial portion of learning from structured face-to-face teaching at a school's main campus or other major facility, or at a temporary instructional site where students meet in groups.

(35) "State academic standards" for Oregon means the standards provided in OAR 583-030-0035.

(36) "Term" means a segment of an academic year, ordinarily a semester or quarter but sometimes less. Term is the preferred descriptor for degree program courses using a nontraditional calendar.

(37) "Upper-division instruction" means course content and teaching appropriate for third- and fourth-year students or others with a strong background in the subject. Upper-division instruction is not offered in associate degree programs or by community colleges.

Stat. Auth.: ORS 348.594 & 348.606

Stats. Implemented: ORS 348.594, 348.603 & 348.606

Hist.: ECC 22, f. & ef. 12-22-75; ECC 2-1980, f. & ef. 4-14-80; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1993, f. & cert. ef. 6-28-93; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; SSC 1-1997(Temp), f. & cert. ef. 8-25-97; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 1-2003, f. & cert. ef. 4-16-03; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-030-0016
Exclusive Use of Term "University"

Effective January 13, 2015. The term "university" refers exclusively to a school that is authorized to offer bachelor's degrees together with graduate or first professional degrees, or to an organization that constitutes a formal consortium of schools so authorized. Any entity that calls itself "university" without authorization but with serious intent will be referred to the Department of Justice for enforcement of the statute that defines such deceptive representations as unlawful trade practices.

Stat. Auth.: ORS 348.606

Stats. Implemented: ORS 348.596, 348.603 & 348.606

Hist.: EPP 1-1993, f. & cert. ef. 6-28-93; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-030-0020
Exercise of Authority

Effective January 13, 2015:

(1) A school that intends to offer to anyone from within Oregon or offer to Oregon residents from outside the state any form of instruction, lecture, training, tutoring, seminar, workshop, examination, evaluation, or other service represented as contributing credit or otherwise leading toward a specified or unspecified degree or certificate that will or might be conferred anywhere shall notify the Higher Education Coordinating Commission in advance and then promptly supply all information the commission requests. Failure to notify the commission in advance, or to provide information as directed, may result in permanent denial of approval for the school to offer any services in or from Oregon, as well as administrative action, up to and including assessment of civil penalties.

(2) Schools that offer no degrees in Oregon but want to offer a certificate are subject to the requirements of ORS chapter 345 and OAR chapter 715, division 45.

(3) Schools intending to apply for authorization or exemption from the commission shall provide the commission with information about the school's ownership and structure, proposed programs, and relationships to other institutions, if any. On the basis of this preliminary information, the commission's executive director will determine whether the school:

(a) Must apply for state authorization to offer instruction or related services leading to one or more degrees under the standards of OAR 583-030-0035 or 583-030-0036;

(b) Is exempt for other than religious reasons under ORS 348.597;

(c) Is eligible for exemption under ORS 348.604 and therefore has a choice of standard state approval or religious exemption.

(4) A school that applies for degree authorization or exemption shall use forms and follow procedures determined by the commission. Failure to comply constitutes good reason to reject an application. Such school shall be open to inspection and may be inspected at any time to verify its statements and to examine facilities. Inspection of a school and evaluation of its application will be performed by state officials or consultants as the executive director considers necessary, and findings will be utilized as the commission considers appropriate. Information from other examiners, such as accreditors or professional licensing agencies, may accompany materials submitted by the school and may be used by the commission at its discretion.

(5) Authorization to offer instruction or related services leading to a degree applies to specific curricula and services for specific periods:

(a) Authorization is normally given for the state as a whole, but may be limited by the commission in order to ensure program quality or operational stability.

(b) The commission, on the basis of judgment about the relationship between a curriculum and a degree title, may require revision of title. Degree titles may not contain the name of organizations, companies or products.

(c) Authorization is given for a specific degree for a fixed period of not less than two nor more than four calendar years. The executive director may vary the length of approval periods by up to one year subject to the four-year limit in order to consolidate applications or renewals for the convenience of the school or the commission.

(6) Authorization to offer instruction or related services leading to a degree expires at the end of the period for which it is given, without right or presumption of renewal, except that an authorized school having submitted a complete and timely application for renewal continues to be authorized until such time as a review or revocation procedure may determine otherwise. After discontinuing its offer of an authorized degree before the end of the period of authorization, a school shall not reinstate the degree without permission from the commission. A program shall be deemed discontinued if a period of two academic years passes without any students being enrolled in the program.

(7) Authorization to offer instruction or related services leading to a degree is subject at all times to supplemental review if the school appears to be at risk or to revocation for proper cause according to procedures described in OAR 583-030-0045.

(8) Approval of a degree by the commission does not constitute approval of the program as training for professional practice when the state licenses or otherwise regulates professional practice. Applicants must also seek approval from the appropriate state licensing entity.

Stat. Auth.: ORS 348.606
Stats. Implemented: ORS 348.597, 348.603 & 348.606
Hist.: ECC 22, f. & ef. 12-22-75; ECC 2-1980, f. & ef. 4-14-80; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1993, f. & cert. ef. 6-28-93; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 1-2003, f. & cert. ef. 4-16-03; ODA 4-2003, f. 10-29-03, cert. ef. 11-1-03; ODA 2-2004(Temp), f. & cert. ef. 2-11-04 thru 7-30-04; Administrative correction 8-19-04; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-030-0025
General Conditions Required for Residential or Semi-residential Degree Program Authorization

Effective January 13, 2015. All applicant schools must meet the following conditions to apply for initial or renewed authorization to offer a residential or semi-residential degree to Oregon residents or to offer any degree from within Oregon to persons anywhere.

(1) A school must appoint a responsible administrator who resides and has a business address and telephone within the state, who may transact the essential business of application, and who in any case shall be made an informed party to all such business. If a non-Oregon-based school plans a small or narrowly specialized operation within this state, the executive director may permit the applicant to use an out-of-state administrator.

(2) All programs must be designed to allow all students to work toward a degree at a rate equivalent to at least half-time study.

(3) No school shall be eligible to apply for authorization to offer in or from Oregon any instruction or other services leading to a doctor's degree before it has obtained accreditation or pre-accreditation candidacy at or above the bachelor's degree level recognized by the U.S. Secretary of Education. However, offer of doctoral programs in another state by an unaccredited school will not automatically disqualify such school from authorization to offer degrees below the doctoral level in Oregon. The only exception to this provision is that a proposed school offering one or more doctoral programs leading to professional licensure in a field in which Oregon has such licensure may apply for approval from the Higher Education Coordinating Commission. In such cases, the school proposing to offer doctoral programs may apply for commission approval only if the program is designed and intended to meet the standards for licensure required by the appropriate Oregon professional licensing board.

(4) A foreign (non-U.S.) school is eligible to apply for Oregon approval if it is approved to offer degrees by the appropriate agency in its home country and the commission finds that its home country has adequate oversight of academic programs. Foreign schools are not limited to offering in Oregon the same degrees for which they have approval in their home country, but may not offer degrees at a higher level in Oregon than those for which they have authorization in their home country.

Stat. Auth.: ORS 348.606
Stats. Implemented: ORS 348.603 & 348.606
Hist.: ECC 22, f. & ef. 12-22-75; ECC 2-1980, f. & ef. 4-14-80; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2003, f. & cert. ef. 4-16-03; ODA 1-2005, f. & cert. ef. 3-3-05; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-030-0030
Application Procedure

Effective January 13, 2015:

(1) A school seeking initial degree authorization should allow three months to prepare its application and six additional months for review by the Higher Education Coordinating Commission. Approval of exempt degrees and abbreviated reviews for certain external or semi-residential degrees or for limited or restricted residential instruction may require less time. To be considered timely, a complete application for renewal of an existing authorization must be submitted six months before that authorization expires, and a school seeking renewal is fully responsible for beginning the procedure.

(2) In order to be valid, application must be made by the method determined by the commission, including completion according to instruction of any forms provided for the purpose. Modification will be allowed by explicit permission only. The applicant school shall submit any information requested by the commission and may submit such supplemental information as it considers pertinent. The commission will provide advice.

(3) Program approval may be made conditional on approval of employees hired after the approval date.

(4) Application for authorization to offer a degree or to provide services leading to a degree in whole or in part must be accompanied by payment of the fee described in OAR 583-030-0046 or such reduced fee as is determined by the commission in special circumstances. Several curricula leading to the same degree may be submitted as part of a single application.

(5) If a school has limited financial resources, the commission may, at its discretion, allow payment of fees over a period of time not to exceed two years from the date of initial approval. In the event that an initial application is successful, payment in full must be received before application for renewal can be accepted. In the event that initial application is not successful, payment in full of the review fee must be completed within two years of the date of formal denial of the application. Any proposed payment plan must be evaluated and, if adequate, approved by the commission's executive director. ORS 348.606 prohibits fee refunds.

Stat. Auth.: ORS 348.606
Stats. Implemented: ORS 348.603 & 348.606
Hist.: ECC 22, f. & ef. 12-22-75; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 1-2003, f. & cert. ef. 4-16-03; ODA 1-2004, f. & cert. ef. 1-14-04; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-030-0032
Review Process for Degrees

Effective January 13, 2015:

(1) Review of an application to offer instruction or related services leading to a degree or certificate includes evaluation of the school and its proposed programs in relation to the state academic standards set forth in OAR 583-030-0035, or modified under 583-030-0036 for a non-Oregon school that will offer limited resident instruction in Oregon.

(2) Pursuant to OAR 583-030-0036, the Higher Education Coordinating Commission at its discretion may employ an abbreviated review procedure with adjusted fee for a non-Oregon school offering limited or restricted instruction in Oregon for an external degree.

(3) Review of free-standing certificate or diploma programs offered by degree-granting schools, or credit-bearing courses offered by schools that do not issue degrees in their own name will generally follow the model for associate degrees.

(4) In the course of evaluation, the commission's staff will ordinarily inspect the facilities and records of an applicant school and interview officials, employees, or students of the school as necessary to obtain sufficient information. The staff may also interview employers of school graduates and representatives of organizations that appear closely related to the school.

(5) Where competency in a particular academic discipline is essential to an evaluation, the commission's executive director may seek expert advice in that discipline. However, adequacy of instruction in a discipline will ordinarily be judged by faculty credentials in relation to the standards, by curricular content in comparison with similar programs of established quality, and by educational resources and student performance. Where competency in a particular occupation or profession is needed for an evaluation, the executive director will seek expert advice from the corresponding state licensing board.

(6) The state will not review sectarian content of curriculum for degrees with a religious title or significant religious content; the state's only concern will be to ensure that the curriculum has a reasonable structure related to credits awarded.

(7) The review culminates in preparation of findings, including explanation of any failure to satisfy a standard, which are provided to the applicant in a formal report. Approval is not granted until all standards are satisfied. If a standard cannot be satisfied in a reasonable length of time, approval will be denied.

(8) Refusal by the commission to authorize an applicant school to offer instruction or related services leading to a degree is subject to right of review as provided in ORS 348.615 by an action brought for trial without jury in the circuit court of the county in which the school is located. A school or putative school having no location in Oregon at which students are actually served must bring any such action in the circuit court of Marion County.

Stat. Auth.: ORS 348.606

Stats. Implemented: ORS 348.603 & 348.606

Hist.: ECC 22, f. & ef. 12-22-75; ECC 26, f. & ef. 6-8-77; ECC 2-1980, f. & ef. 4-14-80; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 1-2003, f. & cert. ef. 4-16-03; Renumbered from 583-030-0040, ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-030-0035

Standards for Schools Offering Degree Programs In or From Oregon

Effective January 13, 2015. In order to receive and hold authorization to offer in or from Oregon instruction or related services leading to one or more degrees, a school must remain open to inspection at all times and continuously satisfy each of the following standard requirements as written, except where the Higher Education Coordinating Commission approves modification under OAR 583-030-0036 or substitution under 583-030-0011. Standards are applicable to all programs.

(1) Name. The school shall use for doing business publicly a name that is consistent with its purpose and educational programs.

(2) Control.

(a) All persons responsible for top management policy must be individually qualified by education, experience, and record of conduct to assure effective management, ethical practice, and the quality of degrees and services offered. Boards must collectively demonstrate financial, academic, managerial and any necessary specialized knowledge, but individual members need not have all of these characteristics. Any controlling organization or owner is subject to this standard.

(b) Administrators shall be paid by fixed salary and not by commission. Any portion of payment that is based on enrollment of students recruited by the administrator or the administrator's staff is considered payment by commission.

(c) Teachers shall be paid by fixed salary and not by commission. Any portion of payment that is based on enrollment of students recruited by the teacher is considered payment by commission.

(d) Nonprofit Schools:

(A) Persons who control a nonprofit school shall demonstrate a commitment to the school's best interest as a public trust.

(B) A nonprofit school shall have a published policy that is followed in practice against conflicts of interest at all organizational levels.

(e) For-profit Schools:

(A) A school operated for profit shall disclose fully to the commission the specific financial interest of any organization or person, except that a large group of shareholders may be described generally. Any person or entity holding at least 5 percent of voting or common shares in a for-profit school must be named and the percentage of holdings disclosed. All business activities of interested organizations or persons are subject to disclosure.

(B) All board members, administrators, or owners of five percent or more of shares of an applicant school or parent corporation must disclose with explanation the following:

(i) Any prior felony convictions.

(ii) Any known violations of federal financial aid rules by a school of which the person was a board member or employee.

(iii) Any known violations of the policies of an accreditor by a school of which the person was a board member or employee.

(iv) Any previous or current ownership or administration of a school that closed or filed for bankruptcy.

(3) Organization.

(a) The school and any parent organization shall be organized so as to distribute responsibility clearly among positions in a logical structure that is consistent with services offered and qualifications needed to fulfill the duties of the positions. An individual may occupy more than one position.

(b) The school shall satisfy the commission that all top executive officers and other administrators are individually qualified by education, experience, and record of conduct to assure competent management, ethical practices, and effective educational service. Unless an exception is approved by the commission's executive director because of sufficient compensatory qualification, administrators above the entry level shall have experience related to their present duties, and all administrators with authority over academic programs shall possess appropriate degrees earned from schools that are regionally accredited or otherwise determined by the commission to be acceptable.

(c) The school shall make available to the commission an administrator generally responsible for school operations within the state and transaction of business with the Office. Unless an exception is approved by the commission's executive director because of sufficient compensatory qualification, that administrator shall possess a degree at least as high as any offered by the school in connection with operations in Oregon, together with appropriate administrative experience.

(d) There shall be an academic officer for the entire school responsible for faculty and academic programs offered in or from Oregon. Unless an exception is approved by the commission's executive director because of sufficient compensatory qualification, that officer shall possess at least a master's degree and shall possess a doctor's degree if the school offers any graduate or non-baccalaureate professional degree. That officer shall have experience in teaching and academic administration, both experiences appropriate to the level, size, and complexity of the school.

(e) There shall be a business officer for the entire school responsible for accounting and managerial services. Unless an exception is approved by the commission's executive director because of unusual compensatory qualification, that officer shall possess at least a bachelor's degree in a business-related field, together with appropriate administrative experience.

(4) Teachers.

(a) The school must obtain and keep official transcripts for all teaching faculty.

(b) The school shall satisfy the commission that all teachers are individually qualified by education and experience to give expert instruction or evaluation in their specialties. Unless an exception is approved by the commission's executive director because of sufficient compensatory qualification, teachers shall be qualified for the various levels of instruction or evaluation as described below, with degrees earned from schools that are accredited by a federally recognized accreditor or otherwise determined by the commission to be acceptable.

(c) Standards applicable to specific degree levels. A person who does not hold the appropriate level and major degree as stated in subparagraphs (B) through (E) of this paragraph may demonstrate qualification by show-

ing at least 12 semester or 18 quarter credits in the field at a level higher than the current teaching assignment combined with appropriate professional experience in the field. Teaching experience cannot be used to replace professional experience if this option is exercised, except for teacher education programs.

(A) Teachers in programs leading to degrees in the fine arts, including but not limited to art, music, dance, cooking, theater, photography, writing and other programs involving a significant creative element, may demonstrate qualifications with a documented combination of academic and creative work.

(B) Standards applicable to associate degree programs: A teacher on a faculty offering associate's degrees ordinarily shall possess a bachelor's degree appropriate to the subject taught or evaluated, except that compensatory nonacademic qualifications will be more readily accepted by the Office in programs leading to occupational degrees leading to professional licensure or the fine arts. Where the degree emphasizes transfer courses in the arts and sciences (primarily Associate of Arts degrees), the teacher ordinarily shall possess an appropriate master's degree.

(C) Standards applicable to bachelor's degree programs: A teacher on a faculty offering bachelor's degrees ordinarily shall possess an appropriate graduate degree in the field currently taught.

(D) Standards applicable to master's degree programs: A teacher on faculty offering master's degrees ordinarily shall possess an appropriate doctor's degree and some teaching experience, except that up to half of the teachers in an occupational or professional degree program may substitute for the doctorate a master's degree together with occupational or professional licensure or equivalent certification and related work experience. More substitutions may be permitted where the terminal degree for teachers in an occupational or professional field is not generally considered to be a doctorate.

(E) Standards applicable to doctoral degree programs: A teacher on a faculty offering doctor's degrees ordinarily shall possess an appropriate doctor's degree and substantial graduate or first-professional teaching experience, including experience overseeing advanced independent study or student practice, except that the doctor's degree alone may suffice for teaching courses at the master's level generally or at any level in the teacher's particular subspecialty.

(d) Teachers shall be numerous enough and so distributed as to give effective instructional and advisory attention to students in all programs offered by the school.

(e) A school having an undergraduate FTE student-faculty ratio of greater than 30:1 or a graduate FTE student-faculty ratio of greater than 20:1 for students taught in or from Oregon must demonstrate that students and faculty have adequate opportunities for one-to-one interaction.

(f) A school that does not have at least one full-time teacher resident in Oregon or directly teaching Oregon students in each specialty must demonstrate with specific examples the adequacy of faculty contribution to organizational integrity and continuity, to academic planning, and to resident student development.

(g) The school shall have a faculty development policy that continuously improves their knowledge and performance.

(h) The school must provide the commission with annual data regarding turnover of full-time teachers. The commission may limit use of part-time teachers upon finding that such turnover or use results in substandard education of students.

(i) The school shall demonstrate an effort when hiring teachers to avoid dependence on its own most recent graduates. No more than 20 percent of all applicant school teachers can hold their highest degree from the applicant school unless fewer than 10 schools in the United States offer the highest degree available in the field. Schools offering solely religious degrees are exempt from this requirement.

(j) A teacher of an academic or scientific discipline within an occupational or professional degree program (e.g., economics within a business program, psychology within education, anatomy within nursing) ordinarily shall possess the appropriate degree in the discipline rather than a non-disciplinary occupational or professional degree. Lower-division undergraduate courses may be taught by those with non-disciplinary degrees who have demonstrable and extensive acquaintance with the discipline.

(5) Credit. The school shall award credit toward degrees proportionate to work done by students and consequent upon the judgment of qualified teachers and examiners. Credits are generally expressed as either semester (SCH) or quarter credit hours (QCH). One semester credit represents approximately 45 hours of on-task student work in a semester (usually two study hours per faculty contact hour). A quarter credit hour represents approximately 30 hours of student work in a quarter. Credit hours earned through nontraditional learning schedules shall have proportionate value to credit hours based on customary term lengths.

(a) Instructional methods:

(A) Credit awarded by the school shall be based solely upon the judgment of teachers who have had extensive direct contact with the students who receive it, with the exception of methods listed in these rules if approved in advance by commission's executive director.

(B) At least one academic year of credit toward any degree, most of it near the end, shall represent teaching or direct evaluation by faculty members employed by the school, except that the commission may approve a lesser amount for an associate's degree.

(C) Credit may be awarded for distance learning if the school demonstrates that it has adequate methods in place to ensure that student work is sufficient both in quality and quantity to meet the commission's requirements, courses are developed and taught by qualified faculty and there will be sufficient interaction between students and faculty and, if possible, among students. The commission may limit or disallow credit awarded for any type of distance learning if the school cannot demonstrate adequate oversight and quality control measures.

(D) Transfer credit integral to the school's approved degree curriculum may be awarded at the corresponding degree level for academic work documented by other schools that are regionally accredited, authorized to confer degrees in or from Oregon, or otherwise individually or categorically approved by the commission. Such credit must be converted as needed from semester, quarter or nontraditional calendar systems.

(b) Noninstructional Methods. No more than one year of an academic program can be completed using any combination of the noninstructional methods set forth in subparagraphs (A), (B), and (C) of this paragraph:

(A) Advanced Placement credit integral to the approved degree curriculum may be awarded in the lower-division up to a limit of one academic year for passing examinations constructed by testing organizations satisfactory to the commission.

(B) Challenge examination credit as an actual component of the approved degree curriculum may be awarded only at the undergraduate level for successful performance on a final course examination, or on a similar test covering all course content, given by the school in lieu of requiring class attendance. No more than 25 percent of an undergraduate degree program may be earned through challenge examinations.

(C) Noncollegiate learning integral to the approved degree curriculum may be awarded credit only at the undergraduate level for learning validated by a student portfolio, a credit evaluation guide issued by the American Council on Education, or a similar criterion. Such learning must be formulated through sufficient contact between teacher and student, communicated competently in terms of ideas (e.g., concept, generalization, analysis, synthesis, proof) rather than mere description, and judged by faculty members or contracted experts demonstrably qualified to evaluate it. Upper-division credit of this type may be awarded only in academic fields in which the school employs its own faculty. No more than 25 percent of an undergraduate degree program may be earned through award of credit for noncollegiate work.

(6) Curriculum. The school shall assure the quality of all attendant teaching, learning, and faculty-student interaction. The curriculum shall have a structure that reflects faculty responsibility for what is to be learned overall, as well as in each course, and thus for the logical sequence and increasing difficulty of subjects and instructional levels. While requirements are sometimes listed in both semester and quarter credit hours, the commission usually states credit hours as semester credit hours. If quarter credits are not listed, colleges using the quarter system should multiply the stated credits by 1.5 to obtain the correct requirement in quarter credit hours (QCH) under quarter systems. These are the basic requirements for different kinds of degrees available in Oregon. The commission's executive director may approve minor variations from these curriculum standards in order to allow programs to operate efficiently.

(a) Undergraduate Programs. All associate and bachelor's degrees require one year (at least 6 semester (SCH) or 9 quarter credit hours (QCH) or equivalent alternate term credit hours) of English composition or equivalent commission-approved writing courses. Students may meet this requirement by achieving a score on a nationally normed test that would permit a waiver of English composition requirements or the award of academic credit in English composition at an accredited college or university.

(b) Associate's Degrees. An associate's degree requires at least two academic years (60 semester credit hours or 90 quarter credit hours) in FTE postsecondary study. The degree requires at least 15 SCH or 22 QCH in general education courses, including the undergraduate English composition requirement.

(A) Associate of Arts. A full-transfer degree, the A.A. requires two academic years applicable to B.A. or B.S. study fulfilling baccalaureate liberal arts requirements. A major is optional. Thus, the A.A. requires 24 SCH (36 QCH) in the liberal arts and sciences, with at least 6 hours (9 QCH) each in the humanities, sciences, and social sciences.

(B) Associate of Science. A limited-transfer degree, the A.S. requires a major and two academic years applicable to professional or technical baccalaureate study. The A.S. degree requires 24 SCH (36 QCH) in the humanities, sciences and social sciences, or in non-vocational courses closely related to them.

(C) Associate, Professional or Technical. A terminal degree, the professional or technical associate's degree requires a major (Degree title examples: Associate of Applied Arts, Associate of Applied Science, Associate of Technology, Associate of Occupational Studies, Associate of Business, Associate of Religion). In addition to the major requirements, this degree requires the basic 15 SCH or 22 QCH in general education courses, including the English composition requirement.

(c) Bachelor's Degrees. A bachelor's degree, or baccalaureate, requires at least four academic years (120 SCH or 180 QCH) in FTE post-secondary study. At least 40 semester credit hours (60 QCH) shall be in upper-division courses, and no more than two academic years of instruction (no more than 50 percent of credit hours used for the degree) shall be from schools that do not offer baccalaureate degrees.

(A) General Education: The degree requires one academic year (at least 30 SCH or 45 QCH) of general education, which includes the one-year undergraduate English composition requirement.

(B) Major Field: The degree requires distinct specialization, i.e., a "major," which entails approximately one academic year of work (30 SCH or 45 QCH) in the main subject, with 20 SCH (30 QCH) in the upper division and 15 SCH (22 or 23 QCH) of upper-division hours taught by the resident faculty. A dual major simply doubles these numbers.

(C) An interdisciplinary major is also permitted. It requires two academic years (60 SCH) in either three or four disciplines, with at least 15 hours in each discipline and at least 9 upper-division hours in each. A school may offer a major or an interdisciplinary option in any field in which it has more than one fully qualified teacher if at least one teaches full time.

(D) Degrees. The following bachelor's degree names, levels and types are available in Oregon:

(i) Bachelor of Arts. An arts degree, the B.A. requires competency in a foreign language and one academic year in the humanities, i.e., 30 SCH, of which 12 can be in foreign languages. The language competency requirement is equivalent to the 12 hours, the second-year level, and ESL students can satisfy it with 12 hours of English language and literature. As general education outside the major, the B.A. requires 24 SCH in the liberal arts and sciences, with at least 6 hours in each of the three areas: humanities, social sciences, and natural sciences.

(ii) Bachelor of Science. A science degree, the B.S. requires one academic year in the social or natural sciences, i.e., 30 SCH, of which 12 can be in mathematics and state-approved computer courses. As general education outside the major, the B.S. requires 24 SCH in the liberal arts and sciences, with at least 6 hours in each of the three areas: humanities, social sciences, and natural sciences.

(iii) Bachelor, Professional. As general education outside the major, the professional bachelor's degree requires 24 SCH hours in the liberal arts and sciences, with at least 6 hours in each of the three liberal arts and sciences areas: humanities, social sciences, and natural sciences.

(iv) Bachelor, Technical. As general education outside the major, the technical bachelor's degree requires 24 SCH in the liberal arts and sciences, or in non-vocational courses closely related to them, with at least 3 semester hours in each of the three areas: humanities, social studies, and natural sciences, and a total of at least 9 in the two areas most unrelated to the major.

(d) Graduate Degrees. A graduate curriculum shall reflect a concept of the graduate school as a group of scholars, the faculty members of which have had extensive collegiate teaching experience and are engaged in the advancement of knowledge. A graduate degree must involve teaching by such qualified faculty and cannot be earned solely by testing and/or portfolio review.

(A) A master's degree shall require at least one full academic year in FTE post-baccalaureate study, except that a first-professional master's degree may be authorized for study beyond fulfillment of undergraduate requirements approved by the commission if the total period of study is at least five academic years. The curriculum shall specialize in a single discipline or single occupational or professional area and culminate in a demonstration of mastery such as a research thesis, a work of art, or the solution of a practical professional problem.

(B) A doctor's degree shall require at least three academic years in specialized post-baccalaureate FTE study, except that a first-professional doctor's degree may be authorized for four academic years of study beyond fulfillment of undergraduate requirements approved by the commission. Study for a closely related master's degree may be counted toward doctoral requirements. The doctor's degree shall represent a student's ability to perform independently basic or applied research at the level of the professional scholar or to perform independently the work of a profession that involves the highest levels of knowledge and expertise. Requirements for the degree shall include demonstration of mastery of a significant body of knowledge through comprehensive examination, unless a graduate must pass a similar examination in order to be admitted to professional practice in Oregon. The curricular program of a research degree shall be appropriately broad and shall manifest full understanding of the level and range of doctoral scholarship, the function of a dissertation and its defense, the nature of comprehensive examination, and the distinction between matriculation and degree candidacy.

(7) Learning. The school shall require each student to complete academic assignments and demonstrate learning appropriate to the curriculum undertaken.

(a) Teachers or evaluators shall inform students clearly using a syllabus or similar instrument of what should be learned in each course and how it will be measured.

(b)(A) Expectations of student performance shall be increased with each ascending step in degree level. Higher degrees must represent an increase in the difficulty of work and expectations of students, not simply a cumulation or increase in quantity of student work.

(B) Evidence of expectation (e.g., syllabi and sample exams) and performance (e.g., student grades) shall be retained for all academic courses for at least one year.

(c) The school shall require students to make continuous progress toward a degree while they are enrolled and liable for tuition and shall suspend or dismiss those who do not make such progress, except that a period of probation with guidance may be instituted in order to obviate separation of a student who can be expected to improve immediately. Continuous progress for students receiving Title IV federal student aid shall be defined according to federal Title IV standards. Students not receiving Title IV federal student aid shall meet the school's own published standards for satisfactory progress.

(d) Grading and appeal procedures shall be fair and administered equitably, and criteria of student progress shall be validated by research if not obviously valid.

(8) Recruitment:

(a) The school is responsible for ensuring that its recruitment agents are knowledgeable about the school's:

(A) History and accreditation;

(B) Programs of study;

(C) Admission and assessment requirements;

(D) Ability to assist in providing housing and/or job placement;

(E) Financial policies and procedures, including the point at which students can expect to receive financial aid disbursements;

(F) Refund policy;

(G) Graduation requirements and rates;

(H) Rules and regulations; and

(I) Placement rates if they are used in recruiting.

(b) The school is responsible for insuring that its recruitment agents are providing accurate, realistic information about the school, its policies and achievements, and its ability to assist students.

(c) A prospective student shall receive a complete description of the school and its policies, including an estimate of annual or program costs, before being enrolled. This estimate is not binding on the institution but must give prospective students a reasonable idea of their financial commitment.

(d) Where a degree or certificate implies preparation for a specific occupation, the school shall explain clearly the true relationship between its curriculum and subsequent student qualification for occupational practice, including employment rates in the field and graduates' success rates in passing licensure examinations if applicable. Employment rates in the field claimed by a particular program shall treat graduates as employed in the field only if the position in which the graduate is employed meets the following conditions.

(A) is at least half-time.

(B) is usually filled by a person with a credential of the kind offered by the program or is one in which holders of such a credential have a competitive advantage in the workplace because of training of the kind provided by the program.

(C) employs the graduate within six months of program completion in a position that is intended to be permanent, i.e. not for a defined period of time. The school has the burden of showing that the position is intended to be permanent.

(e) The school shall take precautions to avoid unrealistic expectation of housing availability and cost when the school does not provide housing and job placement, including part-time employment and practica during the student's enrollment.

(f) A claim made to attract students shall be documented by evidence available to any person on request. The school shall make no attempt to attract anyone who does not appear likely to benefit from enrollment, and no attempt to attract students on any basis other than instruction and campus life appropriate to an educational institution.

(g) Outside the regular student financial aid process, there shall be no discounting of tuition as an incentive to enroll.

(9) Admission. The school shall offer admission only on receipt of evidence that the applying student can reasonably expect to complete a degree and to benefit from the education obtained.

(a) A student admitted to undergraduate degree study for the first time shall have either a standard high school diploma, a comparable credential issued outside the United States or a GED. Home-schooled students without a standard diploma or GED may only be admitted if they can demonstrate the ability to perform college-level academic work through use of an ability-to-benefit test. Modified diplomas, extended diplomas and other kinds of K-12 leaver certificates are not considered diplomas for purposes of college admissions. Students holding such nonstandard certificates can be admitted only through use of an ability-to-benefit test.

(b) A student admitted to undergraduate degree study with undergraduate experience shall have a record of successful performance therein or else a record of responsibility and achievement following unsuccessful collegiate performance.

(c) A student admitted to graduate degree study shall have a baccalaureate degree from a school that is accredited, authorized to confer degrees in Oregon, or otherwise approved by the commission either individually or by category.

(d) A student admitted to first-professional degree study shall have at least three academic years of accredited or commission-approved undergraduate credit, graded average or better, including pre-professional courses specified by the school and approved by the commission.

(10) Guidance. The school shall help students to understand the curriculum and to make the best use of it.

(a) There shall be a program of general orientation for new students.

(b) Each student shall be assigned a qualified academic advisor to assist individually in planning, course selection, learning methods, and general adjustment.

(c) The school shall provide career guidance to the extent that curriculum is related to a specific prospective occupation or profession.

(11) Student Affairs. Through both services and supervision the school shall demonstrate commitment to the success of individual students and to maintenance of an atmosphere conducive to learning.

(a) Rules of student conduct shall be reasonable, sufficiently specific, fully communicated, systematically and equitably enforced, and accompanied by policy and practice of disciplinary due process, including notice and hearing and related rights.

(b) Health, counseling or psychological services provided to students must meet requirements for professional practice in Oregon.

(c) Housing where provided or endorsed by the school shall be conducive to study and adequately supervised.

(d) Financial aid services shall be provided by qualified administrators.

(e) Placement services where provided shall be described clearly to students, and the school shall take precautions to avoid unrealistic expectation of placement.

(f) Records documenting relationships between the school and a student shall be open to that student, who may request changes or enter dissenting comments, and the content of records shall be objective and fair. The private notes of a counselor are not to be considered educational records and shall not be transmitted as such, either inside or outside the school. All medical records are confidential and shall not be released without permission of the patient.

(g) There shall be available to undergraduate students and responsible for student affairs an official who possesses knowledge, skill, and managerial experience particularly appropriate to the function, unless the commission waives this requirement. In general, waivers are granted only for small startup schools in their first approval cycle and for schools that mainly teach people who are of nontraditional age (23 or older) or already in the workforce.

(h) Every school shall distribute a student handbook or similar publication describing services and regulations, unless such descriptions are complete in the school's main catalog.

(12) Information. The school shall be scrupulously ethical in all communication with the public and with prospective students. School publications, advertisements, and statements shall be wholly accurate and in no way misleading. Reference to state approval shall be limited to that described in OAR 583-030-0041. Reference to accreditation shall be limited to that defined in OAR 583-030-0000.

(a) The school shall publish at least every two years a catalog or general bulletin. The catalog shall contain a table of contents and adequate information concerning period covered, school name and address, telephone numbers, state approval, purpose, relationship to occupational qualification, faculty and administrators (listing position or teaching specialization together with all earned degrees and their sources, omitting unearned degrees and not confusing professional licenses with degrees), degree requirements and curricula, academic calendar, credit policy in accordance with subsection (5) of this rule, transferability of credit to other schools, admission requirements and procedures, academic advising and career planning, academic policies and grading, rules of conduct and disciplinary procedure, student services (e.g., counseling, health, placement, housing, food, bookstore, activities, organizations), student records, library, facilities, fees and refunds, estimated total expenses, financial aid, and job opportunities for current students. Electronic publication meets this standard provided that a paper version of the catalog is provided to the commission, is available to students upon request, and is maintained as the official version in order to avoid confusion if electronic versions are changed.

(b) A school without regional accreditation shall print in a separate section of its catalog titled "transfer of credit to other schools" a statement warning students verbatim that "transfer of credit is always at the discretion of the receiving school, generally depends on comparability of curricula, and may depend on comparability of accreditation." Other comments may follow concerning the school's documented experience in credit transferability, but it must be clear that a student should make no assumptions about credit transfer.

(13) Credentials. The school shall provide accurate and appropriate credit transcripts for students who enroll and diplomas for students who graduate.

(a) The school shall maintain for every past and present student, and shall issue at the request of any student who is not delinquent in fee payment, a current transcript of credits and degrees earned. The transcript shall identify the school fully and explain the academic calendar, length of term, credit structure, and grading system. It shall identify the student and show all prior degrees earned, details of any credit transferred or otherwise awarded at entry, and periods of enrollment. It shall include for each period of enrollment every completed course or module with an understandable title, number of credits earned, and grade received. The transcript shall note with or without explanation if the student is not immediately eligible to continue enrollment, e.g., for reasons of academic probation or suspension.

(b) Upon satisfaction of degree requirements and payment of all fees owed, the school shall provide the graduating student with a diploma in a form approved by the commission, appropriately documenting conferral of the degree.

(14) Records. The school shall keep accurate and safe all records affecting students. There shall be at all times complete duplicate transcript information kept in a location away from the original transcripts, such that duplicates and originals are not exposed to risk of simultaneous damage. In addition to transcripts, which may never be destroyed, the school shall maintain detailed records documenting the significant parts of its formal relationship with each student: financial transactions and accounts, admission qualifications, validation of advanced standing, instructor course records as posted to transcripts, and status changes due to unsatisfactory performance or conduct. Such supporting records shall be kept safe for a period of at least three years after a student has discontinued enrollment. Instructor course records other than those posted to transcripts shall be kept for at least one year.

(15) Library. The school shall provide or arrange for its faculty and students direct or electronic access to verbal and sensory materials suffi-

cient in all subjects of the curriculum to support instruction and to stimulate research or independent study.

(a) The school may arrange for comprehensive privileges from libraries of other organizations, provided it can prove convenient access and extensive use, but the school shall retain full responsibility for adequacy of resources available to students.

(b) Library services shall be under the direction of a person educated professionally in library and information studies, except that the commission may waive this requirement where the range of academic fields represented is narrow.

(c) Library resources shall be current, well distributed among fields in which the institution offers instruction, cataloged, logically organized, and readily located.

(d) The school should conform to the following guidelines for library services unless it can justify a deviation on the basis of unusual educational requirements.

(A) With the exception of those in specialized associate's degree programs, students should receive direct, contracted or electronic access to a minimal basic collection equivalent to that held by accredited schools offering similar programs. The applicant school must demonstrate this comparability.

(B) Staff should include a professional librarian for each 1,000 students, with clerical support adequate to relieve librarians of all non-professional duties.

(C) Students should have full access to all resources for at least 40 hours per week, and all services should be available for 20 hours per week. The facility, whether provided by the college directly or by contract, should seat no less than 10 percent of the students enrolled unless the program is primarily intended to train practitioners in technical or fine arts fields, in which case a lower percentage may be requested. If the school meets the library standard largely by electronic means, electronic services must be available to a comparable portion of the student body for a comparable period.

(16) Facilities. The school shall have buildings and equipment sufficient for the achievement of all educational objectives.

(a) Buildings in general, including student or faculty housing units, shall be uncrowded, safe, clean, well furnished, and in good repair; and they shall be well lighted, heated, ventilated, and protected from noise. School grounds where provided shall be appropriately used and adequately maintained.

(b) Instructional facilities shall be adequate and conducive to learning. There shall be no less than 15 square feet per student station in classrooms, with at least one station for every two FTE students enrolled. Total classroom and study area, including library space for reading, shall be no less than 10 square feet per FTE student.

(c) Laboratory space and instructional equipment shall be inventoried, its use explained on the resulting report, and its adequacy defended on criteria obtained from experts and documented by the school. A laboratory ordinarily shall have no less than 30 square feet per student station.

(d) Clinical facilities and other public service areas shall be appropriate for instruction of students as well as for service to patients or clients.

(e) Faculty offices shall be sufficient to prevent crowding and to allow private conversations with students.

(17) Finance. The school shall have financial resources sufficient to ensure successful continuing operation and to guarantee full refund of any unearned tuition. There shall be competent financial planning using complete and accurate records. The school shall demonstrate satisfaction of this standard upon application, and thereafter annually, by submitting independently audited financial statements with opinion by a certified public accountant.

(a) Financial reports shall be prepared in a format acceptable to the commission, clearly delineating assets and liabilities and informatively classifying revenues by source and expenditures by function. In some cases, the commission at its discretion may accept an audited balance sheet with opinion, together with annual operating statements that have been reviewed by the auditor. A school that is a subsidiary shall submit financial statements of the parent corporation on request. In unusual circumstances, the commission's executive director may require a special investigative audit and report.

(b) Current assets shall be entirely tangible and such that the school is not dependent for solvency on substantial increases in receivables collection rate, gifts, tuition rates, or enrollment. Prospective tuition for which a student is not legally liable is not an asset and shall not be shown as a receivable or other balance sheet asset. Tuition collected but still subject to refund shall be shown as a "prepaid" or "unearned" tuition liability.

(c) A school unable to demonstrate financial strength may be permitted at the discretion of the commission's executive director to submit a surety bond in amount equal to the largest amount of prepaid tuition held at any time. The bond would be subject to claims for tuition refund only.

(d) The school shall carry casualty and general liability insurance sufficient to guarantee continuity in case of accident or negligence, and it shall provide or else require by policy professional liability insurance for all of its officers and employees.

(18) Fees and Refunds. The school shall maintain fee and refund policies that are fair, uniformly administered, and clearly explained in the school catalog as well as in any contract made with students. A student shall not be enrolled without having received the explanatory material. The school shall not change its tuition or fees more than once during a calendar year.

(a) Tuition shall be charged by the credit hour or by fixed rate for instruction during an academic semester, quarter, or shorter term. No student is obligated for tuition charged for a term that had not commenced when the student withdrew or a term that was truncated by cessation of school services.

(b) Except as noted below in this section, fees not included in tuition shall not exceed five percent of full-time tuition for any term in which separate fees are charged. One-time application or admission fees may exceed 5 percent of first-term tuition but shall not exceed $200. Lab or equipment fees related to the actual necessary operational costs of specific courses may exceed 5 percent of tuition provided that the fees are made known to students prior to enrollment in the course. Nominal fees for late payments, course withdrawals and the like are acceptable.

(c) After classes begin for a term, a student who withdraws from a course is eligible for a partial refund through the middle week of the term. Refunds shall be based on unused instructional time and shall be prorated on a weekly basis for schools using a semester, quarter, or nontraditional calendar. Without specific commission approval, refund rates shall not be differentiated on the criteria of a student's source of income or loan repayment obligations except as otherwise required by law.

(d) Any fees for credit transferred, for credit attempted or earned by examination or portfolio must be based on the cost of service actually provided, ordinarily less than the cost of regular instruction. The mere award of credit does not justify a fee.

(e) Academic policies shall not artificially prolong the enrollment of a failing student with the effect of increasing financial obligation.

(f) Separation from the school for reason of discipline or other administrative action shall not cause forfeiture of ordinary refund amounts.

(19) Evaluation. The school shall, in order to improve programs, evaluate its own educational effectiveness continually in relation to purpose and planning, including in all aspects the opinions of students. There shall be evaluation of present curriculum and instruction, of attrition and reasons for student withdrawal, and of performance by students after their graduation. In addition to the comments of graduates, employer opinions and licensing examination records should be used in the post-graduation study.

(20) Fair Practice. Notwithstanding the absence of a specific standard or prohibition in this rule, no school authorized to offer degrees or seeking to qualify for such authorization shall engage in any practice that is fraudulent, dishonest, unethical, unsafe, exploitive, irresponsible, deceptive, or inequitable and thus harmful or unfair to persons with whom it deals.

Stat. Auth.: ORS 348.606

Stats. Implemented: ORS 348.603 & 348.606

Hist.: ECC 22, f. & ef. 12-22-75; ECC 2-1980, f. & ef. 4-14-80; ECC 3-1981, f. & ef. 12-16-81; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 1-2002, f. & cert. ef. 2-19-02; ODA 1-2003, f. & cert. ef. 4-16-03; ODA 4-2003, f. 10-29-03, cert. ef. 11-1-03; ODA 2-2004(Temp), f. & cert. ef. 2-11-04 thru 7-30-04; Administrative correction 8-19-04; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 2-2010, f. & cert. ef. 11-16-10; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

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Schools With Limited Resident Instruction in Oregon

Effective January 13, 2015:

(1) Accredited schools offering limited resident instruction in Oregon are reviewed using modified standards and procedures under the following conditions:

(a) Courses are highly specialized or offered for a period of less than three years;

(b) Information from the school is clear;

(c) Advice and assistance are accessible for students;

(d) Tuition refund policies meet requirements established by the commision;

(e) Program evaluation is done systematically by the school;

(f) Curricula for Oregon residents are identical to those at a main campus;

(g) Instruction relayed either live or on recordings is received in Oregon just as it was presented during resident instruction;

(h) Academic assignments and testing and grading policies for Oregon students are identical to those for students on a main campus; and

(i) All members of the faculty teaching from Oregon or teaching Oregon resident students hold degrees meeting Oregon standards.

(2) If limited or restricted residential instruction is authorized, the client organization must ensure full library services, employ persons qualified by a higher degree and experience to judge the quality of the degree program, and appoint a site coordinator who will assist with any inspections and provide information to the commission.

Stat. Auth.: ORS 348.606
Stats. Implemented: ORS 348.603 & 348.606
Hist.: EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2003, f. & cert. ef. 4-16-03; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-030-0038
Nondegree Certificates and Diplomas Granted by Degree-Granting Schools

Effective January 13, 2015:

(1) A school that is authorized to grant a degree may also grant certificates in the same field without an independent review of the certificate, provided that the certificate is granted for completion of a specified set of courses approved in a degree curriculum as part of degree authorization.

(2) A school that is authorized to grant a degree and wants to offer a certificate in a field in which the school is not authorized to grant a degree must apply for approval for the certificate. The process will be shorter and less elaborate than for a degree authorization.

(3) An education provider that does not have the legal authority to offer degrees anywhere and wants to offer college-level courses for credit without applying for authority to issue degrees may apply for approval to do so under the same standards as a degree applicant. Any such approval is limited to three years unless the provider establishes a transfer agreement with at least one accredited school.

Stat. Auth.: ORS 348.594 & 348.606
Stats. Implemented: ORS 348.594, 348.603 & 348.606
Hist.: ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-030-0039
Honorary Degrees

Effective January 13, 2015. A school authorized under this rule to offer academic degrees at or above the baccalaureate level may obtain permission from the commission, or be permitted by the standards of an accreditor under OAR 583-030-0037, to confer an honorary degree with a title clearly differentiated from the titles of earned degrees authorized or likely to be authorized in the state. The basis for a proposed honorary degree must be consistent with generally accepted practice among long established colleges and universities, thus reflecting great scholarly achievement, professional distinction, or humanitarian service. An honorary degree must be represented so as to be clearly not earned through collegiate study. No school shall otherwise offer or confer an honorary degree in or from Oregon. An honorary degree is honorific only and is not a public credential valid for academic and professional purposes.

Stat. Auth.: ORS 348.606
Stats. Implemented: ORS 348.606
Hist.: EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; Renumbered from 583-030-0022, ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-030-0041
Authorization Statement in School Catalog

Effective January 13, 2015:

(1) Upon receipt of authorization to offer instruction or related services leading to one or more degrees, and until such time as that authorization has expired or been revoked, an Oregon school shall print the following statement prominently on the inside front cover, facing page, or other page approved by the Higher Education Coordinating Commission of its catalog and any general bulletin, shall include the statement with any internet web site announcement, and may publish the statement in other school announcements. Choose one descriptive term from each parenthetical pair.

This school (is) (is a unit of) a (business) (nonprofit) corporation authorized by the State of Oregon to offer and confer the academic (degree) (degrees) described herein, following a determination that state academic standards will be satisfied under OAR chapter 583, division 30. Inquiries concerning the standards or school compliance may be directed to the Higher Education Coordinating Commission (use current address).

(2) A non-Oregon school shall print or affix the above statement on the inside front or back cover (preferred) or on an appropriate page approved by commission's executive director of every catalog distributed in Oregon.

Stat. Auth.: ORS 348.606
Stats. Implemented: ORS 348.603 & 348.606
Hist.: EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; SSC 1-1997(Temp), f. & cert. ef. 8-25-97; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 2-2000, f. 7-7-00, cert. ef. 7-20-00; ODA 4-2003, f. 10-29-03, cert. ef. 11-1-03; ODA 2-2004(Temp), f. & cert. ef. 2-11-04 thru 7-30-04; Administrative correction 8-19-04; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-030-0042
Reporting Requirements

Effective January 13, 2015:

(1) A school authorized to offer instruction or related services leading to one or more degrees under the standards in OAR 583-030-0035 shall submit to the Higher Education Coordinating Commission annually, with a form provided by the commission, a brief report of activities and planning in the academic or fiscal year just ended. In its report, the school shall describe any important changes in academic or administrative policies, facilities or locations of instruction, and organization or personnel. The school shall also supply data such as teacher turnover and student enrollment, completion, and placement as requested on state forms provided by the commission, together with current catalogs and the latest independent financial audit not previously submitted. Between annual reports, the school shall send to the commission promptly qualification forms of new owners, governing board members, officers, administrators, or teachers serving Oregon students, and shall send immediately the details of any possible or anticipated change of ownership or governance or any other matter having extensive effect on the school.

(2) A school authorized to offer instruction or related services leading to one or more degrees under OAR 583-030-0011 shall report as described in the preceding paragraph, except that reporting of new governing board members, officers, administrators, or teachers is not required. The reporting of any possible or anticipated change of ownership or governance or other major change should be immediate.

(3) A non-Oregon school authorized to offer instruction or related services leading to one or more degrees but without resident instruction or with limited resident instruction in Oregon under OAR 583-030-0036, shall submit to the commission annually, with a form provided in the fall, a brief report of activities and planning in the academic or fiscal year just ended insofar as Oregon students would be affected. In its report, the school shall describe as they might affect Oregon residents any important changes in academic or administrative policies, facilities or locations of instruction, and organization or personnel. The school shall also supply Oregon enrollment and degrees-granted data on a state form provided by the commission, together with current catalogs and the latest independent financial audit not previously submitted. Between annual reports, the school shall send to the commission's executive director immediately details of any possible or anticipated change of ownership, governance, curriculum, Oregon site coordinator, teachers or other matter having potential importance to Oregon students.

(4) A school that offers exempt religious degrees is subject to the annual self-certification requirements set forth in ORS 348.608.

(5) An authorized degree-granting school shall continue during the period of its authorization to respond promptly to any requests made by the commission's executive director for general or particular information and shall supply the information as directed. Monthly reporting may be required for a school determined to be at risk.

(6) A school that ceases to offer any authorized or exempted degree or the instruction related thereto, other than during regular academic recesses, shall notify the commission's executive director immediately and may not reinstate the degree program without permission.

Stat. Auth.: ORS 348.606
Stats. Implemented: ORS 348.596 & 348.606
Hist.: EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2003, f. & cert. ef. 4-16-03; ODA 4-2003, f. 10-29-03, cert. ef. 11-1-03; ODA 2-2004(Temp), f. & cert. ef. 2-11-04 thru 7-30-04; Administrative correction 8-19-04; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-030-0043
Duty to Notify Employees and Students of Change in Status

Effective January 13, 2015. Any school for which degree authorization has expired or been revoked or suspended shall immediately in writing notify all employees and students of its change in status. The school shall

not lead students or employees to conclude that restoration of degree granting is assured.

Stat. Auth.: ORS 348.606
Stats. Implemented: ORS 348.606
Hist.: EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-030-0044
State Responsibility for Student Records

Effective January 13, 2015:

(1) The state is ultimate custodian of records documenting in transcript form the admission, academic degree credits, and performance ratings of students enrolled in Oregon schools that have been authorized by the Higher Education Coordinating Commission to offer instruction or related services in or from Oregon leading to degrees that are valid as public credentials. Whenever such transcripts appear to be at risk of damage, loss, or misappropriation, the commission's executive director may direct a school to change its practices in order to safeguard the records, and the school shall comply immediately.

(2) If such an authorized Oregon school plans to discontinue operations or is warned by the commission's executive director specifically because of failure to safeguard student records, the school shall promptly furnish to the commission legible paper copies of fully current transcripts.

(3) If such an authorized Oregon school discontinues operation or has degree authorization revoked or suspended, it may seek commission permission to place original transcripts in the custody of a related or similar school that will continue to issue them on behalf of former students. The commission will approve another school as custodian or else seek possession of the original transcripts, if necessary by court order.

(4) The commission on request may take possession of transcripts from a closing Oregon unit of a non-Oregon degree granting school, if that appears to be the only way to protect Oregon residents who were enrolled at the Oregon unit.

(5) Upon taking possession of student academic transcripts, the commission will issue a transcript copy at the request of any student who is not delinquent in fee payment, except that the commission will not issue such transcript copies while any unit of the school of origin or the assigned custodial school can administer their issuance. Individual student records are confidential and not commission records open to the public.

Stat. Auth.: ORS 348.606
Stats. Implemented: ORS 348.606
Hist.: EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-030-0045
Revocation of Authorization

Effective January 13, 2015:

(1) The Higher Education Coordinating Commission, after a hearing before an Administrative Law Judge, may under ORS 348.612, revoke or suspend authorization given to a school to confer or offer to confer degrees in or from Oregon, or to offer instruction or related services in or from Oregon purporting to lead to a degree in whole or in part. Revocations resulting from a change in state or federal law or judicial ruling do not require the use of a hearing officer.

(2) A hearing to consider a proposed revocation or suspension shall be held only after the affected school has been given written notice of the time and place of such hearing 21 days in advance.

(3) Revocation or suspension of degree authorization applies to a school as a whole, inasmuch as failure to satisfy any state requirement for offer of any degree constitutes failure to satisfy all requirements applicable to the school. Refusal by a school to discontinue any substandard offer or practice, regardless of the quality of any other offer or practice, will lead the commission to propose revocation or suspension of approval and/or civil or criminal action.

(4) A school whose degree authorization is revoked shall be considered for reinstatement only after one year and only when the commission's executive director is satisfied that causes of the revocation have been entirely removed. Application for reinstatement from a school in revoked status shall comply with all requirements for a new applicant.

(5) A school whose degree authorization is suspended shall be considered for reinstatement only when the commission's executive director is satisfied that causes of the suspension have been entirely removed. Application for reinstatement from a school in suspended status shall comply with all requirements for a renewing applicant.

(6) Grounds for revoking or suspending the degree authorization of a school include changes in state or federal law or judicial rulings affecting the status of a school or its failure to provide services it has guaranteed to students in writing; failure to supply records and other information to the Office as directed; falsification of any information supplied to the commission, students, or the public; failure to comply with all applicable requirements of OAR chapter 583, division 30; and failure to prove to the satisfaction of the commission's executive director on request compliance with any such requirement with respect to which the school's current performance is questioned specifically by the commission as a result of routine monitoring or individual complaint.

(7) Revocation or suspension requires a school immediately to cease and desist from offering in or from Oregon any degree, instruction, or related services purporting to lead to a degree in whole or in part, except that the commission at its discretion may permit a revoked or suspended school to complete an academic term already in progress on the date of the action. During such period of completion the school may not enroll new students, and it may not offer to those already enrolled any instruction or services purporting to lead to a degree that would be earned and conferred later than the immediate end of the term in progress. Completion of such term with good faith and fair dealing toward currently enrolled students or reasons for failure to so complete the term shall be factors in any subsequent consideration of a revoked or suspended school for reinstatement.

(8) A separate revocation process for schools exempted on religious grounds is listed in ORS 348.608.

Stat. Auth.: ORS 348.606
Stats. Implemented: ORS 348.603, 348.606 & 348.612
Hist.: ECC 22, f. & ef. 12-22-75; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 2-2000, f. 7-7-00, cert. ef. 7-20-00; ODA 1-2003, f. & cert. ef. 4-16-03; ODA 1-2004, f. & cert. ef. 1-14-04; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-030-0046
Fees and Expenses

Effective January 13, 2015:

(1) Each application from a school seeking new or renewed authorization to confer or offer to confer a degree, or through instruction or related services to provide academic credit applicable to a degree, shall be accompanied by payment of a fee to the "Higher Education Coordinating Commission." There is no entitlement to refund of a paid fee under any circumstances. The fee is intended to recover the expenses of carrying out a review and providing services to a school during its period of authorization.

(2) The fees imposed by the commission for reviewing applications seeking new or renewed authorization to confer or offer to confer a degree are based on the schedule established by the Legislative Assembly in ORS 348.606.

(c) Fee discounts.

(A) In reviewing simultaneous application for two or more degrees, the commission at its discretion may reduce the fee for review of a degree that is closely related in type and content to one on the same level for which the full fee is paid. Such a reduction ordinarily depends on the provision of instruction by a single faculty for both degrees. Degrees on the same level using at least 50 percent of the same courses, taught by at least 50 percent of the same faculty, will be treated as one degree application for review and fee purposes.

(B) The commission at its discretion may also reduce the fee when institution size, low faculty and administrative turnover, stability of ownership or board membership or other factors substantially reduce staff time required for evaluation and subsequent oversight and service. Such reductions are limited to 20 percent below the basic fee.

(C) The fee for religious-exempt schools may not exceed the lesser of the actual cost to the commission of determining the school's compliance with the requirements for an exemption under ORS 348.604, and may not exceed $1,000.

(3) Application from a school for authorization to offer instruction or related services providing academic credit applicable to a degree offered only by another school or schools shall be accompanied by fees proportionate to those established in the paragraph immediately above. However, such fees may be discounted at the discretion of the commission to reflect a program of reduced dimension if and only when the necessary review analysis is concomitantly reduced.

(4) When the commission's executive director finds it necessary to pay an expert outside consultant for assistance in reviewing an application, or when it incurs other unusual expenses in the course of review, all costs thus incurred may be charged to the applicant school in addition to the basic fee.

Stat. Auth.: ORS 183 & 348
Stats. Implemented: ORS 348
Hist.: ECC 1-1982(Temp), f. & ef. 3-12-82; ECC 2-1982, f. & ef. 9-8-82; EPP 1-1988, f. & cert. ef. 1-7-88; EPP 1-1993, f. & cert. ef. 6-28-93; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; SSC 1-1997(Temp), f. & cert. ef. 8-25-97; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2000, f. & cert. ef. 2-29-00; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 1-2003, f. & cert. ef. 4-16-03; ODA 4-2003, f. 10-29-03, cert. ef. 11-1-03; ODA 2-2004(Temp), f. & cert. ef. 2-11-04 thru 7-30-04; Administrative correction 8-19-04; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-030-0049
Criminal and Civil Penalties

Effective January 13, 2015:

(1) Without authorization from the Higher Education Coordinating Commission as provided in this rule, any offer of a degree or of services purporting to lead to a degree in whole or in part is a Class B misdemeanor under ORS 348.992. Complaints may be brought to a prosecutor against any person acting individually or in concert with others, including any person assisting a school as defined in OAR 583-030-0000(23).

(2) Without authorization from the commission as provided in this rule, any offer of a degree or of services purporting to lead to a degree in whole or in part may be a violation of Oregon's Unlawful Trade Practices Act (UTPA), ORS 646.605 to 646.652. The commission may in addition request injunctive relief or a civil penalty against violators. Complaints may be brought to the Oregon Department of Justice against any person acting individually or in concert with others, including any person assisting a school as defined in OAR 583-030-0000(23).

Stat. Auth.: ORS 348.606
Stats. Implemented: ORS 348.606 & 348.992
Hist.: EPP 1-1993, f. & cert. ef. 6-28-93; EPP 1-1995, f. & cert. ef. 10-6-95; EPP 1-1996, f. & cert. ef. 8-7-96; SSC 1-1997(Temp), f. & cert. ef. 8-25-97; ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 1-2003, f. & cert. ef. 4-16-03; ODA 5-2005, f. 12-1-05, cert. ef. 12-7-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-050-0006
Purpose and Scope

Effective January 13, 2015:

(1) This rule implements Oregon Revised Statutes (ORS) 348.594 to 348.615 and 348.992 insofar as each section therein relates to ORS 348.609, intended to protect postsecondary institutions, businesses and other employers, professional licensing boards, patients and clients of degree holders, and all citizens from any person claiming to possess a valid academic degree that in fact was issued by a fraudulent or nonexistent school, by a non-educational entity posing as a school, by a nonstandard school without the use of a disclaimer, or by any entity in violation of applicable statutes or administrative rules.

(2) In order to be valid in Oregon as a public credential usable for general academic or professional purposes, under ORS 348.609 a claimed degree must have been awarded by a school that:

(a) Has accreditation recognized by the U.S. Department of Education or has the foreign equivalent of such accreditation; or

(b) Has been approved through the Higher Education Coordinating Commission to offer and confer degrees in Oregon; or

(c) Is located in the United States and has been found by the commission acting through the commission to meet standards of academic quality comparable to those of an institution located in the United States that has accreditation, recognized by the U.S. Department of Education, to offer degrees of the type and level claimed by the person; or

(d) Is an Oregon school that has achieved exemption from state oversight on religious grounds; or

(e) If unaccredited, has the legal authority from a U.S. state or foreign country to issue degrees usable as educational credentials in the jurisdiction of issue.

(3) This rule applies to any claim to possess an academic degree made by any person acting within the state, acting outside the state while domiciled within the state, or acting outside the state on behalf of an organization that is located within the state.

Stat. Auth.: ORS 348.609
Stats. Implemented: ORS 348.603 & 348.609
Hist.: ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 3-2003, f. 10-29-03, cert. ef. 11-1-03; ODA 3-2005, f. 9-27-05, cert. ef. 9-30-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-050-0011
Definitions of Terms

Effective January 13, 2015:

(1) "Academic Standards" means those standards in 583-030-0035 or the equivalent standards of an accrediting body that relate to admission requirements, length of program, content of curriculum, award of credit and faculty qualifications.

(2) "Accredited" means accredited and approved to offer degrees at the specified level by an agency or association recognized as an accreditor by the U.S. Secretary of Education, under the 1965 Higher Education Act as amended at the time of recognition, or having candidacy status with such an accrediting agency or association whose pre-accreditation is also recognized specifically for HEA purposes by the Secretary of Education.

(3) "Claim a degree" means to present orally, or in writing or in electronic form any symbol or series of letters or words that would lead the listener or reader to believe a degree had been received and is possessed by the person speaking or writing, for purposes related to employment, application for employment, professional advancement, qualification for public office, teaching, offering professional services or any other use as a public credential, whether or not such use results in monetary gain.

(4) "College level work" required for a degree means academic or technical work at a level demonstrably higher than that required in the final year of high school and demonstrably higher than work required for degrees at a lower level than the degree in question. From lowest to highest, degree levels are associate, bachelor's, master's and doctoral. Professional degree levels may vary. College level work is characterized by analysis, synthesis and application in which students demonstrate an integration of knowledge, skills and critical thinking. Award of credit for achieving appropriate scores on commission-approved nationally normed college-level examinations such as those from College Level Examination Program, American Council on Education, Advanced Placement or New York Regents meets this standard.

(5) "Commission" means the Higher Education Coordinating Commission.

(6)(a) "Degree" means any earned or honorary title, rank, or status designated by a symbol or by a series of letters or words-such as, but not limited to, associate, bachelor, master, doctor, and forms or abbreviations thereof, that signifies, purports, or may generally be taken to signify:

(A) Completion of a course of instruction at the college or university level;

(B) Demonstration of achievement or proficiency comparable to such completion; or

(C) Recognition for non-academic learning, public service, or other reason of distinction comparable to such completion.

(b) "Degree" does not refer to a certificate or diploma signified by a series of letters or words unlikely to be confused with a degree, clearly intended not to be mistaken for a degree, and represented to the public so as to prevent such confusion or error.

(7) "Confer a degree" means give, grant, award, bestow, or present orally or in writing any symbol or series of letters or words that would lead the recipient to believe it was a degree that had been received.

(8) "Diploma mill" or "degree mill" means an entity that meets any one of the following conditions as defined in ORS 348.594:

(a) A school against which a court or public body, as defined in ORS 174.109, has issued a ruling or finding, after due process procedures, that the school has engaged in dishonest, fraudulent or deceptive practices related to the award of degrees, academic standards or student learning requirements; or

(b) Is an entity without legal authority as a school to issue degrees valid as credentials in the jurisdiction that authorizes issuance of degrees.

(9) "Disclaimer" when appended to a published reference to a degree means the following statement from statute: "(Name of school) does not have accreditation recognized by the United States Department of Education and has not been approved by the Higher Education Coordinating Commission."

(10) "Earned degree" means a degree awarded based on academic work evaluated and accepted by qualified faculty in the context of a specific degree program, based on the Carnegie credit system as set forth in OAR 583-030-0035(5) or an equivalent as determined by the commission's executive director.

(11) "Foreign equivalent of such accreditation" means authorization by a non-U.S. government found by the commission's executive director to have adequate academic standards. This determination may be made through one or more of the following methods at executive director's discretion:

(a) Direct investigation of foreign standards;

(b) Reliance on an evaluation and determination made by the American Association of Collegiate Registrars and Admissions Officers (AACRAO); or

(c) Evaluation of the transferability of courses and degrees earned in the foreign country to accredited Oregon institutions at similar degree levels.

(12) "Honorary Degree" means a credential awarded by an accredited or approved school in recognition of the recipient's personal merits unrelated to academic achievement demonstrated through course work or equivalent work taken at the awarding school.

(13) "Nonstandard School" means a degree provider that has legal authority to issue degrees valid in its authorizing jurisdiction, but which does not meet the requirements to be a standard school.

(14) "School" includes a person, organization, school or institution of learning that confers or offers to confer an academic degree upon a person or to provide academic credit applicable to a degree. The activities attributable to a school include instruction, measurement of achievement or proficiency, or recognition of educational attainment or comparable public distinction.

(15) "Standard School" means a school that meets the requirements of ORS 348.609 for degree use without a disclaimer.

(16) "Valid degree" means a degree issued by a standard school or by a nonstandard school if the disclaimer required by ORS 348.609(2) is used.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 348.609

Stats. Implemented: ORS 348.603 & 348.609

Hist.: ODA 2-1998, f. & cert. ef. 8-12-98; ODA 3-2000, f. & cert. ef. 8-8-00; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 3-2003, f. 10-29-03, cert. ef. 11-1-03; ODA 2-2005, f. & cert. ef. 3-3-05; ODA 3-2005, f. 9-27-05, cert. ef. 9-30-05; ODA 1-06, f. & cert. ef. 6-23-06; ODA 1-2008, f. & cert. ef. 2-7-08; ODA 3-2010, f. & cert. ef. 11-16-10; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-050-0014
Unaccredited Degrees

Effective January 13, 2015:

(1) Users of unaccredited degrees may use the degrees in the following ways.

(a) Unaccredited degrees that have achieved approval under ORS 348.609(1)(d) can be used without a disclaimer.

(b) Unaccredited degrees that have not achieved approval under ORS 348.609(1)(d) can only be used with a disclaimer.

(c) Degrees issued by degree mills are invalid for use, with or without a disclaimer.

(2) Process for approval under ORS 348.609(1)(d). A claimant of an unaccredited U.S. degree may submit to the Higher Education Coordinating Commission information indicating that the school conferring the degree has the legal authority to issue degrees in another state and could reasonably be considered for approval in Oregon under OAR chapter 583, division 30.

(a) A reasonable possibility of approval can be demonstrated by submitting to the commission the appropriate review fee and sufficient evidence that the unaccredited institution could meet the academic standards established in OAR chapter 583, division 30 for authorization to operate in Oregon if it chose to make such an application.

(b) The commission may, upon its own motion, evaluate an unaccredited institution and determine whether it has a reasonable chance to meet Oregon authorization standards without a degree user making such a request.

(c) If a request for evaluation under this section is not made to to the commission's executive director within 30 days of notification that an unaccredited degree is being used contrary to Oregon law, the degree user's right to such a review is waived and the commission may pursue appropriate enforcement action. Degree users may, within the first 30 days, request up to 30 additional days for the purpose of gathering material necessary to apply for an evaluation.

(3) A claimant of a non-U.S. degree issued by a degree supplier not accredited by a U.S. accreditor may submit to the commission information proving that the supplier issuing the degree has the following characteristics.

(a) The supplier is operating legally as a degree-granting institution in its host country.

(b) The host country has a postsecondary approval system equivalent to U.S. accreditation in that it applies qualitative measures by a neutral external party recognized in that role by the government.

(c) The supplier has been approved through the demonstrable application of appropriate standards by the host country's accreditor equivalent.

(d) All degrees issued by the supplier are legally valid for use and professional licensure within the host country.

Stat. Auth.: ORS 348.609

Stats. Implemented: ORS 348.609

Hist.: ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 3-2003, f. 10-29-03, cert. ef. 11-1-03; ODA 4-2004, f. & cert. ef. 5-14-04; ODA 3-2005, f. 9-27-05, cert. ef. 9-30-05; Renumbered from 583-050-0031, ODA 4-2005, f. & cert. ef. 10-18-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-050-0016
Validation of a Secular Degree

Effective January 13, 2015:

(1) Any person claiming in Oregon to possess an academic degree shall, upon request from the Higher Education Coordinating Commission's executive director, have an official transcript of the degree sent directly to the the commission from the registrar or other appropriate official of the conferring school.

(2) Where validation of a degree by telephone or electronic means seems readily obtainable from a school, the commission at its discretion may postpone with option of waiver the requirement for a transcript upon receiving from the degree claimant the name, address, and telephone number of the conferring school. Requirement of one or more transcripts may be reinstated at any time if other methods of validation are not sufficient for a conclusive determination.

(3) Upon receipt of evidence of a valid degree, the executive director shall inform the degree claimant that a validation has been entered into the record, which shall specify any title and abbreviation that may be used to claim the degree.

(4) Honorary degrees must be distinguished from earned degrees.

(a) Any person claiming in Oregon to hold an honorary degree must label any written use of the degree using the word "honorary" or the abbreviation "hon." in order to make the public aware that the degree is not an earned credential. Any oral reference to the degree must be accompanied by a reasonable effort to ensure that listeners are made aware that it is honorary.

(b) Any person using an honorary doctorate may not use the title "Doctor" or "Dr." unless the word "honorary" or the abbreviation "hon." accompanies the claim in a clear and visible form, or is stated orally when an honorary doctorate is used as the basis for an oral use of the title.

(c) An honorary degree may not be used as a credential for employment in Oregon.

Stat. Auth.: ORS 348.609

Stats. Implemented: ORS 348.603 & 348.609

Hist.: ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 3-2003, f. 10-29-03, cert. ef. 11-1-03; ODA 3-2010, f. & cert. ef. 11-16-10; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-050-0026
Invalidation of a Degree, Warning, Enforcement

Effective January 13, 2015:

(1) A person who may not have known that his or her claimed degree is invalid or nonstandard is given the benefit of the doubt as to intent, so as to reflect consideration for the possibility that the person was misled by the purported school or unaware of Oregon degree requirements.

(2) Failure to provide when requested a transcript or other information needed for validation of a degree is prima facie evidence under statute that the claim to such degree is invalid.

(3) Failure or inability to produce conclusive evidence of a valid degree results in a warning from the Higher Education Coordinating Commission that the claimant must thereafter cease and desist from making the invalidated claim.

(4) Subsequent to such warning and in violation thereof, any renewed claim of an invalid degree exposes the violator to penalties as set forth in statute and under subsection (5) of this rule.

(5) Any violation of ORS 348.603 or 348.609 may result in any or all of the following sanctions:

(a) Prosecution for a Class B misdemeanor under ORS 348.992;

(b) Injunction against further use of the claimed degree;

(c) Civil suit for violation of Oregn's Unlawful Trade Practices Act, ORS 646.605 to 646.652, if applicable; or

(d) A civil penalty not to exceed $1,000 per violation.

(6) Prior to the imposition of any penalty listed in subsection (5) of this rule, a person whose degree is found invalid, or the use of whose degree may be restricted, is entitled to a hearing in accordance with ORS chapter 183. Hearings will be provided in the following way:

(a) The commission's initial communication with a degree user will be an inquiry letter that will give the user 30 days in which to address any issues regarding degree existence, validity and restriction. No hearing is provided at this stage;

(b) If a degree user contacted by the commission under paragraph (a) of this subsection does not respond within 30 days, or provides information that is insufficient to allow unrestricted degree use while expressing intent to continue using the degree, the commission will issue a cease and desist letter to the user, setting forth the requirements of law and how the user's degree fails to meet those requirements. This letter will also be sent to the user's attorney, if any. The user will be given 30 days to respond, agreeing to either comply with the law or request a hearing to contest the commission's findings:

(i) If the user agrees to comply with the law within 30 days, the commission will provide the user with a standard form upon which such agreement can be stated and signed. No penalty will be imposed provided that the user carries out the agreement;

(ii) If the user does not respond within 30 days, the commission will proceed with a default hearing and may request the assessment of civil penalties.;

(iii) If the user requests a hearing within 21 days, the hearing will be conducted by an Administrative Law Judge as provided in ORS 183.335.

(c) If a hearing is held, the Administrative Law Judge will recommend a resolution to the Commission, which will decide whether the degree use meets Oregon standards, and if it does not, whether to impose a penalty and what the penalty should be.

Stat. Auth.: ORS 348.609
Stats. Implemented: ORS 348.603, 348.609 & 348.992
Hist.: ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2001, f. & cert. ef. 6-27-01; ODA 2-2002, f. & cert. ef. 10-10-02; ODA 3-2005, f. 9-27-05, cert. ef. 9-30-05; ODA 2-2006, f. & cert. ef. 11-1-06; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-050-0027
Disciplinary Action; Civil Penalty Considerations

Effective January 13, 2015:

(1) The Higher Education Coordinating Commission may assess a civil penalty for each violation of a provision of OAR chapter 583, division 50.

(2) In establishing the amount of the penalty for each violation, the commission shall consider, but not be limited to the following factors:

(a) The gravity and magnitude of the violation;

(b) The person's previous record of compliance with the provisions of ORS 348.594 to 348.615 or with the rules adopted thereunder;

(c) The person's history in taking all feasible steps or in following all procedures necessary or appropriate to correct the violation; and

(d) Such other considerations as the commission may consider appropriate.

(3) An "incident" for purposes of the penalty schedule means a single use of the invalid degree, or each use of an unaccredited degree without a disclaimer, in a specific venue in a specific time period.

(a) Examples of specific venues include but are not limited to publications, job applications, web sites, spoken presentations, mailings, e-mails, flyers, posters, advertisements, and handouts.

(b) Examples of specific time periods include one-time uses and serial uses, e.g., monthly advertisements, annual publications such as college catalogs and the like. In the case of continued usage during a period of employment, each regular pay period (e.g. one month) in which the degree is used is considered a specific time period and therefore a separate incident.

(4) The commission may impose a civil penalty, provided that it first gives the person an opportunity for a hearing as outlined in ORS Chapter 183.

Stat. Auth.: ORS 348.609
Stats. Implemented: ORS 348.609
Hist.: ODA 2-2002, f. & cert. ef. 10-10-02; ODA 3-2005, f. 9-27-05, cert. ef. 9-30-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-050-0028
Schedule of Civil Penalties for Violations of Laws and Rules

Effective January 13, 2015. In assessing civil penalties, the Higher Education Coordinating Commission desires to be both consistent and equitable and to consider and evaluate each case on an individual basis. The actual civil penalty which the commission imposes shall be based on the commission's consideration of the factors in OAR 583-050-0027. The commission shall impose a penalty per incident based on only one of the degree use activities listed below, i.e. a single incident cannot result in a penalty from more than one category. Civil penalties shall be imposed according to the following schedule for use after warning by the commission of a violation:

(1) When such use is related to a position in any employment sector, paid or unpaid, involving public health or safety for which a degree of the type found invalid is required for employment or licensure: $1000 per incident.

(2) When such use is intended to induce or encourage payment of money by students, clients, customers or others for whom the degree may serve as an attractant or legitimizer related to a service provided in the business or not-for-profit sector: $1000 per incident.

(3) When such use is in public employment not related to public health or safety for which a valid degree of the type claimed is required or is necessary based on the conditions of employment: $500 per incident.

(4) By a teacher at any level, including K–12 and postsecondary education: $500 per incident.

(5) When such use is likely to deceive the public as to the user's qualifications but no money is sought or received by the user as a consequence in whole or in part of the use: $300 per incident.

(6) When in violation of any other provision of OAR 583, division 50: $300 per incident.

(7) Repeated violations of any kind may result in a penalty of $1,000 for each repetition occurring after a penalty is imposed by the Commission or an injunction against the usage is issued by a court.

Stat. Auth.: ORS 348.609
Stats. Implemented: ORS 348.609
Hist.: ODA 2-2002, f. & cert. ef. 10-10-02; ODA 3-2005, f. 9-27-05, cert. ef. 9-30-05; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-050-0036
Inquiries and Complaints

Effective January 13, 2015:

(1) Monitoring and validating degree claims will be done by the Higher Education Coordinating Commission in the course of routine activities such as approving faculty members of schools seeking authorization to offer degrees in Oregon, advising employers or professional licensing boards on applicant credentials, examining backgrounds listed by candidates for public election, and reviewing telephone directories or other publications for advertisements that list degrees.

(2) Any citizen as a matter of general information may ask the commission to discuss whether a degree encountered sounds questionable, and any citizen as a matter of public protection may ask the commission to validate a degree claimed by an identified individual. It is entirely optional for an inquirer unsure about a degree to make a formal complaint, because an inquiry alone does not imply that the inquiring citizen has accused the degree claimant of any deception.

Stat. Auth.: ORS 348.609
Stats. Implemented: ORS 348.603 & 348.609
Hist.: ODA 2-1998, f. & cert. ef. 8-12-98; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-050-0040
Fees for Validation Services

Effective January 13, 2015

(1) ODA charges a fee for some services provided under OAR chapter 583, division 50. The fee schedule is as follows: [Table not included. See ED. NOTE.]

(a) Agencies or organizations that have contracted for basic degree validation services with the Higher Education Coordinating Commission do not pay a per-request fee. Contract rates are as follows: [Table not included. See ED. NOTE.]

(b) Fees for all inquiries, including contracted rates, must be paid in advance by bank check, money order or interagency fund transfer to: State of Oregon - Higher Education Coordinating Commission (use current address).

(2) The commission may require reimbursement of costs for other requests at the discretion of the agency, depending on the nature of the request and available staff resources. Such fees may not exceed the actual cost to the agency to provide the service, based on staff rates and related costs.

(3) The commission's executive director may waive validation and evaluation fees:

(a) If the request for information is for purposes of criminal investigation; or

(b) If the consumer protection benefits of ODA action warrant a waiver, provided that sufficient staff time is available.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 348.609
Stats. Implemented: ORS 348.603 & 348.609
Hist.: ODA 3-2003, f. 10-29-03, cert. ef. 11-1-03; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-070-0002
Purpose and Scope

Effective January 13, 2015. This rule implements ORS 348.603 in establishing standards and procedures for the evaluation and approval of postsecondary accrediting bodies seeking to operate in or from Oregon.

Stat. Auth.: ORS 348.603
Stats. Implemented: ORS 348.603
Hist.: ODA 2-2008, f. & cert. ef. 4-14-08; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-070-0011
Definitions of Terms

Effective January 13, 2015:

(1) "Academic standards" are those standards related to faculty qualifications, admissions, acceptance of transfer credits, quantity of student work and program length and quality established in OAR 583-030-0035.

(2) "Accreditor" means an entity that purports to accredit postsecondary institutions or programs.

(3) "Commission" means the Higher Education Coordinating Commission.

(4)"Executive Director" means the executive director of the Higher Education Coordinating Commission, or the executive director's designee.

(5) "Federally recognized accreditor" means a U.S. accreditor formally recognized by the U.S. Department of Education.

(6) "Operate in Oregon" means to use an Oregon address, telephone number, fax number, or other contact point or mechanism located in Oregon on any document available to the public, do business in Oregon related to the accreditation of post-secondary institutions, or to accredit schools located in or operating from Oregon.

Stat. Auth.: ORS 348.603
Stats. Implemented: ORS 348.603
Hist.: ODA 2-2008, f. & cert. ef. 4-14-08; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-070-0015
Authorization of Accreditors

Effective January 13, 2015:

(1) All federally recognized accreditors are authorized to operate in or from Oregon without commission oversight.

(2) Any accreditors that are not federally recognized but are recognized by the Council for Higher Education Accreditation (CHEA), a national organization that performs recognition of regional, faith-related, career-related, and programmatic accrediting organizations, are authorized to operate in or from Oregon with commission oversight.

(a) The oversight requirement for a CHEA recognized accreditor already operating in Oregon on or before April 14, 2008,becomes effective when an Oregon school or program accredited by that CHEA recognized accreditor begins the process of renewing such accreditation.

(b) A CHEA recognized accreditor having no office or contact points in Oregon as defined in 583-070-0000, and which accredits programs at institutions that have separate institutional accreditation by a federally recognized accreditor, does not require commission approval to accredit programs located at Oregon schools.

(3) Any other accreditor lacking federal recognition, except for religious accreditors exempt under ORS 348.603, requires approval from the commission to operate in or from Oregon.

(4) No other accreditor except for accreditors of religious schools meeting the requirements of ORS 348.603 may operate in or from Oregon without approval in advance from the commission.

Stat. Auth.: ORS 348.603 & 348.604
Stats. Implemented: ORS 348.603 & 348.604
Hist.: ODA 2-2008, f. & cert. ef. 4-14-08; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

583-070-0020
Approval Process for Accreditors

Effective January 13, 2015:

(1) Any accreditor applying for approval will be approved by the commission if the commission finds that the accreditor has adequate academic standards comparable to ODA standards. Standards used by an accreditor need not be identical to state standards but must be adequate to ensure academic quality at a level comparable to that required by the state.

(2) Any accreditor seeking commission approval must submit a request for approval to the commission. The accreditor's request must be accompanied by the following:

(a) A copy of the accreditor's academic standards;

(b) A description of how the accreditor evaluates institutional effectiveness, demonstrating a commitment to rational standards;

(c) The accreditor's standards for faculty and administrative qualifications, showing that it requires accredited or demonstrably equivalent degrees, and information on how such standards are enforced;

(d) The accreditor's standards for adequate institutional finances, demonstrating that it ensures appropriate management of funds and disallows charging students on any basis other than a per-term basis;

(e) Names and professional qualifications of all persons employed by the accreditor and any persons serving on its board of directors, demonstrating that such people have backgrounds and qualifications comparable to those serving in similar roles at a federally-recognized accreditor; and

(d) Names and professional qualifications of all people who have served on evaluation teams in the previous year and those who are scheduled to serve in the next year, if known, in order to show that only people with appropriate accredited degrees and professional qualifications are chosen for such teams.

(3) The executive director must evaluate the accreditor and make a recommendation to the commission within 60 days of receiving the application.

(a) If the commission objects to approval of an accreditor on grounds that the accreditor has inadequate academic standards, the accreditor may contest the commission's decision under either ORS 183.435 or 183.484.

(b) The commission shall determine whether an accreditor is permitted to operate in Oregon only after the accreditor has had, if necessary, an opportunity to exercise its rights under this rule.

Stat. Auth.: ORS 348.603
Stats. Implemented: ORS 348.603
Hist.: ODA 2-2008, f. & cert. ef. 4-14-08; ODA 1-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; Administrative correction, 1-27-15; ODA 1-2015, f. & cert. ef. 3-17-15

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Land Conservation and Development Department
Chapter 660

Rule Caption: Population forecasts for land use purposes
Adm. Order No.: LCDD 1-2015
Filed with Sec. of State: 3-25-2015
Certified to be Effective: 3-25-15
Notice Publication Date: 1-1-2015
Rules Adopted: 660-032-0000, 660-032-0010, 660-032-0020, 660-032-0030, 660-032-0040
Rules Amended: 660-024-0040
Rules Repealed: 660-024-0030
Subject: the new rules and rule amendments will implement the population forecasting program required by ORS 195.033-195.035, in coordination with the Portland State University Population Center. The rules will regulate the transition to new population forecasts issued by the center and by Metro, from population forecasts produced under previous statutes, ORS 195.034 and 195.036, as those sections were in effect before the effective date of 2013 changed to population forecasting statutes.
Rules Coordinator: Casaria Taylor—(503) 373-0050, ext. 322

660-024-0040
Land Need

(1) The UGB must be based on the appropriate 20-year population forecast for the urban area as determined under Rules in OAR 660, div 32, and must provide for needed housing, employment and other urban uses such as public facilities, streets and roads, schools, parks and open space over the 20-year planning period consistent with the land need requirements of Goal 14 and this rule. The 20-year need determinations are estimates which, although based on the best available information and methodologies, should not be held to an unreasonably high level of precision. Local governments in Crook, Deschutes or Jefferson Counties may determine the need for Regional Large-Lot Industrial Land by following the provisions of OAR 660-024-0045 for areas subject to that rule.

(2) If the UGB analysis or amendment is conducted as part of a periodic review work program, the 20-year planning period must commence on the date initially scheduled for completion of the appropriate work task. If the UGB analysis or amendment is conducted as a post-acknowledgement plan amendment under ORS 197.610 to 197.625, the 20-year planning period must commence either:

(a) On the date initially scheduled for final adoption of the amendment specified by the local government in the initial notice of the amendment required by OAR 660-018-0020; or

(b) If more recent than the date determined in subsection (a), at the beginning of the 20-year period specified in the appropriate coordinated

population forecast for the urban area as determined under Rules in OAR 660, div 32, unless ORS 197.296 requires a different date for local governments subject to that statute.

(3) A local government may review and amend the UGB in consideration of one category of land need (for example, housing need) without a simultaneous review and amendment in consideration of other categories of land need (for example, employment need).

(4) The determination of 20-year residential land needs for an urban area must be consistent with the appropriate 20-year coordinated population forecast for the urban area determined under Rules in OAR 660, div 32, and with the requirements for determining housing needs in Goals 10 and 14, OAR chapter 660, division 7 or 8, and applicable provisions of ORS 197.295 to 197.314 and 197.475 to 197.490.

(5) Except for a metropolitan service district described in ORS 197.015(13), the determination of 20-year employment land need for an urban area must comply with applicable requirements of Goal 9 and OAR chapter 660, division 9, and must include a determination of the need for a short-term supply of land for employment uses consistent with 660-009-0025. Employment land need may be based on an estimate of job growth over the planning period; local government must provide a reasonable justification for the job growth estimate but Goal 14 does not require that job growth estimates necessarily be proportional to population growth. Local governments in Crook, Deschutes or Jefferson Counties may determine the need for Regional Large-Lot Industrial Land by following the provisions of 660-024-0045 for areas subject to that rule.

(6) Cities and counties may jointly conduct a coordinated regional EOA for more than one city in the county or for a defined region within one or more counties, in conformance with Goal 9, OAR chapter 660, division 9, and applicable provisions of ORS 195.025. A defined region may include incorporated and unincorporated areas of one or more counties.

(7) The determination of 20-year land needs for transportation and public facilities for an urban area must comply with applicable requirements of Goals 11 and 12, rules in OAR chapter 660, divisions 11 and 12, and public facilities requirements in ORS 197.712 and 197.768. The determination of school facility needs must also comply with 195.110 and 197.296 for local governments specified in those statutes.

(8) The following safe harbors may be applied by a local government to determine housing need under this division:

(a) A local government may estimate persons per household for the 20-year planning period using the persons per household for the urban area indicated in the most current data for the urban area published by the U.S. Census Bureau.

(b) If a local government does not regulate government-assisted housing differently than other housing types, it is not required to estimate the need for government-assisted housing as a separate housing type.

(c) If a local government allows manufactured homes on individual lots as a permitted use in all residential zones that allow 10 or fewer dwelling units per net buildable acre, it is not necessary to provide an estimate of the need for manufactured dwellings on individual lots.

(d) If a local government allows manufactured dwelling parks required by ORS 197.475 to 197.490 in all areas planned and zoned for a residential density of six to 12 units per acre, a separate estimate of the need for manufactured dwelling parks is not required.

(e) A local government outside of the Metro boundary may estimate its housing vacancy rate for the 20-year planning period using the vacancy rate in the most current data published by the U.S. Census Bureau for that urban area that includes the local government.

(f) A local government outside of the Metro boundary may determine housing needs for purposes of a UGB amendment using the combined Housing Density and Housing Mix safe harbors described in this subsection and in Table 1, or in combination with the Alternative Density safe harbor described under subsection (g) of this section and in Table 2. To meet the Housing Density safe harbor in this subsection, the local government may Assume For UGB Analysis that all buildable land in the urban area, including land added to the UGB, will develop at the applicable average overall density specified in column B of Table 1. Buildable land in the UGB, including land added to the UGB, must also be Zoned to Allow at least the average overall maximum density specified as Zone To Allow in column B of Table 1. Finally, the local government must adopt zoning that ensures buildable land in the urban area, including land added to the UGB, cannot develop at an average overall density less than the applicable Required Overall Minimum density specified in column B of Table 1. To meet the Housing Mix safe harbor in this subsection, the local government must Zone to Allow the applicable percentages of low, medium and high density residential specified in column C of Table 1.

(g) When using the safe harbor in subsection (f), a local government may choose to also use the applicable Alternative Density safe harbors for Small Exception Parcels and High Value Farm Land specified in Table 2. If a local government chooses to use the Alternative Density safe harbors described in Table 2, it must

(A) Apply the applicable Small Exception Parcel density assumption and the High Value Farm Land density assumption measures specified in the table to all buildable land that is within these categories, and

(B) Apply the Housing Density and Mix safe harbors specified in subsection (f) of this section and specified in Table 1 to all buildable land in the urban area that does not consist of Small Exception Parcels or High Value Farm Land.

(h) As an alternative to the density safe harbors in subsection (f) and, if applicable, subsection (g), of this section, a local government outside of the Metro boundary may assume that the average overall density of buildable residential land in the urban area for the 20-year planning period will increase by 25 percent over the average overall density of developed residential land in the urban area at the time the local government initiated the evaluation or amendment of the UGB. If a local government uses this Incremental Housing Density safe harbor, it must also meet the applicable Zoned to Allow density and Required Overall Minimum density requirements in Column B of Table 1 and, if applicable, Table 2, and must use the Housing Mix safe harbor in Column C of Table 1.

(i) As an alternative to the Housing Mix safe harbor required in subsection (f) of this section and in Column C of Table 1, a local government outside the Metro boundary that uses the housing density safe harbor in either subsection (f), (g) or (h) of this section may estimate housing mix using the Incremental Housing Mix safe harbor described in paragraphs (A) to (C) of this subsection, as illustrated in Table 3:

(A) Determine the existing percentages of low density, medium density, and high density housing on developed land (not "buildable land") in the urban area at the time the local government initiated the evaluation or amendment of the UGB;

(B) Increase the percentage of medium density housing estimated in paragraph (A) of this subsection by 10 percent, increase the percentage of high density housing estimated in paragraph (A) of this subsection by five percent, as illustrated in Table 3, and decrease the percentage of low density single family housing by a proportionate amount so that the overall mix total is 100 percent, and

(C) Zone to Allow the resultant housing mix determined under subparagraphs (A) and (B) of this subsection.

(j) Tables 1, 2 and 3 are adopted as part of this rule, and the following definitions apply to terms used in the tables:

(A) "Assume For UGB Analysis" means the local government may assume that the UGB will develop over the 20-year planning period at the applicable overall density specified in Column B of Tables 1 and 2.

(B) "Attached housing" means housing where each unit shares a common wall, ceiling or floor with at least one other unit. "Attached housing" includes, but is not limited to, apartments, condominiums, and common-wall dwellings or row houses where each dwelling unit occupies a separate lot.

(C) "Average Overall Density" means the average density of all buildable land in the UGB, including buildable land already inside the UGB and buildable land added to the UGB, including land zoned for residential use that is presumed to be needed for schools, parks and other institutional uses.

(D) "Coordinated 20-year Population Forecast" and "20-year Population Forecast" under Column A of the Tables refers to the appropriate population forecast for the urban area determined under rules in OAR 660, div 32.

(E) "Density" means the number of dwelling units per net buildable acre.

(F) "High Value Farm Land" has the same meaning as the term defined in ORS 195.300(10).

(G) "Required Overall Minimum" means a minimum allowed overall average density, or a "density floor," that must be ensured in the applicable residential zones with respect to the overall supply of buildable land for that zone in the urban area for the 20-year planning period.

(H) "Single Family Detached Housing" means a housing unit that is free standing and separate from other housing units, including mobile homes and manufactured dwellings under ORS 197.475 to 197.492.

(I) "Small Exception Parcel" means a residentially zoned parcel five acres or less with a house on it, located on land that is outside a UGB prior to a proposed UGB expansion, subject to an acknowledged exception to Goal 3 or 4 or both.

(J) "Zone To Allow" or "Zoned to Allow" means that the comprehensive plan and implementing zoning shall allow the specified housing types and densities under clear and objective standards and other requirements specified in ORS 197.307(3)(b) and (6).

(9) The following safe harbors may be applied by a local government to determine its employment needs for purposes of a UGB amendment under this rule, Goal 9, OAR chapter 660, division 9, Goal 14 and, if applicable, ORS 197.296.

(a) A local government may estimate that the current number of jobs in the urban area will grow during the 20-year planning period at a rate equal to either:

(A) The county or regional job growth rate provided in the most recent forecast published by the Oregon Employment Department; or

(B) The population growth rate for the urban area in the appropriate 20-year coordinated population forecast determined under Rules in OAR 660, div 32.

(b) A local government with a population of 10,000 or less may assume that retail and service commercial land needs will grow in direct proportion to the forecasted urban area population growth over the 20-year planning period. This safe harbor may not be used to determine employment land needs for sectors other than retail and service commercial.

(10) As a safe harbor during periodic review or other legislative review of the UGB, a local government may estimate that the 20-year land needs for streets and roads, parks and school facilities will together require an additional amount of land equal to 25 percent of the net buildable acres determined for residential land needs under section (4) of this rule, and in conformance with the definition of "Net Buildable Acre" as defined in OAR 660-024-0010(6).

Stat. Auth.: ORS 197.040, Statewide Planning Goal 14; ORS 195.033(10)
Stats. Implemented: ORS 195.036, 197.015, 197.295 - 197.314, 197.610 - 197.650, 197.764, 195.033,195.036 & OL 2013 Ch. 574, Sec. 3
Hist.: LCDD 8-2006, f. 10-19-06, cert. ef. 4-5-07; LCDD 2-2009, f. 4-8-09, cert. ef. 4-16-09; LCDD 9-2012, f. 11-26-12, cert. ef. 12-10-12; LCDD 1-2015, f. & cert. ef. 3-25-15

660-032-0000
Purpose and Applicability

(1) The rules in this division provide standards and procedures to implement ORS 195.033 to 195.036 and statewide planning Goals regarding population forecasts for land use planning purposes.

(2) The rules in this division do not apply to a review of a final land use decision or periodic review work task adopted by a local government and submitted to the Department of Land Conservation for review under ORS 197.626 or 197.633 prior to the effective date of this rule.

Stat. Auth.: ORS 197.040 &195.033(10)
Stats. Implemented: ORS 195.033, 195.036 & OL 2013 Ch. 574, Sec. 3
Hist.: LCDD 1-2015, f. & cert. ef. 3-25-15

660-032-0010
Definitions

(1) For purposes of this division, the definitions in ORS 197.015 and the Statewide Land Use Planning Goals (OAR chapter 660, division 15) apply, except as provided in sections (4) and (8) of this rule.

(2) "Final Forecast" means the final population forecast issued by the Portland State University Population Research Center (PRC) for land use purposes as required by ORS 195.033 and as provided in OAR 577-050-0030 to 577-050-0060.

(3) "Initiates" means that the local government either:

(a) Issues a public notice specified in OAR 660-018-0020, including a notice to the department, for a proposed plan amendment that concerns a subject described in 660-032-0040(2); or

(b) Receives the Director's approval, as provided in OAR 660-025-0110, of a periodic review work program that includes a work task concerning a subject described in 660-032-0040(2).

(4) "Local Government" means a city, county or Metro.

(5) "Metro" means a metropolitan service district organized under ORS chapter 268.

(6) "Metro boundary" means the boundary of a metropolitan service district.

(7) "PRC" means the Portland State University Population Research Center.

(8) "Special district" means any unit of local government, other than a city, county or metropolitan service district formed under ORS chapter 268, authorized and regulated by statute and includes but is not limited to water control districts, domestic water associations and water cooperatives, irrigation districts, port districts, regional air quality control authorities, fire districts, school districts, hospital districts, mass transit districts and sanitary districts.

(9) "Urban area" means the land within an urban growth boundary.

(10) "Urban Growth Boundary" shall have the meaning provided in ORS 197.295(7).

Stat. Auth.: ORS 197.040 &195.033(10)
Stats. Implemented: ORS 195.033, 195.036 & OL 2013 Ch. 574, Sec. 3
Hist.: LCDD 1-2015, f. & cert. ef. 3-25-15

660-032-0020
Population Forecasts for Land Use Planning

(1) A local government with land use jurisdiction over land that is outside the Metro boundary shall apply the most recent final forecast issued by the PRC under OAR 577-050-0030 through 577-050-0060, when changing a comprehensive plan or land use regulation that concerns such land, when the change is based on or requires the use of a population forecast, except that a local government may apply an interim forecast as provided in 660-032-0040.

(2) A local government within the Metro boundary shall apply the Metro forecast described in OAR 660-0032-0030 when changing a regional framework plan, comprehensive plan or land use regulation of the local government, when the change is based on or requires the use of a population forecast.

(3) When a state agency or special district adopts or amends a plan or takes an action which, under Statewide Planning Goal 2 or other law, must be consistent with the comprehensive plan of a local government described in section (1) of this rule, and which is based on or requires the use of a population forecast, and if the local government has not adopted the most recent PRC final forecast as part of the plan, the most recent PRC final forecast shall be considered to be the long range forecast in the comprehensive plan, except as provided in OAR 660-032-0040.

(4) When applying a PRC forecast for a particular planning period, the local government shall use the annual increments provided in the applicable forecast, and shall not adjust the forecast for the start-year or for other years of the planning period except as provided in PRC's interpolation template described in OAR 577-050-0040.

(5) If a local government outside the Metro boundary initiates a periodic review or any other legislative review of its comprehensive plan that concerns an urban growth boundary or other matter authorized by OAR 660-032-0040(2) after the Portland State University Population Research Center issues a final population forecast for the local government, but prior to the issuance of a final forecast by PRC in the subsequent forecasting cycle described in OAR 577-050-0040(7), the local government may continue its review using the forecast issued in PRC's previous forecasting cycle.

Stat. Auth.: ORS 197.040 &195.033(10)
Stats. Implemented: ORS 195.033, 195.036 & OL 2013 Ch. 574, Sec. 3
Hist.: LCDD 1-2015, f. & cert. ef. 3-25-15

660-032-0030
Metro Area Population Forecasts

(1) Metro, in coordination with local governments within its boundary, shall issue a coordinated population forecast for the entire area within its boundary, to be applied by Metro and local governments within the boundary as the basis for a change to a regional framework plan, comprehensive plan or land use regulation, when such change must be based on or requires the use of a population forecast.

(2) Metro shall allocate the forecast to the cities and portions of counties within the Metro boundary for land use planning purposes.

(3) In adopting its coordinated forecast, Metro must follow applicable procedures and requirements in this rule and ORS 197.610 to 197.650, and must provide notice to state agencies and all local governments in the Metro area. The forecast must be adopted as part of the applicable regional or local plan.

(4) The Metro forecast must be developed using commonly accepted practices and standards for population forecasting used by professional practitioners in the field of demography or economics. The forecast must be based on current, reliable and objective sources and verifiable factual information, and must take into account documented long-term demographic trends as well as recent events that have a reasonable likelihood of changing historical trends. Metro must coordinate with the PRC in the development and allocation of its forecast.

(5) The population forecast developed under the provisions of (1) through (4) of this rule is a prediction which, although based on the best available information and methodology, should not be held to an unreasonably high level of precision. For a forecast used as a basis for a decision adopting or amending the Metro regional urban growth boundary submitted to the Department of Land Conservation and Development (DLCD) under ORS 197.626, the director of DLCD or the Land Conservation and

Development Commission may approve the forecast provided it finds that any failure to meet a particular requirement of this rule is insignificant and is unlikely to have a significant effect on the determination of long term needs for the Metro urban area under OAR 660-024-0040.

Stat. Auth.: ORS 197.040 &195.033(10)
Stats. Implemented: ORS 195.033, 195.036 & OL 2013 Ch. 574, Sec. 3
Hist.: LCDD 1-2015, f. & cert. ef. 3-25-15

660-032-0040
Interim Forecasts

(1) If a local government outside the Metro boundary initiates a periodic review or other legislative review of its comprehensive plan that concerns an urban growth boundary or a matter authorized by section (2) of this rule before the date the PRC issues a final population forecast for the local government in the first forecasting cycle described in OAR 577-050-0040(7), the local government may continue its review using the population forecast that was acknowledged before the review was initiated, provided the forecast was:

(a) Adopted by the local government not more than 10 years before the date of initiation, as a part of the comprehensive plan, consistent with the requirements of ORS 195.034 and 195.036 as those sections were in effect immediately before July 1, 2013, and

(b) Acknowledged as provided in ORS 197.251 or 197.625 prior to the effective date of this rule.

(2) The authorization to use the forecast described in section (1) applies only to a periodic review or a legislative review of the comprehensive plan that concerns:

(a) An urban growth boundary review or amendment as provided in Goal 14 and OAR 660, div 24;

(b) Economic development (Goal 9);

(c) Housing needs (Goal 10);

(d) Public facilities (Goal 11); or

(e) Transportation (Goal 12).

(3) For purposes of section (1) of this rule, if the acknowledged forecast was adopted by the applicable county, and if the forecast allocates population forecasts to the urban areas in the county but has not been adopted by a particular city in that county, the city may apply the allocated forecast as necessary for the purposes described in section (2) of this rule.

(4) If the forecast is consistent with sections (1)(a) and (1)(b) of this rule but does not provide a forecast for the entire applicable planning period for a purpose described in section (2), the local government may apply an extended forecast for such purpose. The extended forecast shall be developed by applying the long term growth trend that was assumed in the acknowledged forecast, for the particular planning area, to the current population of the planning area.

(5) If the local government initiates a periodic review or other legislative review that concerns an urban growth boundary or other matter authorized by section (2) of this rule before the issuance by PRC of a final population forecast for the local government, and if that review would be based on a population forecast that was adopted and submitted to the department prior to the effective date of this rule as provided in OAR 660-032-0000 (2), but which is not acknowledged by the effective date of this rule, the local government may continue its review using that forecast provided the forecast is acknowledged prior to the local government's adoption of any final land use decision or periodic review task resulting from such review.

(6) If the local government does not have a forecast that meets the requirements of sections (1)(a) and (1)(b) or section (5) of this rule, the local government may adopt an interim forecast for purposes described in section (2) of this rule. The interim forecast must be based on the average annual (annualized) growth rate for the planning period in the most recent population forecast for the county issued by the Oregon Office of Economic Analysis (OEA), consistent with section (7) of this rule. The local government shall adopt the interim forecast following the procedures and requirements in ORS 197.610 to 197.650 and shall provide notice to all local governments in the county.

(7) The interim forecast described in section (6), for a particular planning area, must be developed by applying the annualized growth rate in the most recent OEA forecast, to the current population of the planning area.

(8) For purposes of this rule:

(a) "Annualized growth rate" means the forecasted average annual (annualized) growth rate determined from the most recent published OEA forecast, calculated from 2015 to the 5-year time interval nearest the end of the planning period.

(b) "Apply the annualized growth rate to the current population of the planning area" means to multiply the current population of the planning area by annualized growth rate.

(c) "Current population of the planning area" for a county means the estimated population of the county issued by PRC for the year that the review described in section (1) of this rule is initiated.

(d) "Current population of the planning area" for an urban area means the PRC estimate of population of the city at the time the review is initiated, plus the population for the area between the urban growth boundary and the city limits as determined by the most recent Decennial Census published by the U.S. Census Bureau.

Stat. Auth.: ORS 197.040 &195.033(10)
Stats. Implemented: ORS 195.033, 195.036 & OL 2013 Ch. 574, Sec. 3
Hist.: LCDD 1-2015, f. & cert. ef. 3-25-15

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Rule Caption: Create opportunities to establish Youth Camps on certain lands in Eastern Oregon per HB 3098(2013)
Adm. Order No.: LCDD 2-2015
Filed with Sec. of State: 4-9-2015
Certified to be Effective: 4-9-15
Notice Publication Date: 7-1-2014
Rules Amended: 660-033-0120, 660-033-0130
Subject: The adopted rule creates an opportunity to establish a Youth Camp as a conditional use in an exclusive farm use zone on lands with an agricultural soil class capability of VI, VII and VIII. The adopted rule includes several provisions expressly required by HB 3098 (2013) and responds to the Legislature's direction that such rules are to be promulgated by the Land Conservation and Development Commission.
Rules Coordinator: Casaria Taylor—(503) 373-0050, ext. 322

660-033-0120
Uses Authorized on Agricultural Lands

The uses listed in the table adopted and referenced by this rule may be allowed on agricultural land in areas that meet the applicable requirements of this division, statewide goals and applicable laws. All uses are subject to the requirements, special conditions, additional restrictions and exceptions set forth in ORS Chapter 215, Goal 3 and this division. The abbreviations used within the table shall have the following meanings:

(1) "A" — The use is allowed. Authorization of some uses may require notice and the opportunity for a hearing because the authorization qualifies as a land use decision pursuant to ORS Chapter 197. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns only to the extent authorized by law.

(2) "R" — The use may be allowed, after required review. The use requires notice and the opportunity for a hearing. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to address local concerns.

(3) "*" — The use is not allowed.

(4) "#" — Numerical references for specific uses shown in the table refer to the corresponding section of OAR 660-033-0130. Where no numerical reference is noted for a use in the table, this rule does not establish criteria for the use.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 197.040 & 197.245
Stats. Implemented: ORS 197.015, 197.040, 197.230, 197.245, 215.203, 215.243, 215.283, 215.700 - 215.710 & 215.780
Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94; LCDC 6-1994, f. & cert. ef. 6-3-94; LCDC 2-1995(Temp), f. & cert. ef. 3-14-95; LCDC 7-1995, f. & cert. ef. 6-16-95; LCDC 5-1996, f. & cert. ef. 12-23-96; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 1-2004, f. & cert. ef. 4-30-04; LCDD 2-2006, f. & cert. ef. 2-15-06; LCDD 3-2008, f. & cert. ef. 4-18-08; LCDD 5-2008, f. 12-31-08, cert. ef. 1-2-09; LCDD 5-2009, f. & cert. ef. 12-7-09; LCDD 6-2010, f. & cert. ef. 6-17-10; LCDD 4-2011, f. & cert. ef. 3-16-11; LCDD 9-2011, f. & cert. ef. 11-23-11; LCDD 7-2012, f. & cert. ef. 2-14-12; LCDD 6-2013, f. 12-20-13, cert. ef. 1-1-14; LCDD 2-2014, f. & cert. ef. 10-14-14; LCDD 2-2015, f. & cert. ef. 4-9-15

660-033-0130
Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses

The following requirements apply to uses specified, and as listed in the table adopted by OAR 660-033-0120. For each section of this rule, the corresponding section number is shown in the table. Where no numerical reference is indicated on the table, this rule does not specify any minimum

review or approval criteria. Counties may include procedures and conditions in addition to those listed in the table, as authorized by law.

(1) A dwelling on farmland may be considered customarily provided in conjunction with farm use if it meets the requirements of OAR 660-033-0135.

(2)(a) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.

(b) Any enclosed structures or group of enclosed structures described in subsection (a) within a tract must be separated by at least one-half mile. For purposes of this section, "tract" means a tract as defined by ORS 215.010(2) that is in existence as of June 17, 2010.

(c) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this rule.

(3)(a) A dwelling may be approved on a pre-existing lot or parcel if:

(A) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in subsection (3)(g) of this rule:

(i) Since prior to January 1, 1985; or

(ii) By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.

(B) The tract on which the dwelling will be sited does not include a dwelling;

(C) The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract;

(D) The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law;

(E) The lot or parcel on which the dwelling will be sited is not high-value farmland except as provided in subsections (3)(c) and (d) of this rule; and

(F) When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.

(b) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;

(c) Notwithstanding the requirements of paragraph (3)(a)(E) of this rule, a single-family dwelling may be sited on high-value farmland if:

(A) It meets the other requirements of subsections (3)(a) and (b) of this rule;

(B) The lot or parcel is protected as high-value farmland as defined in OAR 660-033-0020(8)(a);

(C) A hearings officer of a county determines that:

(i) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrates that a lot of parcel cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use;

(ii) The dwelling will comply with the provisions of ORS 215.296(1); and

(iii) The dwelling will not materially alter the stability of the overall land use pattern in the area by applying the standards set forth in paragraph (4)(a)(D) of this rule; and

(D) A local government shall provide notice of all applications for dwellings allowed under subsection (3)(c) of this rule to the Oregon Department of Agriculture. Notice shall be provided in accordance with the governing body's land use regulations but shall be mailed at least 20 calendar days prior to the public hearing before the hearings officer under paragraph (3)(c)(C) of this rule.

(d) Notwithstanding the requirements of paragraph (3)(a)(E) of this rule, a single-family dwelling may be sited on high-value farmland if:

(A) It meets the other requirements of subsections (3)(a) and (b) of this rule;

(B) The tract on which the dwelling will be sited is:

(i) Identified in OAR 660-033-0020(8)(c) or (d);

(ii) Not high-value farmland defined in OAR 660-033-0020(8)(a); and

(iii) Twenty-one acres or less in size; and

(C) The tract is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or

(D) The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary; or

(E) The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The governing body of a county must interpret the center of the subject tract as the geographic center of the flaglot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flaglot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary:

(i) "Flaglot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.

(ii) "Geographic center of the flaglot" means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.

(e) If land is in a zone that allows both farm and forest uses, is acknowledged to be in compliance with both Goals 3 and 4 and may qualify as an exclusive farm use zone under ORS Chapter 215, a county may apply the standards for siting a dwelling under either section (3) of this rule or OAR 660-006-0027, as appropriate for the predominant use of the tract on January 1, 1993;

(f) A county may, by application of criteria adopted by ordinance, deny approval of a dwelling allowed under section (3) of this rule in any area where the county determines that approval of the dwelling would:

(A) Exceed the facilities and service capabilities of the area;

(B) Materially alter the stability of the overall land use pattern of the area; or

(C) Create conditions or circumstances that the county determines would be contrary to the purposes or intent of its acknowledged comprehensive plan or land use regulations.

(g) For purposes of subsection (3)(a) of this rule, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members;

(h) The county assessor shall be notified that the governing body intends to allow the dwelling.

(i) When a local government approves an application for a single-family dwelling under section (3) of this rule, the application may be transferred by a person who has qualified under section (3) of this rule to any other person after the effective date of the land use decision.

(4) A single-family residential dwelling not provided in conjunction with farm use requires approval of the governing body or its designate in any farmland area zoned for exclusive farm use:

(a) In the Willamette Valley, the use may be approved if:

(A) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

(B) The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV through VIII soils that would not, when irrigated, be classified as prime, unique, Class I or II soils;

(C) The dwelling will be sited on a lot or parcel created before January 1, 1993;

(D) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of possible new nonfarm dwellings and parcels on other lots or parcels in the area similarly situated. To address this standard, the county shall:

(i) Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;

(ii) Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot-of-record dwellings that could be approved under subsection (3)(a) and section (4) of this rule, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this subparagraph; and

(iii) Determine whether approval of the proposed nonfarm/lot-of-record dwellings together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and

(E) The dwelling complies with such other conditions as the governing body or its designate considers necessary.

(b) In the Willamette Valley, on a lot or parcel allowed under OAR 660-033-0100(7), the use may be approved if:

(A) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

(B) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated and whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in paragraph (4)(a)(D) of this rule; and

(C) The dwelling complies with such other conditions as the governing body or its designate considers necessary.

(c) In counties located outside the Willamette Valley require findings that:

(A) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

(B)(i) The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel or portion of a lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and

(ii) A lot or parcel or portion of a lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then the lot or parcel or portion of the lot or parcel is not "generally unsuitable". A lot or parcel or portion of a lot or parcel is presumed to be suitable if, in Western Oregon it is composed predominantly of Class I-IV soils or, in Eastern Oregon, it is composed predominantly of Class I-VI soils. Just because a lot or parcel or portion of a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or

(iii) If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable". If a lot or parcel is under forest assessment, it is presumed suitable if, in Western Oregon, it is composed predominantly of soils capable of producing 50 cubic feet of wood fiber per acre per year, or in Eastern Oregon it is composed predominantly of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land;

(C) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying the standards set forth in paragraph (4)(a)(D) of this rule. If the application involves the creation of a new parcel for the nonfarm dwelling, a county shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in paragraph (4)(a)(D) of this rule; and

(D) The dwelling complies with such other conditions as the governing body or its designate considers necessary.

(d) If a single-family dwelling is established on a lot or parcel as set forth in section (3) of this rule or OAR 660-006-0027, no additional dwelling may later be sited under the provisions of section (4) of this rule;

(e) Counties that have adopted marginal lands provisions before January 1, 1993, shall apply the standards in ORS 215.213(3) through 215.213(8) for nonfarm dwellings on lands zoned exclusive farm use that are not designated marginal or high-value farmland.

(5) Approval requires review by the governing body or its designate under ORS 215.296. Uses may be approved only where such uses:

(a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(b) Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(6) A facility for the primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in ORS 215.203(2). Such facility may be approved for a one-year period that is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this section means timber grown upon a tract where the primary processing facility is located.

(7) A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities allowed under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be allowed subject to any applicable rules of the Oregon Department of Aviation.

(8)(a) A lawfully established dwelling may be altered, restored or replaced under ORS 215.213(1)(q) or 215.283(1)(p) if, when an application for a permit is submitted, the permitting authority finds to its satisfaction, based on substantial evidence that:

(A) The dwelling to be altered, restored or replaced has, or formerly had:

(i) Intact exterior walls and roof structure;

(ii) Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(iii) Interior wiring for interior lights; and

(iv) A heating system; and

(B) The dwelling was assessed as a dwelling for purposes of ad valorem taxation for the previous five property tax years, or, if the dwelling has existed for less than five years, from that time; and

(C) Notwithstanding paragraph (B), if the value of the dwelling was eliminated as a result of either of the following circumstances, the dwelling was assessed as a dwelling until such time as the value of the dwelling was eliminated:

(i) The destruction (i.e by fire or natural hazard), or demolition in the case of restoration, of the dwelling; or

(ii) The applicant establishes to the satisfaction of the permitting authority that the dwelling was improperly removed from the tax roll by a person other than the current owner. "Improperly removed" means that the dwelling has taxable value in its present state, or had taxable value when the dwelling was first removed from the tax roll or was destroyed by fire or natural hazard, and the county stopped assessing the dwelling even though the current or former owner did not request removal of the dwelling from the tax roll.

(b) For replacement of a lawfully established dwelling under ORS 215.213(1)(q) or 215.283(1)(p):

(A) The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:

(i) Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or

(ii) If the dwelling to be replaced is, in the discretion of the permitting authority, in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued; and

(iii) If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the permitting authority for the new location.

(B) The applicant must cause to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.

(C) As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the county planning director, or the director's designee, places a statement of release in the deed records of the county to the effect that the provisions of 2013 Oregon Laws, Chapter 462, Section 2 and either ORS 215.213 or 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.

(D) The county planning director, or the director's designee, shall maintain a record of:

(i) The lots and parcels for which dwellings to be replaced have been removed, demolished or converted; and

(ii) The lots and parcels that do not qualify for the siting of a new dwelling under subsection (b) of this section, including a copy of the deed restrictions filed under paragraph (B) of this subsection.

(c) A replacement dwelling under ORS 215.213(1)(q) or 215.283(1)(p) must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.

(A) The siting standards of paragraph (B) of this subsection apply when a dwelling under ORS 215.213(1)(q) or 215.213(1)(p) qualifies for replacement because the dwelling:

(i) Formerly had the features described in paragraph (a)(A) of this section;

(ii) Was removed from the tax roll as described in paragraph (C) of subsection (a); or

(iii) Had a permit that expired as described under paragraph (d)(C) of this section.

(B) The replacement dwelling must be sited on the same lot or parcel:

(i) Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel; and

(ii) If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.

(C) Replacement dwellings that currently have the features described in paragraph (a)(A) of this subsection and that have been on the tax roll as described in paragraph (B) of subsection (a) may be sited on any part of the same lot or parcel.

(d) A replacement dwelling permit that is issued under ORS 215.213(1)(q) or 215.283(1)(p):

(A) Is a land use decision as defined in ORS 197.015 where the dwelling to be replaced:

(i) Formerly had the features described in paragraph (a)(A) of this section; or

(ii) Was removed from the tax roll as described in paragraph (a)(C) of this section;

(B) Is not subject to the time to act limits of ORS 215.417; and

(C) If expired before January 1, 2014, shall be deemed to be valid and effective if, before January 1, 2015, the holder of the permit:

(i) Removes, demolishes or converts to an allowable nonresidential use the dwelling to be replaced; and

(ii) Causes to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.

(9)(a) To qualify for a relative farm help dwelling, a dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.

(b) Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel requirements under 215.780, if the owner of a dwelling described in this section obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the "homesite," as defined in 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel. Prior conditions of approval for the subject land and dwelling remain in effect.

(c) For the purpose of subsection (b), "foreclosure" means only those foreclosures that are exempt from partition under ORS 92.010(9)(a).

(10) A manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building allowed under this provision is a temporary use for the term of the hardship suffered by the existing resident or relative as defined in ORS Chapter 215. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required. Governing bodies shall review the permit authorizing such manufactured homes every two years. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. A temporary residence approved under this section is not eligible for replacement under 215.213(1)(q) or 215.283(1)(p). Department of Environmental Quality review and removal requirements also apply. As used in this section "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons.

(11) Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under 468B.095, and with the requirements of 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zones under this division is allowed.

(12) In order to meet the requirements specified in the statute, a historic dwelling shall be listed on the National Register of Historic Places.

(13) Roads, highways and other transportation facilities, and improvements not otherwise allowed under this rule may be established, subject to the adoption of the governing body or its designate of an exception to Goal 3, Agricultural Lands, and to any other applicable goal with which the facility or improvement does not comply. In addition, trans-

portation uses and improvements may be authorized under conditions and standards as set forth in OAR 60-012-0035 and 660-012-0065.

(14) Home occupations and the parking of vehicles may be authorized. Home occupations shall be operated substantially in the dwelling or other buildings normally associated with uses permitted in the zone in which the property is located. A home occupation shall be operated by a resident or employee of a resident of the property on which the business is located, and shall employ on the site no more than five full-time or part-time persons.

(15) New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.

(16)(a) A utility facility established under ORS 215.213(1)(c) or 215.283(1)(c) is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service. To demonstrate that a utility facility is necessary, an applicant must:

(A) Show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:

(i) Technical and engineering feasibility;

(ii) The proposed facility is locationally-dependent. A utility facility is locationally-dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

(iii) Lack of available urban and nonresource lands;

(iv) Availability of existing rights of way;

(v) Public health and safety; and

(vi) Other requirements of state and federal agencies.

(B) Costs associated with any of the factors listed in paragraph (A) of this subsection may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.

(C) The owner of a utility facility approved under this section shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this paragraph shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

(D) The governing body of the county or its designee shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.

(E) Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Off-site facilities allowed under this paragraph are subject to 660-033-0130(5). Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall have no effect on the original approval.

(F) In addition to the provisions of paragraphs (A) to (D) of this subsection, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) in an exclusive farm use zone shall be subject to the provisions of 660-011-0060.

(G) The provisions of paragraphs (A) to (D) of this subsection do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

(b) An associated transmission line is necessary for public service and shall be approved by the governing body of a county or its designee if an applicant for approval under ORS 215.213(1)(c) or 215.283(1)(c) demonstrates to the governing body of a county or its designee that the associated transmission line meets either the requirements of paragraph (A) of this subsection or the requirements of paragraph (B) of this subsection.

(A) An applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:

(i) The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;

(ii) The associated transmission line is co-located with an existing transmission line;

(iii) The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or

(iv) The associated transmission line is located within an existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground.

(B) After an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to paragraphs (C) and (D) of this subsection, two or more of the following criteria:

(i) Technical and engineering feasibility;

(ii) The associated transmission line is locationally-dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300, or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

(iii) Lack of an available existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground;

(iv) Public health and safety; or

(v) Other requirements of state or federal agencies.

(C) As pertains to paragraph (B), the applicant shall present findings to the governing body of the county or its designee on how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm pratices or a significant increase in the cost of farm practices on the surrounding farmland.

(D) The governing body of a county or its designee may consider costs associated with any of the factors listed in paragraph (B) of this subsection, but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service.

(17) A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval. Permanent features of a power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

(18)(a) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law. An existing golf course may be expanded consistent with the requirements of sections (5) and (20) of this rule, but shall not be expanded to contain more than 36 total holes.

(b) In addition to and not in lieu of the authority in ORS 215.130 to continue, alter, restore or replace a use that has been disallowed by the enactment or amendment of a zoning ordinance or regulation, a use formerly allowed pursuant to 215.213(1)(a) or 215.283(1)(a), as in effect before January 1, 2010, the effective date of 2009 Oregon Laws, chapter 850, section 14, may be expanded subject to:

(A) The requirements of subsection (c) of this section; and

(B) Conditional approval of the county in the manner provided in ORS 215.296.

(c) A nonconforming use described in subsection (b) of this section may be expanded under this section if:

(A) The use was established on or before January 1, 2009; and

(B) The expansion occurs on:

(i) The tax lot on which the use was established on or before January 1, 2009; or

(ii) A tax lot that is contiguous to the tax lot described in subparagraph (i) of this paragraph and that was owned by the applicant on January 1, 2009.

(19)(a) Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous

to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.

(b) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed for by subsection (19)(c) of this rule.

(c) Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the commission determines that the increase will comply with the standards described in ORS 215.296(1). As used in this section, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.

(20) "Golf Course" means an area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" for purposes of ORS 215.213(2)(f), 215.283(2)(f), and this division means a nine or 18 hole regulation golf course or a combination nine and 18 hole regulation golf course consistent with the following:

(a) A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;

(b) A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;

(c) Non-regulation golf courses are not allowed uses within these areas. "Non-regulation golf course" means a golf course or golf course-like development that does not meet the definition of golf course in this rule, including but not limited to executive golf courses, Par three golf courses, pitch and putt golf courses, miniature golf courses and driving ranges;

(d) Counties shall limit accessory uses provided as part of a golf course consistent with the following standards:

(A) An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course may include: Parking; maintenance buildings; cart storage and repair; practice range or driving range; clubhouse; restrooms; lockers and showers; food and beverage service; pro shop; a practice or beginners course as part of an 18 hole or larger golf course; or golf tournament. Accessory uses to a golf course do not include: Sporting facilities unrelated to golfing such as tennis courts, swimming pools, and weight rooms; wholesale or retail operations oriented to the non-golfing public; or housing;

(B) Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate buildings; and

(C) Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to serve only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designed for or include structures for banquets, public gatherings or public entertainment.

(21) "Living History Museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events. As used in this rule, a living history museum shall be related to resource based activities and shall be owned and operated by a governmental agency or a local historical society. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary. "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS Chapter 65.

(22) A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval. Permanent features of a power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

(23) A farm stand may be approved if:

(a) The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and

(b) The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.

(c) As used in this section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area. As used in this subsection, "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.

(d) As used in this section, "local agricultural area" includes Oregon or an adjacent county in Washington, Idaho, Nevada or California that borders the Oregon county in which the farm stand is located.

(24) Accessory farm dwellings as defined by subsection (e) of this section may be considered customarily provided in conjunction with farm use if:

(a) Each accessory farm dwelling meets all the following requirements:

(A) The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator;

(B) The accessory farm dwelling will be located:

(i) On the same lot or parcel as the primary farm dwelling;

(ii) On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract;

(iii) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured dwelling with a deed restriction. The deed restriction shall be filed with the county clerk and require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain if it is reapproved under these rules;

(iv) On any lot or parcel, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farmworker housing as that existing on farm or ranch operations registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. A county shall require all accessory farm dwellings approved under this subparagraph to be removed, demolished or converted to a nonresidential use when farmworker housing is no longer required. "Farmworker housing" shall have the meaning set forth in 215.278 and not the meaning in 315.163; or

(v) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size under ORS 215.780 and the lot or parcel complies with the gross farm income requirements in OAR 660-033-0135(3) or (4), whichever is applicable; and

(C) There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling.

(b) In addition to the requirements in subsection (a) of this section, the primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:

(A) On land not identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, on which, in each of the last two years or three of the last five years or in an average of three of the last five years, the farm operator earned the lower of the following:

(i) At least $40,000 in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(ii) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with the gross annual sales of $10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract;

(B) On land identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, on which the farm operator earned at least $80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years or in an average of three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract;

(C) On land not identified as high-value farmland in counties that have adopted marginal lands provisions under former ORS 197.247 (1991 Edition) before January 1, 1993, the primary farm dwelling is located on a farm or ranch operation that meets the standards and requirements of 215.213(2)(a) or (b) or paragraph (A) of this subsection; or

(D) It is located on a commercial dairy farm as defined by OAR 660-033-0135(8); and

(i) The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm;

(ii) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and

(iii) A Producer License for the sale of dairy products under ORS 621.072.

(c) The governing body of a county shall not approve any proposed division of a lot or parcel for an accessory farm dwelling approved pursuant to this section. If it is determined that an accessory farm dwelling satisfies the requirements of OAR 660-033-0135, a parcel may be created consistent with the minimum parcel size requirements in 660-033-0100.

(d) An accessory farm dwelling approved pursuant to this section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to section (4) of this rule.

(e) For the purposes of OAR 660-033-0130(24), "accessory farm dwelling" includes all types of residential structures allowed by the applicable state building code.

(25) In counties that have adopted marginal lands provisions under former ORS 197.247 (1991 Edition) before January 1, 1993, an armed forces reserve center is allowed, if the center is within one-half mile of a community college. An "armed forces reserve center" includes an armory or National Guard support facility.

(26) Buildings and facilities associated with a site for the takeoff and landing of model aircraft shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this section. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this section. An owner of property used for the purpose authorized in this section may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in this section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

(27) Insect species shall not include any species under quarantine by the Oregon Department of Agriculture or the United States Department of Agriculture. The county shall provide notice of all applications under this section to the Oregon Department of Agriculture. Notice shall be provided in accordance with the county's land use regulations but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application.

(28) A farm on which a processing facility is located must provide at least one-quarter of the farm crops processed at the facility. A farm may also be used for an establishment for the slaughter, processing or selling of poultry or poultry products pursuant to ORS 603.038. If a building is established or used for the processing facility or establishment, the farm operator may not devote more than 10,000 square feet of floor area to the processing facility or establishment, exclusive of the floor area designated for preparation, storage or other farm use. A processing facility or establishment must comply with all applicable siting standards but the standards may not be applied in a manner that prohibits the siting of the processing facility or establishment. A county may not approve any division of a lot or parcel that separates a processing facility or establishment from the farm operation on which it is located.

(29)(a) Composting operations and facilities allowed on high-value farmland are limited to those that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract, and that meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Excess compost may be sold to neighboring farm operations in the local area and shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility.

(b) Composting operations and facilities allowed on land not defined as high-value farmland shall meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Composting operations that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract are allowed uses, while other composting operations are subject to the review standards of ORS 215.296. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.

(30) The County governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.283 or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under 30.936 or 30.937.

(31) Public parks including only the uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.

(32) Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

(a) A public right of way;

(b) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or

(c) The property to be served by the utility.

(33) An outdoor mass gathering as defined in ORS 433.735 or other gathering of 3,000 or fewer persons that is not anticipated to continue for more than 120 hours in any three-month period is not a "land use decision" as defined in 197.015(10) or subject to review under this division. Agritourism and other commercial events or activities may not be permitted as mass gatherings under 215.213(11) and 215.283(4).

(34) Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month planning period is subject to review by a county planning commission under the provisions of ORS 433.763.

(35)(a) As part of the conditional use approval process under ORS 215.296 and OAR 660-033-0130(5), for the purpose of verifying the existence, continuity and nature of the business described in ORS 215.213(2)(w) or 215.283(2)(y), representatives of the business may apply

to the county and submit evidence including, but not limited to, sworn affidavits or other documentary evidence that the business qualifies; and

(b) Alteration, restoration or replacement of a use authorized in ORS 215.213(2)(w) or 215.283(2)(y) may be altered, restored or replaced pursuant to 215.130(5), (6) and (9).

(36) For counties subject to ORS 215.283 and not 215.213, a community center authorized under this section may provide services to veterans, including but not limited to emergency and transitional shelter, preparation and service of meals, vocational and educational counseling and referral to local, state or federal agencies providing medical, mental health, disability income replacement and substance abuse services, only in a facility that is in existence on January 1, 2006. The services may not include direct delivery of medical, mental health, disability income replacement or substance abuse services.

(37) For purposes of this rule a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other necessary appurtenances, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a wind power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request filed after a decision to approve a power generation facility. A minor amendment request shall be subject to 660-033-0130(5) and shall have no effect on the original approval. A proposal for a wind power generation facility shall be subject to the following provisions:

(a) For high-value farmland soils described at ORS 195.300(10), the governing body or its designate must find that all of the following are satisfied:

(A) Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:

(i) Technical and engineering feasibility;

(ii) Availability of existing rights of way; and

(iii) The long term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under paragraph (B);

(B) The long-term environmental, economic, social and energy consequences resulting from the wind power generation facility or any components thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other agricultural lands that do not include high-value farmland soils;

(C) Costs associated with any of the factors listed in paragraph (A) may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary;

(D) The owner of a wind power generation facility approved under subsection (a) shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration; and

(E) The criteria of subsection (b) are satisfied.

(b) For arable lands, meaning lands that are cultivated or suitable for cultivation, including high-value farmland soils described at ORS 195.300(10), the governing body or its designate must find that:

(A) The proposed wind power facility will not create unnecessary negative impacts on agricultural operations conducted on the subject property. Negative impacts could include, but are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing wind farm components such as meteorological towers on lands in a manner that could disrupt common and accepted farming practices;

(B) The presence of a proposed wind power facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;

(C) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval; and

(D) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval.

(c) For nonarable lands, meaning lands that are not suitable for cultivation, the governing body or its designate must find that the requirements of OAR 660-033-0130(37)(b)(D) are satisfied.

(d) In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in OAR 660-033-0130(37)(b) and (c) the approval criteria of 660-033-0130(37)(b) shall apply to the entire project.

(38) A proposal to site a photovoltaic solar power generation facility shall be subject to the following definitions and provisions:

(a) "Arable land" means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.

(b) "Arable soils" means soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of a local land use application, but "arable soils" does not include high-value farmland soils described at ORS 195.300(10) unless otherwise stated.

(c) "Nonarable land" means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.

(d) "Nonarable soils" means soils that are not suitable for cultivation. Soils with an NRCS agricultural capability class V–VIII and no history of irrigation shall be considered nonarable in all cases. The governing body or its designate may determine other soils, including soils with a past history of irrigation, to be nonarable based on substantial evidence in the record of a local land use application.

(e) "Photovoltaic solar power generation facility" includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.

(f) For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:

(A) The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations con-

ducted on any portion of the subject property not occupied by project components. Negative impacts could include, but are not limited to, the unnecessary construction of roads dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing photovoltaic solar power generation facility project components on lands in a manner that could disrupt common and accepted farming practices;

(B) The presence of a photovoltaic solar power generation facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;

(C) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval;

(D) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval;

(E) The project is not located on high-value farmland soils unless it can be demonstrated that:

(i) Non high-value farmland soils are not available on the subject tract;

(ii) Siting the project on non high-value farmland soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

(iii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non high-value farmland soils; and

(F) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

(i) If fewer than 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.

(ii) When at least 48 acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland or acquire water rights, or will reduce the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

(g) For arable lands, a photovoltaic solar power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:

(A) The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:

(i) Nonarable soils are not available on the subject tract;

(ii) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

(iii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of nonarable soils;

(B) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10) unless an exception is taken pursuant to 197.732 and OAR chapter 660, division 4;

(C) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

(i) If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area no further action is necessary.

(ii) When at least 80 acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities, within the study area the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and

(D) The requirements of OAR 660-033-0130(38)(f)(A), (B), (C) and (D) are satisfied.

(h) For nonarable lands, a photovoltaic solar power generation facility shall not preclude more than 320 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:

(A) The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:

(i) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

(ii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to other possible sites also located on the subject tract, including sites that are comprised of nonarable soils;

(B) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10);

(C) No more than 20 acres of the project will be sited on arable soils unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4;

(D) The requirements of OAR 660-033-0130(38)(f)(D) are satisfied;

(E) If a photovoltaic solar power generation facility is proposed to be developed on lands that contain a Goal 5 resource protected under the county's comprehensive plan, and the plan does not address conflicts between energy facility development and the resource, the applicant and the county, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts. If there is no program present to protect the listed Goal 5 resource(s) present in the local comprehensive plan or implementing ordinances and the applicant and the appropriate resource management agency(ies) cannot successfully agree on a cooperative resource management plan, the county is responsible for determining appropriate mitigation measures; and

(F) If a proposed photovoltaic solar power generation facility is located on lands where, after site specific consultation with an Oregon Department of Fish and Wildlife biologist, it is determined that the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive) or habitat or to big game winter range or migration corridors, golden eagle or prairie falcon nest sites or pigeon springs, the applicant shall conduct a site-specific assessment of the subject property in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife habitats are anticipated. Based on the results of the biologist's report, the site shall be designed to avoid adverse effects to state or federal special status species or to wildlife habitats as described above. If the applicant's site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the county is responsible for determining appropriate mitigation, if any, required for the facility.

(G) The provisions of paragraph (F) are repealed on January 1, 2022.

(i) The county governing body or its designate shall require as a condition of approval for a photovoltaic solar power generation facility, that the

project owner sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).

(j) Nothing in this section shall prevent a county from requiring a bond or other security from a developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic solar power generation facility.

(k) If ORS 469.300(11)(a)(D) is amended, the commission may reevaluate the acreage thresholds identified in subsections (f), (g) and (h) of this section.

(39) Dog training classes or testing trials conducted outdoors or in farm buildings that existed on January 1, 2013, when:

(a) The number of dogs participating in training does not exceed 10 per training class and the number of training classes to be held on-site does not exceed six per day; and

(b) The number of dogs participating in a testing trial does not exceed 60 and the number of testing trials to be conducted on-site does not exceed four per calendar year.

(40) A youth camp may be established on agricultural land under the requirements of this section. The purpose of this section is to allow for the establishment of youth camps that are generally self-contained and located on a lawfully established unit of land of suitable size and location to limit potential impacts on nearby land and to ensure compatibility with surrounding farm uses.

(a) Definitions: In addition to the definitions provided for this division in OAR 660-033-0020 and ORS 92.010, for purposes of this section the following definitions apply:

(A)"Low impact recreational facilities" means facilities that have a limited amount of permanent disturbance on the landscape and are likely to create no, or only minimal impacts on adjacent private lands. Low impact recreational facilities include, but are not limited to, open areas, ball fields, volleyball courts, soccer fields, archery or shooting ranges, hiking and biking trails, horseback riding areas, swimming pools and zip lines. Low impact recreational facilities are designed and developed in a manner consistent with the lawfully established unit of land's natural environment.

(B) "Youth camp" means a facility that is either owned or leased, and is operated by a state or local government or a nonprofit corporation as defined under ORS 65.001 and is established for the purpose of providing an outdoor recreational and educational experience primarily for the benefit of persons 21 years of age and younger. Youth camps do not include a juvenile detention center or juvenile detention facility or similar use.

(C) "Youth camp participants" means persons directly involved with providing or receiving youth camp services, including but not limited to, campers, group leaders, volunteers or youth camp staff.

(b) Location: A youth camp may be located only on a lawfully established unit of land suitable to ensure an outdoor experience in a private setting without dependence on the characteristics of adjacent and nearby public and private land. In determining the suitability of a lawfully established unit of land for a youth camp the county shall consider its size, topography, geographic features and other characteristics, the proposed number of overnight participants and the type and number of proposed facilities. A youth camp may be located only on a lawfully established unit of land that is:

(A) At least 1,000 acres;

(B) In eastern Oregon;

(C) Composed predominantly of class VI, VII or VIII soils;

(D) Not within an irrigation district;

(E) Not within three miles of an urban growth boundary;

(F) Not in conjunction with an existing golf course;

(G) Suitable for the provision of protective buffers to separate the visual and audible aspects of youth camp activities from other nearby and adjacent lands and uses. Such buffers shall consist of natural vegetation, topographic or other natural features and shall be implemented through the requirement of setbacks from adjacent public and private lands, public roads, roads serving other ownerships and riparian areas. Setbacks from riparian areas shall be consistent with OAR 660-023-0090. Setbacks from adjacent public and private lands, public roads and roads serving other ownerships shall be 250 feet unless the county establishes on a case-by-case basis a different setback distance sufficient to:

(i) Prevent significant conflicts with commercial resource management practices;

(ii) Prevent a significant increase in safety hazards associated with vehicular traffic on public roads and roads serving other ownerships; and

(iii) Minimize conflicts with resource uses on nearby resource lands;

(H) At least 1320 feet from any other lawfully established unit of land containing a youth camp approved pursuant to this section; and

(I) Suitable to allow for youth camp development that will not interfere with the exercise of legally established water rights on nearby properties.

(c) Overnight Youth Camp Participants: The maximum number of overnight youth camp participants is 350 participants unless the county finds that a lower number of youth camp participants is necessary to avoid conflicts with surrounding uses based on consideration of the size, topography, geographic features and other characteristics of the lawfully established unit of land proposed for the youth camp. Notwithstanding the preceding sentence, a county may approve a youth camp for more than 350 overnight youth camp participants consistent with this subsection if resource lands not otherwise needed for the youth camp that are located in the same county or adjacent counties that are in addition to, or part of, the lawfully established unit of land approved for the youth camp are permanently protected by restrictive covenant as provided in subsection (d) and subject to the following provisions:

(A) For each 160 acres of agricultural lands predominantly composed of class I-V soils that are permanently protected from development, an additional 50 overnight youth camp participants may be allowed;

(B) For each 160 acres of wildlife habitat that is either included on an acknowledged inventory in the local comprehensive plan or identified with the assistance and support of Oregon Department of Fish and Wildlife, regardless of soil types and resource land designation that are permanently protected from development, an additional 50 overnight youth camp participants may be allowed;

(C) For each 160 acres of agricultural lands predominantly composed of class VI-VIII soils that are permanently protected from development, an additional 25 overnight youth camp participants may be allowed; or

(D) A youth camp may have 351 to 600 overnight youth camp participants when:

(i) The tract on which the youth camp will be located includes at least 1,920 acres; and

(ii) At least 920 acres is permanently protected from development. The county may require a larger area to be protected from development when it finds a larger area necessary to avoid conflicts with surrounding uses.

(E) Under no circumstances shall more than 600 overnight youth camp participants be allowed.

(d) The county shall require, as a condition of approval of an increased number of overnight youth camp participants authorized by paragraphs (c)(A), (B), (C) or (D) of this section requiring other lands to be permanently protected from development, that the land owner of the other lands to be protected sign and record in the deed records for the county or counties where such other lands are located a document that protects the lands as provided herein, which for purposes of this section shall be referred to as a restrictive covenant.

(A) A restrictive covenant shall be sufficient if it is in a form substantially the same as the form attached hereto as Exhibit B.

(B) The county condition of approval shall require that the land owner record a restrictive covenant under this subsection:

(i) Within 90 days of the final land use decision if there is no appeal, or

(ii) Within 90 days after an appellate judgment affirming the final land use decision on appeal.

(C) The restrictive covenant is irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the land subject to the restrictive covenant is located.

(D) Enforcement of the restrictive covenant may be undertaken by the department or by the county or counties where the land subject to the restrictive covenant is located.

(E) The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property that is subject to the restrictive covenant required by this subsection.

(F) The county planning director shall maintain a copy of the restrictive covenant filed in the county deed records pursuant to this section and a map or other record depicting the tracts, or portions of tracts, subject to the restrictive covenant filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.

(e) In addition, the county may allow:

(A) Up to eight nights during the calendar year during which the number of overnight youth camp participants may exceed the total number of overnight youth camp participants allowed under subsection (c) of this section.

(B) Overnight stays at a youth camp for participants of adult programs that are intended primarily for individuals over 21 years of age, not including staff, for up to 30 days in any one calendar year.

(f) Facilities: A youth camp may provide only the facilities described in paragraphs (A) through (I) of this subsection:

(A) Low impact recreational facilities. Intensive developed facilities such as water parks and golf courses are not allowed;

(B) Cooking and eating facilities, provided they are within a building that accommodates youth camp activities but not in a building that includes sleeping quarters. Food services shall be limited to those provided in conjunction with the operation of the youth camp and shall be provided only for youth camp participants. The sale of individual meals may be offered only to family members or guardians of youth camp participants;

(C) Bathing and laundry facilities;

(D) Up to three camp activity buildings, not including a building for primary cooking and eating facilities.

(E) Sleeping quarters, including cabins, tents or other structures, for youth camp participants only, consistent with subsection (c) of this section. Sleeping quarters intended as overnight accommodations for persons not participating in activities allowed under this section or as individual rentals are not allowed. Sleeping quarters may include restroom facilities and, except for the caretaker's dwelling, may provide only one shower for every five beds. Sleeping quarters may not include kitchen facilities.

(F) Covered areas that are not fully enclosed for uses allowed in this section;

(G) Administrative, maintenance and storage buildings including permanent structures for administrative services, first aid, equipment and supply storage, and a gift shop available to youth camp participants but not open to the general public;

(H) An infirmary, which may provide sleeping quarters for medical care providers (e.g., a doctor, registered nurse, or emergency medical technician);

(I) A caretaker's residence, provided no other dwelling is on the lawfully established unit of land on which the youth camp is located.

(g) A campground as described in ORS 215.283(2)(c), OAR 660-033-0120, and section (19) of this rule may not be established in conjunction with a youth camp.

(h) Conditions of Approval: In approving a youth camp application, a county must include conditions of approval as necessary to achieve the requirements of this section.

(A) With the exception of trails, paths and ordinary farm and ranch practices not requiring land use approval, youth camp facilities shall be clustered on a single development envelope of no greater than 40 acres.

(B) A youth camp shall adhere to standards for the protection of archaeological objects, archaeological sites, burials, funerary objects, human remains, objects of cultural patrimony and sacred objects, as provided in ORS 97.740 to 97.750 and 358.905 to 358.961, as follows:

(i) If a particular area of the lawfully established unit of land proposed for the youth camp is proposed to be excavated, and if that area contains or is reasonably believed to contain resources protected by ORS 97.740 to 97.750 and 358.905 to 358.961, the application shall include evidence that there has been coordination among the appropriate Native American Tribe, the State Historic Preservation Office (SHPO) and a qualified archaeologist, as described in 390.235(6)(b).

(ii) The applicant shall obtain a permit required by ORS 390.235 before any excavation of an identified archeological site begins.

(iii) The applicant shall monitor construction during the ground disturbance phase(s) of development if such monitoring is recommended by SHPO or the appropriate Native American Tribe.

(C) A fire safety protection plan shall be adopted for each youth camp that includes the following:

(i) Fire prevention measures;

(ii) On site pre-suppression and suppression measures; and

(iii) The establishment and maintenance of fire-safe area(s) in which camp participants can gather in the event of a fire.

(D) A youth camp's on-site fire suppression capability shall at least include:

(i) A 1000 gallon mobile water supply that can reasonably serve all areas of the camp;

(ii) A 60 gallon-per-minute water pump and an adequate amount of hose and nozzles;

(iii) A sufficient number of firefighting hand tools; and

(iv) Trained personnel capable of operating all fire suppression equipment at the camp during designated periods of fire danger.

(v) An equivalent level of fire suppression facilities may be determined by the governing body or its designate. The equivalent capability shall be based on the response time of the effective wildfire suppression agencies.

(E) The county shall require, as a condition of approval of a youth camp, that the land owner of the youth camp sign and record in the deed records for the county a document binding the land owner, the operator of the youth camp if different from the owner, and the land owner's or operator's successors in interest, prohibiting:

(i) a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937;

(ii) future land divisions resulting in a lawfully established unit of land containing the youth camp that is smaller in size than required by the county for the original youth camp approval; and

(iii) development on the lawfully established unit of land that is not related to the youth camp and would require a land use decision as defined at ORS 197.015(10) unless the county's original approval of the camp is rescinded and the youth camp development is either removed or can remain, consistent with a county land use decision that is part of such rescission.

(F) Nothing in this rule relieves a county from complying with other requirements contained in the comprehensive plan or implementing land use regulations, such as the requirements addressing other resource values (e.g. resources identified in compliance with statewide planning Goal 5) that exist on agricultural lands.

(i) If a youth camp is proposed to be developed on lands that contain a Goal 5 resource protected under the county's comprehensive plan, and the plan does not address conflicts between youth camp development and the resource, the applicant and the county, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts consistent with OAR chapter 660, divisions 16 and 23. If there is no program to protect the listed Goal 5 resource(s) included in the local comprehensive plan or implementing ordinances and the applicant and the appropriate resource management agency cannot successfully agree on a cooperative resource management plan, the county is responsible for determining appropriate mitigation measures in compliance with OAR chapter 660, division 23; and

(ii) If a proposed youth camp is located on lands where, after site specific consultation with a district state biologist, the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive) or habitat, or to big game winter range or migration corridors, golden eagle or prairie falcon nest sites, or pigeon springs), the applicant shall conduct a site-specific assessment of the land in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife habitats are anticipated. Based on the results of the biologist's report, the site shall be designed to avoid adverse effects to state or federal special status species or to wildlife habitats as described above. If the applicant's site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the youth camp facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the county is responsible for determining appropriate mitigation, if any, required for the youth camp facility.

(iii) The commission shall consider the repeal of the provisions of subparagraph (ii) on or before January 1, 2022.

(i) Extension of Sewer to a Youth Camp. A Goal 11 exception to authorize the extension of a sewer system to serve a youth camp shall be taken pursuant to ORS 197.732(1)(c), Goal 2, and this section. The exceptions standards in OAR chapter 660, division 4 and OAR chapter 660, division 11 shall not apply. Exceptions adopted pursuant to this section shall be deemed to fulfill the requirements for goal exceptions under ORS 197.732(1)(c) and Goal 2.

(A) A Goal 11 exception shall determine the general location for the proposed sewer extension and shall require that necessary infrastructure be no larger than necessary to accommodate the proposed youth camp.

(B) To address Goal 2, Part II(c)(1), the exception shall provide reasons justifying why the state policy in the applicable goals should not apply. Goal 2, Part II(c)(1) shall be found to be satisfied if the proposed sewer extension will serve a youth camp proposed for up to 600 youth camp participants.

(C) To address Goal 2, Part II(c)(2), the exception shall demonstrate that areas which do not require a new exception cannot reasonably accommodate the proposed sewer extension. Goal 2, Part II(c)(2) shall be found to be satisfied if the sewer system to be extended was in existence as of January 1, 1990 and is located outside of an urban growth boundary on lands for which an exception to Goal 3 has been taken.

(D) To address Goal 2, Part II(c)(3), the exception shall demonstrate that the long term environmental, economic, social, and energy consequences resulting from the proposed extension of sewer with measures to reduce the effect of adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the lawfully established unit of land proposed for the youth camp. Goal 2, Part II(c)(3) shall be found to be satisfied if the proposed sewer extension will serve a youth camp located on a tract of at least 1,000 acres.

(E) To address Goal 2, Part II(c)(4), the exception shall demonstrate that the proposed sewer extension is compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. Goal 2, Part II(c)(4) shall be found to be satisfied if the proposed sewer extension for a youth camp is conditioned to comply with section (5) of this rule.

(F) An exception taken pursuant to this section does not authorize extension of sewer beyond what is justified in the exception.

(j) Applicability: The provisions of this section shall apply directly to any land use decision pursuant to ORS 197.646 and 215.427(3). A county may adopt provisions in its comprehensive plan or land use regulations that establish standards and criteria in addition to those set forth in this section, or that are necessary to ensure compliance with any standards or criteria in this section.

Stat. Auth.: ORS 197.040
Stats. Implemented: ORS 197.040, 215.213, 215.275, 215.282, 215.283, 215.301, 215.448, 215.459 & 215.705
Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDC 3-1994, f. & cert. ef. 3-1-94; LCDC 6-1994 , f. & cert. ef. 6-3-94; LCDC 8-1995, f. & cert. ef. 6-29-95; LDCD 5-1996, f. & cert. ef. 12-23-96; LCDD 5-1997, f. & cert. ef. 12-23-97; LCDD 2-1998, f. & cert. ef. 6-1-98; LCDD 5-2000, f. & cert. ef. 4-24-00; LCDD 9-2000, f. & cert. ef. 11-3-00; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 1-2004, f. & cert. ef. 4-30-04; LCDD 2-2006, f. & cert. ef. 2-15-06; LCDD 3-2008, f. & cert. ef. 4-18-08; LCDD 5-2008, f. 12-31-08, cert. ef. 1-2-09; LCDD 5-2009, f. & cert. ef. 12-7-09; LCDD 6-2010, f. & cert. ef. 6-17-10; LCDD 7-2010(Temp), f. & cert. ef. 6-17-10 thru 11-30-10; LCDD 9-2010, f. & cert. ef. 9-24-10; LCDD 11-2010, f. & cert. ef. 11-23-10; LCDD 4-2011, f. & cert. ef. 3-16-11; LCDD 9-2011, f. & cert. ef. 11-23-11; LCDD 7-2012, f. & cert. ef. 2-14-12; LCDD 2-2013, f. & cert. ef. 1-29-13; LCDD 6-2013, f. 12-20-13, cert. ef. 1-1-14; LCDD 2-2014, f. & cert. ef. 10-14-14; LCDD 2-2015, f. & cert. ef. 4-9-15

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Landscape Contractors Board
Chapter 808

Rule Caption: Amends operating budget from July 1, 2013 through June 30, 2015
Adm. Order No.: LCB 3-2015
Filed with Sec. of State: 3-24-2015
Certified to be Effective: 3-24-15
Notice Publication Date: 1-1-2015
Rules Amended: 808-001-0008
Subject: Amends operating budget from July 1, 2013 through June 30, 2015.
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, 2013 and ending June 30, 2015, as approved at a Board Meeting held June 20, 2013. 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 18, 2014, the Board revised the July 1, 2013 through June 30, 2015 budget to reflect a total income amount of $1,244,730 and a total expense of $1,244,284.06 with a projected net income of $2,445.94.

[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

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Occupational Therapy Licensing Board
Chapter 339

Rule Caption: Establishes standards of practice for Telehealth.
Adm. Order No.: OTLB 2-2015
Filed with Sec. of State: 3-27-2015
Certified to be Effective: 3-27-15
Notice Publication Date: 5-1-2014
Rules Adopted: 339-010-0006
Subject: The rules on telehealth will clarify OT and OTA's rule in utilizing telehealth in their practice.
Rules Coordinator: Felicia Holgate—(971) 673-0198

339-010-0006
Standards of Practice for Telehealth

(1) "Telehealth" is defined as the use of interactive audio and video, in real time telecommunication technology or store-and-forward technology, to deliver health care services when the occupational therapist and patient/client are not at the same physical location. Its uses include diagnosis, consultation, treatment, prevention, transfer of health or medical data, and continuing education.

(2) Telehealth is considered the same as Telepractice for Occupational Therapists working in education settings; and Teletherapy and Telerehab in other settings.

(3) In order to provide occupational therapy services via telehealth to a patient/client in Oregon, the occupational therapist providing services to a patient/client must have a valid and current license issued by the Oregon OT Licensing Board. Oregon licensed Occupational Therapists using telehealth technology with a patient/client in another state may also be required to be licensed in the state in which the patient/client receives those services and must adhere to those state licensure laws.

(4) Occupational therapists shall obtain informed consent of the delivery of service via telehealth from the patient/client prior to initiation of occupational therapy services via telehealth and maintain documentation in the patient's or client's health record.

(5) Occupational therapists shall secure and maintain the confidentiality of medical information of the patient/client as required by HIPAA and state and federal law.

(6) When providing occupational therapy services via telehealth, an occupational therapist shall determine whether an in-person evaluation is necessary and make every attempt to ensure that a therapist is available if an on-site visit is required.

(a) If it is determined in-person interventions are necessary, every attempt must be made to ensure that an on-site occupational therapist or occupational therapy assistant shall provide the appropriate interventions.

(b) The obligation of the occupational therapist to determine whether an in-person re-evaluation or intervention is necessary continues during the course of treatment.

(7) In making the determination whether an in-person evaluation or intervention are necessary, an occupational therapist shall consider at a minimum:

(a) The complexity of the patient's/client's condition;
(b) His or her own knowledge skills and abilities;
(c) The patient's/client's context and environment;
(d) The nature and complexity of the intervention;
(e) The pragmatic requirements of the practice setting; and
(f) The capacity and quality of the technological interface.

(8) An occupational therapist or occupational therapy assistant providing occupational therapy services via telehealth must:

(a) Exercise the same standard of care when providing occupational therapy services via telehealth as with any other mode of delivery of occupational therapy services;

(b) Provide services consistent the AOTA Code of Ethics and Ethical Standards of Practice; and comply with provisions of the Occupational Therapy Practice Act and its regulations.

(9) Supervision of Occupational Therapy Assistant under 339-010-0035 for routine and general supervision, can be done through telehealth, but cannot be done when close supervision as defined in 339-010-0005 is required. The same considerations in (7)(A) through (F) must be considered in determining whether telehealth should be used.

(10) An Occupational Therapist who is supervising a fieldwork student must follow the ACOTE standards and other accreditation requirements.

(11) Failure to comply with these regulations shall be considered unprofessional conduct under OAR 339-010-0020.

Stat. Auth.: ORS 675.320(8)
Stats. Implemented: ORS 675.320
Hist.: OTLB 2-2015, f. & cert. ef. 3-27-15

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Oregon Department of Education
Chapter 581

Rule Caption: Fingerprinting individuals employed by private schools in positions not requiring licensure as teachers, etc.
Adm. Order No.: ODE 7-2015
Filed with Sec. of State: 4-15-2015
Certified to be Effective: 4-15-15
Notice Publication Date: 12-1-2014
Rules Amended: 581-045-0586
Subject: The changes alphabetize the definitions section, clarify what "newly hired" means, rewrite the section about an employee who previously worked for a school, and redefine "knowingly made a false statement."
Rules Coordinator: Cindy Hunt—(503) 947-5651

581-045-0586
Fingerprinting of Subject Individuals Employed by Private Schools in Positions Not Requiring Licensure as Teachers, Administrators, Personnel Specialists, School Nurses

(1) Definitions of terms shall be as follows:

(a) "Applicant" means a subject individual for whom fingerprint cards and other required information have been submitted to the Oregon Department of Education for a criminal history check and review;

(b) "Convictions of crimes prohibiting employment, contract or assignment by a contractor" means, notwithstanding any other statutes or Oregon administrative rule, conviction of a crime listed in ORS 342.143, or making a false statement as to the conviction of a crime;

(c) "Direct, unsupervised contact with students" means contact with students that provides the person opportunity and probability for personal communication or touch when not under direct supervision;

(d) "Fee" means the total charges assessed. Fees shall be paid to the Oregon Department of Education with submission of fingerprint cards and associated form. The fee amount and distribution shall be as follows:

(A) Oregon State Police (OSP) — $28;

(B) Federal Bureau of Investigation (FBI) — $16.50;

(C) Oregon Department of Education — $14.50;

(D) TOTAL — $59.

(e) "Information to be required" means all information requested by the Oregon Department of Education for processing the fingerprint application, including the following:

(A) One properly completed FBI fingerprint cards #USGPO 1990-262-201-2000; and

(B) A properly completed Department of Education form #581-2283-M.

(f) "Knowingly made a false statement" means that a subject individual has failed to disclose on the Department of Education form #581-2283-M as part of the criminal background check process any of the following:

(A) A felony;

(B) Any misdemeanor conviction less than twenty years from date of conviction;

(C) Any misdemeanor that is listed in ORS 342.143 or its substantial equivalent in another jurisdiction.

(g) "Newly hired" means a person employed for three months or less after application or request for a position without regard to that person's current or previous employer.

(h) "Private School" means a school that:

(A) Offers education in prekindergarten, kindergarten or grades 1 through 12, or any combination of those grade levels; and

(B) Provides instructional programs that are not limited solely to dancing, drama, music, religious or athletic instruction.

(i) "Subject individual" means:

(A) A person newly hired by a Private School in a position not requiring licensure under ORS 342.223; and

(B) Any person hired as or by a contractor into a position having direct, unsupervised contact with students and not requiring licensure under ORS 342.223.

(2) A private school may request that Department of Education conduct a criminal records check of a subject individual. Upon receipt of the information, the Department shall request criminal information from the Department of State Police in the manner prescribed by law and may charge the private school a fee not to exceed the actual cost of acquiring and furnishing the information.

(3) The Oregon Department of Education shall review the criminal records of subject individual upon the private school's submission of the required FBI and state forms and the State Superintendent of Public Instruction or designee shall issue a statement of criminal history status. The Superintendent of Public Instruction or designee shall notify the private school if the subject individual has knowingly made a false statement as to conviction of a crime. A private school may choose to employ or contract with a person who has knowingly made a false statement as to conviction of a crime.

(4) The Oregon Department of Education shall not provide copies of criminal records to anyone except as provided by law. The subject individual may inspect his or her personal criminal records under the supervision of properly certified LEDS (Law Enforcement Data Systems) personnel at the Department of Education.

(5) The Superintendent of Public Instruction or designee shall notify the private school if the subject individual has been convicted of a crime listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number. A private school may choose to employ or contract with a person who has been convicted of a crime listed in ORS 342.143 or the substantial equivalent.

(6) Only cards and forms approved by the Department of Education will be accepted. The Department of Education will return any incomplete or incorrectly completed fingerprint cards and associated forms without taking any other action. The Department of Education will return fingerprint cards and associated forms without appropriate fees without taking any other action.

(7) The Department of Education shall maintain a record of all properly submitted fingerprint cards. The record shall include at least the following:

(a) Card sequence number;

(b) Name of Private School submitting the cards;

(c) Date cards and Department form received;

(d) Date incomplete card returned to the school (only if applicable);

(e) Date completed card sent to Oregon State Police;

(f) Date private school was notified of state police record or lack of record;

(g) Date FBI card returned to Department;

(h) Date private school was notified of FBI record or lack of record.

Stat. Auth.: ORS 326.603
Stats. Implemented: ORS 326.603
Hist.: EB 16-1997, f. & cert. ef. 12-29-97; ODE 29-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 13-2003(Temp), f. & cert. ef. 7-1-03 thru 12-15-03; Administrative correction 8-2-04; ODE 9-2006, f. & cert. ef. 2-21-06; Renumbered from 581-022-1732, ODE 25-2008, f. & cert. ef. 9-26-08; ODE 27-2009, f. & cert. ef. 12-10-09; ODE 7-2012, f. 2-1-12, cert. ef. 2-3-12; ODE 28-2012(Temp), f. 9-13-12, cert. ef. 9-17-12 thru 3-15-13; ODE 4-2013, f. & cert. ef. 1-17-13; ODE 11-2014, f. & cert. ef. 2-19-14; ODE 7-2015, f. & cert. ef. 4-15-15

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Rule Caption: Fingerprinting Subject Individuals in Positions Not Requiring Licensures as Teachers, Administrators, Personnel Specialists, School Nurses
Adm. Order No.: ODE 8-2015
Filed with Sec. of State: 4-15-2015
Certified to be Effective: 4-15-15
Notice Publication Date: 12-1-2014
Rules Amended: 581-021-0500
Subject: The changes alphabetize the definitions section, clarify what newly hired means, rewrite the section about an employee who previously worked for a district, and redefine knowingly made a false statement.
Rules Coordinator: Cindy Hunt—(503) 947-5651

581-021-0500
Fingerprinting of Subject Individuals in Positions Not Requiring Licensure as Teachers, Administrators, Personnel Specialists, School Nurses

(1) Definitions of terms shall be as follows:

(a) "Applicant" means a subject individual for whom fingerprint cards and other required information have been submitted to the Oregon Department of Education for a criminal history check and review;

(b) "Direct, unsupervised contact with students" means contact with students that provides the person opportunity and probability for personal communication or touch when not under direct supervision;

(c) "Fee" means the total charges assessed the local school district's State School Fund by the Department of Education for processing each fingerprint card submitted. The fee amount and distribution shall be as follows:

(A) Oregon State Police (OSP) — $28;

(B) Federal Bureau of Investigation (FBI) — $16.50;

(C) Oregon Department of Education — $14.50;

(D) TOTAL — $59.

(d) "Information to be required" means all information requested by the Oregon Department of Education for processing the fingerprint application, including the following:

(A) One properly completed FBI fingerprint cards #USGPO 1990-262-201-2000; and

(B) A properly completed Department of Education form #581-2283-M.

(e) For purposes of criminal background checks pursuant to ORS 326.603 and 326.607, conducted in relation to individuals subject to such criminal background verification, the following definitions of "conviction" of a crime applies:

(A) Any adjudication in any criminal court of law, in this state or in any other jurisdiction, finding the individual committed a crime. A crime is an offense for which a sentence of imprisonment is authorized.

(B) Any adjudication in a juvenile proceeding, in this state or in any other jurisdiction, determining that the individual committed an offense, which if done by an adult, would constitute a crime listed in ORS 342.143.

(C) Any conduct which resulted in mandatory registration reporting as a sex offender in this state or any other jurisdiction. A later court order or other action relieving the individual of the sex offender registration/reporting requirement does not affect the status of the conduct as a conviction for purposes of this rule.

(D) Any plea of guilty, no contest or nolo contendere in connection with a crime, in this state or in any other jurisdiction.

(E) A conviction exists for purposes of this rule, regardless of whether a dismissal was later entered into the record in connection with a diversion or on any sort of deferred adjudication or delayed entry of judgment.

(F) A conviction exists for purposes of this rule even if a crime was expunged or removed from the record of the individual under the laws of another jurisdiction if the crime would be ineligible under ORS 137.225 for expunction or removal from the record if the conviction had occurred in Oregon. A conviction does not exist where an Oregon court has expunged or otherwise removed a conviction from the record of an individual.

(G) A conviction does not exist, except as noted above, only where there was a judicial adjudication that the individual did not commit the offense in question, or when a conviction, adjudication or plea is overturned by an appellate court of record and no later conviction, adjudication or plea indicating the individual committed the offense in question is on the record.

(f) "Knowingly made a false statement" means that a subject individual has failed to disclose on the Department of Education form #581-2283-M as part of the criminal background check process any of the following:

(A) A felony;

(B) Any misdemeanor conviction less than twenty years from date of conviction;

(C) Any misdemeanor that is listed in ORS 342.143 or its substantial equivalent in another jurisdiction.

(g) "Newly hired" means a person employed for three months or less after application or request for a position.

(h) "School district" means:

(A) A taxing district providing public elementary or secondary education, or any combination thereof, within the state;

(B) An education service district;

(C) The Oregon School for the Deaf;

(D) An educational program under the Youth Corrections Education Program; and

(E) A public charter school.

(i) "Subject individual" means:

(A) Any person newly hired by a school district and not requiring licensure under ORS 342.223;

(B) Any person employed as or by a contractor into a position having direct, unsupervised contact with students and not requiring licensure under ORS 342.223;

(C) Subject individual excludes a newly hired employee so long as the school district has on file evidence that the newly hired employee previously successfully completed Oregon and FBI criminal records check for a previous employer that was a school district and the employer has additional evidence that the employee has not resided outside the state between the two periods of employment;

(D) A person who is a community college faculty member providing instruction:

(i) At the site of an early childhood education program or at a school site as part of an early childhood program; or

(ii) At a kindergarten through grade 12 school site during the regular school day; and

(E) A person who is an employee of a public charter school and not requiring licensure under ORS 342.223.

(2) School districts shall adopt and implement local board policy related to fingerprint collection and processing which shall:

(a) Specify that subject individuals as defined by this rule are subject to fingerprinting and criminal record checks required by law;

(b) Specify which contractors will be considered to have unsupervised access to children and are subject to fingerprinting and criminal records checks required by law;

(c) Specify the format used to notify subject individuals that fingerprinting and criminal record checks are required by law and that any action resulting from those checks may be appealed as a contested case;

(d) Provide a clear statement that the district will terminate the employee, if it receives notification by the Superintendent of Public Instruction that the person has been convicted, of the crimes prohibiting employment that are listed in section (9) of this rule;

(e) Provide a clear statement that the district may terminate the employee, if it receives notification by the Superintendent of Public Instruction that the person has knowingly made a false statement as to the conviction of any crime;

(f) Specify that subject individuals may begin to carry out terms of a contract or employment on a probationary basis pending the return of criminal record checks by the FBI;

(g) Identify that employment shall be offered prior to collecting fingerprint cards for submission to the Department of Education and that fees may be collected from the applicant. The applicant may request that the amount of the fee be withheld from the amount otherwise due the individual, and the school district shall withhold the amount only upon the request of the subject individual; and

(h) Identify a procedure that ensures the integrity of fingerprint collection and will prevent any possible compromise of the process.

(3) Fingerprints may be collected by one of the following:

(a) Employing school district staff;

(b) Contracted agent of employing school district;

(c) Local or state law enforcement agency.

(4) School districts shall send to the Department of Education for purposes of a criminal records check any information, including fingerprints for each subject individual defined in this rule immediately following offer and acceptance of employment or contract.

(5) The Department of Education shall request criminal information from the Department of State Police in the manner prescribed by law and may charge the school district a fee not to exceed the actual cost of acquiring and furnishing the information.

(6) The Oregon Department of Education shall review the criminal records of subject individual upon the district's submission of the required FBI and state forms and the State Superintendent of Public Instruction or designee shall issue a statement of criminal history status and related impact on employment or contract qualification. The Superintendent of Public Instruction or designee shall also notify the school district if the subject individual has knowingly made a false statement as to conviction of a crime.

(7) The Oregon Department of Education shall not provide copies of criminal records to anyone except as provided by law. The subject individual may inspect his or her personal criminal records under the supervision of properly certified LEDS (Law Enforcement Data Systems) personnel at the Department of Education.

(8) Subject individuals who refuse to consent to the criminal records check or refuse to be fingerprinted shall be terminated from employment or contract status by the district.

(9) Subject individuals who have been convicted of any of the crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number, shall be refused continued employment or have employment terminated upon notification from the Superintendent of Public Instruction.

(10) Subject individuals who have been convicted of any of the crimes listed in ORS 161.405 or an attempt to commit any of the crimes listed in section (9) of this rule shall be refused continued employment or have employment terminated upon notification from the Superintendent of Public Instruction.

(11) A school district may terminate the employment of any subject individuals who knowingly makes a false statement as to the conviction of a crime upon notification of the false statement by the Superintendent of Public Instruction.

(12) Evaluations of crimes shall be based on Oregon laws in effect at the time of conviction, regardless of the jurisdiction in which the conviction occurred.

(13) Prior to making a determination that results in a notice and opportunity for hearing, the Superintendent of Public Instruction may cause an investigation to be undertaken. Subject individuals and districts shall cooperate with the investigation and may be required to furnish oral or written statements by affidavit or under oath. If the Superintendent of Public Instruction determines through investigation that a violation of this rule has not occurred, a written decision explaining the basis for the decision will be provided to the subject individual.

(14) Applicants may appeal a determination that prevents their employment or eligibility to contract with a school district as a contested case under ORS 183.413 to 183.470 to the Oregon Superintendent of Public Instruction.

(15) Only cards and forms approved by the Department of Education will be accepted. The Department of Education will return any incomplete or incorrectly completed fingerprint cards and associated forms without taking any other action.

(16) The Department of Education shall maintain a record of all properly submitted fingerprint cards. The record shall include at least the following:

(a) Card sequence number;
(b) District submitting the cards;
(c) Date cards and Department form received;
(d) Date completed card sent to Oregon State Police;
(e) Date denial or probationary approval sent to district;
(f) Date FBI card returned to Department; and
(g) Date denial or final approval sent to district.

Stat. Auth.: ORS 326.603
Stats. Implemented: ORS 326.603
Hist.: ODE 25-2008, f. & cert. ef. 9-26-08; ODE 12-2009, f. & cert. ef. 12-10-09; ODE 18-2009, f. & cert. ef. 12-10-09; ODE 2-2012, f. 2-1-12, cert. ef. 2-3-12; ODE 25-2012(Temp), f. 9-13-12, cert. ef. 9-17-12 thru 3-15-13; ODE 5-2013, f. & cert. ef. 1-17-13; ODE 8-2014, f. & cert. ef. 2-19-14; ODE 8-2015, f. & cert. ef. 4-15-15

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

Rule Caption: Temporary amendments to OAR 309-019-0100 through 309-019-0220 regarding Outpatient Addiction and Mental Health Services
Adm. Order No.: MHS 1-2015(Temp)
Filed with Sec. of State: 3-25-2015
Certified to be Effective: 3-25-15 thru 9-20-15
Notice Publication Date:
Rules Amended: 309-019-0125, 309-019-0170
Subject: These rules prescribe minimum standards for services and supports provided by approved addictions and mental health providers.
Rules Coordinator: Nola Russell—(503) 945-7652

309-019-0125
Specific Staff Qualifications and Competencies

(1) Program Administrators or Program Directors must demonstrate competence in leadership, program planning and budgeting, fiscal management, supervision of program staff, personnel management, program staff performance assessment, use of data, reporting, program evaluation, quality assurance, and developing and coordinating community resources.

(2) Clinical Supervisors in all programs must demonstrate competence in leadership, wellness, oversight and evaluation of services, staff development, service planning, case management and coordination, utilization of community resources, group, family and individual therapy or counseling, documentation and rationale for services to promote intended outcomes and implementation of all provider policies.

(3) Clinical supervisors in mental health programs must meet QMHP requirements and have completed two years of post-graduate clinical experience in a mental health treatment setting.

(4) Clinical Supervisors in substance use disorders treatment programs must be certified or licensed by a health or allied provider agency as follows:

(a) For supervisors holding a certification or license in addiction counseling, qualifications for the certificate or license must have included at least:

(A) 4000 hours of supervised experience in substance use counseling;
(B) 300 contact hours of education and training in substance use related subjects; and
(C) Successful completion of a written objective examination or portfolio review by the certifying body.

(b) For supervisors holding a health or allied provider license, the license or registration must have been issued by one of the following state bodies and the supervisor must possess documentation of at least 120 contact hours of academic or continuing professional education in the treatment of substance use disorders:

(A) Board of Medical Examiners;
(B) Board of Psychologist Examiners;
(C) Board of Licensed Social Workers;
(D) Board of Licensed Professional Counselors and Therapists; or
(E) Board of Nursing.

(c) Additionally, clinical supervisors in substance use disorders programs must have one of the following qualifications:

(A) Five years of paid full-time experience in the field of substance use disorders counseling; or
(B) A Bachelor's degree and four years of paid full-time experience in the social services field, with a minimum of two years of direct substance use disorders counseling experience; or
(C) A Master's degree and three years of paid full-time experience in the social services field with a minimum of two years of direct substance use disorders counseling experience;

(5) Clinical Supervisors in problem gambling treatment programs must meet the requirements for clinical supervisors in either mental health or substance use disorders treatment programs, and have completed 10 hours of gambling specific training within two years of designation as a problem gambling services supervisor.

(6) Substance use disorders treatment staff must:

(a) Demonstrate competence in treatment of substance-use disorders including individual assessment and individual, group, family and other counseling techniques, program policies and procedures for service delivery and documentation, and identification, implementation and coordination of services identified to facilitate intended outcomes; and

(b) Be certified or licensed by a health or allied provider agency, as defined in these rules, to provide addiction treatment within two years of the first hire date and must make application for certification no later than six months following that date. The two years is not renewable if the person ends employment with a provider and becomes re-employed with another provider.

(c) For treatment staff holding certification in addiction counseling, qualifications for the certificate must have included at least:

(A) 750 hours of supervised experience in substance use counseling;
(B) 150 contact hours of education and training in substance use related subjects; and
(C) Successful completion of a written objective examination or portfolio review by the certifying body.

(d) For treatment staff holding a health or allied provider license, the license or registration must have been issued by one of the following state bodies and the person must possess documentation of at least 60 contact hours of academic or continuing professional education in substance use disorders treatment:

(A) Board of Medical Examiners;
(B) Board of Psychologist Examiners;
(C) Board of Licensed Social Workers;
(D) Board of Licensed Professional Counselors and Therapists; or
(E) Board of Nursing.

(7) Problem Gambling treatment staff must:

(a) Demonstrate competence in treatment of problem gambling including individual assessment and individual, group, family and other counseling techniques, program policies and procedures for service delivery and documentation, and identification, implementation and coordination of services identified to facilitate intended outcomes.

(b) Be certified or licensed by a health or allied provider agency, as defined in these rules, to provide problem gambling treatment within two years of the first hire date and must make application for certification no later than six months following that date. The two years is not renewable if the person ends employment with a provider and becomes re-employed with another provider.

(c) For treatment staff holding certification in problem gambling counseling, qualifications for the certificate must have included at least:

(A) 500 hours of supervised experience in problem gambling counseling;

(B) 60 contact hours of education and training in problem gambling related subjects; and

(C) Successful completion of a written objective examination or portfolio review by the certifying body.

(d) For treatment staff holding a health or allied provider license, the license or registration must have been issued by one of the following state bodies and the person must possess documentation of at least 60 contact hours of academic or continuing professional education in problem gambling treatment:

(A) Board of Medical Examiners;

(B) Board of Psychologist Examiners;

(C) Board of Licensed Social Workers;

(D) Board of Licensed Professional Counselors and Therapists; or

(E) Board of Nursing.

(8) QMHAs must demonstrate the ability to communicate effectively, understand mental health assessment, treatment and service terminology and apply each of these concepts, implement skills development strategies, and identify, implement and coordinate the services and supports identified in a Service Plan. QMHAs must meet the follow minimum qualifications:

(a) Bachelor's degree in a behavioral science field; or

(b) A combination of at least three years of relevant work, education, training or experience; or

(c) A qualified Mental Health Intern, as defined in 309-019-0105 (61).

(9) QMHPs must demonstrate the ability to conduct an assessment, including identifying precipitating events, gathering histories of mental and physical health, substance use, past mental health services and criminal justice contacts, assessing family, cultural, social and work relationships, and conducting a mental status examination, complete a DSM diagnosis, write and supervise the implementation of a Service Plan and provide individual, family or group therapy within the scope of their training. QMHPs must meet the following minimum qualifications:

(a) Bachelor's degree in nursing and licensed by the State or Oregon;

(b) Bachelor's degree in occupational therapy and licensed by the State of Oregon;

(c) Graduate degree in psychology;

(d) Graduate degree in social work;

(e) Graduate degree in recreational, art, or music therapy;

(f) Graduate degree in a behavioral science field; or

(g) A qualified Mental Health Intern, as defined in 309-019-0105 (61).

(10) Peer support specialists must demonstrate knowledge of approaches to support others in recovery and resiliency, and demonstrate efforts at self-directed recovery.

(11) Recovering Staff: Program staff, contractors, volunteers and interns recovering from a substance use disorder, providing treatment services or peer support services in substance use disorders treatment programs, must be able to document continuous abstinence under independent living conditions or recovery housing for the immediate past two years.

Stat. Auth.: ORS 161.390, 413.042, 428.205 - 428.270, 430.256, 430.640

Stats. Implemented: ORS 109.675, 413.520 - 413.522, 426.380, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 1-2015(Temp), f. & cert. ef. 3-25-15 thru 9-20-15

309-019-0170
Outpatient Problem Gambling Treatment Services

These services include group, individual and family treatment consistent with the following requirements:

(1) The first offered service appointment must be five business days or less from the date of request for services;

(2) Service sessions must address the challenges of the individual as they relate, directly or indirectly, to the problem gambling behavior;

(3) Telephone counseling: Providers may provide telephone counseling when person-to-person contact would involve an unwise delay, as follows:

(a) Individual must be currently enrolled in the problem gambling treatment program;

(b) Phone counseling must be provided by a qualified program staff within their scope of practice;

(c) Service Notes for phone counseling must follow the same criteria as face-to-face counseling and identify the session was conducted by phone and the clinical rationale for the phone session;

(d) Telephone counseling must meet HIPAA and 42 CFR standards for privacy; and

(e) There must be an agreement of informed consent for phone counseling that is discussed with the individual and documented in the individual's service record.

(4) Family Counseling: Family counseling includes face-to-face or non face-to-face service sessions between a program staff member delivering the service and a family member whose life has been negatively impacted by gambling.

(a) Service sessions must address the problems of the family member as they relate directly or indirectly to the problem gambling behavior; and

(b) Services to the family must be offered even if the individual identified as a problem gambler is unwilling, or unavailable to accept services.

(5) 24-hour crisis response accomplished through agreement with other crisis services, on-call program staff or other arrangement acceptable to the Division.

(6) A financial assessment must be included in the entry process and documented in the assessment; and

(7) The service plan must include a financial component, consistent with the financial assessment.

(8) A risk assessment for suicide ideation must be included in the entry process and documented in the assessment, as well as appropriate referrals made; and

(9) The service plan must address suicidal risks if determined within the assessment process.

Stat. Auth.: ORS 161.390, 428.205 - 428.270, 430.640, 461.549

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 409.430 - 409.435, 426.380-426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549

Hist.: MHS 6-2013(Temp), f. 8-8-13, cert. ef. 8-9-13 thru 2-5-14; MHS 4-2014, f. & cert. ef. 2-3-14; MHS 1-2015(Temp), f. & cert. ef. 3-25-15 thru 9-20-15

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Oregon Health Authority, Division of Medical Assistance Programs
Chapter 410

Rule Caption: Allow Use of Medical Billing Codes Designated for Adaptive Behavior Assessment and Treatment Services
Adm. Order No.: DMAP 15-2015
Filed with Sec. of State: 3-27-2015
Certified to be Effective: 4-1-15
Notice Publication Date: 3-1-2015
Rules Amended: 410-130-0160
Rules Repealed: 410-130-0160(T)
Subject: This rule directs medical providers to use billing codes following national standards and identifies which code sets are appropriate. One aspect of the current rule prevents use of Category III CPT Codes - a code set designated for services or technologies that are new and need to be tracked for data collection. The Division has identified that the billing codes for Adaptive Behavior Assessment and Treatment services found within the Category III CPT Code set are the most appropriate codes to use for billing ABA therapy. This rule change will allow use of these ABA therapy related billing codes. It will continue to restrict use of the remaining Category III codes.
Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-130-0160
Codes

(1) ICD-CM Diagnosis Codes:

(a) Always use the principal diagnosis code in the first position. List additional diagnosis codes if the claim includes charges for services that relate to the additional diagnoses. All codes need to be reported to the high-

est degree of specificity. However, it is not necessary to include more than one diagnosis code per procedure code;

(b) Diagnosis codes are required on all billings including those from independent laboratories and portable radiology including nuclear medicine and diagnostic ultrasound providers;

(c) Always supply the ICD-CM diagnosis code to ancillary service providers when prescribing services, equipment, and supplies.

(2) CPT and HCPCS Codes:

(a) Use only codes from the current year for Current Procedural Terminology (CPT) and Healthcare Common Procedure Coding System (HCPCS) codes;

(b) Effective January 1, 2005, HIPAA regulations prohibit the use of a grace period for codes deleted from CPT or HCPCS. In the past the grace period was from January 1 through March 31;

(c) CPT category II (codes with fifth character of "F") and CPT category III codes (codes with fifth character "T") are not Division of Medical Assistance Programs' (Division) covered services, with the exception of the Category III codes included under the following headings: Adaptive Behavior Assessments, Adaptive Behavior Treatment, and Exposure Adaptive Behavior Treatment with Protocol Modification;

(d) Use the most applicable CPT or HCPCS code. Do not fragment coding when services can be included in a single code (see the "Bundled Services" section of this rule). Do not use both CPT and HCPCS codes for the same procedure. This is considered duplicate billing.

(3) The Medical-Surgical Service rules list the HCPCS/CPT codes that require prior authorization or have limitations. The Health Evidence Review Commission's Prioritized List of Health Services (rule 410-141-0520) determines covered services.

(4) For determining the appropriate level of service code for Evaluation and Management services, read the definitions in the CPT codebook. Use the CPT guidelines to verify the level of service, especially for office visits. Unless otherwise specified in the Medical-Surgical provider rule, use the guidelines from CPT and HCPCS.

(5) Bundled Services: Reimbursements for some services are "bundled" into the payment for another service. The Division does not make separate payment for bundled services, and clients may not be billed for bundled services. The Division's Medical-Surgical Services Not Covered/Bundled Services rule provides more information regarding bundled services (OAR 410-130-0220 Not Covered/Bundled Services).

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.025 & 414.065

Hist.: AFS 5-1989(Temp), f. 2-9-89, cert. ef. 3-1-89; AFS 48-1989, f. & cert. ef. 8-24-89; HR 10-1990, f. 3-30-90, cert. ef. 4-1-90, Renumbered from 461-014-0610; HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 2-1992, f. & cert. ef. 1-2-92; HR 8-1992, f, 2-28-92, cert. ef. 3-1-92; HR 23-1992, f. 7-31-92, cert. ef. 8-1-92; HR 40-1992, f. 12-31-92, cert. ef. 2-1-93; HR 6-1994, f. & cert. ef. 2-1-94; HR 42-1994, f. 12-30-94, cert. ef. 1-1-95; HR 10-1996, f. 5-31-96, cert. ef. 6-1-96; HR 4-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 3-1998, f. 1-30-98, cert. ef. 2-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 2-2002, f. 2-15-02, cert. ef. 4-1-02; OMAP 23-2003, f. 3-26-03 cert. ef. 4-1-03; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03; OMAP 58-2004, f. 9-10-04, cert. ef. 10-1-04; OMAP 8-2005, f. 3-9-05, cert. ef. 4-1-05; DMAP 74-2014(Temp), f. 12-9-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 15-2015, f. 3-27-15, cert. ef. 4-1-15

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Rule Caption: Update and Align OHP Member Education/Information Rules Affecting Members and Potential Members

Adm. Order No.: DMAP 16-2015

Filed with Sec. of State: 3-31-2015

Certified to be Effective: 4-1-15

Notice Publication Date: 2-1-2015

Rules Amended: 410-141-0280, 410-141-0300, 410-141-3280, 410-141-3300

Subject: These rules provide the regulated framework for OHP informational materials and education for OHP members and potential members. The related rules pertaining to "marketing" have been recently revised, having direct impact on the Member Education/Information Requirement rules. In the marketing rules, a clear distinction between rules pertaining to members versus potential members was made. This distinction needs to be carried through the Member Education/Information Requirement rules for clarity and symmetry. Additionally, we will update the current alignment with CFRs 438.10, 438.100 and 438.104 as they relate to each of these rules. There is a set for managed care organizations and one for coordinated care organizations for each of these rules.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-141-0280

Managed Care Prepaid Health Plan Potential Member Informational Requirements

(1) For the purpose of this rule, the following definitions apply:

(a) "Alternate Format" means any alternate approach to presenting print information to an individual with a disability. The Americans with Disabilities Act (ADA) groups the standard alternate formats: braille, large (18 point) print, audio narration, oral presentation, and electronic file along with other aids and services for other disabilities, including sign language interpretation and sighted guide;

(b) "Potential Member" means an individual who meets the eligibility requirements to enroll in the Oregon Health Plan but has not yet enrolled with a specific MCO or CCO;

(c) "Prevalent Non-English Language" means all non-English languages that are identified as the preferred written language by the lesser of either:

(A) 5 percent of the MCO's total OHP enrollment; or

(B) 1,000 of the MCO's members;

(d) "Health Literacy" means the degree to which individuals have the capacity to obtain, process, and understand basic health information needed to make appropriate health decisions regarding services needed to prevent or treat illness.

(2) Information for potential members shall comply with marketing prohibitions in 42 CFR 438.104 and OAR 410-141-0270, Prepaid Health Plan Marketing Requirements for Potential Members.

(3) The creation of name recognition because of the MCO's health promotion or education activities shall not constitute an attempt by the MCO to influence a client's enrollment.

(4) An MCO or its subcontractor's communications that express participation in or support for an MCO by its founding organizations or its subcontractors shall not constitute an attempt to compel or entice a client's enrollment. Support for an MCO by subcontractors shall not indicate or express exclusivity to an MCO if the subcontractor is also participating with other MCO's.

(5) The following shall not constitute marketing or an attempt by the MCO to influence client enrollment:

(a) Communications to notify dual-eligible members of opportunities to align MCO provided benefits with Medicare Advantage or Special Needs Plans;

(b) Improving coordination of care;

(c) Communicating with provider service dual-eligible members about unique care coordination needs; or

(d) Streamlining communications to the dually-enrolled member to improve coordination of benefits.

(6) MCOs shall update plan access information with OHA on a monthly basis for use in updating the availability charts. OHA shall confirm before posting.

(7) MCOs shall develop informational materials for potential members.

(8) MCOs shall provide the Authority with informational materials sufficient for the potential member to make an informed decision about provider selection. The MCO shall make available to potential members, upon request, information on participating providers.

(9) MCO provider directories shall include notations of the following: names, locations, telephone numbers including TTY, office hours, accessibility for members with disabilities, non-English languages spoken by current contracted providers in the enrollee's service area, and identification of providers that are not accepting new patients. An MCO or the Division may include informational materials in the application packet for potential members.

(10) MCOs shall develop informational materials for potential members in their service area that meet the language requirements as identified in (1) (a) and (c) of this rule. Materials shall be culturally and linguistically appropriate and be sensitive to people with disabilities or reading limitations, including those whose primary language is not English.

(11) MCO's shall honor requests made by other sources such as potential members, potential family members, or caregivers for language accommodation, translating to the potential member's language needs as requested. Alternate formats shall be provided and may include, but are not limited to, braille, large (18 point) print, audio narration, oral presentation, and electronic file along with other aids and services for other disabilities, including sign language interpretation and sighted guide:

(a) MCOs shall address health literacy issues by preparing these documents at a 6th grade reading level, incorporating graphics and utilizing

alternate format materials for potential members and using a12-point font or larger (18 point);

(b) MCOs shall ensure that all MCO staff who have contact with potential members are fully informed of MCO and Authority rules applicable to enrollment, disenrollment, complaint and grievance policies and procedures, the availability of free certified interpreter services, and which participating providers' offices have bilingual capacity and which are accepting new members.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.651

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; OMAP 37-2004(Temp), f. 5-27-04 cert. ef. 6-1-04 thru 11-15-04; OMAP 47-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; DMAP 42-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 16-2015, f. 3-31-15, cert. ef. 4-1-15

410-141-0300

Managed Care Organization (MCO) Member Education and Information Requirements

(1) For the purpose of this rule, the following definitions apply:

(a) "Alternate Format" means any alternate approach to presenting print information to a person with a disability. The Americans with Disabilities Act (ADA) groups the standard alternate formats: Braille, large (18 point) print, audio narration, oral presentation, and electronic file along with other aids and services for other disabilities, including sign language interpretation and sighted guide;

(b) "Alternate Format Statement Insert" means an insert developed by the Oregon Health Authority that includes instructions on how to receive an alternate format or oral interpretation of materials translated into the state's top sixteen preferred written languages identified by OHP enrollees. MCOs shall insert their contact information into the template;

(c) "Health Literacy" means the degree to which individuals have the capacity to obtain, process, and understand basic health information needed to make appropriate health decisions regarding services needed to prevent or treat illness;

(d) "Prevalent Non-English Language" means all non-English languages that are identified as the preferred written language by the lesser of either:

(A) 5 percent of the MCO's total OHP enrollment; or

(B) 1, 000 of the MCO's members;

(2) MCOs may engage in activities for existing members related to outreach, health promotion, and health education. The Division shall approve, prior to distribution, any written communication by the MCO or its subcontractors and providers that:

(a) Is intended solely for members; and

(b) Pertains to requirements for obtaining managed care services at service area sites or benefits.

(3) MCOs may communicate with providers, caseworkers, community agencies, and other interested parties for informational purposes. The intent of these communications shall be informational only and not to entice or solicit membership. Communication methodologies may include but are not limited to brochures, pamphlets, newsletters, posters, fliers, websites, health fairs, or sponsorship of health–related events. MCOs shall address health literacy issues by preparing these documents at a 6th grade reading level, incorporating graphics and utilizing alternate formats.

(4) The creation of name recognition because of the MCO's health promotion or education activities shall not constitute an attempt by the MCO to influence a client's enrollment.

(5) An MCO or its subcontractor's communications that express participation in or support for an MCO by its founding organizations or its subcontractors shall not constitute an attempt to compel or entice a client's enrollment. Support for an MCO by subcontractors shall not indicate or express exclusivity to an MCO if the subcontractor is also participating with other MCO's.

(6) The following shall not constitute marketing or an attempt by the MCO to influence client enrollment:

(a) Communications to notify dual-eligible members of opportunities to align MCO provided benefits with Medicare Advantage or Special Needs Plans;

(b) Improving coordination of care;

(c) Communicating with provider service dual-eligible members about unique care coordination needs; or

(d) Streamlining communications to the dually-enrolled member to improve coordination of benefits.

(7) MCOs shall have a mechanism to help members understand the requirements and benefits of the MCO plan. The mechanisms developed shall be culturally and linguistically appropriate.

(8) MCOs shall have written procedures, criteria, and an ongoing process of member education and information sharing that includes member orientation, member handbook, and health education. Member education shall:

(a) Include information about the Exceptional Needs Care Coordination (ENCC) or case management services to members who are aged, blind, disabled, or have complex medical needs consistent with OAR 410-141-0405 and how to access that system, including where applicable for dual-eligible individuals, the process for coordinating Medicaid and Medicare benefits;

(b) Clearly explain how members may receive assistance from advocates, including certified health care interpreters, community health workers, peer wellness specialists, and personal health navigators and include information to members that certified health care interpreter services at provider offices are free to MCO members as stated in 42 CFR 438.10 (4).

(9) Within 14 calendar days or a reasonable timeframe of an MCO receiving notice of a member's enrollment, MCOs shall mail a welcome packet to new members and to members returning to the MCO twelve months or more after previous enrollment. The packet shall include, at a minimum, a welcome letter, a member handbook, and information on how to access a provider directory.

(10) Provider directories shall include notation of the following: names, locations, telephone numbers including TTY, office hours, accessibility for members with disabilities, non-English languages spoken by current contracted providers in the enrollee's service area, and identification of providers that are not accepting new patients.

(11) For those who are existing members, an MCO shall notify members annually of the availability of a member handbook and provider directory and how to access those materials. MCOs shall send hard copies upon request.

(12) MCOs shall facilitate materials as follows:

(a) Translate the following written materials into the prevalent non-English languages served by the MCO:

(A) Welcome packets that include welcome letters and member handbooks; and

(B) Notices of medical benefit changes;

(b) Include alternate format statement inserts with:

(A) Communications regarding member enrollment; and

(B) Notice of Action to deny, reduce, or stop a benefit;

(c) Accommodate requests of the member to translate written materials into prevalent non-English languages served by the MCO;

(d) Make oral interpretation services available free of charge to each potential member and member. This applies to all non-English languages, not just prevalent non-English languages;

(e) Notify enrollees:

(A) That oral interpretation is available free of charge for any language, and written information is available in prevalent non-English languages and alternate formats; and

(B) How to access those services;

(f) Make available materials in alternate formats by request. Alternate formats include but are not limited to audio recording, close-captioned videos, large (18 point) type, and braille.

(13) An MCO shall electronically provide to the Division for approval each version of the printed welcome packet that includes a welcome letter, member handbook, and information on how to access a provider directory. At a minimum, the member handbook shall contain the following:

(a) Revision date;

(b) Tag lines in English and other prevalent non-English languages, as defined in (1) (d) of this rule, spoken by populations of members. The tag lines shall be located at the beginning of the document for the ease of the member and describe how members may access free sign and oral interpreters, as well as translations and materials in other formats. Alternate formats may include but are not limited to audio recordings, close-captioned videos, large (18 point) type, and braille;

(c) MCO's office location, mailing address, web address if applicable, office hours, and telephone numbers including TTY;

(d) Availability and access to coordinated care services through a patient-centered primary care home or other primary care team with the member as a partner in care management. Explain how to choose a PCP, how to make an appointment, and the MCO's policy on changing PCPs;

(e) How to access information on contracted providers currently accepting new members and any restrictions on the member's freedom of choice among participating providers;

(f) What participating or non-participating provider services the member may self-refer;

(g) Policies on referrals for specialty care, including prior authorization requirements and how to request a referral;

(h) Explanation of Exceptional Needs Care Coordination (ENCC) services and how members with special health care needs who are aged, blind, or disabled, or who have complex medical needs, high health needs, multiple chronic conditions, mental illness, or chemical dependency can access ENCC services;

(i) Information about the coordinated care approach, how to navigate the coordinated care health care system as applicable to dual-eligible individuals, and the process for coordinating Medicaid and Medicare benefits;

(j) How and where members are to access urgent care services and advice, including how to access these services and advice when away from home;

(k) How and when members are to use emergency services, both locally and when away from home, including examples of emergencies;

(l) Information on contracted hospitals in the member's service area;

(m) Information on post-stabilization care after a member is stabilized in order to maintain, improve, or resolve the member's condition;

(n) Information on the MCO's grievance and appeals processes and the Division's contested case hearing procedures, including:

(A) Information about assistance in filling out forms and completing the grievance process available from the MCO to the member as outlined in OAR 410-141-3260;

(B) Information about the member's right to continued benefits during the grievance process as provided in OAR 410-141-3263;

(o) Information on the member's rights and responsibilities, including the availability of the OHP Ombudsman;

(p) Information on copayments, charges for non-covered services, and the member's possible responsibility for charges if they go outside of the MCO for non-emergent care; including information specific to copayments, deductibles, and coinsurance for dually-enrolled qualified Medicare beneficiaries;

(q) Information about when providers may bill clients for services and what to do if they receive a bill; including information specific to payment responsibilities for dually-enrolled qualified Medicare beneficiaries;

(r) The transitional procedures for new members to obtain prescriptions, supplies, and other necessary items and services in the first month of enrollment if they are unable to meet with a PCP or PCD, other prescribing provider, or obtain new orders during that period; including specific communications for members who are becoming new Medicare enrollees;

(s) Information on advance directive policies including:

(A) Member rights under federal and Oregon law to make decisions concerning their medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives;

(B) The MCO's policies for implementation of those rights, including a statement of any limitation regarding the implementation of advanced directives as a matter of conscience;

(t) Whether or not the MCO uses provider incentives to reduce cost by limiting services;

(u) The member's right to request and obtain copies of their clinical records, whether they may be charged a reasonable copying fee and that they may request the record be amended or corrected;

(v) How and when members are to obtain ambulance services;

(w) Resources for help with transportation to appointments with providers;

(x) Explanation of the covered and non-covered coordinated care services in sufficient detail to ensure that members understand the benefits to which they are entitled;

(y) How members are to obtain prescriptions including information on the process for obtaining non-formulary and over-the-counter drugs;

(z) The MCO's confidentiality policy;

(aa) How and where members are to access any benefits that are available under OHP but are not covered under the MCO's contract, including any cost sharing;

(bb) When and how members can voluntarily and involuntarily disenroll from MCOs and change MCOs;

(cc) MCOs shall, at a minimum, annually review their member handbook for accuracy and update it with new and corrected information to reflect OHP program changes and the MCO's internal changes. If changes affect the member's ability to use services or benefits, the MCO shall offer the updated member handbook to all members;

(dd) The "Oregon Health Plan Client Handbook" is in addition to the MCO's member handbook, and an MCO shall not use it to substitute for any component of the MCO's member handbook.

(14) Member health education shall include:

(a) Information on specific health care procedures, instruction in self-management of health care, promotion and maintenance of optimal health care status, patient self-care, and disease and accident prevention. MCO providers or other individuals or programs approved by the MCO may provide health education. MCOs shall endeavor to provide health education in a culturally sensitive and linguistically appropriate manner in order to communicate most effectively with individuals from non-dominant cultures;

(b) MCOs shall ensure development and maintenance of an individualized health educational plan for members whom their provider has identified as requiring specific educational intervention. The Division may assist in developing materials that address specifically identified health education problems to the population in need;

(c) Explanation of ENCC services and how to access ENCC services through outreach to members with special health care needs who are aged, blind, or disabled, or who have complex medical needs or high health care needs, multiple chronic conditions, mental illness, or chemical dependency;

(d) The appropriate use of the delivery system, including proactive and effective education of members on how to access emergency services and urgent care services appropriately;

(e) MCOs shall provide written notice to affected members of any significant changes in program or service sites that affect the member's ability to access care or services from MCO's participating providers. The MCO shall provide, translated as appropriate, the notice at least 30 calendar days before the effective date of that change, or as soon as possible if the participating provider has not given the MCO sufficient notification to meet the 30-day notice requirement. The Division shall review and approve the materials within two working days.

(15) Informational materials that MCOs develop for members shall meet the language requirements identified in this rule and be culturally and linguistically sensitive to members with disabilities or reading limitations, including members whose primary language is not English:

(a) MCOs shall provide free certified health care interpreters for all of their members with hearing impairments and limited English proficiency who request them. This also applies to family members and caregivers with hearing impairments or limited English proficiency who need to understand the member's condition and care;

(b) MCOs shall translate materials into all languages as identified in (1) (d) of this rule. Written and spoken language preferences are indicated on the OHP application form and reported to plans in 834 enrollment updates. MCOs shall honor requests made by other sources such as members, family members, or caregivers for language accommodation, translating to the member's language needs as requested;

(c) MCOs shall provide written translations of informational materials including their welcome packet, consisting of at least a welcome letter and a member handbook in all languages as specified in (1) (d) of this rule and as identified by members either through the OHP application or other means as their preferred written language;

(d) Form correspondence sent to members including but not limited to enrollment information, choice and member counseling letters, and notices of action to deny, reduce, or stop a benefit shall be sent in the member's preferred written language. If sent in English to members who prefer a different language, the letters shall include tag lines in English and in other prevalent non-English languages as specified in (1) (d) of this rule. The tag lines placed at the beginning of the document shall have instructions on how to receive an oral or written translation of the material.

(16) MCOs shall provide an identification card to members, unless waived by the Division, that contains simple, readable, and usable information on how to access care in an urgent or emergency situation. The cards are solely for the convenience of the MCO, members, and providers.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.651

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 57-2002, f. & cert. ef. 10-1-02; OMAP 50-2003, f. 7-31-03 cert. ef 8-1-03; OMAP 37-2004(Temp), f. 5-27-04 cert. ef. 6-1-04 thru 11-15-04; OMAP 47-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 46-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 23-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 16-2010, f. 6-11-10, cert. ef. 7-1-10; DMAP 42-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 29-2011, f. 10-19-11, cert. ef. 10-20-11; DMAP 16-2015, f. 3-31-15, cert. ef. 4-1-15

410-141-3280
Coordinated Care Organization (CCO) Potential Member Information Requirements

(1) For the purpose of this rule, the following definitions apply:

(a) "Alternate Format" means any alternate approach to presenting print information to an individual with a disability. The Americans with Disabilities Act (ADA) groups the standard alternate formats: braille, large (18 point) print, audio narration, oral presentation, and electronic file along with other aids and services for other disabilities, including sign language interpretation and sighted guide;

(b) "Potential Member" means an individual who meets the eligibility requirements to enroll in the Oregon Health Plan but has not yet enrolled with a specific CCO;

(c) "Prevalent Non-English Language" means all non-English languages that are identified as the preferred written language by the lesser of either:

(A) 5 percent of the CCO's total OHP enrollment; or

(B) 1,000 of the CCO's members;

(d) "Health Literacy" means the degree to which individuals have the capacity to obtain, process, and understand basic health information needed to make appropriate health decisions regarding services needed to prevent or treat illness.

(2) Information for potential members shall comply with marketing prohibitions in 42 CFR 438.104 and OAR 410-141-3270, Oregon Health Plan Marketing Requirements.

(3) The creation of name recognition because of the CCO's health promotion or education activities shall not constitute an attempt by the CCO to influence a client's enrollment.

(4) A CCO or its subcontractor's communications that express participation in or support for a CCO by its founding organizations or its subcontractors shall not constitute an attempt to compel or entice a client's enrollment. Support for a CCO by subcontractors shall not indicate or express exclusivity to a CCO if the subcontractor is also participating with other CCO's.

(5) The following shall not constitute marketing or an attempt by the MCO to influence client enrollment:

(a) Communications to notify dual-eligible members of opportunities to align CCO provided benefits with Medicare Advantage or Special Needs Plans;

(b) Improving coordination of care;

(c) Communicating with providers' service dual-eligible members about unique care coordination needs; or

(d) Streamlining communications to the dually-enrolled member to improve coordination of benefits.

(6) CCOs shall update plan access information with OHA on a monthly basis for use in updating the availability charts. OHA shall confirm before posting.

(7) CCOs shall develop informational materials for potential members.

(8) CCOs shall provide the Authority with informational materials sufficient for the potential member to make an informed decision about provider selection. The CCO shall make available to potential members, upon request, information on participating providers.

(9) CCO provider directories shall include notations of the following: names, locations, telephone numbers including TTY, office hours, accessibility for members with disabilities, non-English languages spoken by current contracted providers in the enrollee's service area, and identification of providers that are not accepting new patients. A CCO or the Division may include informational materials in the application packet for potential members.

(10) CCOs shall develop informational materials for potential members in their service area that meet the language requirements as identified in (1) (a) and (c) of this rule. Materials shall be culturally and linguistically appropriate and be sensitive to people with disabilities or reading limitations, including those whose primary language is not English.

(11) CCO's shall honor requests made by other sources such as potential members, potential family members, or caregivers for language accommodation, translating to the potential member's language needs as requested. Alternate formats shall be provided and may include but are not limited to braille, large (18 point) print, audio narration, oral presentation, and electronic file along with other aids and services for other disabilities, including sign language interpretation and sighted guide:

(a) CCOs shall address health literacy issues by preparing these documents at a 6th grade reading level, incorporating graphics and utilizing alternate format materials for potential members and using a12-point font or larger (18 point);

(b) CCOs shall ensure that all CCO staff who have contact with potential members are fully informed of CCO and Authority rules applicable to enrollment, disenrollment, complaint and grievance policies and procedures, and the availability of free certified health care interpreters, and which participating providers' offices have bilingual capacity and which are accepting new members.

Stat. Auth.: ORS 413.042, 414.615, 414.625, 414.635 & 414.651
Stats. Implemented: ORS 414.610 - 414.685
Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12; DMAP 16-2015, f. 3-31-15, cert. ef. 4-1-15

410-141-3300
Coordinated Care Organization (CCO) Member Education and Information Requirements

(1) For the purpose of this rule, the following definitions apply:

(a) "Alternate Format" means any alternate approach to presenting print information to an individual with a disability. The Americans with Disabilities Act (ADA) groups the standard alternate formats: braille, large (18 point) print, audio narration, oral presentation, and electronic file along with other aids and services for other disabilities, including sign language interpretation and sighted guide;

(b) "Alternate Format Statement Insert" means an insert developed by the Oregon Health Authority that includes instructions on how to receive an alternate format or oral interpretation of materials translated into the state's top sixteen preferred written languages as identified by OHP enrollees. CCOs shall insert their contact information into the template.

(c) "Health Literacy" means the degree to which individuals have the capacity to obtain, process, and understand basic health information needed to make appropriate health decisions regarding services needed to prevent or treat illness.

(d) "Prevalent Non-English Language" means: All non-English languages that are identified as the preferred written language by the lesser of either:

(A) 5 percent of the CCO's total OHP enrollment; or

(B) 1, 000 of the CCO's members.

(2) CCOs may engage in activities for existing members related to outreach, health promotion, and health education. The Division shall approve, prior to distribution, any written communication by the CCO or its subcontractors and providers that:

(a) Is intended solely for members; and

(b) Pertains to requirements for obtaining coordinated care services at service area sites or benefits.

(3) CCOs may communicate with providers, caseworkers, community agencies, and other interested parties for informational purposes. The intent of these communications should be informational only and not to entice or solicit membership. Communication methodologies may include but are not limited to brochures, pamphlets, newsletters, posters, fliers, websites, health fairs, or sponsorship of health-related events. CCOs shall address health literacy issues by preparing these documents at a low-literacy reading level, incorporating graphics and utilizing alternate formats.

(4) The creation of name recognition because of the CCO's health promotion or education activities shall not constitute an attempt by the CCO to influence a client's enrollment.

(5) A CCO or its subcontractor's communications that express participation in or support for a CCO by its founding organizations or its subcontractors shall not constitute an attempt to compel or entice a client's enrollment. Support for a CCO by subcontractors shall not indicate or express exclusivity to a CCO if the subcontractor is also participating with other CCO's.

(6) The following shall not constitute marketing or an attempt by the CCO to influence client enrollment:

(a) Communication to notify dual-eligible members of opportunities to align CCO provided benefits with a Medicare Advantage or Special Needs Plan;

(b) Improving coordination of care;

(c) Communicating with providers' service dual-eligible members about unique care coordination needs; or

(d) Streamlining communications to the dually-enrolled member to improve coordination of benefits.

(7) CCOs shall have a mechanism to help members understand the requirements and benefits of the CCO's integrated and coordinated care plan. The mechanisms developed shall be culturally and linguistically appropriate.

(8) CCOs shall have written procedures, criteria, and an ongoing process of member education and information sharing that includes member orientation, member handbook, and health education. As a CCO transitions to fully coordinating a member's care, the CCO is responsible only for including information about the care they are coordinating. CCOs shall update their educational material as they add coordinated services. Member education shall:

(a) Include information about the coordinated care approach and how to navigate the coordinated health care system, including where applicable for dual-eligible individuals, the process for coordinating Medicaid and Medicare benefits;

(b) Clearly explain how members may receive assistance from advocates, including certified health care interpreters, community health workers, peer wellness specialists, and personal health navigators and include information to members that interpreter services at provider offices are free to CCO members as stated in 42 CFR 438.10 (4).

(9) Within 14 calendar days or a reasonable timeframe of a CCO's receiving notice of a member's enrollment, CCOs shall mail a welcome packet to new members and to members returning to the CCO twelve months or more after previous enrollment. The packet shall include, at a minimum, a welcome letter, a member handbook, and information on how to access a provider directory.

(10) Provider directories shall include notations of the following: names, locations, telephone numbers including TTY, office hours, accessibility for members with disabilities, non-English languages spoken by current contracted providers in the enrollee's service area, and identification of providers that are not accepting new patients.

(11) For those who are existing members, a CCO shall notify members annually of the availability of a member handbook and provider directory and how to access those materials. CCOs shall send hard copies upon request.

(12) CCOs shall facilitate materials as follows:

(a) Translate the following written materials into the prevalent non-English languages served by the CCO:

(A) Welcome Packets that include welcome letters and member handbooks; and

(B) Notices of medical benefit changes;

(b) Alternate format statement inserts with:

(A) Communications regarding member enrollment; and

(B) Notice of Action to deny, reduce, or stop a benefit;

(c) Accommodate requests of the member to translate written materials into prevalent non-English languages served by the CCO;

(d) Make oral interpretation services available free of charge to each potential member and member. This applies to all non-English languages, not just prevalent non-English languages;

(e) Notify enrollees:

(A) That oral interpretation is available free of charge for any language, and written information is available in prevalent non-English languages and alternate formats; and

(B) How to access those services;

(f) Make available materials in alternate formats by request. Alternate formats include but are not limited to audio recording, close-captioned videos, large type, and braille.

(13) A CCO shall electronically provide to the Division for approval each version of the printed welcome packet that includes a welcome letter, member handbook, and information on how to access a provider directory. At a minimum, the member handbook shall contain the following:

(a) Revision date;

(b) Tag lines in English and other prevalent non-English languages, as defined in (1) (d) of this rule, spoken by populations of members. The tag lines shall be located at the beginning of the document for the ease of the member and describe how members may access free sign and oral interpreters, as well as translations and materials in other formats. Alternate formats may include but are not limited to audio recordings, close-captioned videos, large (18 point) type, and braille.

(c) CCO's office location, mailing address, web address if applicable, office hours, and telephone numbers including TTY;

(d) Availability and access to coordinated care services through a patient-centered primary care home or other primary care team with the member as a partner in care management. Explain how to choose a PCP, how to make an appointment, and how to change PCPs and the CCO's policy on changing PCPs;

(e) How to access information on contracted providers currently accepting new members and any restrictions on the member's freedom of choice among participating providers;

(f) What participating or non-participating provider services the member may self-refer;

(g) Policies on referrals for specialty care, including prior authorization requirements and how to request a referral;

(h) Explanation of intensive care coordination services and how members with the following special health care needs can access intensive care coordination services: Those who are aged, blind, or disabled or who have complex medical needs, high health needs, multiple chronic conditions, mental illness, or chemical dependency.

(i) Information about the coordinated care approach, how to navigate the coordinated care health care system as applicable to dual-eligible individuals, and the process for coordinating Medicaid and Medicare benefits;

(j) How and where members are to access urgent care services and advice, including how to access these services and advice when away from home;

(k) How and when members are to use emergency services, both locally and when away from home, including examples of emergencies;

(l) Information on contracted hospitals in the member's service area;

(m) Information on post-stabilization care after a member is stabilized in order to maintain, improve, or resolve the member's condition;

(n) Information on the CCO's grievance and appeals processes and the Division's contested case hearing procedures, including:

(A) Information about assistance in filling out forms and completing the grievance process available from the CCO to the member as outlined in OAR 410-141-3260;

(B) Information about the member's right to continued benefits during the grievance process as provided in OAR 410-141-3263;

(o) Information on the member's rights and responsibilities, including the availability of the OHP Ombudsman;

(p) Information on copayments, charges for non-covered services, and the member's possible responsibility for charges if they go outside of the CCO for non-emergent care; including information specific to copayments, deductibles, and coinsurance for dually-enrolled qualified Medicare beneficiaries;

(q) Information about when providers may bill clients for services and what to do if they receive a bill, including information specific to payment responsibilities for dually-enrolled qualified Medicare beneficiaries;

(r) The transitional procedures for new members to obtain prescriptions, supplies, and other necessary items and services in the first month of enrollment if they are unable to meet with a PCP or PCD, other prescribing provider, or obtain new orders during that period; including specific communications for members who are becoming new Medicare enrollees;

(s) Information on advance directive policies including:

(A) Member rights under federal and Oregon law to make decisions concerning their medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives;

(B) The CCO's policies for implementation of those rights, including a statement of any limitation regarding the implementation of advanced directives as a matter of conscience;

(t) Whether or not the CCO uses provider incentives to reduce cost by limiting services;

(u) The member's right to request and obtain copies of their clinical records, whether they may be charged a reasonable copying fee and that they may request the record be amended or corrected;

(v) How and when members are to obtain ambulance services;

(w) Resources for help with transportation to appointments with providers;

(x) Explanation of the covered and non-covered coordinated care services in sufficient detail to ensure that members understand the benefits to which they are entitled;

(y) How members are to obtain prescriptions including information on the process for obtaining non-formulary and over-the-counter drugs;

(z) The CCO's confidentiality policy;

(aa) How and where members are to access any benefits that are available under OHP but are not covered under the CCO's contract, including any cost sharing;

(bb) When and how members can voluntarily and involuntarily disenroll from CCOs and change CCOs;

(cc) CCOs shall, at a minimum, annually review their member handbook for accuracy and update it with new and corrected information to reflect OHP program changes and the CCO's internal changes. If changes affect the member's ability to use services or benefits, the CCO shall offer the updated member handbook to all members;

(dd) The "Oregon Health Plan Client Handbook" is in addition to the CCO's member handbook, and a CCO may not use it to substitute for any component of the CCO's member handbook.

(14) Member health education shall include:

(a) Information on specific health care procedures, instruction in self-management of health care, promotion and maintenance of optimal health care status, patient self-care, and disease and accident prevention. CCO providers or other individuals or programs approved by the CCO may provide health education. CCOs shall endeavor to provide health education in a culturally sensitive and linguistically appropriate manner in order to communicate most effectively with individuals from non-dominant cultures;

(b) CCOs shall ensure development and maintenance of an individualized health educational plan for members whom their provider has identified as requiring specific educational intervention. The Division may assist in developing materials that address specifically identified health education problems to the population in need;

(c) Explanation of intensive care coordination services and how to access intensive care coordination through outreach to members with special health care needs who are aged, blind, or disabled, or who have complex medical needs or high health care needs, multiple chronic conditions, mental illness, or chemical dependency;

(d) The appropriate use of the delivery system, including proactive and effective education of members on how to access emergency services and urgent care services appropriately;

(e) CCOs shall provide written notice to affected members of any significant changes in program or service sites that affect the member's ability to access care or services from CCO's participating providers. The CCO shall provide, translated as appropriate, the notice at least 30 calendar days before the effective date of that change, or as soon as possible if the participating provider has not given the CCO sufficient notification to meet the 30-day notice requirement. The Division shall review and approve the materials within two working days.

(15) Informational materials that CCOs develop for members shall meet the language requirements identified in this rule and be culturally and linguistically sensitive to members with disabilities or reading limitations, including members whose primary language is not English:

(a) CCOs shall provide free interpreters for all of their members with hearing impairments and limited English proficiency who request them. This also applies to family members and caregivers with hearing impairments or limited English proficiency who need to understand the member's condition and care:

(A) CCOs shall translate materials into all languages as identified in (1) (d) of this rule. Written and spoken language preferences are indicated on the OHP application form and reported to plans in 834 enrollment updates. CCOs shall honor requests made by other sources such as members, family members, or caregivers for language accommodation, translating to the member's language needs as requested;

(B) CCOs shall provide written translations of informational materials including their welcome packet, consisting of at least a welcome letter and a member handbook in all languages as specified in (1) (d) of this rule and as identified by members either through the OHP application or other means as their preferred written language;

(b) Form correspondence sent to members including but not limited to enrollment information, choice and member counseling letters, and notices of action to deny, reduce, or stop a benefit shall be sent in the member's preferred written language. If sent in English to members who prefer a different language, the letters shall include tag lines in English and in other prevalent non-English languages as specified in (1) (d) of this rule. The tag lines, placed at the beginning of the document, shall have instructions on how to receive an oral or written translation of the material.

(16) CCOs shall provide an identification card to members, unless waived by the Division, that contains simple, readable, and usable information on how to access care in an urgent or emergency situation. The cards are solely for the convenience of the CCO, members, and providers.

Stat. Auth.: ORS 413.042, 414.615, 414.625, 414.635 & 414.651
Stats. Implemented: ORS 414.610 - 414.685
Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12; DMAP 16-2015, f. 3-31-15, cert. ef. 4-1-15

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Rule Caption: Change Title of Rule to Better Reflect the Intent of the Rule
Adm. Order No.: DMAP 17-2015
Filed with Sec. of State: 4-1-2015
Certified to be Effective: 4-1-15
Notice Publication Date: 4-1-2015
Rules Amended: 410-141-3268
Subject: The Division of Medical Assistance Programs needs to amend this rule to incorporate arbitration language for when a dispute involves a Health Care Entity (HCE) who chooses not to contract with a Coordinated Care Organization (CCO). Only the title has been changed on this rule to narrow the scope and better define the scope and actual intent of the rule. The new title is as follows: Process for Resolving Disputes on Formation, Certification, and Recertification of CCOs.
Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-141-3268
Process for Resolving Disputes on Formation, Certification, and Recertification of CCOs

(1) The dispute resolution process described in this rule applies only when, under ORS 414.635:

(a) An entity is applying to the Authority for certification as a CCO (applicant);

(b) A Health Care Entity (HCE) and the applicant (together, the "parties" for purposes of this rule) have failed to agree upon terms for a contract; and

(c) One or more of the following occurs:

(A) The applicant states that the HCE is necessary for the applicant to qualify as a CCO;

(B) An HCE states that its inclusion is necessary for the applicant to be certified as a CCO; or

(C) In reviewing the applicant's information, the Authority identifies the HCE as necessary for the applicant to qualify as a CCO.

(2) If an applicant and HCE disagree about whether the HCE is necessary for the applicant's certification as a CCO, the applicant or HCE may request the Authority to review the issue.

(3) If the Authority determines the HCE is not necessary for the applicant's certification, the process described in this rule does not apply.

(4) If the Authority determines or the parties agree the HCE is necessary for the applicant's certification, the following applies:

(a) The HCE and the applicant shall participate in good faith contract negotiations. The parties shall take the following actions in an attempt to reach a good faith resolution:

(A) The applicant shall provide a written offer of terms and conditions to the HCE. The HCE shall explain the area of disagreement to the applicant;

(B) The applicant's or HCE's chief financial officer, chief executive officer, or an individual authorized to make decisions on behalf of the HCE or applicant shall have at least one face-to-face meeting in a good faith effort to resolve the disagreement.

(b) The applicant or HCE may request the Authority to provide technical assistance. The Authority also may offer technical assistance, with or without a request. The Authority's technical assistance is limited to clarifying the CCO certification process, criteria, and other program requirements.

(5) Pursuant to 2013 Engrossed SB 568 and 2013 Oregon Laws chapter 27, if the applicant and HCE cannot reach agreement on contract terms within ten calendar days of the face-to-face meeting, either party may request arbitration. The requesting party shall notify the other party in writing to initiate a referral to an independent third party arbitrator for an HCE's refusal to contract with the CCO or the termination, extension, or renewal of a HCE's contract with a CCO. The party initiating the referral shall provide a copy of the notification to the Authority.

(6) After notification that one party initiated arbitration, the parties shall attempt to agree upon the selection of the arbitrator and complete the paperwork required to secure the arbitrator's services. If the parties are unable to agree, each party shall appoint an arbitrator, and these arbitrators shall select the final arbitrator.

(7) The parties shall pay for all arbitration costs. In consideration of potentially varied financial resources between the parties, which may pose a barrier to the use of this process, the parties may ask the arbitrator to allocate costs between the parties based on ability to pay.

(8) Within ten calendar days of a referral to an arbitrator, the applicant and HCE shall submit to each other and to the arbitrator the following:

(a) The most reasonable contract offer; or

(b) The HCE's statement that a contract is not desirable and an explanation of why this is reasonable.

(9) Within ten calendar days of receiving the other party's offer or the HCE's statement that a contract is not desirable, each party shall submit to the arbitrator and the other party the advocacy briefs regarding whether the HCE is reasonably or unreasonably refusing to contract with the applicant.

(10) The arbitrator shall apply the following standards when making a determination about whether an HCE reasonably or unreasonably refused to contract with the applicant:

(a) An HCE may reasonably refuse to contract when an applicant's reimbursement to an HCE for a health service is below the reasonable cost to provide the service. The arbitrator shall apply federal or state statutes or regulations that establish specific reimbursements, such as payments to federally qualified health centers, rural health centers, and tribal health centers; and

(b) An HCE may reasonably refuse to contract if that refusal is justified in fact or by circumstances, taking into consideration the Health Services Transformation (HST) legislative policies. Facts or circumstances outlining what is a reasonable or unreasonable refusal to contract include, but are not limited to:

(A) Whether contracting with the applicant would impose demands that the HCE cannot reasonably meet without significant negative impact on HCE costs, obligations, or structure while considering the proposed reimbursement arrangement or other CCO requirements. Some of the requirements include:

(i) Use of electronic health records;

(ii) Service delivery requirements, or

(iii) Quality or performance requirements;

(B) Whether the HCE's refusal affects access to covered services in the applicant's community. This factor alone cannot result in a finding that the refusal to contract is unreasonable; however, the HCE and applicant shall make a good faith effort to work out differences in order to achieve beneficial community objectives and HST policy objectives;

(C) Whether the HCE has entered into a binding obligation to participate in the network of a different CCO or applicant and that participation significantly reduces the HCE's capacity to contract with the applicant.

(11) The following outlines the arbitrator determination and the parties' final opportunity to settle:

(a) The arbitrator shall evaluate the final offers or statement of refusal to contract and the advocacy briefs from each party and issue a determination within 15 calendar days of the receipt of the parties' information;

(b) The arbitrator shall provide the determination to the parties. The arbitrator and the parties may not disclose the determination to the Authority for ten calendar days to allow the parties an opportunity to resolve the issue themselves. If the parties resolve the issue no later than the end of the tenth day, the arbitrator may not release the determination to the Authority;

(c) If the parties have not reached an agreement after ten calendar days, the arbitrator shall provide its decision to the Authority. After submission to the Authority, the arbitrator's determination becomes a public record, subject to protection of trade secret information if identified by one of the parties prior to the arbitrator's submission of the determination.

(12) If the parties cannot agree, the Authority shall evaluate the arbitrator's determination and may take the following actions:

(a) The Authority may certify an applicant if the arbitrator determined the applicant made a reasonable attempt to contract with the HCE or the HCE's refusal to contract was unreasonable;

(b) The Authority may refuse to certify, recertify, or continue to certify an applicant when the arbitrator determined the applicant did not reasonably attempt to contract with the HCE or the HCE's refusal to contract was reasonable, and the Authority determines that participation from the HCE remains necessary for certification of applicant as a CCO;

(c) The Authority may not pay fee-for-service reimbursements to an HCE if the arbitrator determined the HCE unreasonably refused to contract with the applicant. This applies to health services available through a CCO;

(d) In any circumstance within the scope of this rule when the parties have failed to agree, the current statutes regarding reimbursement to non-participating providers shall apply to certified CCOs and the HCE, consistent with ORS 414.743 for hospitals and consistent with Authority rules for other providers.

(13) To be qualified to resolve disputes under this rule, the arbitrator shall:

(a) Be a knowledgeable and experienced arbitrator;

(b) Be familiar with health care provider contracting matters;

(c) Be familiar with HST; and

(d) Follow the terms and conditions specified in this rule for the arbitration process.

Stat. Auth.: ORS 413.042, 414.615, 414.625, 414.635 & 414.651

Stats. Implemented: ORS 414.610 - 414.685

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12; DMAP 70-2013(Temp), f. 12-24-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 17-2015, f. & cert. ef. 4-1-15

Rule Caption: Amendment of HERC Prioritized List of Health Services Effective 1/1/15 Incorporating Approved Modifications Effective 10/1/14

Adm. Order No.: DMAP 18-2015

Filed with Sec. of State: 4-1-2015

Certified to be Effective: 4-1-15

Notice Publication Date: 4-1-2015

Rules Amended: 410-141-0520

Rules Repealed: 410-141-0520(T)

Subject: This rule will amend 410-141-0520. This change references the approved Health Evidenced Review Committee (HERC) Prioritized List of Health Services, effective January 1, 2015–December 31, 2015 and incorporates interim modifications and technical changes made October 1, 2014. The change is effective January 1, 2015.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-141-0520

Prioritized List of Health Services

(1) The Health Evidenced Review Commission (HERC) Prioritized List of Health Services (Prioritized List) is the listing of physical and mental health services with "expanded definitions" of preventive services and the practice guidelines as presented to the Oregon Legislative Assembly. The Prioritized List is generated and maintained by HERC. The HERC maintains the most current list on their website: http://www.oregon.gov/oha/herc/Pages/PrioritizedList.aspx. For a hard copy, contact the Division of Medical Assistance Programs within the Oregon Health Authority (OHA).

(2) This rule, effective January 1, 2015, incorporates by reference the Centers for Medicare and Medicaid Services' (CMS) approved January 1, 2015–December 31, 2015 Prioritized List, including October 1, 2014 interim modifications and technical changes, expanded definitions, practice guidelines, and condition treatment pairs funded through line 476.

Stat. Auth.: ORS 192.527, 192.528, 413.042 & 414.065

Stats. Implemented: ORS 192.527, 192.528, 414.010, 414.065 NS 414.727

Hist.: HR 7-1994, f. & cert. ef. 2-1-94; OMAP 33-1998, f. & cert. ef. 9-1-98; OMAP 40-1998(Temp), f. & cert. ef. 10-1-98 thru 3-1-99; OMAP 48-1998(Temp), f. & cert. ef. 12-1-98 thru 5-1-99; OMAP 21-1999, f. & cert. ef. 4-1-99; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 9-2000(Temp), f. 4-27-00, cert. ef. 4-27-00 thru 9-26-00; OMAP 13-2000, f. & cert. ef. 9-12-00; OMAP 14-2000(Temp), f. 9-15-00, cert. ef. 10-1-00 thru 3-30-01; OMAP 40-2000, f. 11-17-00, cert. ef. 11-20-00; OMAP 22-2001(Temp), f. 3-30-01, cert. ef. 4-1-01 thru 9-1-01; OMAP 28-2001, f. & cert. ef. 8-10-01; OMAP 53-2001, f. & cert. ef. 10-1-01; OMAP 18-2002, f. 4-15-02, cert. ef. 5-1-02; OMAP 64-2002, f. & cert. ef. f. & cert. ef. 10-2-02; OMAP 65-2002(Temp), f. & cert. ef. 10-2-02 thru 3-15-0; OMAP 88-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 14-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 30-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 79-2003(Temp), f. & cert. ef. 10-2-03 thru 3-15-04; OMAP 81-2003(Temp), f. & cert. ef. 10-23-03 thru 3-15-04; OMAP 94-2003, f. 12-31-03 cert. ef. 1-1-04; OMAP 17-2004(Temp), f. 3-15-04 cert. ef. 4-1-04 thru 9-15-04; OMAP 28-2004, f. 4-22-04 cert. ef. 5-1-04; OMAP 48-2004, f. 7-28-04 cert. ef. 8-1-04; OMAP 51-2004, f. 9-9-04, cert. ef. 10-1-04; OMAP 68-2004(Temp), f. 9-14-04, cert. ef. 10-1-04 thru 3-15-05; OMAP 83-2004, f. 10-29-04 cert. ef. 11-1-04; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 54-2005(Temp), f. & cert. ef. 10-14-05 thru 4-1-06; OMAP 62-2005, f. 11-29-05, cert. ef. 12-1-05; OMAP 71-2005, f. 12-21-05, cert. ef. 1-1-06; OMAP 6-2006, f. 3-22-06, cert. ef. 4-1-06; OMAP 46-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 14-2007(Temp), f. & cert. ef. 10-1-07 thru 3-28-08; DMAP 28-2007(Temp), f. & cert. ef. 12-20-07 thru 3-28-08; DMAP 8-2008, f & cert. ef. 3-27-08; DMAP 10-2008(Temp), f. & cert. ef. 4-1-08 thru 9-15-08; DMAP 23-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 31-2008(Temp), f. & cert. ef. 10-1-08 thru 3-29-09; DMAP 40-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 4-2009(Temp), f. & cert. ef. 1-30-09 thru 6-25-09; DMAP 6-2009(Temp), f. 3-26-09, cert. ef. 4-1-09 thru 9-25-09; DMAP 8-2009(Temp), f. & cert. ef. 4-17-09 thru 9-25-09; DMAP 26-2009, f. 8-3-09, cert. ef. 8-5-09; DMAP 30-2009(Temp), f. 9-15-09, cert. ef. 10-1-09 thru 3-29-10; DMAP 36-2009(Temp), f. 12-10-09 ef. 1-1-10 thru 3-29-10; DMAP 1-2010(Temp), f. & cert. ef. 1-15-10 thru 3-29-10; DMAP 3-2010, f. 3-5-10, cert. ef. 3-17-10; DMAP 5-2010(Temp), f. 3-26-10, cert. ef. 4-1-10 thru 9-1-10; DMAP 10-2010, f. & cert. ef. 4-26-10; DMAP 27-2010(Temp), f. 9-24-10, cert. ef. 10-1-10 thru 3-25-11; DMAP 43-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 4-2011, f. 3-23-11, cert. ef. 4-1-11; DMAP 24-2011(Temp), f. 9-15-11, cert. ef. 10-1-11 thru 3-26-12; DMAP 45-2011, f. 12-21-11, cert. ef. 12-23-11; DMAP 47-2011(Temp), f. 12-13-11, cert. ef. 1-1-12 thru 6-25-12; DMAP 22-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 9-21-12; DMAP 43-2012(Temp), f. 9-21-12, cert. ef. 9-23-12 thru 3-21-13; DMAP 11-2013, f. & cert. ef. 3-21-13; DMAP 50-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 57-2013(Temp), f. & cert. ef. 10-29-13 thru 3-30-14; DMAP 7-2014, f. & cert. ef. 1-31-14; DMAP 13-2014(Temp), f. 3-20-14, cert. ef. 4-1-14 thru 9-28-14; DMAP 31-2014, f. 5-30-14, cert. ef. 7-1-14; DMAP 63-2014(Temp), f. & cert. ef. 10-17-14 thru 12-31-14; DMAP 79-2014, f. 12-18-14, cert. ef. 12-31-14; DMAP 80-2014(Temp), f. 12-23-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 18-2015, f. & cert. ef. 4-1-15

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Rule Caption: Specific Requirements; Extended Medical Assistance

Adm. Order No.: DMAP 19-2015(Temp)

Filed with Sec. of State: 4-2-2015

Certified to be Effective: 4-2-15 thru 9-28-15

Notice Publication Date:

Rules Amended: 410-200-0440
Subject: The Centers for Medicare and Medicaid Services (CMS) released guidance on 4/1/15 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.
Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-200-0440
Specific Requirements; Extended Medical Assistance

(1) Effective 04/01/15 individuals who lose eligibility for Medical Assistance Assumed (MAA), Medical Assistance to Families (MAF), or MAGI Parent or Other Caretaker Relative (PCR) benefits are eligible for four months of Extended Medical Assistance (EXT) if all of the following requirements are met:

(a) Loss of eligibility is due to:

(A) The receipt or increase of earned income; or

(B) The receipt or increase of spousal support;

(b) Eligibility is redetermined and the individual is not eligible for Medicaid/CHIP; and

(c) Individuals were eligible for and receiving MAA, MAF, or MAGI PCR benefits for any three of the six months preceding the month in which eligibility was lost as described in section (a).

(2) To be eligible for EXT, the household group of individuals who lose eligibility for MAGI PCR benefits must contain a dependent child who has minimum essential coverage.

(3) The EXT beneficiary must be a resident of Oregon.

(4) 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 (2) and (3) 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. If a subsequent change in circumstance occurs that results in ineligibility for all OCCS medical programs, the individual may regain EXT eligibility.

(5) The effective date of EXT is the first of the month following the month in which MAA, MAF, or MAGI PCR program eligibility ends.

(6) 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.

(7) 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 household group 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, 414.440 & 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

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Rule Caption: Amend Rules Governing Payment for Medicaid EHR Incentive Program
Adm. Order No.: DMAP 20-2015
Filed with Sec. of State: 4-8-2015
Certified to be Effective: 4-8-15
Notice Publication Date: 3-1-2015
Rules Amended: 410-165-0000, 410-165-0020, 410-165-0040, 410-165-0060, 410-165-0080, 410-165-0100
Rules Repealed: 410-165-0000(T), 410-165-0020(T), 410-165-0040(T), 410-165-0060(T), 410-165-0080(T), 410-165-0100(T)
Subject: The Division is amending these rules because new federal legislation from the Centers for Medicare and Medicaid Services (CMS) affects how providers are eligible for the Medicaid EHR Incentive Program. These rules include changes for a shortened EHR reporting period in 2014 as well as overall clean up to existing language. Notably, in program year 2014, providers are given the flexibility to use either a 3-month calendar quarter or any continuous 90-day EHR reporting period to demonstrate meaningful use.
Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-165-0000
Basis and Purpose

(1) These rules (OAR chapter 410, division 165) govern the Oregon Health Authority (Authority), Division of Medical Assistance Programs (Division), Medicaid Electronic Health Record (EHR) Incentive Program. The Medicaid EHR Incentive Program provides incentive payments consistent with federal law concerning such payments to eligible providers participating in the Medicaid program who adopt, implement, upgrade, or successfully demonstrate meaningful use of certified EHR technology and who are qualified by the program.

(2) The Medicaid EHR Incentive Program is implemented pursuant to:

(a) The American Reinvestment and Recovery Act of 2009, Pub. L. No. 111-5, section 4201;

(b) The Centers for Medicare and Medicaid Services (CMS) federal regulation 42 CFR Part 495 (2010, 2012, & 2014) pursuant to the Social Security Act sections 1903(a)(3)(F) and 1903(t);

(c) The Division's General Rules program, OAR chapter 410, division 120;

(d) The Authority's Provider Rules, OAR chapter 943, division 120.

(3) The following retroactive effective dates apply to these rules:

(a) For all sections and references in this rule that refer to CMS federal regulation 42 CFR Part 495 (2014), the effective date is October 1, 2014;

(b) For eligible hospitals, except for sections and references in the rule applicable under section (3)(a) above, the effective date is October 1, 2013, which is also the start date for program year 2014.

(c) For eligible professionals, except for sections and references in the rule applicable under section (3)(a) above, the effective date is January 1, 2014, which is also the start date for program year 2014.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 413.042 & 414.033
Hist.: DMAP 13-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 20-2013(Temp), f. & cert. ef. 4-26-13 thru 10-23-13; DMAP 56-2013, f. & cert. ef. 10-22-13; DMAP 2-2015(Temp), f. 1-30-15, cert. ef. 2-3-15 thru 8-1-15; DMAP 20-2015, f. & cert. ef. 4-8-15

410-165-0020
Definitions

The following definitions apply to OAR 410-165-0010 through 410-165-0140:

(1) Acceptance documents means written evidence supplied by a provider demonstrating that the provider met Medicaid EHR Incentive Program eligibility criteria or participation requirements according to standards specified by the Oregon Health Authority's (Authority), Division of Medical Assistance Programs.

(2) Acute care hospital means a healthcare facility including but not limited to a critical access hospital with a Centers for Medicare and Medicaid Services' (CMS) certification number (CCN) that ends in 0001-0879 or 1300-1399; and where the average length of patient stay is 25 days or fewer.

(3) Adopt, implement, or upgrade:

(a) Acquire, purchase, or secure access to Certified EHR Technology capable of meeting meaningful use requirements;

(b) Install or commence utilization of Certified EHR Technology capable of meeting meaningful use requirements; or

(c) Expand the available functionality of Certified EHR Technology capable of meeting meaningful use requirements at the practice site, including staffing, maintenance, and training or upgrade from existing EHR technology to Certified EHR Technology.

(4) Attestation means a statement that:

(a) Is made by an eligible provider or preparer during the application process;

(b) Represents that the eligible provider met the thresholds and requirements of the Medicaid EHR Incentive Program; and

(c) Is made under penalty of prosecution for falsification or concealment of a material fact.

(5) Certified EHR Technology as defined in 42 CFR 495.302 (2010, 2012, and 2014), 42 CFR 495.4 (2010 and 2012), 42 CFR 495.6 (2014) and 45 CFR 170.102 (2010, 2011, 2012, and 2014) per the Office of the

National Coordinator for Health Information Technology EHR certification criteria.

(6) Children's hospital means a separately certified hospital, either freestanding or hospital-within a hospital that predominantly treats individuals under 21 years of age and that either:

(a) Has a CMS Certification Number (CCN) that ends in 3300–3399; or

(b) Does not have a CCN but has been provided an alternative number by CMS for purposes of enrollment in the Medicaid EHR Incentive Program as a children's hospital.

(7) Dentist has the meaning given that term in in OAR 410-120-0000 and 42 CFR 440.100.

(8) Eligible hospital means an acute care hospital with at least 10 percent Medicaid patient volume or a children's hospital.

(9) Eligible professional means a professional who:

(a) Is a physician; a dentist; a nurse practitioner, including a nurse-midwife nurse practitioner; or a physician assistant practicing in a Federally Qualified Health Center (FQHC) or a Rural Health Clinic (RHC) that is so led by a physician assistant;

(b) Meets patient volume requirements described in OAR 410-165-0060; and

(c) Is not a hospital-based professional.

(10) Eligible provider means an eligible hospital or eligible professional.

(11) Encounter means:

(a) For an eligible hospital, either:

(A) Services rendered to an individual per inpatient discharge; or

(B) Services rendered to an individual in an emergency department on any one day.

(b) For an eligible professional, services rendered to an individual on any one day.

(12) Enrolled provider means a hospital or health care practitioner who is actively registered with the Authority pursuant to OAR 943-120-0320.

(13) Entity promoting the adoption of Certified EHR Technology means an entity designated by the Authority that promotes the adoption of Certified EHR Technology by enabling:

(a) Oversight of the business and operational and legal issues involved in the adoption and implementation of Certified EHR Technology; or

(b) The exchange and use of electronic clinical and administrative data between participating providers in a secure manner, including but not limited to maintaining the physical and organizational relationship integral to the adoption of Certified EHR Technology by eligible providers.

(14) Federal fiscal year (FFY) means October 1 to September 30.

(15) Federally Qualified Health Center (FQHC) has the meaning given that term in OAR 410-120-0000.

(16) Grace period means a period of time or specified date following the end of a program year when an eligible provider may submit an application to the Medicaid EHR Incentive Program for that program year:

(a) For program years 2011 and 2012, the following applies:

(A) For a first year application, the grace period is 60 days;

(B) For all subsequent years, the grace period is 90 days.

(b) For program year 2013, the grace period is 90 days;

(c) For program year 2014, the following applies:

(A) For eligible hospitals, the grace period ends on January 31, 2015;

(B) For eligible professionals, the grace period ends on May 31, 2015;

(d) For program year 2015 and later, the grace period is 90 days.

(17) Group has the meaning given that term in OAR 410-120-0100.

(18) Hospital-based professional means a professional who furnishes 90 percent or more of Medicaid-covered services in a hospital emergency room (place of service code 23) or inpatient hospital (place of service code 21) in the calendar year (CY) preceding the program year, except that hospital-based professional does not include a professional practicing predominantly at a Federally Qualified Health Center (FQHC) or a Rural Health Clinic (RHC).

(19) Individuals receiving Medicaid means individuals served by an eligible provider where the services rendered would qualify under the Medicaid encounter definition.

(20) Meaningful EHR user means an eligible provider that, for an EHR reporting period for a program year, demonstrates in accordance with 42 CFR 495.4 (2010 and 2012) and 42 CFR 495.8 (2010, 2012, and 2014), meaningful use of Certified EHR Technology by meeting the applicable objectives and associated measures in 42 CFR 495.6 (2010, 2012, and 2014) and as prescribed by 42 CFR Part 495.

(21) Medicaid encounter means:

(a) For an eligible hospital applying for program year 2011 or 2012, either:

(A) Services rendered to an individual per inpatient discharge where Medicaid (or a Medicaid demonstration project approved under the Social Security Act section 1115) paid for part or all of the service; or Medicaid (or a Medicaid demonstration project approved under the Social Security Act section 1115) paid all or part of the individual's premiums, copayments, or cost-sharing; or

(B) Services rendered in an emergency department on any one day where Medicaid (or a Medicaid demonstration project approved under the Social Security Act section 1115) paid for part or all of the service; or Medicaid (or a Medicaid demonstration project approved under the Social Security Act section 1115) paid all or part of the individual's premiums, copayments, and cost-sharing.

(b) For an eligible hospital applying for program year 2013 or later, either:

(A) Services rendered to an individual per inpatient discharge where the individual was enrolled in Medicaid (or a Medicaid demonstration project approved under the Social Security Act section 1115) or Children's Health Insurance Program (CHIP) if part of a state's Medicaid expansion (does not apply to Oregon's as it is designated as a separate CHIP state) at the time the billable service was provided; or

(B) Services rendered in an emergency department on any one day where the individual was enrolled in Medicaid (or a Medicaid demonstration project approved under the Social Security Act section 1115) or Children's Health Insurance Program (CHIP) if part of a state's Medicaid expansion (does not apply to Oregon's as it is designated as a separate CHIP state) at the time the billable service was provided;

(c) For an eligible professional applying for program year 2011 or 2012, either:

(A) Services rendered to an individual on any one day where Medicaid (or a Medicaid demonstration project approved under the Social Security Act section 1115) paid for part or all of the service; or

(B) Medicaid (or a Medicaid demonstration project approved under the Social Security Act section 1115) paid all or part of the individual's premiums, copayments, and cost-sharing;

(d) For an eligible professional applying for program year 2013 or later, services rendered to an individual on any one day where the individual was enrolled in a Medicaid program (or a Medicaid demonstration project approved under the Social Security Act section 1115) or Children's Health Insurance Program (CHIP) if part of a state's Medicaid expansion (does not apply to Oregon's as it is designated as a separate CHIP state) at the time the billable service was provided.

(22) National Provider Identifier has the meaning given that term in 45 CFR Part 160 and OAR 410-120-0000.

(23) Needy individual means individuals served by an eligible professional where the services rendered qualify under the needy individual encounter definition.

(24) Needy individual encounter means:

(a) For an eligible professional applying for program year 2011 or 2012, services rendered to an individual on any one day where:

(A) Medicaid or CHIP (or a Medicaid or CHIP demonstration project approved under the Social Security Act section 1115) paid for part or all of the service;

(B) Medicaid or CHIP (or a Medicaid or CHIP demonstration project approved under the Social Security Act section 1115) paid all or part of the individual's premiums, copayments, or cost-sharing;

(C) The services were furnished at no cost and calculated consistent with 42 CFR 495.310(h) (2010); or

(D) The services were paid for at a reduced cost based on a sliding scale determined by the individual's ability to pay;

(b) For an eligible professional applying for program year 2013 or later, services rendered to an individual on any one day where:

(A) The services were rendered to an individual enrolled in a Medicaid program (or a Medicaid demonstration project approved under the Social Security Act section 1115) or CHIP at the time the billable service was provided;

(B) The services were furnished at no cost and calculated consistently with 42 CFR 495.310(h) (2010); or

(C) The services were paid for at a reduced cost based on a sliding scale determined by the individual's ability to pay.

(25) Nurse practitioner has the meaning given that term in OAR 410-120-0000 and 42 CFR 440.166.

(26) Panel means a managed care panel, medical or health home program panel, or similar provider structure with capitation or case assignment that assigns patients to providers.

(27) Patient volume means:

(a) For eligible hospitals, the proportion of Medicaid encounters to total encounters expressed as a percentage;

(b) For eligible professionals who do not meet the definition of "practices predominantly": The proportion of Medicaid encounters to total encounters expressed as a percentage;

(c) For eligible professionals who meet the definition of "practices predominantly": The proportion of Needy Individual encounters to total encounters expressed as a percentage.

(28) Pediatrician means a physician who predominantly treats individuals under 21.

(29) Physician has the meaning given that term in OAR 410-120-0000 and 42 CFR 440.50.

(30) Physician assistant has the meaning given that term in OAR 410-120-0000 and 42 CFR 440.60.

(31) Practices predominantly mean an eligibility criterion to permit use of needy individual patient volume. An eligible professional "practices predominantly" if:

(a) For program year 2011 or 2012, more than 50 percent of an eligible professional's total patient encounters over a period of six months in the calendar year preceding the program year occur at an FQHC or RHC;

(b) For program year 2013 and later, more than 50 percent of an eligible professional's total patient encounters occur at an FQHC or RHC:

(A) During a six-month period in the calendar year preceding the program year; or

(B) During a six-month period in the most recent 12 months prior to attestation.

(32) Preparer means an individual authorized by an eligible provider to act on behalf of the provider to complete an application for a Medicaid EHR incentive via an electronic media connection with the Authority.

(33) Program year means:

(a) The calendar year (CY) for an eligible professional; or

(b) The federal fiscal year (FFY) for an eligible hospital.

(34) Provider Web Portal means the Authority's website that provides a secure gateway for eligible providers or preparers to apply for the Medicaid EHR Incentive Program.

(35) Qualify means to meet the eligibility criteria and participation requirements to receive a Medicaid EHR incentive payment for the program year. The Medicaid EHR Incentive Program (Program) makes the determination as to whether an eligible provider qualifies.

(36) Rural Health Clinic (RHC) means a clinic located in a rural and medically underserved community designated as an RHC by CMS. Payment by Medicare and Medicaid to an RHC is on a cost-related basis for outpatient physician and certain non-physician services.

(37) So led means when an FQHC or RHC has a physician assistant who is:

(a) The primary provider in the clinic;

(b) A clinical or medical director at the clinical site of practice; or

(c) An owner of the RHC.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042 & 414.033

Hist.: DMAP 13-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 20-2013(Temp), f. & cert. ef. 4-26-13 thru 10-23-13; DMAP 56-2013, f. & cert. ef. 10-22-13; DMAP 2-2015(Temp), f. 1-30-15, cert. ef. 2-3-15 thru 8-1-15; DMAP 20-2015, f. & cert. ef. 4-8-15

410-165-0040
Application

(1) An eligible provider must apply to the Medicaid Electronic Health Record (EHR) Incentive Program (Program) each program year that the eligible provider seeks an incentive payment. In order to apply, an eligible provider or a preparer acting on behalf of an eligible provider must:

(a) Register with the Centers for Medicare and Medicaid Services (CMS);

(b) Apply to the Program after registering with CMS for each program year; and

(c) Attest that:

(A) The information submitted is true, accurate, and complete; and

(B) Any falsification or concealment of a material fact may be prosecuted under federal and state laws;

(d) Maintain for a period of no less than seven years from the date of completed application complete, accurate, and unaltered copies of all acceptance documents associated with all data transmissions and attestations. The information maintained must include at a minimum documentation to support:

(A) The financial or legal obligation for the adoption, implementation, or upgrade of certified EHR technology including, but not limited to, the purchase agreement or contract;

(B) Demonstration of meaningful use for the year corresponding to the program year;

(C) Patient volume for the year corresponding to the program year; and

(D) The eligible hospital's payment calculation data including, but not limited to, Medicare cost reports.

(2) An eligible provider must submit the acceptance documents referred to above in section (1)(d)(A) when the eligible provider is attesting for a payment for the adoption, implementation, or upgrade to certified EHR technology or when new Certified EHR Technology is acquired. If the eligible provider is an eligible hospital seeking its first year payment, it must submit the acceptance documents referred to in section (1)(d)(D).

(3) The Program reviews the completed application and the acceptance documents to determine if the eligible provider qualifies for an incentive payment:

(a) The Program verifies the information in the application;

(b) The Program determines if the eligible provider's information complies with the eligibility criteria and participation requirements;

(c) The Program notifies the eligible provider about the incentive payment determination;

(d) The Authority may reduce the incentive payment to pay off debt if an eligible provider or incentive payment recipient owes a debt under a collection mandate to the State of Oregon. The incentive payment is considered paid to the eligible provider even when part or all of the incentive may offset the debt. The Authority may not reduce the incentive payment amount for any other purpose unless permitted or required by federal or state law; and

(e) The Authority distributes 1099 forms to the tax identification number designated to receive the Medicaid EHR incentive payment.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS, 413.042 & 414.033

Hist.: DMAP 13-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 20-2013(Temp), f. & cert. ef. 4-26-13 thru 10-23-13; Administrative correction, 11-22-13; DMAP 2-2015(Temp), f. 1-30-15, cert. ef. 2-3-15 thru 8-1-15; DMAP 20-2015, f. & cert. ef. 4-8-15

410-165-0060
Eligibility

(1) For the purposes of the Medicaid Electronic Health Record (EHR) Incentive Program, there are three categories of eligibility criteria: criteria for an eligible professional, criteria for an eligible professional practicing predominately in a Federally Qualified Health Center (FQHC) or a Rural Health Clinic (RHC), and criteria for an eligible hospital.

(2) To be eligible for a Medicaid EHR incentive payment for the program year, an eligible professional as listed in Table 165-0060-1 must meet the Medicaid EHR Incentive Program criteria each year:

(a) To be eligible for an incentive payment, an eligible professional must at a minimum:

(A) Meet and follow the scope of practice regulations as applicable for each professional as defined in 42 CFR Part 440;

(B) Meet the following certified EHR technology and meaningful use requirements for the corresponding year of participation:

(i) First year of participation:

(I) Adopt, implement, or upgrade certified EHR technology; or

(II) Demonstrate meaningful use as prescribed by 42 CFR 495.4 (2010 and 2012) and 42 CFR 495.8 (2010, 2012, and 2014) and meet the corresponding meaningful use criteria as prescribed by 42 CFR 495.6 (2010, 2012, and 2014).

(ii) Subsequent years of participation, demonstrate meaningful use as prescribed by 42 CFR 495.4 (2010 and 2012) and 42 CFR 495.8 (2010, 2012, and 2014) and meet the corresponding meaningful use criteria as prescribed by 42 CFR 495.6 (2010, 2012, and 2014).

(C) Either not be a hospital-based professional or for program year 2013 or later meet the requirements that allow a reversal of a hospital-based determination. To be considered non-hospital-based in future program years after an initial reversal determination, the professional must attest in each subsequent program year that the professional continues to meet the requirements. To meet the requirements, the professional must do all of the following:

(i) Fund the acquisition, implementation, and maintenance of Certified EHR Technology, including supporting hardware and interfaces needed for meaningful use without reimbursement from an eligible hospital and use such Certified EHR Technology in the inpatient or emergency department of a hospital;

(ii) Provide documentation to the Program for review and approval for the program year and in accordance with the program application rules in OAR 410-165-0040;

(iii) Meet all applicable requirements to receive an incentive payment; and

(iv) If attesting to meaningful use, demonstrate using all encounters at all locations equipped with Certified EHR Technology, including those in the inpatient and emergency departments of the hospital.

(D) Meet one of the following criteria:

(i) Have a minimum of 30 percent patient volume attributable to individuals receiving Medicaid; or

(ii) Be a pediatrician who has a minimum of 20 percent patient volume attributable to individuals receiving Medicaid;

(b) An eligible professional must calculate patient volume, as listed in Table 165-0060-2, by using the patient volume calculation method either of patient encounter or of patient panel. The patient panel volume calculation method may be used only when all of the following apply:

(A) The patient panel is appropriate as a patient volume calculation method for the eligible professional; and

(B) There is an auditable data source to support the patient panel data;

(c) An eligible professional must calculate patient volume as listed in Table 165-0060-2 by using either the patient volume of the eligible professional or the patient volume of the group. The patient volume of the group may be used only when all of the following apply:

(A) The group's patient volume is appropriate as a patient volume methodology calculation for the eligible professional;

(B) There is an auditable data source to support the group's patient volume determination;

(C) All eligible professionals in the group must use the same patient volume calculation method for the program year;

(D) The group uses the entire practice or clinic's patient volume and does not limit patient volume in any way; and

(E) If an eligible professional works inside and outside of the group, then the patient volume calculation includes only those encounters associated with the group and not the eligible professional's outside encounters.

(d) An eligible professional's patient volume must be calculated using one of the following methods:

(A) The patient encounter calculation method based on the patient volume of the eligible professional requires that:

(i) For program year 2011 or 2012, the eligible professional must divide the total Medicaid encounters by the total patient encounters that were rendered by the eligible professional in any representative, continuous 90-day period in the preceding calendar year; or

(ii) For program year 2013 and later, the eligible professional must divide the total Medicaid encounters by the total patient encounters that were rendered by the eligible professional in any representative, continuous 90-day period either in the preceding calendar year or in the twelve month timeframe preceding the date of attestation. The eligible professional may not use the same 90-day timeframe to calculate patient volume in different program years.

(B) The patient encounter calculation method based on the patient volume of the group requires that:

(i) For program year 2011 or 2012, the eligible professional must divide the group's total Medicaid encounters by the group's total patient encounters in any representative, continuous 90-day period in the preceding calendar year;

(ii) For program year 2013 and later, the eligible professional must divide the group's total Medicaid encounters by the group's total patient encounters in any representative, continuous 90-day period either in the preceding calendar year or in the twelve-month timeframe preceding the date of attestation. The eligible professional may not use the same 90-day timeframe to calculate patient volume in different program years.

(C) The patient panel calculation method based on the patient volume of the eligible professional requires that:

(i) For program year 2011 or 2012, the eligible professional must:

(I) Add the total Medicaid patients assigned to the eligible professional's panel in any representative 90-day period in the prior calendar year, provided at least one Medicaid encounter took place with the patient in the preceding calendar year, to the eligible professional's unduplicated Medicaid encounters rendered in the same 90-day period; and

(II) Divide the result calculated above in (1)(d)(C)(i)(I) by the sum of the total patients assigned to the eligible professional's panel in the same 90-day period, provided at least one encounter took place with the patient during the preceding calendar year, plus all of the unduplicated patient encounters in the same 90-day period;

(ii) For program year 2013 and later, the eligible professional must:

(I) Add the total Medicaid patients assigned to the eligible professional's panel in any representative 90-day period in either the preceding calendar year or during the 12-month timeframe preceding the attestation date, provided at least one Medicaid encounter took place with the individual during the 24 months before the beginning of the 90-day period, to the eligible professional's unduplicated Medicaid encounters rendered same 90-day period; and

(II) Divide the result calculated above in section (2)(d)(C)(ii)(I) by the sum of the total patients assigned to the eligible professional's panel in the same 90-day period, provided at least one encounter took place with the patient during the 24 months before the beginning of the 90-day period, plus all of the unduplicated patient encounters in the same 90-day period; and

(III) Not use the same 90-day timeframe to calculate patient volume in different program years;

(D) The patient panel calculation method based on the patient volume of the group requires that:

(i) For program year 2011 or 2012, the eligible professional must:

(I) Add the total Medicaid patients assigned to the group's panel in any representative 90-day period in the prior calendar year, provided at least one Medicaid encounter took place with the patient in the preceding calendar year, to the group's unduplicated Medicaid encounters in the same 90-day period; and

(II) Divide the result calculated above in (1)(d)(D)(i)(I) by the sum of the total patients assigned to the group's panel in the same 90-day period, provided at least one encounter took place with the patient during the preceding calendar year, plus all of the unduplicated patient encounters in the same 90-day period.

(ii) For program year 2013 and later, the eligible professional must:

(I) Add the total Medicaid patients assigned to the group's panel in any representative 90-day period in either the preceding calendar year or during the 12-month timeframe preceding the attestation date, provided at least one Medicaid encounter took place with the individual during the 24 months before the beginning of the 90-day period, to the group's unduplicated Medicaid encounters that same 90-day period;

(II) Divide the result calculated above in (1)(d)(D)(ii)(I) by the sum of the total patients assigned to the group's panel in the same 90-day period, provided at least one encounter took place with the patient during the 24 months before the beginning of the 90-day period, plus all of the unduplicated patient encounters in the same 90-day period; and

(III) Not use the same 90-day timeframe to calculate patient volume in different program years.

(3) To be eligible for a Medicaid EHR incentive payment for the program year, an eligible professional practicing predominantly in an FQHC or an RHC, as listed in Table 165-0060-1, must meet the Medicaid EHR Incentive Program professional eligibility criteria each year by meeting either the above section (2) of this rule or by meeting the following FQHC- and RHC-specific criteria:

(a) To be eligible for an incentive payment, an eligible professional must at a minimum:

(A) Meet and follow the scope of practice regulations as applicable for each professional as prescribed by 42 CFR Part 440;

(B) Meet the following certified EHR technology and meaningful use requirements for the corresponding year of participation:

(i) First year of participation:

(I) Adopt, implement, or upgrade Certified EHR Technology; or

(II) Demonstrate meaningful use as prescribed by 42 CFR 495.4 (2010 and 2012) and 42 CFR 495.8 (2010, 2012, and 2014) and meet the corresponding meaningful use criteria as prescribed by 42 CFR 495.6 (2010, 2012, and 2014).

(ii) Subsequent years of participation demonstrate meaningful use as prescribed by 42 CFR 495.4 (2010 and 2012) and 42 CFR 495.8 (2010, 2012, and 2014) and meet the corresponding meaningful use criteria as prescribed by 42 CFR 495.6 (2010, 2012, and 2014).

(C) Have a minimum of 30 percent patient volume attributable to needy individuals.

(b) An eligible professional must calculate patient volume, as listed in Table 165-0060-3, by using the patient volume calculation method either of patient encounter or of patient panel. The patient panel volume calculation method may be used only when all of the following apply:

(A) The patient panel is appropriate as a patient volume calculation method for the eligible professional; and

(B) There is an auditable data source to support the patient panel data;

(c) An eligible professional must calculate patient volume, as listed in Table 165-0060-3, by using either the patient volume of the eligible professional or the patient volume of the group. The group's patient volume may be used only when all of the following apply:

(A) The group's patient volume is appropriate as a patient volume methodology calculation for the eligible professional;

(B) There is an auditable data source to support the group's patient volume determination;

(C) All eligible professionals in the group must use the same patient volume calculation method for the program year;

(D) The group uses the entire practice or clinic's patient volume and does not limit patient volume in any way; and

(E) If an eligible professional works inside and outside of the group, then the patient volume calculation includes only those encounters associated with the group and not the eligible professional's outside encounters.

(d) An eligible professional's needy individual patient volume must be calculated using one of the following methods:

(A) The patient encounter calculation method based on the patient volume of the eligible professional:

(i) For program year 2011 or 2012, the eligible professional must divide the total needy individual encounters by the total patient encounters that were rendered by the eligible professional in any representative, continuous 90-day period in the preceding calendar year;

(ii) For program year 2013 and later, the eligible professional must divide the total needy individual encounters by the total patient encounters that were rendered by the eligible professional in any representative, continuous 90-day period either in the preceding calendar year or in the12-month timeframe preceding the date of attestation. The eligible professional may not use the same 90-day timeframe to calculate patient volume in different program years;

(B) The patient encounter calculation method based on the patient volume of the group requires that:

(i) For program year 2011 or 2012, the eligible professional must divide the group's total needy individual encounters by the group's total patient encounters in any representative, continuous 90-day period in the preceding calendar year;

(ii) For program year 2013 and later, the eligible professional must divide the group's total needy individual encounters by the group's total patient encounters in any representative, continuous 90-day period either in the preceding calendar year or in the 12-month timeframe preceding the date of attestation. The eligible professional may not use the same 90-day timeframe to calculate patient volume in different program years;

(C) The patient panel calculation method based on the patient volume of the eligible professional requires that:

(i) For program year 2011 or 2012, the eligible professional must:

(I) Add the total needy individual patients assigned to the eligible professional's panel in any representative, 90-day period in the prior calendar year, provided at least one Medicaid encounter took place with the patient in the preceding calendar year, to the eligible professional's unduplicated needy individual encounters rendered in the same 90-day period; and

(II) Divide the result calculated above in section (2)(d)(C)(i)(I) by the sum of the total patients assigned to the eligible professional's panel in the same 90-day period, provided at least one encounter took place with the patient during the preceding calendar year, plus all of the unduplicated patient encounters in the same 90-day period;

(ii) For program year 2013 and later, the eligible professional must:

(I) Add the total needy individual patients assigned to the eligible professional's panel in any representative, 90-day period either in the preceding calendar year or during the twelve month timeframe preceding the attestation date, provided at least one Medicaid encounter took place with the individual during the 24 months before the beginning of the 90-day period, to the eligible professional's unduplicated needy individual encounters rendered same 90-day period;

(II) Divide the result calculated above in section (2)(d)(C)(ii)(I) by the sum of the total patients assigned to the eligible professional's panel in the same 90-day period, provided at least one encounter took place with the patient during the 24 months before the beginning of the 90-day period, plus all of the unduplicated patient encounters in the same 90-day period; and

(III) Not use the same 90-day timeframe to calculate patient volume in different program years;

(D) The patient panel calculation method based on the patient volume of the group requires that:

(i) For program year 2011 or 2012, the eligible professional must:

(I) Add the total needy individual patients assigned to the group's panel in any representative 90-day period in the prior calendar year, provided at least one needy individual encounter took place with the patient in the preceding calendar year, to the group's unduplicated Medicaid encounters in the same 90-day period; and

(II) Divide the result calculated above in section (2)(d)(D)(i)(I) by the sum of the total patients assigned to the group's panel in the same 90-day period, provided at least one encounter took place with the patient during the preceding calendar year, plus all of the unduplicated patient encounters in the same 90-day period;

(ii) For program year 2013 and later, the eligible professional must:

(I) Add the total needy individual patients assigned to the group's panel in any representative, 90-day period either in the preceding calendar year or during the 12-month timeframe preceding the attestation date, provided at least one needy individual encounter took place with the individual during the 24 months before the beginning of the 90-day period, to the group's unduplicated Medicaid encounters that same 90-day period;

(II) Divide the result calculated above in section (2)(d)(D)(ii)(I) by the sum of the total patients assigned to the group's panel in the same 90-day period, provided at least one encounter took place with the patient during the 24 months before the beginning of the 90-day period, plus all of the unduplicated patient encounters in the same 90-day period; and

(III) Not use the same 90-day timeframe to calculate patient volume in different program years.

(4) To be eligible for a Medicaid EHR incentive payment for the program year, an eligible hospital must meet the Medicaid EHR Incentive Program criteria each year:

(a) To be eligible for an incentive payment, an eligible hospital must, at a minimum, meet the Certified EHR Technology and meaningful use requirements for the corresponding year of participation:

(A) First year of participation:

(i) Adopt, implement, or upgrade Certified EHR Technology;

(ii) For eligible hospitals that participate in the Medicaid EHR Incentive Program only, demonstrate meaningful use as prescribed by 42 CFR 495.4 (2010 and 2012) and 42 CFR 495.8 (2010, 2012, and 2014) and meet the corresponding meaningful use criteria as prescribed by 42 CFR 495.6 (2010, 2012, and 2014); or

(iii) For eligible hospitals that participate in both the Medicare and Medicaid EHR Incentive Programs, demonstrate meaningful use under the Medicare EHR Incentive Program to Centers for Medicare and Medicaid Services (CMS) and be deemed a meaningful EHR user for the program year, as prescribed by 42 CFR 495.4 (2010 and 2012), 42 CFR 495.6 (2010, 2012, and 2014), and 42 CFR 495.8 (2010, 2012, and 2014);

(B) Subsequent years of participation:

(i) For eligible hospitals that participate in both the Medicare and Medicaid EHR Incentive Programs, demonstrate meaningful use under the Medicare EHR Incentive Program to Centers for Medicare and Medicaid Services (CMS) and be deemed a meaningful EHR user for the program year as prescribed by 42 CFR 495.4 (2010 and 2012), 42 CFR 495.6 (2010, 2012, and 2014), and 42 CFR 495.8 (2010, 2012, and 2014); or

(ii) For eligible hospitals that participate in the Medicaid EHR Incentive Program only, demonstrate meaningful use as prescribed by 42 CFR 495.4 (2010 and 2012) and 42 CFR 495.8 (2010, 2012, and 2014) and meet the corresponding meaningful use criteria as prescribed by 42 CFR 495.6 (2010, 2012, and 2014);

(b) If an eligible hospital is an acute care hospital, it must calculate patient volume by dividing the total eligible hospital Medicaid encounters by the total encounters in any representative, continuous 90-day period:

(A) For program year 2011 and 2012, in the preceding federal fiscal year;

(B) For program year 2013 and later, either in the preceding federal fiscal year or in the 12-month timeframe preceding the attestation date. The eligible hospital may not use the same 90-day timeframe to calculate patient volume in different program years.

(5) Table 165-0060-1. [Table not included. See ED. NOTE.]

(6) Table 165-0060-2. [Table not included. See ED. NOTE.]

(7) Table 165-0060-3. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042 & 414.033

Hist.: DMAP 20-2011, f. 7-21-11, cert. ef. 7-22-11; DMAP 20-2013(Temp), f. & cert. ef. 4-26-13 thru 10-23-13; DMAP 56-2013, f. & cert. ef. 10-22-13; DMAP 2-2015(Temp), f. 1-30-15, cert. ef. 2-3-15 thru 8-1-15; DMAP 20-2015, f. & cert. ef. 4-8-15

410-165-0080
Meaningful Use

(1) An eligible provider must demonstrate being a meaningful Electronic Health Record (EHR) user as prescribed by 42 CFR 495.4 (2010 and 2012), 42 CFR 495.6 (2010, 2012, and 2014), and 42 CFR 495.8 (2010, 2012, and 2014):

(a) For eligible providers that are demonstrating meaningful use under the Medicaid EHR Incentive Program in Stage 1 to comply with 42 CFR 495.8, the state of Oregon requires an eligible provider to satisfy the objective "Capability to submit electronic data to immunization registries or immunization information systems and actual submission in accordance with applicable law and practice";

(b) For eligible hospitals:

(A) If CMS deems an eligible hospital to be a meaningful EHR user for the Medicare EHR Incentive Program for a program year, then the eligible hospital is automatically deemed to be a meaningful EHR user for the Medicaid EHR Incentive Program for the same program year;

(B) An eligible hospital deemed to be a meaningful EHR user by Medicare for a program year does not have to also meet Oregon's Stage 1 requirement to satisfy the objective "Capability to submit electronic data to immunization registries or immunization information systems and actual submission in accordance with applicable law and practice" for the Medicaid EHR incentive payment for the same program year.

(2) As prescribed by 42 CFR 495.4 (2010 and 2012), the following meaningful use EHR reporting periods must be used by eligible providers that are demonstrating meaningful use to the Medicaid EHR Incentive Program:

(a) For program year 2014 only:

(A) For eligible professionals, either:

(i) Any continuous 90-day period in calendar year 2014; or

(ii) Any of the following 3-month periods:

(I) January 1, 2014 through March 31, 2014;

(II) April 1, 2014 through June 30, 2014;

(III) July 1, 2014 through September 30, 2014; or

(IV) October 1, 2014 through December 31, 2014;

(B) For eligible hospitals, either:

(i) Any continuous 90-day period in federal fiscal year 2014; or

(ii) Any of the following 3-month periods:

(I) October 1, 2013 through December 31, 2013;

(II) January 1, 2014 through March 31, 2014;

(III) April 1, 2014 through June 30, 2014; or

(IV) July 1, 2014 through September 30, 2014;

(b) For Program years other than 2014:

(A) For eligible professionals demonstrating meaningful use:

(i) For the first time, either:

(I) Any continuous 90-day period in the calendar year; or

(II) The calendar year.

(ii) For a subsequent time: the calendar year;

(B) For eligible hospitals demonstrating meaningful use:

(i) For the first time, either:

(I) Any continuous 90-day period in the federal fiscal year; or

(II) The federal fiscal year.

(ii) For a subsequent time, the federal fiscal year.

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Stats. Implemented: ORS 413.042 & 414.033

Hist.: DMAP 13-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 20-2013(Temp), f. & cert. ef. 4-26-13 thru 10-23-13; DMAP 56-2013, f. & cert. ef. 10-22-13; DMAP 2-2015(Temp), f. 1-30-15, cert. ef. 2-3-15 thru 8-1-15; DMAP 20-2015, f. & cert. ef. 4-8-15

410-165-0100
Participation and Incentive Payments

(1) To qualify for an incentive payment, an eligible provider applying for a Medicaid Electronic Health Record (EHR) incentive payment must meet the Medicaid EHR Incentive Program eligibility criteria and participation requirements for each year that the eligible provider applies:

(a) An eligible provider must meet the eligibility criteria for each program year of:

(A) Type of eligible provider;

(B) Patient volume minimum; and

(C) Certified EHR Technology adoption, implementation, or upgrade requirements in the first year of participation and meaningful use requirements in subsequent years, or meaningful use requirements in all years of participation;

(b) An eligible provider must meet the participation requirements for each program year including:

(A) Be an enrolled Medicaid provider with the Oregon Health Authority's (Authority) Division of Medical Assistance Programs (Division);

(B) Maintain current provider information with the Division;

(C) Possess an active professional license and comply with all licensing statutes and regulations within the state where the eligible provider practices;

(D) Have an active Provider Web Portal account;

(E) Ensure the designated payee is able to receive electronic funds transfer from the Authority; and

(F) Comply with all applicable Oregon Administrative Rules (OAR), including chapter 410, division 120, and chapter 943, division 120;

(c) An eligible professional may reassign the entire amount of the incentive payment to:

(A) The eligible professional's employer with which the eligible professional has a contractual arrangement allowing the employer to bill and receive payments for the eligible professional's covered professional services;

(B) An entity with which the eligible professional has a contractual arrangement allowing the entity to bill and receive payments for the eligible professional's covered professional services; or

(C) An entity promoting the adoption of certified EHR technology.

(2) An eligible professional must follow the Medicaid EHR Incentive Program participation conditions including requirements that an eligible professional must:

(a) Receive an incentive payment from only one state for a program year;

(b) Only receive an incentive payment from either Medicare or Medicaid for a program year, but not both;

(c) Not receive more than the maximum incentive amount of $63,750 over a six-year period or the maximum incentive of $42,500 over a six-year period if the eligible professional qualifies as a pediatrician who meets the 20 percent patient volume minimum and less than the 30 percent patient volume;

(d) Participate in the Medicaid EHR Incentive Program:

(A) Starting as early as calendar year (CY) 2011 but no later than CY 2016;

(B) Ending no later than CY 2021;

(C) For a maximum of six years; and

(D) On a consecutive or non-consecutive annual basis;

(e) Be allowed to switch between the Medicare and Medicaid EHR Incentive Program only one time after receiving at least one incentive payment and only for a program year before 2015.

(3) Payments are disbursed to an eligible professional following verification of eligibility for the program year:

(a) An eligible professional is paid an incentive amount for the corresponding program year for each year of qualified participation in the Medicaid EHR Incentive Program;

(b) The payment structure is as follows for:

(A) An eligible professional qualifying with 30 percent minimum patient volume:

(i) The first payment incentive amount is $21,250; and

(ii) The second, third, fourth, fifth, or sixth payment incentive amount is $8,500; or

(B) An eligible pediatrician qualifying with 20 percent but less than 30 percent minimum patient volume:

(i) The first payment incentive amount is $14,167; and

(ii) The second, third, fourth, fifth, or sixth payment incentive amount is $5,667.

(4) An eligible hospital must follow the Medicaid EHR Incentive Program participation conditions including requirements that the eligible hospital:

(a) Receives a Medicaid EHR incentive payment from only one state for a program year;

(b) May participate in both the Medicare and Medicaid EHR Incentive Programs only if the eligible hospital meets all eligibility criteria for the program year for both programs;

(c) Participates in the Medicaid EHR Incentive Program:

(A) Starting as early as Federal Fiscal Year (FFY) 2011 but no later than FFY 2016;

(B) Ending no later than FFY 2021;

(C) For a maximum of three years;

(D) On a consecutive or non-consecutive annual basis for federal fiscal years prior to FFY 2016; and

(E) On a consecutive annual basis for federal fiscal years starting in FFY 2016;

(d) A multi-site hospital with one Centers for Medicare and Medicaid Services' Certification Number (CCN) is considered one hospital for purposes of calculating payment.

(5) Payments are disbursed to an eligible hospital following verification of eligibility for the program year. An eligible hospital is paid the aggregate incentive amount over three years of qualified participation in the Medicaid EHR Incentive Program:

(a) The payment structure as listed in Table 165-0100-1 is as follows:

(A) The first payment incentive amount is equal to 50 percent of the aggregate EHR amount;

(B) The second payment incentive amount is equal to 40 percent of the aggregate EHR amount; and

(C) The third payment incentive amount is equal to 10 percent of the aggregate EHR amount;

(b) The aggregate EHR amount is calculated as the product of the "overall EHR amount" times the "Medicaid Share" as listed in Table 165-00100-2. The aggregate EHR amount is calculated once for the first year participation and then paid over three years according to the payment schedule:

(A) The overall EHR amount for an eligible hospital is based upon a theoretical four years of payment the hospital would receive and is the sum of the following calculation performed for each of such four years. For each year, the overall EHR amount is the product of the initial amount, the Medicare share, and the transition factor:

(i) The initial amount as listed in Table 165-0100-3 is equal to the sum of the base amount, which is set at $2,000,000 for each of the theoretical four years plus the discharge-related amount that is calculated for each of the theoretical four years:

(I) For initial amounts calculated in program years 2011 or 2012, the discharge-related amount is $200 per discharge for the 1,150th through the 23,000th discharge, based upon the total discharges for the eligible hospital (regardless of source of payment) from the hospital fiscal year that ends during the federal fiscal year (FFY) prior to the FFY year that serves as the first payment year. No discharge-related amount is added for discharges prior to the 1,150th or any discharges after the 23,000th;

(II) For initial amounts calculated in program year 2013 or later, the discharge-related amount is $200 per discharge for the 1,150th through the 23,000th discharge, based upon the total discharges for the eligible hospital (regardless of source of payment) from the hospital fiscal year that ends before the FFY that serves as the first payment year. No discharge-related amount is added for discharges prior to the 1,150th or any discharges after the 23,000th;

(III) For purposes of calculating the discharge-related amount for the last three of the theoretical four years of payment, discharges are assumed to increase each year by the hospital's average annual rate of growth; negative rates of growth must also be applied. Average annual rate of growth is calculated as the average of the annual rate of growth in total discharges for the most recent three years for which data are available per year.

(ii) The Medicare share that equals 1;

(iii) The transition factor that equals:

(I) 1 for the first of the theoretical four years;

(II) 0.75 for the second of the theoretical four years;

(III) 0.5 for the third of the theoretical four years; and

(IV) 0.25 for the fourth of the theoretical four years;

(B) The Medicaid share for an eligible hospital is equal to a fraction:

(i) The numerator for the FFY and with respect to the eligible hospital is the sum of:

(I) The estimated number of inpatient-bed-days that are attributable to Medicaid individuals; and

(II) The estimated number of inpatient-bed-days that are attributable to individuals who are enrolled in a managed or coordinated care organization, a pre-paid inpatient health plan, or a pre-paid ambulatory health plan administered under 42 CFR Part 438;

(ii) The denominator is the product of:

(I) The estimated total number of inpatient-bed-days with respect to the eligible hospital during such period; and

(II) The estimated total amount of the eligible hospital's charges during such period, not including any charges that are attributable to charity care, divided by the estimated total amount of the hospital's charges during such period;

(iii) In computing inpatient-bed-days for the Medicaid share, an eligible hospital may not include either of the following:

(I) Estimated inpatient-bed-days attributable to individuals that may be made under Medicare Part A; or

(II) Inpatient-bed-days attributable to individuals who are enrolled with a Medicare Advantage organization under Medicare Part C;

(iv) If an eligible hospital's charity care data necessary to calculate the portion of the formula for the Medicaid share are not available, the eligible hospital's data on uncompensated care may be used to determine an appropriate proxy for charity care but must include a downward adjustment to eliminate bad debt from uncompensated care data if bad debt is not otherwise differentiated from uncompensated care. Auditable data sources must be used; and

(v) If an eligible hospital's data necessary to determine the inpatient bed-days attributable to Medicaid managed care patients are not available, that amount is deemed to equal 0. In the absence of an eligible hospital's data necessary to compute the percentage of inpatient bed days that are not charity care as described under subparagraph (B)(ii)(II) in this section, that amount is deemed to be 1.

(6) The aggregate EHR amount is determined by the state from which the eligible hospital receives its first incentive payment. If a hospital receives incentive payments from other states in subsequent years, total incentive payments received over all payment years of the program can be no greater than the aggregate EHR amount calculated by the state from which the eligible hospital received its first incentive payment.

(7) Table 165-0100-1. [Table not included. See ED. NOTE.]

(8) Table 165-0100-2. [Table not included. See ED. NOTE.]

(9) Table 165-0100-3. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]

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Rule Caption: Update and Align OHP Member Education/Information Rules Affecting Members and Potential Members

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Rules Amended: 410-141-0280, 410-141-0300, 410-141-3280, 410-141-3300

Subject: These rules provide the regulated framework for OHP informational materials and education for OHP members and potential members. The related rules pertaining to "marketing" have been recently revised, having direct impact on the Member Education/Information Requirement rules. In the marketing rules, a clear distinction between rules pertaining to members versus potential members was made. This distinction needs to be carried through the Member Education/Information Requirement rules for clarity and symmetry. Additionally, we will update the current alignment with CFRs 438.10, 438.100 and 438.104 as they relate to each of these rules. There is a set for managed care organizations and one for coordinated care organizations for each of these rules.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-141-0280

Managed Care Prepaid Health Plan Potential Member Informational Requirements

(1) For the purpose of this rule, the following definitions apply:

(a) "Alternate Format" means any alternate approach to presenting print information to an individual with a disability. The Americans with Disabilities Act (ADA) groups the standard alternate formats: braille, large (18 point) print, audio narration, oral presentation, and electronic file along with other aids and services for other disabilities, including sign language interpretation and sighted guide;

(b) "Potential Member" means an individual who meets the eligibility requirements to enroll in the Oregon Health Plan but has not yet enrolled with a specific MCO or CCO;

(c) "Prevalent Non-English Language" means all non-English languages that are identified as the preferred written language by the lesser of either:

(A) 5 percent of the MCO's total OHP enrollment; or

(B) 1,000 of the MCO's members;

(d) "Health Literacy" means the degree to which individuals have the capacity to obtain, process, and understand basic health information needed to make appropriate health decisions regarding services needed to prevent or treat illness.

(2) Information for potential members shall comply with marketing prohibitions in 42 CFR 438.104 and OAR 410-141-0270, Prepaid Health Plan Marketing Requirements for Potential Members.

(3) The creation of name recognition because of the MCO's health promotion or education activities shall not constitute an attempt by the MCO to influence a client's enrollment.

(4) An MCO or its subcontractor's communications that express participation in or support for an MCO by its founding organizations or its subcontractors shall not constitute an attempt to compel or entice a client's enrollment.

(5) The following shall not constitute marketing or an attempt by the MCO to influence client enrollment:

(a) Communications to notify dual-eligible members of opportunities to align MCO provided benefits with Medicare Advantage or Special Needs Plans;

(b) Improving coordination of care;

(c) Communicating with provider service dual-eligible members about unique care coordination needs; or

(d) Streamlining communications to the dually-enrolled member to improve coordination of benefits.

(6) MCOs shall update plan access information with OHA on a monthly basis for use in updating the availability charts. OHA shall confirm before posting.

(7) MCOs shall develop informational materials for potential members.

(8) MCOs shall provide the Authority with informational materials sufficient for the potential member to make an informed decision about provider selection. The MCO shall make available to potential members, upon request, information on participating providers.

(9) MCO provider directories shall include notations of the following: names, locations, telephone numbers including TTY, office hours, accessibility for members with disabilities, non-English languages spoken by current contracted providers in the enrollee's service area, and identification of providers that are not accepting new patients. An MCO or the Division may include informational materials in the application packet for potential members.

(10) MCOs shall develop informational materials for potential members in their service area that meet the language requirements as identified in (1) (a) and (c) of this rule. Materials shall be culturally and linguistically appropriate and be sensitive to people with disabilities or reading limitations, including those whose primary language is not English.

(11) MCO's shall honor requests made by other sources such as potential members, potential family members, or caregivers for language accommodation, translating to the potential member's language needs as requested. Alternate formats shall be provided and may include, but are not limited to, braille, large (18 point) print, audio narration, oral presentation, and electronic file along with other aids and services for other disabilities, including sign language interpretation and sighted guide:

(a) MCOs shall address health literacy issues by preparing these documents at a 6th grade reading level, incorporating graphics and utilizing alternate format materials for potential members and using a12-point font or larger (18 point);

(b) MCOs shall ensure that all MCO staff who have contact with potential members are fully informed of MCO and Authority rules applicable to enrollment, disenrollment, complaint and grievance policies and procedures, the availability of free certified interpreter services, and which participating providers' offices have bilingual capacity and which are accepting new members.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.725

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; OMAP 37-2004(Temp), f. 5-27-04 cert. ef. 6-1-04 thru 11-15-04; OMAP 47-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; DMAP 42-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 16-2015, f. 3-31-15, cert. ef. 4-1-15; DMAP 21-2015, f. 4-14-15, cert. ef. 4-15-15

410-141-0300

Managed Care Organization (MCO) Member Education and Information Requirements

(1) For the purpose of this rule, the following definitions apply:

(a) "Alternate Format" means any alternate approach to presenting print information to a person with a disability. The Americans with Disabilities Act (ADA) groups the standard alternate formats: Braille, large (18 point) print, audio narration, oral presentation, and electronic file along with other aids and services for other disabilities, including sign language interpretation and sighted guide;

(b) "Alternate Format Statement Insert" means an insert developed by the Oregon Health Authority that includes instructions on how to receive an alternate format or oral interpretation of materials translated into the state's top sixteen preferred written languages identified by OHP enrollees. MCOs shall insert their contact information into the template;

(c) "Health Literacy" means the degree to which individuals have the capacity to obtain, process, and understand basic health information needed to make appropriate health decisions regarding services needed to prevent or treat illness;

(d) "Prevalent Non-English Language" means all non-English languages that are identified as the preferred written language by the lesser of either:

(A) 5 percent of the MCO's total OHP enrollment; or

(B) 1, 000 of the MCO's members;

(2) MCOs may engage in activities for existing members related to outreach, health promotion, and health education. The Division shall approve, prior to distribution, any written communication by the MCO or its subcontractors and providers that:

(a) Is intended solely for members; and

(b) Pertains to requirements for obtaining managed care services at service area sites or benefits.

(3) MCOs may communicate with providers, caseworkers, community agencies, and other interested parties for informational purposes. The intent of these communications shall be informational only and not to entice or solicit membership. Communication methodologies may include but are not limited to brochures, pamphlets, newsletters, posters, fliers, websites, health fairs, or sponsorship of health–related events. MCOs shall address health literacy issues by preparing these documents at a 6th grade reading level, incorporating graphics and utilizing alternate formats.

(4) The creation of name recognition because of the MCO's health promotion or education activities shall not constitute an attempt by the MCO to influence a client's enrollment.

(5) An MCO or its subcontractor's communications that express participation in or support for an MCO by its founding organizations or its subcontractors shall not constitute an attempt to compel or entice a client's enrollment.

(6) The following shall not constitute marketing or an attempt by the MCO to influence client enrollment:

(a) Communications to notify dual-eligible members of opportunities to align MCO provided benefits with Medicare Advantage or Special Needs Plans;

(b) Improving coordination of care;

(c) Communicating with provider service dual-eligible members about unique care coordination needs; or

(d) Streamlining communications to the dually-enrolled member to improve coordination of benefits.

(7) MCOs shall have a mechanism to help members understand the requirements and benefits of the MCO plan. The mechanisms developed shall be culturally and linguistically appropriate.

(8) MCOs shall have written procedures, criteria, and an ongoing process of member education and information sharing that includes member orientation, member handbook, and health education. Member education shall:

(a) Include information about the Exceptional Needs Care Coordination (ENCC) or case management services to members who are aged, blind, disabled, or have complex medical needs consistent with OAR 410-141-0405 and how to access that system, including where applicable for dual-eligible individuals, the process for coordinating Medicaid and Medicare benefits;

(b) Clearly explain how members may receive assistance from advocates, including certified health care interpreters, community health workers, peer wellness specialists, and personal health navigators and include information to members that certified health care interpreter services at provider offices are free to MCO members as stated in 42 CFR 438.10 (4).

(9) Within 14 calendar days or a reasonable timeframe of an MCO receiving notice of a member's enrollment, MCOs shall mail a welcome packet to new members and to members returning to the MCO twelve months or more after previous enrollment. The packet shall include, at a minimum, a welcome letter, a member handbook, and information on how to access a provider directory.

(10) Provider directories shall include notation of the following: names, locations, telephone numbers including TTY, office hours, accessibility for members with disabilities, non-English languages spoken by current contracted providers in the enrollee's service area, and identification of providers that are not accepting new patients.

(11) For those who are existing members, an MCO shall notify members annually of the availability of a member handbook and provider directory and how to access those materials. MCOs shall send hard copies upon request.

(12) MCOs shall facilitate materials as follows:

(a) Translate the following written materials into the prevalent non-English languages served by the MCO:

(A) Welcome packets that include welcome letters and member handbooks; and

(B) Notices of medical benefit changes;

(b) Include alternate format statement inserts with:

(A) Communications regarding member enrollment; and

(B) Notice of Action to deny, reduce, or stop a benefit;

(c) Accommodate requests of the member to translate written materials into prevalent non-English languages served by the MCO;

(d) Make oral interpretation services available free of charge to each potential member and member. This applies to all non-English languages, not just prevalent non-English languages;

(e) Notify enrollees:

(A) That oral interpretation is available free of charge for any language, and written information is available in prevalent non-English languages and alternate formats; and

(B) How to access those services;

(f) Make available materials in alternate formats by request. Alternate formats include but are not limited to audio recording, close-captioned videos, large (18 point) type, and braille.

(13) An MCO shall electronically provide to the Division for approval each version of the printed welcome packet that includes a welcome letter, member handbook, and information on how to access a provider directory. At a minimum, the member handbook shall contain the following:

(a) Revision date;

(b) Tag lines in English and other prevalent non-English languages, as defined in (1) (d) of this rule, spoken by populations of members. The tag lines shall be located at the beginning of the document for the ease of the member and describe how members may access free sign and oral interpreters, as well as translations and materials in other formats. Alternate formats may include but are not limited to audio recordings, close-captioned videos, large (18 point) type, and braille;

(c) MCO's office location, mailing address, web address if applicable, office hours, and telephone numbers including TTY;

(d) Availability and access to coordinated care services through a patient-centered primary care home or other primary care team with the member as a partner in care management. Explain how to choose a PCP, how to make an appointment, and the MCO's policy on changing PCPs;

(e) How to access information on contracted providers currently accepting new members and any restrictions on the member's freedom of choice among participating providers;

(f) What participating or non-participating provider services the member may self-refer;

(g) Policies on referrals for specialty care, including prior authorization requirements and how to request a referral;

(h) Explanation of Exceptional Needs Care Coordination (ENCC) services and how members with special health care needs who are aged, blind, or disabled, or who have complex medical needs, high health needs, multiple chronic conditions, mental illness, or chemical dependency can access ENCC services;

(i) Information about the coordinated care approach, how to navigate the coordinated care health care system as applicable to dual-eligible individuals, and the process for coordinating Medicaid and Medicare benefits;

(j) How and where members are to access urgent care services and advice, including how to access these services and advice when away from home;

(k) How and when members are to use emergency services, both locally and when away from home, including examples of emergencies;

(L) Information on contracted hospitals in the member's service area;

(m) Information on post-stabilization care after a member is stabilized in order to maintain, improve, or resolve the member's condition;

(n) Information on the MCO's grievance and appeals processes and the Division's contested case hearing procedures, including:

(A) Information about assistance in filling out forms and completing the grievance process available from the MCO to the member as outlined in OAR 410-141-3260;

(B) Information about the member's right to continued benefits during the grievance process as provided in OAR 410-141-3263;

(o) Information on the member's rights and responsibilities, including the availability of the OHP Ombudsman;

(p) Information on copayments, charges for non-covered services, and the member's possible responsibility for charges if they go outside of the MCO for non-emergent care; including information specific to copayments, deductibles, and coinsurance for dually-enrolled qualified Medicare beneficiaries;

(q) Information about when providers may bill clients for services and what to do if they receive a bill; including information specific to payment responsibilities for dually-enrolled qualified Medicare beneficiaries;

(r) The transitional procedures for new members to obtain prescriptions, supplies, and other necessary items and services in the first month of enrollment if they are unable to meet with a PCP or PCD, other prescribing provider, or obtain new orders during that period; including specific communications for members who are becoming new Medicare enrollees;

(s) Information on advance directive policies including:

(A) Member rights under federal and Oregon law to make decisions concerning their medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives;

(B) The MCO's policies for implementation of those rights, including a statement of any limitation regarding the implementation of advanced directives as a matter of conscience;

(t) Whether or not the MCO uses provider incentives to reduce cost by limiting services;

(u) The member's right to request and obtain copies of their clinical records, whether they may be charged a reasonable copying fee and that they may request the record be amended or corrected;

(v) How and when members are to obtain ambulance services;

(w) Resources for help with transportation to appointments with providers;

(x) Explanation of the covered and non-covered coordinated care services in sufficient detail to ensure that members understand the benefits to which they are entitled;

(y) How members are to obtain prescriptions including information on the process for obtaining non-formulary and over-the-counter drugs;

(z) The MCO's confidentiality policy;

(aa) How and where members are to access any benefits that are available under OHP but are not covered under the MCO's contract, including any cost sharing;

(bb) When and how members can voluntarily and involuntarily disenroll from MCOs and change MCOs;

(cc) MCOs shall, at a minimum, annually review their member handbook for accuracy and update it with new and corrected information to reflect OHP program changes and the MCO's internal changes. If changes affect the member's ability to use services or benefits, the MCO shall offer the updated member handbook to all members;

(dd) The "Oregon Health Plan Client Handbook" is in addition to the MCO's member handbook, and an MCO shall not use it to substitute for any component of the MCO's member handbook.

(14) Member health education shall include:

(a) Information on specific health care procedures, instruction in self-management of health care, promotion and maintenance of optimal health care status, patient self-care, and disease and accident prevention. MCO providers or other individuals or programs approved by the MCO may provide health education. MCOs shall endeavor to provide health education in a culturally sensitive and linguistically appropriate manner in order to communicate most effectively with individuals from non-dominant cultures;

(b) MCOs shall ensure development and maintenance of an individualized health educational plan for members whom their provider has identified as requiring specific educational intervention. The Division may assist in developing materials that address specifically identified health education problems to the population in need;

(c) Explanation of ENCC services and how to access ENCC services through outreach to members with special health care needs who are aged, blind, or disabled, or who have complex medical needs or high health care needs, multiple chronic conditions, mental illness, or chemical dependency;

(d) The appropriate use of the delivery system, including proactive and effective education of members on how to access emergency services and urgent care services appropriately;

(e) MCOs shall provide written notice to affected members of any significant changes in program or service sites that affect the member's ability to access care or services from MCO's participating providers. The MCO shall provide, translated as appropriate, the notice at least 30 calendar days before the effective date of that change, or as soon as possible if the participating provider has not given the MCO sufficient notification to meet the 30-day notice requirement. The Division shall review and approve the materials within two working days.

(15) Informational materials that MCOs develop for members shall meet the language requirements identified in this rule and be culturally and linguistically sensitive to members with disabilities or reading limitations, including members whose primary language is not English:

(a) MCOs shall provide free certified health care interpreters for all of their members with hearing impairments and limited English proficiency who request them. This also applies to family members and caregivers with hearing impairments or limited English proficiency who need to understand the member's condition and care;

(b) MCOs shall translate materials into all languages as identified in (1)(d) of this rule. Written and spoken language preferences are indicated on the OHP application form and reported to plans in 834 enrollment updates. MCOs shall honor requests made by other sources such as members, family members, or caregivers for language accommodation, translating to the member's language needs as requested;

(c) MCOs shall provide written translations of informational materials including their welcome packet, consisting of at least a welcome letter and a member handbook in all languages as specified in (1) (d) of this rule and as identified by members either through the OHP application or other means as their preferred written language;

(d) Form correspondence sent to members including but not limited to enrollment information, choice and member counseling letters, and notices of action to deny, reduce, or stop a benefit shall be sent in the member's preferred written language. If sent in English to members who prefer a different language, the letters shall include tag lines in English and in other prevalent non-English languages as specified in (1)(d) of this rule. The tag lines placed at the beginning of the document shall have instructions on how to receive an oral or written translation of the material.

(16) MCOs shall provide an identification card to members, unless waived by the Division, that contains simple, readable, and usable information on how to access care in an urgent or emergency situation. The cards are solely for the convenience of the MCO, members, and providers.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.651
Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 57-2002, f. & cert. ef. 10-1-02; OMAP 50-2003, f. 7-31-03 cert. ef 8-1-03; OMAP 37-2004(Temp), f. 5-27-04 cert. ef. 6-1-04 thru 11-15-04; OMAP 47-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 46-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 23-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 16-2010, f. 6-11-10, cert. ef. 7-1-10; DMAP 42-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 29-2011, f. 10-19-11, cert. ef. 10-20-11; DMAP 16-2015, f. 3-31-15, cert. ef. 4-1-15; DMAP 21-2015, f. 4-14-15, cert. ef. 4-15-15

410-141-3280
Coordinated Care Organization (CCO) Potential Member Information Requirements

(1) For the purpose of this rule, the following definitions apply:

(a) "Alternate Format" means any alternate approach to presenting print information to an individual with a disability. The Americans with Disabilities Act (ADA) groups the standard alternate formats: braille, large (18 point) print, audio narration, oral presentation, and electronic file along with other aids and services for other disabilities, including sign language interpretation and sighted guide;

(b) "Potential Member" means an individual who meets the eligibility requirements to enroll in the Oregon Health Plan but has not yet enrolled with a specific CCO;

(c) "Prevalent Non-English Language" means all non-English languages that are identified as the preferred written language by the lesser of either:

(A) 5 percent of the CCO's total OHP enrollment; or

(B) 1,000 of the CCO's members;

(d) "Health Literacy" means the degree to which individuals have the capacity to obtain, process, and understand basic health information needed to make appropriate health decisions regarding services needed to prevent or treat illness.

(2) Information for potential members shall comply with marketing prohibitions in 42 CFR 438.104 and OAR 410-141-3270, Oregon Health Plan Marketing Requirements.

(3) The creation of name recognition because of the CCO's health promotion or education activities shall not constitute an attempt by the CCO to influence a client's enrollment.

(4) A CCO or its subcontractor's communications that express participation in or support for a CCO by its founding organizations or its subcontractors shall not constitute an attempt to compel or entice a client's enrollment.

(5) The following shall not constitute marketing or an attempt by the MCO to influence client enrollment:

(a) Communications to notify dual-eligible members of opportunities to align CCO provided benefits with Medicare Advantage or Special Needs Plans;

(b) Improving coordination of care;

(c) Communicating with providers' service dual-eligible members about unique care coordination needs; or

(d) Streamlining communications to the dually-enrolled member to improve coordination of benefits.

(6) CCOs shall update plan access information with OHA on a monthly basis for use in updating the availability charts. OHA shall confirm before posting.

(7) CCOs shall develop informational materials for potential members.

(8) CCOs shall provide the Authority with informational materials sufficient for the potential member to make an informed decision about provider selection. The CCO shall make available to potential members, upon request, information on participating providers.

(9) CCO provider directories shall include notations of the following: names, locations, telephone numbers including TTY, office hours, accessibility for members with disabilities, non-English languages spoken by current contracted providers in the enrollee's service area, and identification of providers that are not accepting new patients. A CCO or the Division may include informational materials in the application packet for potential members.

(10) CCOs shall develop informational materials for potential members in their service area that meet the language requirements as identified in (1)(a) and (c) of this rule. Materials shall be culturally and linguistically appropriate and be sensitive to people with disabilities or reading limitations, including those whose primary language is not English.

(11) CCO's shall honor requests made by other sources such as potential members, potential family members, or caregivers for language accommodation, translating to the potential member's language needs as requested. Alternate formats shall be provided and may include but are not limited to braille, large (18 point) print, audio narration, oral presentation, and electronic file along with other aids and services for other disabilities, including sign language interpretation and sighted guide:

(a) CCOs shall address health literacy issues by preparing these documents at a 6th grade reading level, incorporating graphics and utilizing alternate format materials for potential members and using a12-point font or larger (18 point);

(b) CCOs shall ensure that all CCO staff who have contact with potential members are fully informed of CCO and Authority rules applicable to enrollment, disenrollment, complaint and grievance policies and procedures, and the availability of free certified health care interpreters, and which participating providers' offices have bilingual capacity and which are accepting new members.

Stat. Auth.: ORS 413.042, 414.615, 414.625, 414.635 & 414.651
Stats. Implemented: ORS 414.610 - 414.685
Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12; DMAP 16-2015, f. 3-31-15, cert. ef. 4-1-15; DMAP 21-2015, f. 4-14-15, cert. ef. 4-15-15

410-141-3300
Coordinated Care Organization (CCO) Member Education and Information Requirements

(1) For the purpose of this rule, the following definitions apply:

(a) "Alternate Format" means any alternate approach to presenting print information to an individual with a disability. The Americans with Disabilities Act (ADA) groups the standard alternate formats: braille, large (18 point) print, audio narration, oral presentation, and electronic file along with other aids and services for other disabilities, including sign language interpretation and sighted guide;

(b) "Alternate Format Statement Insert" means an insert developed by the Oregon Health Authority that includes instructions on how to receive an alternate format or oral interpretation of materials translated into the state's top sixteen preferred written languages as identified by OHP enrollees. CCOs shall insert their contact information into the template.

(c) "Health Literacy" means the degree to which individuals have the capacity to obtain, process, and understand basic health information needed to make appropriate health decisions regarding services needed to prevent or treat illness.

(d) "Prevalent Non-English Language" means: All non-English languages that are identified as the preferred written language by the lesser of either:

(A) 5 percent of the CCO's total OHP enrollment; or

(B) 1, 000 of the CCO's members.

(2) CCOs may engage in activities for existing members related to outreach, health promotion, and health education. The Division shall approve, prior to distribution, any written communication by the CCO or its subcontractors and providers that:

(a) Is intended solely for members; and

(b) Pertains to requirements for obtaining coordinated care services at service area sites or benefits.

(3) CCOs may communicate with providers, caseworkers, community agencies, and other interested parties for informational purposes. The intent of these communications should be informational only and not to entice or solicit membership. Communication methodologies may include but are not limited to brochures, pamphlets, newsletters, posters, fliers, websites, health fairs, or sponsorship of health-related events. CCOs shall address health literacy issues by preparing these documents at a low-literacy reading level, incorporating graphics and utilizing alternate formats.

(4) The creation of name recognition because of the CCO's health promotion or education activities shall not constitute an attempt by the CCO to influence a client's enrollment.

(5) A CCO or its subcontractor's communications that express participation in or support for a CCO by its founding organizations or its subcontractors shall not constitute an attempt to compel or entice a client's enrollment.

(6) The following shall not constitute marketing or an attempt by the CCO to influence client enrollment:

(a) Communication to notify dual-eligible members of opportunities to align CCO provided benefits with a Medicare Advantage or Special Needs Plan;

(b) Improving coordination of care;

(c) Communicating with providers' service dual-eligible members about unique care coordination needs; or

(d) Streamlining communications to the dually-enrolled member to improve coordination of benefits.

(7) CCOs shall have a mechanism to help members understand the requirements and benefits of the CCO's integrated and coordinated care plan. The mechanisms developed shall be culturally and linguistically appropriate.

(8) CCOs shall have written procedures, criteria, and an ongoing process of member education and information sharing that includes member orientation, member handbook, and health education. As a CCO transitions to fully coordinating a member's care, the CCO is responsible only for including information about the care they are coordinating. CCOs shall update their educational material as they add coordinated services. Member education shall:

(a) Include information about the coordinated care approach and how to navigate the coordinated health care system, including where applicable for dual-eligible individuals, the process for coordinating Medicaid and Medicare benefits;

(b) Clearly explain how members may receive assistance from advocates, including certified health care interpreters, community health workers, peer wellness specialists, and personal health navigators and include information to members that interpreter services at provider offices are free to CCO members as stated in 42 CFR 438.10 (4).

(9) Within 14 calendar days or a reasonable timeframe of a CCO's receiving notice of a member's enrollment, CCOs shall mail a welcome packet to new members and to members returning to the CCO twelve months or more after previous enrollment. The packet shall include, at a minimum, a welcome letter, a member handbook, and information on how to access a provider directory.

(10) Provider directories shall include notations of the following: names, locations, telephone numbers including TTY, office hours, accessibility for members with disabilities, non-English languages spoken by current contracted providers in the enrollee's service area, and identification of providers that are not accepting new patients.

(11) For those who are existing members, a CCO shall notify members annually of the availability of a member handbook and provider directory and how to access those materials. CCOs shall send hard copies upon request.

(12) CCOs shall facilitate materials as follows:

(a) Translate the following written materials into the prevalent non-English languages served by the CCO:

(A) Welcome Packets that include welcome letters and member handbooks; and

(B) Notices of medical benefit changes;

(b) Alternate format statement inserts with:

(A) Communications regarding member enrollment; and

(B) Notice of Action to deny, reduce, or stop a benefit;

(c) Accommodate requests of the member to translate written materials into prevalent non-English languages served by the CCO;

(d) Make oral interpretation services available free of charge to each potential member and member. This applies to all non-English languages, not just prevalent non-English languages;

(e) Notify enrollees:

(A) That oral interpretation is available free of charge for any language, and written information is available in prevalent non-English languages and alternate formats; and

(B) How to access those services;

(f) Make available materials in alternate formats by request. Alternate formats include but are not limited to audio recording, close-captioned videos, large type, and braille.

(13) A CCO shall electronically provide to the Division for approval each version of the printed welcome packet that includes a welcome letter, member handbook, and information on how to access a provider directory. At a minimum, the member handbook shall contain the following:

(a) Revision date;

(b) Tag lines in English and other prevalent non-English languages, as defined in (1) (d) of this rule, spoken by populations of members. The tag lines shall be located at the beginning of the document for the ease of the member and describe how members may access free sign and oral interpreters, as well as translations and materials in other formats. Alternate formats may include but are not limited to audio recordings, close-captioned videos, large (18 point) type, and braille.

(c) CCO's office location, mailing address, web address if applicable, office hours, and telephone numbers including TTY;

(d) Availability and access to coordinated care services through a patient-centered primary care home or other primary care team with the member as a partner in care management. Explain how to choose a PCP, how to make an appointment, and how to change PCPs and the CCO's policy on changing PCPs;

(e) How to access information on contracted providers currently accepting new members and any restrictions on the member's freedom of choice among participating providers;

(f) What participating or non-participating provider services the member may self-refer;

(g) Policies on referrals for specialty care, including prior authorization requirements and how to request a referral;

(h) Explanation of intensive care coordination services and how members with the following special health care needs can access intensive care coordination services: Those who are aged, blind, or disabled or who have complex medical needs, high health needs, multiple chronic conditions, mental illness, or chemical dependency.

(i) Information about the coordinated care approach, how to navigate the coordinated care health care system as applicable to dual-eligible individuals, and the process for coordinating Medicaid and Medicare benefits;

(j) How and where members are to access urgent care services and advice, including how to access these services and advice when away from home;

(k) How and when members are to use emergency services, both locally and when away from home, including examples of emergencies;

(L) Information on contracted hospitals in the member's service area;

(m) Information on post-stabilization care after a member is stabilized in order to maintain, improve, or resolve the member's condition;

(n) Information on the CCO's grievance and appeals processes and the Division's contested case hearing procedures, including:

(A) Information about assistance in filling out forms and completing the grievance process available from the CCO to the member as outlined in OAR 410-141-3260;

(B) Information about the member's right to continued benefits during the grievance process as provided in OAR 410-141-3263;

(o) Information on the member's rights and responsibilities, including the availability of the OHP Ombudsman;

(p) Information on copayments, charges for non-covered services, and the member's possible responsibility for charges if they go outside of the CCO for non-emergent care; including information specific to copayments, deductibles, and coinsurance for dually-enrolled qualified Medicare beneficiaries;

(q) Information about when providers may bill clients for services and what to do if they receive a bill, including information specific to payment responsibilities for dually-enrolled qualified Medicare beneficiaries;

(r) The transitional procedures for new members to obtain prescriptions, supplies, and other necessary items and services in the first month of enrollment if they are unable to meet with a PCP or PCD, other prescribing provider, or obtain new orders during that period; including specific communications for members who are becoming new Medicare enrollees;

(s) Information on advance directive policies including:

(A) Member rights under federal and Oregon law to make decisions concerning their medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives;

(B) The CCO's policies for implementation of those rights, including a statement of any limitation regarding the implementation of advanced directives as a matter of conscience;

(t) Whether or not the CCO uses provider incentives to reduce cost by limiting services;

(u) The member's right to request and obtain copies of their clinical records, whether they may be charged a reasonable copying fee and that they may request the record be amended or corrected;

(v) How and when members are to obtain ambulance services;

(w) Resources for help with transportation to appointments with providers;

(x) Explanation of the covered and non-covered coordinated care services in sufficient detail to ensure that members understand the benefits to which they are entitled;

(y) How members are to obtain prescriptions including information on the process for obtaining non-formulary and over-the-counter drugs;

(z) The CCO's confidentiality policy;

(aa) How and where members are to access any benefits that are available under OHP but are not covered under the CCO's contract, including any cost sharing;

(bb) When and how members can voluntarily and involuntarily disenroll from CCOs and change CCOs;

(cc) CCOs shall, at a minimum, annually review their member handbook for accuracy and update it with new and corrected information to reflect OHP program changes and the CCO's internal changes. If changes affect the member's ability to use services or benefits, the CCO shall offer the updated member handbook to all members;

(dd) The "Oregon Health Plan Client Handbook" is in addition to the CCO's member handbook, and a CCO may not use it to substitute for any component of the CCO's member handbook.

(14) Member health education shall include:

(a) Information on specific health care procedures, instruction in self-management of health care, promotion and maintenance of optimal health care status, patient self-care, and disease and accident prevention. CCO providers or other individuals or programs approved by the CCO may provide health education. CCOs shall endeavor to provide health education in a culturally sensitive and linguistically appropriate manner in order to communicate most effectively with individuals from non-dominant cultures;

(b) CCOs shall ensure development and maintenance of an individualized health educational plan for members whom their provider has identified as requiring specific educational intervention. The Division may assist in developing materials that address specifically identified health education problems to the population in need;

(c) Explanation of intensive care coordination services and how to access intensive care coordination through outreach to members with special health care needs who are aged, blind, or disabled, or who have complex medical needs or high health care needs, multiple chronic conditions, mental illness, or chemical dependency;

(d) The appropriate use of the delivery system, including proactive and effective education of members on how to access emergency services and urgent care services appropriately;

(e) CCOs shall provide written notice to affected members of any significant changes in program or service sites that affect the member's ability to access care or services from CCO's participating providers. The CCO shall provide, translated as appropriate, the notice at least 30 calendar days before the effective date of that change, or as soon as possible if the participating provider has not given the CCO sufficient notification to meet the 30-day notice requirement. The Division shall review and approve the materials within two working days.

(15) Informational materials that CCOs develop for members shall meet the language requirements identified in this rule and be culturally and linguistically sensitive to members with disabilities or reading limitations, including members whose primary language is not English:

(a) CCOs shall provide free interpreters for all of their members with hearing impairments and limited English proficiency who request them. This also applies to family members and caregivers with hearing impairments or limited English proficiency who need to understand the member's condition and care:

(A) CCOs shall translate materials into all languages as identified in (1) (d) of this rule. Written and spoken language preferences are indicated on the OHP application form and reported to plans in 834 enrollment updates. CCOs shall honor requests made by other sources such as members, family members, or caregivers for language accommodation, translating to the member's language needs as requested;

(B) CCOs shall provide written translations of informational materials including their welcome packet, consisting of at least a welcome letter and a member handbook in all languages as specified in (1) (d) of this rule and as identified by members either through the OHP application or other means as their preferred written language;

(b) Form correspondence sent to members including but not limited to enrollment information, choice and member counseling letters, and notices of action to deny, reduce, or stop a benefit shall be sent in the member's preferred written language. If sent in English to members who prefer a different language, the letters shall include tag lines in English and in other prevalent non-English languages as specified in (1) (d) of this rule. The tag lines, placed at the beginning of the document, shall have instructions on how to receive an oral or written translation of the material.

(16) CCOs shall provide an identification card to members, unless waived by the Division, that contains simple, readable, and usable information on how to access care in an urgent or emergency situation. The cards are solely for the convenience of the CCO, members, and providers.

Stat. Auth.: ORS 413.042, 414.615, 414.625, 414.635 & 414.651
Stats. Implemented: ORS 414.610 - 414.685
Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12; DMAP 16-2015, f. 3-31-15, cert. ef. 4-1-15; DMAP 21-2015, f. 4-14-15, cert. ef. 4-15-15

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Rule Caption: Adopt Rule to Allow DME Repurposing Program Required by the Legislature
Adm. Order No.: DMAP 22-2015
Filed with Sec. of State: 4-15-2015
Certified to be Effective: 4-15-15
Notice Publication Date: 3-1-2015
Rules Adopted: 410-122-0187
Rules Repealed: 410-122-0187(T)
Subject: This rule generally describes the DME Repurposing Pilot and the requirement that qualified individuals are involved in the provision of gently used DME through the program. It also states the payment methodology is through grant award.
Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-122-0187
Durable Medical Equipment (DME) Repurposing Pilot Program

(1) The DME Repurposing Pilot Program is designed to refurbish gently used durable medical equipment that is no longer needed by other individuals and reassign to OHP clients. The pilot program serves clients residing in Washington, Multnomah, Clackamas, Umatilla, Marion, and Polk Counties and other counties as approved by the Division of Medical Assistance Programs (Division).

(2) DME provided through this program requires a written order signed and dated by the prescribing practitioner prior to dispensing items to a client. Medical need shall be supported within the prescribing practitioner's clinical documentation.

(3) The DME collected for use in this program shall be properly cleaned, sanitized, repaired, refurbished, and reconfigured by qualified and trained staff prior to reassignment.

(4) Certified Assistive Technology Professionals (ATP) or other appropriately licensed or certified providers shall:

(a) Assess each item of equipment to assure that it is safe and functionally appropriate for reuse;

(b) Assess the client's needs for equipment and consult with and advise the client and the prescribing practitioner in the selection of medically appropriate equipment;

(c) Instruct the client or the client's caregiver in the appropriate use of the equipment; and

(d) Be available after delivery of the equipment to provide timely support, repairs, and necessary modifications.

(5) The non-profit organization awarded the grant for this pilot program shall be reimbursed for costs associated with managing inventory, collection, sanitizing, repairing, refurbishing, reconfiguring, fitting, delivery, and follow-up support of the DME reassigned through the program.

Stat. Auth.: ORS 414.065 & HB 4108
Stats. Implemented: ORS 414.065
Hist.: DMAP 1-2015(Temp), f. & cert. ef. 1-29-15 thru 7-27-15; DMAP 22-2015, f. & cert. ef. 4-15-15

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Rule Caption: Add a Dispute Resolution Process for Existing CCOs and HCEs
Adm. Order No.: DMAP 23-2015
Filed with Sec. of State: 4-15-2015
Certified to be Effective: 5-1-15
Notice Publication Date: 3-1-2015
Rules Adopted: 410-141-3269
Rules Repealed: 410-141-3269(T)
Subject: The Division needs to adopt this rule to comply with ORS 414.635. The statute requires a dispute process be developed for existing coordinated care organizations and health care entities.
Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-141-3269
Process for Resolving Contract Disputes Between Health Care Entities and Coordinated Care Organizations

(1) Pursuant to ORS 414.635, Coordinated Care Organizations (CCOs) and Health Care Entities (HCE) shall participate in good faith contract negotiations. This rule covers the termination, extension, and renewal of an HCE's contract with a CCO.

(2) In the event of a dispute involving the termination, extension, or renewal of an HCE's contract with a CCO, the parties may take the following actions in an attempt to reach a good faith resolution:

(a) Both parties shall provide a written offer of terms and conditions to the other party. The parties shall explain the basis for their disagreement with the terms and conditions offered by the other party;

(b) The CCO's and HCE's chief financial officer, chief executive officer, or an individual authorized to make decisions on behalf of the HCE or CCO shall have at least one face-to-face meeting in a good faith effort to resolve the disagreement;

(c) The CCO or HCE may request the Authority to provide technical assistance. The Authority's technical assistance is limited to clarifying the CCO contractual provisions, subcontracting criteria, current reimbursement requirements, access standards, and other legal requirements.

(3) If the CCO and HCE cannot reach agreement on contract terms, the parties may engage in mediation. Either the CCO or the HCE may request mediation:

(a) After the parties have agreed to enter into mediation, the parties shall attempt to agree on the selection of the mediator and complete paperwork required to secure the mediator's services. If the parties are unable to agree, each party shall appoint a mediator, and those mediators shall select the final mediator;

(b) To be qualified to propose resolutions for disputes under this rule, the mediator shall:

(A) Be a knowledgeable and experienced mediator;

(B) Be familiar with health care and contracting matters; and

(C) Follow the terms and conditions specified in this rule for the mediation process.

(c) The parties shall pay for all mediation costs, whether a conclusion is reached or not. In consideration of potentially varied financial resources between the parties, which may pose a barrier to the use of this process, the parties may ask the mediator to allocate costs between the parties based on the ability to pay;

(d) Within ten business days of a selection of a mediator, the CCO and HCE shall submit to each other and to the mediator the following:

(A) Contract offer; and

(B) Explanation of their position (i.e., advocacy brief).

(e) Unless an extension is agreed on by all parties, the mediator shall issue a report to the involved parties that will include mediation findings and recommendations no longer than 15 business days from the conclusion of the mediation.

(4) Pursuant to ORS 414.635, if the CCO and HCE cannot reach an agreement on contract terms within ten business days of receipt of the mediator's report, either party may request non-binding arbitration. The requesting party shall notify the other party in writing of the party's intent to refer the matter to arbitration:

(a) After notification that one party initiated arbitration, the parties shall agree on the selection of the arbitrator and complete the paperwork required to secure the arbitrator's services. If the parties are unable to agree, each party shall appoint an arbitrator, and these arbitrators shall select the final arbitrator;

(b) To be qualified to propose resolutions for disputes under this rule, the arbitrator shall:

(A) Be a knowledgeable and experienced arbitrator;

(B) Be familiar with health care provider contracting matters; and

(C) Follow the terms and conditions specified in this rule for the arbitration process.

(c) The parties shall pay for all arbitration costs. In consideration of potentially varied financial resources between the parties, which may pose a barrier to the use of this process, the parties may ask the arbitrator to allocate costs between the parties based on ability to pay;

(d) Within ten business days of a selection of an arbitrator, the CCO and HCE shall submit to each other and to the arbitrator the following:

(A) Final contract offer; and

(B) Explanation of their position (i.e., advocacy brief).

(e) The arbitrator shall evaluate the final offers and the advocacy briefs from each party and issue a non-binding determination within 15 business days of the receipt of the parties' submissions.

Stat. Auth.: ORS 414.042, 414.615, 414.625, 414.635 & 414.651
Stats. Implemented: ORS 414.610 - 414.685
Hist.: DMAP 86-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 23-2015, f. 4-15-15, cert. ef. 5-1-15

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Rule Caption: Update and Align OHP Member Education/Information Rules Affecting Members and Potential Members
Adm. Order No.: DMAP 24-2015
Filed with Sec. of State: 4-15-2015
Certified to be Effective: 4-15-15
Notice Publication Date: 2-1-2015
Rules Amended: 410-141-0280, 410-141-0300, 410-141-3280, 410-141-3300
Subject: These rules provide the regulated framework for OHP informational materials and education for OHP members and potential members. The related rules pertaining to "marketing" have been recently revised, having direct impact on the Member Education/Information Requirement rules. In the marketing rules, a clear distinction between rules pertaining to members versus potential members was made. This distinction needs to be carried through the Member Education/Information Requirement rules for clarity and symmetry. Additionally, we will update the current alignment with CFRs 438.10, 438.100 and 438.104 as they relate to each of these rules. There is a set for managed care organizations and one for coordinated care organizations for each of these rules.
Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-141-0280
Managed Care Prepaid Health Plan Potential Member Informational Requirements

(1) For the purpose of this rule, the following definitions apply:

(a) "Alternate Format" means any alternate approach to presenting print information to an individual with a disability. The Americans with Disabilities Act (ADA) groups the standard alternate formats: braille, large (18 point) print, audio narration, oral presentation, and electronic file along with other aids and services for other disabilities, including sign language interpretation and sighted guide;

(b) "Potential Member" means an individual who meets the eligibility requirements to enroll in the Oregon Health Plan but has not yet enrolled with a specific MCO or CCO;

(c) "Prevalent Non-English Language" means all non-English languages that are identified as the preferred written language by the lesser of either:

(A) 5 percent of the MCO's total OHP enrollment; or

(B) 1,000 of the MCO's members;

(d) "Health Literacy" means the degree to which individuals have the capacity to obtain, process, and understand basic health information needed to make appropriate health decisions regarding services needed to prevent or treat illness.

(2) Information for potential members shall comply with marketing prohibitions in 42 CFR 438.104 and OAR 410-141-0270, Prepaid Health Plan Marketing Requirements for Potential Members.

(3) The creation of name recognition because of the MCO's health promotion or education activities shall not constitute an attempt by the MCO to influence a client's enrollment.

(4) An MCO or its subcontractor's communications that express participation in or support for an MCO by its founding organizations or its subcontractors shall not constitute an attempt to compel or entice a client's enrollment.

(5) The following shall not constitute marketing or an attempt by the MCO to influence client enrollment:

(a) Communications to notify dual-eligible members of opportunities to align MCO provided benefits with Medicare Advantage or Special Needs Plans;

(b) Improving coordination of care;

(c) Communicating with provider service dual-eligible members about unique care coordination needs; or

(d) Streamlining communications to the dually-enrolled member to improve coordination of benefits.

(6) MCOs shall update plan access information with OHA on a monthly basis for use in updating the availability charts. OHA shall confirm before posting.

(7) MCOs shall develop informational materials for potential members.

(8) MCOs shall provide the Authority with informational materials sufficient for the potential member to make an informed decision about provider selection. The MCO shall make available to potential members, upon request, information on participating providers.

(9) MCO provider directories shall include notation of the following: names, locations, telephone numbers including TTY, office hours, accessibility for members with disabilities, non-English languages spoken by current contracted providers in the enrollee's service area, and direction on how members can access information on providers that are not accepting new patients. An MCO or the Division may include informational materials in the application packet for potential members.

(10) MCOs shall develop informational materials for potential members in their service area that meet the language requirements as identified in this rule. Materials shall be culturally and linguistically appropriate and be sensitive to people with disabilities or reading limitations, including those whose primary language is not English.

(11) MCO's shall honor requests made by other sources such as potential members, potential family members, or caregivers for language accommodation, translating to the potential member's language needs as requested. Alternate formats shall be provided and may include, but are not limited to, braille, large (18 point) print, audio narration, oral presentation, and electronic file along with other aids and services for other disabilities, including sign language interpretation and sighted guide:

(a) MCOs shall address health literacy issues by preparing these documents at a 6th grade reading level, incorporating graphics and utilizing alternate format materials for potential members and using a12-point font or larger (18 point);

(b) MCOs shall ensure that all MCO staff who have contact with potential members are fully informed of MCO and Authority rules applicable to enrollment, disenrollment, complaint and grievance policies and procedures, the availability of free certified interpreter services, and which participating providers' offices have bilingual capacity and which are accepting new members.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.725

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; OMAP 37-2004(Temp), f. 5-27-04 cert. ef. 6-1-04 thru 11-15-04; OMAP 47-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; DMAP 42-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 16-2015, f. 3-31-15, cert. ef. 4-1-15; DMAP 21-2015, f. 4-14-15, cert. ef. 4-15-15; DMAP 24-2015, f. & cert. ef. 4-15-15

410-141-0300

Managed Care Organization (MCO) Member Education and Information Requirements

(1) For the purpose of this rule, the following definitions apply:

(a) "Alternate Format" means any alternate approach to presenting print information to a person with a disability. The Americans with Disabilities Act (ADA) groups the standard alternate formats: Braille, large (18 point) print, audio narration, oral presentation, and electronic file along with other aids and services for other disabilities, including sign language interpretation and sighted guide;

(b) "Alternate Format Statement Insert" means an insert developed by the Oregon Health Authority that includes instructions on how to receive an alternate format or oral interpretation of materials translated into the state's top sixteen preferred written languages identified by OHP enrollees. MCOs shall insert their contact information into the template;

(c) "Health Literacy" means the degree to which individuals have the capacity to obtain, process, and understand basic health information needed to make appropriate health decisions regarding services needed to prevent or treat illness;

(d) "Prevalent Non-English Language" means all non-English languages that are identified as the preferred written language by the lesser of either:

(A) 5 percent of the MCO's total OHP enrollment; or

(B) 1, 000 of the MCO's members;

(2) MCOs may engage in activities for existing members related to outreach, health promotion, and health education. The Division shall approve, prior to distribution, any written communication by the MCO or its subcontractors and providers that:

(a) Is intended solely for members; and

(b) Pertains to requirements for obtaining managed care services at service area sites or benefits.

(3) MCOs may communicate with providers, caseworkers, community agencies, and other interested parties for informational purposes. The intent of these communications shall be informational only and not to entice or solicit membership. Communication methodologies may include but are not limited to brochures, pamphlets, newsletters, posters, fliers, websites, health fairs, or sponsorship of health–related events. MCOs shall address health literacy issues by preparing these documents at a 6th grade reading level, incorporating graphics and utilizing alternate formats.

(4) The creation of name recognition because of the MCO's health promotion or education activities shall not constitute an attempt by the MCO to influence a client's enrollment.

(5) An MCO or its subcontractor's communications that express participation in or support for an MCO by its founding organizations or its subcontractors shall not constitute an attempt to compel or entice a client's enrollment.

(6) The following shall not constitute marketing or an attempt by the MCO to influence client enrollment:

(a) Communications to notify dual-eligible members of opportunities to align MCO provided benefits with Medicare Advantage or Special Needs Plans;

(b) Improving coordination of care;

(c) Communicating with provider service dual-eligible members about unique care coordination needs; or

(d) Streamlining communications to the dually-enrolled member to improve coordination of benefits.

(7) MCOs shall have a mechanism to help members understand the requirements and benefits of the MCO plan. The mechanisms developed shall be culturally and linguistically appropriate.

(8) MCOs shall have written procedures, criteria, and an ongoing process of member education and information sharing that includes member orientation, member handbook, and health education. Member education shall:

(a) Include information about the Exceptional Needs Care Coordination (ENCC) or case management services to members who are aged, blind, disabled, or have complex medical needs consistent with OAR 410-141-0405 and how to access that system, including where applicable for dual-eligible individuals, the process for coordinating Medicaid and Medicare benefits;

(b) Clearly explain how members may receive assistance from advocates, including certified health care interpreters, community health workers, peer wellness specialists, and personal health navigators and include information to members that certified health care interpreter services at provider offices are free to MCO members as stated in 42 CFR 438.10 (4).

(9) Within 14 calendar days or a reasonable timeframe of an MCO receiving notice of a member's enrollment, MCOs shall mail a welcome packet to new members and to members returning to the MCO twelve months or more after previous enrollment. The packet shall include, at a minimum, a welcome letter, a member handbook, and information on how to access a provider directory.

(10) Provider directories shall include notation of the following: names, locations, telephone numbers including TTY, office hours, accessibility for members with disabilities, non-English languages spoken by current contracted providers in the enrollee's service area, and direction on how members can access information on providers that are not accepting new patients. An MCO or the Division may include informational materials in the application packet for potential members.

(11) For those who are existing members, an MCO shall notify members annually of the availability of a member handbook and provider directory and how to access those materials. MCOs shall send hard copies upon request.

(12) MCOs shall facilitate materials as follows:

(a) Translate the following written materials into the prevalent non-English languages served by the MCO:

(A) Welcome packets that include welcome letters and member handbooks; and

(B) Notices of medical benefit changes;

(b) Include alternate format statement inserts with:

(A) Communications regarding member enrollment; and

(B) Notice of Action to deny, reduce, or stop a benefit;

(c) Accommodate requests of the member to translate written materials into prevalent non-English languages served by the MCO;

(d) Make oral interpretation services available free of charge to each potential member and member. This applies to all non-English languages, not just prevalent non-English languages;

(e) Notify enrollees:

(A) That oral interpretation is available free of charge for any language, and written information is available in prevalent non-English languages and alternate formats; and

(B) How to access those services.

(f) Make available materials in alternate formats by request. Alternate formats include but are not limited to audio recording, close-captioned videos, large (18 point) type, and braille.

(13) An MCO shall electronically provide to the Division for approval each version of the printed welcome packet that includes a welcome letter, member handbook, and information on how to access a provider directory. At a minimum, the member handbook shall contain the following:

(a) Revision date;

(b) Tag lines in English and other prevalent non-English languages, as defined in this rule, spoken by populations of members. The tag lines shall be located at the beginning of the document for the ease of the member and describe how members may access free sign and oral interpreters, as well as translations and materials in other formats. Alternate formats may include but are not limited to audio recordings, close-captioned videos, large (18 point) type, and braille;

(c) MCO's office location, mailing address, web address if applicable, office hours, and telephone numbers including TTY;

(d) Availability and access to coordinated care services through a patient-centered primary care home or other primary care team with the member as a partner in care management. Explain how to choose a PCP, how to make an appointment, and the MCO's policy on changing PCPs;

(e) How to access information on contracted providers currently accepting new members and any restrictions on the member's freedom of choice among participating providers;

(f) What participating or non-participating provider services the member may self-refer;

(g) Policies on referrals for specialty care, including prior authorization requirements and how to request a referral;

(h) Explanation of Exceptional Needs Care Coordination (ENCC) services and how members with special health care needs who are aged, blind, or disabled, or who have complex medical needs, high health needs, multiple chronic conditions, mental illness, or chemical dependency can access ENCC services;

(i) Information about the coordinated care approach, how to navigate the coordinated care health care system as applicable to dual-eligible individuals, and the process for coordinating Medicaid and Medicare benefits;

(j) How and where members are to access urgent care services and advice, including how to access these services and advice when away from home;

(k) How and when members are to use emergency services, both locally and when away from home, including examples of emergencies;

(L) Information on contracted hospitals in the member's service area;

(m) Information on post-stabilization care after a member is stabilized in order to maintain, improve, or resolve the member's condition;

(n) Information on the MCO's grievance and appeals processes and the Division's contested case hearing procedures, including:

(A) Information about assistance in filling out forms and completing the grievance process available from the MCO to the member as outlined in OAR 410-141-3260;

(B) Information about the member's right to continued benefits during the grievance process as provided in OAR 410-141-3260;

(o) Information on the member's rights and responsibilities, including the availability of the OHP Ombudsman;

(p) Information on copayments, charges for non-covered services, and the member's possible responsibility for charges if they go outside of the MCO for non-emergent care; including information specific to copayments, deductibles, and coinsurance for dually-enrolled qualified Medicare beneficiaries;

(q) Information about when providers may bill clients for services and what to do if they receive a bill; including information specific to payment responsibilities for dually-enrolled qualified Medicare beneficiaries;

(r) The transitional procedures for new members to obtain prescriptions, supplies, and other necessary items and services in the first month of enrollment if they are unable to meet with a PCP or PCD, other prescribing provider, or obtain new orders during that period; including specific communications for members who are becoming new Medicare enrollees;

(s) Information on advance directive policies including:

(A) Member rights under federal and Oregon law to make decisions concerning their medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives;

(B) The MCO's policies for implementation of those rights, including a statement of any limitation regarding the implementation of advanced directives as a matter of conscience;

(t) Whether or not the MCO uses provider incentives to reduce cost by limiting services;

(u) The member's right to request and obtain copies of their clinical records, whether they may be charged a reasonable copying fee and that they may request the record be amended or corrected;

(v) How and when members are to obtain ambulance services;

(w) Resources for help with transportation to appointments with providers;

(x) Explanation of the covered and non-covered coordinated care services in sufficient detail to ensure that members understand the benefits to which they are entitled;

(y) How members are to obtain prescriptions including information on the process for obtaining non-formulary and over-the-counter drugs;

(z) The MCO's confidentiality policy;

(aa) How and where members are to access any benefits that are available under OHP but are not covered under the MCO's contract, including any cost sharing;

(bb) When and how members can voluntarily and involuntarily disenroll from MCOs and change MCOs;

(cc) MCOs shall, at a minimum, annually review their member handbook for accuracy and update it with new and corrected information to reflect OHP program changes and the MCO's internal changes. If changes affect the member's ability to use services or benefits, the MCO shall offer the updated member handbook to all members;

(dd) The "Oregon Health Plan Client Handbook" is in addition to the MCO's member handbook, and an MCO shall not use it to substitute for any component of the MCO's member handbook.

(14) Member health education shall include:

(a) Information on specific health care procedures, instruction in self-management of health care, promotion and maintenance of optimal health care status, patient self-care, and disease and accident prevention. MCO providers or other individuals or programs approved by the MCO may provide health education. MCOs shall endeavor to provide health education in a culturally sensitive and linguistically appropriate manner in order to communicate most effectively with individuals from non-dominant cultures;

(b) MCOs shall ensure development and maintenance of an individualized health educational plan for members whom their provider has identified as requiring specific educational intervention. The Division may assist in developing materials that address specifically identified health education problems to the population in need;

(c) Explanation of ENCC services and how to access ENCC services through outreach to members with special health care needs who are aged, blind, or disabled, or who have complex medical needs or high health care needs, multiple chronic conditions, mental illness, or chemical dependency;

(d) The appropriate use of the delivery system, including proactive and effective education of members on how to access emergency services and urgent care services appropriately;

(e) MCOs shall provide written notice to affected members of any significant changes in program or service sites that affect the member's ability to access care or services from MCO's participating providers. The MCO shall provide, translated as appropriate, the notice at least 30 calendar days before the effective date of that change, or as soon as possible if the participating provider has not given the MCO sufficient notification to meet the 30-day notice requirement. The Division shall review and approve the materials within two working days.

(15) Informational materials that MCOs develop for members shall meet the language requirements identified in this rule and be culturally and linguistically sensitive to members with disabilities or reading limitations, including members whose primary language is not English:

(a) MCOs shall provide free certified health care interpreters for all of their members with hearing impairments and limited English proficiency who request them. This also applies to family members and caregivers with hearing impairments or limited English proficiency who need to understand the member's condition and care;

(b) MCOs shall translate materials into all languages as identified in this rule. Written and spoken language preferences are indicated on the OHP application form and reported to plans in 834 enrollment updates. MCOs shall honor requests made by other sources such as members, family members, or caregivers for language accommodation, translating to the member's language needs as requested;

(c) MCOs shall provide written translations of informational materials including their welcome packet, consisting of at least a welcome letter and a member handbook in all languages as specified in this rule and as identified by members either through the OHP application or other means as their preferred written language;

(d) Form correspondence may be sent to members, including, but not limited to, enrollment information and notices of action to deny or stop a benefit, accompanied by alternate format statement inserts as specified in section (12) of this rule. If sent in English to members who prefer a different language, the tag lines, placed in the alternate format statement insert shall have instructions on how to receive an oral or written translation of the material.

(16) MCOs shall provide an identification card to members, unless waived by the Division, that contains simple, readable, and usable information on how to access care in an urgent or emergency situation. The cards are solely for the convenience of the MCO, members, and providers.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.651

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 57-2002, f. & cert. ef. 10-1-02; OMAP 50-2003, f. 7-31-03 cert. ef 8-1-03; OMAP 37-2004(Temp), f. 5-27-04 cert. ef. 6-1-04 thru 11-15-04; OMAP 47-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 46-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 23-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 16-2010, f. 6-11-10, cert. ef. 7-1-10; DMAP 42-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 29-2011, f. 10-19-11, cert. ef. 10-20-11; DMAP 16-2015, f. 3-31-15, cert. ef. 4-1-15; DMAP 21-2015, f. 4-14-15, cert. ef. 4-15-15; DMAP 24-2015, f. & cert. ef. 4-15-15

410-141-3280

Coordinated Care Organization (CCO) Potential Member Information Requirements

(1) For the purpose of this rule, the following definitions apply:

(a) "Alternate Format" means any alternate approach to presenting print information to an individual with a disability. The Americans with Disabilities Act (ADA) groups the standard alternate formats: braille, large (18 point) print, audio narration, oral presentation, and electronic file along with other aids and services for other disabilities, including sign language interpretation and sighted guide;

(b) "Potential Member" means an individual who meets the eligibility requirements to enroll in the Oregon Health Plan but has not yet enrolled with a specific CCO;

(c) "Prevalent Non-English Language" means all non-English languages that are identified as the preferred written language by the lesser of either:

(A) 5 percent of the CCO's total OHP enrollment; or

(B) 1,000 of the CCO's members;

(d) "Health Literacy" means the degree to which individuals have the capacity to obtain, process, and understand basic health information needed to make appropriate health decisions regarding services needed to prevent or treat illness.

(2) Information for potential members shall comply with marketing prohibitions in 42 CFR 438.104 and OAR 410-141-3270; Oregon Health Plan Marketing Requirements.

(3) The creation of name recognition because of the CCO's health promotion or education activities shall not constitute an attempt by the CCO to influence a client's enrollment.

(4) A CCO or its subcontractor's communications that express participation in or support for a CCO by its founding organizations or its subcontractors shall not constitute an attempt to compel or entice a client's enrollment.

(5) The following shall not constitute marketing or an attempt by the MCO to influence client enrollment:

(a) Communications to notify dual-eligible members of opportunities to align CCO provided benefits with Medicare Advantage or Special Needs Plans;

(b) Improving coordination of care;

(c) Communicating with providers' service dual-eligible members about unique care coordination needs; or

(d) Streamlining communications to the dually-enrolled member to improve coordination of benefits.

(6) CCOs shall update plan access information with OHA on a monthly basis for use in updating the availability charts. OHA shall confirm before posting.

(7) CCOs shall develop informational materials for potential members.

(8) CCOs shall provide the Authority with informational materials sufficient for the potential member to make an informed decision about provider selection. The CCO shall make available to potential members, upon request, information on participating providers.

(9) CCO provider directories shall include notation of the following: names, locations, telephone numbers including TTY, office hours, accessibility for members with disabilities, non-English languages spoken by current contracted providers in the enrollee's service area, and direction on how members can access information on providers that are not accepting new patients. A CCO or the Division may include informational materials in the application packet for potential members.

(10) CCOs shall develop informational materials for potential members in their service area that meet the language requirements as identified in this rule. Materials shall be culturally and linguistically appropriate and be sensitive to people with disabilities or reading limitations, including those whose primary language is not English.

(11) CCO's shall honor requests made by other sources such as potential members, potential family members, or caregivers for language accommodation, translating to the potential member's language needs as requested. Alternate formats shall be provided and may include but are not limited to braille, large (18 point) print, audio narration, oral presentation, and electronic file along with other aids and services for other disabilities, including sign language interpretation and sighted guide:

(a) CCOs shall address health literacy issues by preparing these documents at a 6th grade reading level, incorporating graphics and utilizing alternate format materials for potential members and using a12-point font or larger (18 point);

(b) CCOs shall ensure that all CCO staff who have contact with potential members are fully informed of CCO and Authority rules applicable to enrollment, disenrollment, complaint and grievance policies and procedures, and the availability of free certified health care interpreters, and which participating providers' offices have bilingual capacity and which are accepting new members.

Stat. Auth.: ORS 413.042, 414.615, 414.625, 414.635 & 414.651

Stats. Implemented: ORS 414.610 - 414.685

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12; DMAP 16-2015, f. 3-31-15, cert. ef. 4-1-15; DMAP 21-2015, f. 4-14-15, cert. ef. 4-15-15; DMAP 24-2015, f. & cert. ef. 4-15-15

410-141-3300

Coordinated Care Organization (CCO) Member Education and Information Requirements

(1) For the purpose of this rule, the following definitions apply:

(a) "Alternate Format" means any alternate approach to presenting print information to an individual with a disability. The Americans with Disabilities Act (ADA) groups the standard alternate formats: braille, large (18 point) print, audio narration, oral presentation, and electronic file along with other aids and services for other disabilities, including sign language interpretation and sighted guide;

(b) "Alternate Format Statement Insert" means an insert developed by the Oregon Health Authority that includes instructions on how to receive an alternate format or oral interpretation of materials translated into the state's

top sixteen preferred written languages as identified by OHP enrollees. CCOs shall insert their contact information into the template.

(c) "Health Literacy" means the degree to which individuals have the capacity to obtain, process, and understand basic health information needed to make appropriate health decisions regarding services needed to prevent or treat illness.

(d) "Prevalent Non-English Language" means: All non-English languages that are identified as the preferred written language by the lesser of either:

(A) 5 percent of the CCO's total OHP enrollment; or

(B) 1, 000 of the CCO's members.

(2) CCOs may engage in activities for existing members related to outreach, health promotion, and health education. The Division shall approve, prior to distribution, any written communication by the CCO or its subcontractors and providers that:

(a) Is intended solely for members; and

(b) Pertains to requirements for obtaining coordinated care services at service area sites or benefits.

(3) CCOs may communicate with providers, caseworkers, community agencies, and other interested parties for informational purposes. The intent of these communications should be informational only and not to entice or solicit membership. Communication methodologies may include but are not limited to brochures, pamphlets, newsletters, posters, fliers, websites, health fairs, or sponsorship of health-related events. CCOs shall address health literacy issues by preparing these documents at a low-literacy reading level, incorporating graphics and utilizing alternate formats.

(4) The creation of name recognition because of the CCO's health promotion or education activities shall not constitute an attempt by the CCO to influence a client's enrollment.

(5) A CCO or its subcontractor's communications that express participation in or support for a CCO by its founding organizations or its subcontractors shall not constitute an attempt to compel or entice a client's enrollment.

(6) The following shall not constitute marketing or an attempt by the CCO to influence client enrollment:

(a) Communication to notify dual-eligible members of opportunities to align CCO provided benefits with a Medicare Advantage or Special Needs Plan;

(b) Improving coordination of care;

(c) Communicating with providers' service dual-eligible members about unique care coordination needs; or

(d) Streamlining communications to the dually-enrolled member to improve coordination of benefits.

(7) CCOs shall have a mechanism to help members understand the requirements and benefits of the CCO's integrated and coordinated care plan. The mechanisms developed shall be culturally and linguistically appropriate.

(8) CCOs shall have written procedures, criteria, and an ongoing process of member education and information sharing that includes member orientation, member handbook, and health education. As a CCO transitions to fully coordinating a member's care, the CCO is responsible only for including information about the care they are coordinating. CCOs shall update their educational material as they add coordinated services. Member education shall:

(a) Include information about the coordinated care approach and how to navigate the coordinated health care system, including where applicable for dual-eligible individuals, the process for coordinating Medicaid and Medicare benefits;

(b) Clearly explain how members may receive assistance from advocates, including certified health care interpreters, community health workers, peer wellness specialists, and personal health navigators and include information to members that interpreter services at provider offices are free to CCO members as stated in 42 CFR 438.10 (4).

(9) Within 14 calendar days or a reasonable timeframe of a CCO's receiving notice of a member's enrollment, CCOs shall mail a welcome packet to new members and to members returning to the CCO twelve months or more after previous enrollment. The packet shall include, at a minimum, a welcome letter, a member handbook, and information on how to access a provider directory

(10) Provider directories shall include notation of the following: names, locations, telephone numbers including TTY, office hours, accessibility for members with disabilities, non-English languages spoken by current contracted providers in the enrollee's service area, and direction on how members can access information on providers that are not accepting new patients.

(11) For those who are existing members, a CCO shall notify members annually of the availability of a member handbook and provider directory and how to access those materials. CCOs shall send hard copies upon request.

(12) CCOs shall facilitate materials as follows:

(a) Translate the following written materials into the prevalent non-English languages served by the CCO:

(A) Welcome Packets that include welcome letters and member handbooks; and

(B) Notices of medical benefit changes;

(b) Alternate format statement inserts with:

(A) Communications regarding member enrollment; and

(B) Notice of Action to deny, reduce, or stop a benefit;

(c) Accommodate requests of the member to translate written materials into prevalent non-English languages served by the CCO;

(d) Make oral interpretation services available free of charge to each potential member and member. This applies to all non-English languages, not just prevalent non-English languages;

(e) Notify enrollees:

(A) That oral interpretation is available free of charge for any language, and written information is available in prevalent non-English languages and alternate formats; and

(B) How to access those services;

(f) Make available materials in alternate formats by request. Alternate formats include but are not limited to audio recording, close-captioned videos, large type, and braille.

(13) A CCO shall electronically provide to the Division for approval each version of the printed welcome packet that includes a welcome letter, member handbook, and information on how to access a provider directory. At a minimum, the member handbook shall contain the following:

(a) Revision date;

(b) Tag lines in English and other prevalent non-English languages, as defined in this rule, spoken by populations of members. The tag lines shall be located at the beginning of the document for the ease of the member and describe how members may access free sign and oral interpreters, as well as translations and materials in other formats. Alternate formats may include but are not limited to audio recordings, close-captioned videos, large (18 point) type, and braille.

(c) CCO's office location, mailing address, web address if applicable, office hours, and telephone numbers including TTY;

(d) Availability and access to coordinated care services through a patient-centered primary care home or other primary care team with the member as a partner in care management. Explain how to choose a PCP, how to make an appointment, and how to change PCPs and the CCO's policy on changing PCPs;

(e) How to access information on contracted providers currently accepting new members and any restrictions on the member's freedom of choice among participating providers;

(f) What participating or non-participating provider services the member may self-refer;

(g) Policies on referrals for specialty care, including prior authorization requirements and how to request a referral;

(h) Explanation of intensive care coordination services and how members with the following special health care needs can access intensive care coordination services: Those who are aged, blind, or disabled or who have complex medical needs, high health needs, multiple chronic conditions, mental illness, or chemical dependency.

(i) Information about the coordinated care approach, how to navigate the coordinated care health care system as applicable to dual-eligible individuals, and the process for coordinating Medicaid and Medicare benefits;

(j) How and where members are to access urgent care services and advice, including how to access these services and advice when away from home;

(k) How and when members are to use emergency services, both locally and when away from home, including examples of emergencies;

(L) Information on contracted hospitals in the member's service area;

(m) Information on post-stabilization care after a member is stabilized in order to maintain, improve, or resolve the member's condition;

(n) Information on the CCO's grievance and appeals processes and the Division's contested case hearing procedures, including:

(A) Information about assistance in filling out forms and completing the grievance process available from the CCO to the member as outlined in OAR 410-141-3260;

(B) Information about the member's right to continued benefits during the grievance process as provided in OAR 410-141-3263;

(o) Information on the member's rights and responsibilities, including the availability of the OHP Ombudsman;

(p) Information on copayments, charges for non-covered services, and the member's possible responsibility for charges if they go outside of the CCO for non-emergent care; including information specific to copayments, deductibles, and coinsurance for dually-enrolled qualified Medicare beneficiaries;

(q) Information about when providers may bill clients for services and what to do if they receive a bill, including information specific to payment responsibilities for dually-enrolled qualified Medicare beneficiaries;

(r) The transitional procedures for new members to obtain prescriptions, supplies, and other necessary items and services in the first month of enrollment if they are unable to meet with a PCP or PCD, other prescribing provider, or obtain new orders during that period; including specific communications for members who are becoming new Medicare enrollees;

(s) Information on advance directive policies including:

(A) Member rights under federal and Oregon law to make decisions concerning their medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives;

(B) The CCO's policies for implementation of those rights, including a statement of any limitation regarding the implementation of advanced directives as a matter of conscience;

(t) Whether or not the CCO uses provider incentives to reduce cost by limiting services;

(u) The member's right to request and obtain copies of their clinical records, whether they may be charged a reasonable copying fee and that they may request the record be amended or corrected;

(v) How and when members are to obtain ambulance services;

(w) Resources for help with transportation to appointments with providers;

(x) Explanation of the covered and non-covered coordinated care services in sufficient detail to ensure that members understand the benefits to which they are entitled;

(y) How members are to obtain prescriptions including information on the process for obtaining non-formulary and over-the-counter drugs;

(z) The CCO's confidentiality policy;

(aa) How and where members are to access any benefits that are available under OHP but are not covered under the CCO's contract, including any cost sharing;

(bb) When and how members can voluntarily and involuntarily disenroll from CCOs and change CCOs;

(cc) CCOs shall, at a minimum, annually review their member handbook for accuracy and update it with new and corrected information to reflect OHP program changes and the CCO's internal changes. If changes affect the member's ability to use services or benefits, the CCO shall offer the updated member handbook to all members;

(dd) The "Oregon Health Plan Client Handbook" is in addition to the CCO's member handbook, and a CCO may not use it to substitute for any component of the CCO's member handbook.

(14) Member health education shall include:

(a) Information on specific health care procedures, instruction in self-management of health care, promotion and maintenance of optimal health care status, patient self-care, and disease and accident prevention. CCO providers or other individuals or programs approved by the CCO may provide health education. CCOs shall endeavor to provide health education in a culturally sensitive and linguistically appropriate manner in order to communicate most effectively with individuals from non-dominant cultures;

(b) CCOs shall ensure development and maintenance of an individualized health educational plan for members whom their provider has identified as requiring specific educational intervention. The Division may assist in developing materials that address specifically identified health education problems to the population in need;

(c) Explanation of intensive care coordination services and how to access intensive care coordination through outreach to members with special health care needs who are aged, blind, or disabled, or who have complex medical needs or high health care needs, multiple chronic conditions, mental illness, or chemical dependency;(d) The appropriate use of the delivery system, including proactive and effective education of members on how to access emergency services and urgent care services appropriately;

(e) CCOs shall provide written notice to affected members of any significant changes in program or service sites that affect the member's ability to access care or services from CCO's participating providers. The CCO shall provide, translated as appropriate, the notice at least 30 calendar days before the effective date of that change, or as soon as possible if the participating provider has not given the CCO sufficient notification to meet the 30-day notice requirement. The Division shall review and approve the materials within two working days.

(15) Informational materials that CCOs develop for members shall meet the language requirements identified in this rule and be culturally and linguistically sensitive to members with disabilities or reading limitations, including members whose primary language is not English:

(a) CCOs shall provide free interpreters for all of their members with hearing impairments and limited English proficiency who request them. This also applies to family members and caregivers with hearing impairments or limited English proficiency who need to understand the member's condition and care:

(A) CCOs shall translate materials into all languages as identified in this rule. Written and spoken language preferences are indicated on the OHP application form and reported to plans in 834 enrollment updates. CCOs shall honor requests made by other sources such as members, family members, or caregivers for language accommodation, translating to the member's language needs as requested;

(B) CCOs shall provide written translations of informational materials including their welcome packet, consisting of at least a welcome letter and a member handbook in all languages as specified in this rule and as identified by members either through the OHP application or other means as their preferred written language;

(b) Form correspondence may be sent to members, including, but not limited to, enrollment information and notices of action to deny or stop a benefit, accompanied by alternate format statement inserts as specified in section (12) of this rule. If sent in English to members who prefer a different language, the tag lines, placed in the alternate format statement insert shall have instructions on how to receive an oral or written translation of the material.

(16) CCOs shall provide an identification card to members, unless waived by the Division, that contains simple, readable, and usable information on how to access care in an urgent or emergency situation. The cards are solely for the convenience of the CCO, members, and providers.

Stat. Auth.: ORS 413.042, 414.615, 414.625, 414.635 & 414.651
Stats. Implemented: ORS 414.610 - 414.685
Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12; DMAP 16-2015, f. 3-31-15, cert. ef. 4-1-15; DMAP 21-2015, f. 4-14-15, cert. ef. 4-15-15; DMAP 24-2015, f. & cert. ef. 4-15-15

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Oregon Health Authority, Public Health Division
Chapter 333

Rule Caption: Hospital Satellite Emergency Departments
Adm. Order No.: PH 7-2015(Temp)
Filed with Sec. of State: 3-24-2015
Certified to be Effective: 3-24-15 thru 9-19-15
Notice Publication Date:
Rules Adopted: 333-500-0027
Rules Amended: 333-500-0010, 333-500-0025
Subject: The Oregon Health Authority, Public Health Division is temporarily adopting and amending administrative rules in chapter 333, division 500 pertaining to emergency medical services satellites. These temporary rules would permit a hospital to have a satellite hospital emergency medical services department, within 35 miles of the parent hospital, under the hospital's license, as long as certain criteria is met.
Rules Coordinator: Brittany Sande—(971) 673-1291

333-500-0010
Definitions

As used in OAR chapter 333, divisions 500 through 535, unless the context requires otherwise, the following definitions apply:

(1) "Assessment" means a complete nursing assessment, including:

(a) The systematic and ongoing collection of information to determine an individual's health status and need for intervention;

(b) A comparison with past information; and

(c) Judgment, evaluation, or a conclusion that occurs as a result of subsections (a) and (b) of this definition.

(2) "Authentication" means verification that an entry in the patient medical record is genuine.

(3) "Authority" means the Oregon Health Authority.

(4) "Certified Nursing Assistant" (CNA) means a person who is certified by the Oregon State Board of Nursing (OSBN) to assist licensed nursing personnel in the provision of nursing care.

(5) "Chiropractor" means a person licensed under ORS chapter 684 to practice chiropractic.

(6) "Conditions of Participation" mean the applicable federal regulations that hospitals are required to comply with in order to participate in the federal Medicare and Medicaid programs.

(7) "Deemed" means a health care facility that has been inspected by an approved accrediting organization and has been approved by the Centers for Medicare and Medicaid Services (CMS) as meeting CMS Conditions of Participation.

(8) "Discharge" means the release of a person who was an inpatient of a hospital and includes:

(a) The release and transfer of a newborn to another facility, but not a transfer between acute care departments of the same facility;

(b) The release of a person from an acute care section of a hospital for admission to a long-term care section of a facility;

(c) Release from a long-term care section of a facility for admission to an acute care section of a facility;

(d) A patient who has died; and

(e) An inpatient who leaves a hospital for purposes of utilizing non-hospital owned or operated diagnostic or treatment equipment, if the person does not return as an inpatient of the same health care facility within a 24-hour period.

(9) "Direct ownership" has the meaning given the term 'ownership interest' in 42 CFR 420.201.

(10) "Division" means the Public Health Division within the Authority.

(11) "Emergency Medical Services" means medical services that are usually and customarily available at the respective hospital in an emergency department and that must be provided immediately to sustain a person's life, to prevent serious permanent disfigurement or loss or impairment of the function of a bodily member or organ, or to provide care to a woman in labor where delivery is imminent if the hospital is so equipped and, if the hospital is not equipped, to provide necessary treatment to allow the woman to travel to a more appropriate facility without undue risk of serious harm.

(12) "Emergency Psychiatric Services" means mental health services that are usually and customarily available at the respective hospital and that must be provided immediately to prevent harm to the patient or others including but not limited to triage and assessment; observation and supervision; crisis stabilization; crisis intervention; and crisis counseling.

(13) "Financial interest" means a five percent or greater direct or indirect ownership interest.

(14) "Full compliance survey" means a survey conducted by the Division following a complaint investigation to determine a hospital's compliance with the CMS Conditions of Participation.

(15) "Governing body" means the body or person legally responsible for the direction and control of the operation of the hospital.

(16) "Governmental unit" has the meaning given that term in ORS 442.015.

(17) "Health care facility" (HCF) has the meaning given the term in ORS 442.015.

(18) "Health Care Facility Licensing Laws" means ORS 441.005 through 441.990 and its implementing rules.

(19) "Hospital" has the meaning given that term in ORS 442.015.

(20) "Indirect ownership" has the meaning given the term 'indirect ownership interest' in 42 CFR 420.201.

(21) "Licensed" means that the person to whom the term is applied is currently licensed, certified or registered by the proper authority to follow his or her profession or vocation within the State of Oregon, and when applied to a hospital means that the facility is currently licensed by the Authority.

(22) "Licensed nurse" means a nurse licensed under ORS chapter 678 to practice registered or practical nursing.

(23) "Licensed Practical Nurse" means a nurse licensed under ORS chapter 678 to practice practical nursing.

(24) "Major alteration" means any structural change to the foundation, roof, floor, or exterior or load bearing walls of a building, or the extension of an existing building to increase its floor area. Major alteration also means the extensive alteration of an existing building such as to change its function and purpose, even if the alteration does not include any structural change to the building.

(25) "Manager" means a person who:

(a) Has authority to direct and control the work performance of nursing staff;

(b) Has authority to take corrective action regarding a violation of law or a rule or a violation of professional standards of practice, about which a nursing staff has complained; or

(c) Has been designated by a hospital to receive the notice described in ORS 441.174(2).

(26) "Minor alteration" means cosmetic upgrades to the interior or exterior of an existing building, such as but not limited to wall finishes, floor coverings and casework.

(27) "Mobile Satellite" means a MRI, CAT Scan, Lithotripsy Unit, Cath Lab, or other such modular outpatient treatment or diagnostic unit that is capable of being moved, is housed in a vehicle with a vehicle identification number (VIN), and does not remain on a hospital campus for more than 180 days in any calendar year.

(28) "NFPA" means National Fire Protection Association.

(29) "Nurse Midwife/Nurse Practitioner" means a registered nurse certified by the OSBN as a nurse midwife/nurse practitioner.

(30) "Nurse Practitioner" has the meaning given that term in ORS 678.010.

(31) "Nursing staff" means a registered nurse, a licensed practical nurse, or other assistive nursing personnel.

(32) "OB Unit" means a dedicated obstetrical unit that meets the requirements of OAR 333-535-0120.

(33) "On-call" means a scheduled state of availability to return to duty, work-ready, within a specified period of time.

(34) "Oregon Sanitary Code" means the Food Sanitation Rules in OAR 333-150-0000.

(35) "Patient audit" means review of the medical record or physical inspection or interview of a patient.

(36) "Person" has the meaning given that term in ORS 442.015.

(37) "Physician" means a person licensed as a doctor of medicine or osteopathy under ORS chapter 677.

(38) "Physician Assistant" has the meaning given that term in ORS 677.495.

(39) "Plan of correction" means a document executed by a hospital in response to a statement of deficiency issued by the Division that describes with specificity how and when deficiencies of health care licensing laws or conditions of participation shall be corrected.

(40) "Podiatrist" has the same meaning as "podiatric physician and surgeon" in ORS 677.010.

(41) "Podiatry" means the diagnosis or the medical, physical or surgical treatment of ailments of the human foot, except treatment involving the use of a general or spinal anesthetic unless the treatment is performed in a licensed hospital or in a licensed ambulatory surgical center and is under the supervision of or in collaboration with a physician. "Podiatry" does not include the administration of general or spinal anesthetics or the amputation of the foot.

(42) "Public body" has the meaning given that term in ORS 30.260.

(43) "Registered Nurse" means a person licensed under ORS chapter 678 to practice registered nursing.

(44) "Respite care" means care provided in a temporary, supervised living arrangement for individuals who need a protected environment, but who do not require acute nursing care or acute medical supervision.

(45) "Retaliatory action" means the discharge, suspension, demotion, harassment, denial of employment or promotion, or layoff of a nursing staff person directly employed by the hospital, or other adverse action taken against a nursing staff person directly employed by the hospital in the terms or conditions of employment of the nursing staff person, as a result of filing a complaint.

(46) "Satellite" means a building or part of a building owned or leased by a hospital, and operated by a hospital in a geographically separate location from the hospital, with a separate physical address from the hospital but that is within 35 miles from the hospital, through which the hospital provides:

(a) Outpatient diagnostic, therapeutic, or rehabilitative services;

(b) Psychiatric services in accordance with OAR 333-525-0000 including:

(A) Inpatient psychiatric services; and

(B) Emergency psychiatric services through an emergency department in accordance with OAR 333-520-0070; or

(c) Emergency medical services in accordance with OAR 333-500-0027.

(47) "Special Inpatient Care Facility" means a facility with inpatient beds and any other facility designed and utilized for special health care purposes that may include but is not limited to a rehabilitation center, a facility for the treatment of alcoholism or drug abuse, a freestanding hospice

facility, or an inpatient facility meeting the requirements of ORS 441.065, and any other establishment falling within a classification established by the Division, after determination of the need for such classification and the level and kind of health care appropriate for such classification.

(48) "Stable newborn" means a newborn who is four or more hours post-delivery and who is free from abnormal vital signs, color, activity, muscle tone, neurological status, weight, and maternal-child interaction.

(49) "Stable postpartum patient" means a postpartum mother who is four hours or more postpartum and who is free from any abnormal fluctuations in vital signs, has vaginal flow within normal limits, and who can ambulate, be independent in self-care, and provide care to her newborn infant, if one is present.

(50) "Statement of deficiencies" means a document issued by the Division that describes a hospital's deficiencies in complying with health care facility licensing laws or conditions of participation.

(51) "Survey" means an inspection of a hospital to determine the extent to which a hospital is in compliance with health facility licensing laws and conditions of participation.

Stat. Auth.: ORS 441.025
Stats. Implemented: ORS 441.025
Hist.: HB 183, f. & ef. 5-26-66; HB 209, f. 12-18-68; HD 11, f. 3-16-72, ef. 4-1-72; HD 11-1980, f. & ef. 9-10-80, HD 8-1985, f. & ef. 5-17-85; Renumbered from 333-023-0114; HD 13-1987, f. 9-1-87, ef. 9-15-87; HD 23-1987(Temp), f. 11-27-87, ef. 10-15-87 through 4-15-88; HD 10-1988, f. & cert. ef. 5-27-88; HD 29-1988, f. 12-29-88, cert. ef. 1-1-89, Renumbered from 333-070-0000; HD 21-1993, f. & cert. ef. 10-28-93; HD 30-1994, f. & cert. ef. 12-13-94; OHD 2-2000, f. & cert. ef. 2-15-00; OHD 20-2002, f. & cert. ef. 12-10-02; PH 11-2009, f. & cert. ef. 10-1-09; PH 26-2010, f. 12-14-10, cert. ef. 12-15-10; PH 17-2012, f. 12-20-12, cert. ef. 1-1-13; PH 5-2015, f. & cert. ef. 2-6-15; PH 6-2015(Temp), f. & cert. ef. 2-20-15 thru 8-18-15; PH 7-2015(Temp), f. & cert. ef. 3-24-15 thru 9-19-15

333-500-0025
Indorsement of Satellite Operations

(1) The Division may indorse, under a hospital's license, a satellite or mobile satellite of a hospital.

(2) In order for a satellite to be indorsed under a hospital's license, the applicant or licensee shall pay the appropriate fee and provide evidence to the Division that:

(a) The satellite meets the requirements in OAR chapter 333, divisions 500 through 535;

(b) The services at the satellite are integrated with the hospital;

(c) The financial operations of the satellite are integrated with the hospital;

(d) The hospital and the satellite have the same governing body;

(e) The satellite is under the ownership and control of the hospital;

(f) Staff at the satellite have privileges at the hospital;

(g) Medical records of the satellite are integrated with the hospital into a unified system;

(h) The facility is not subject to certificate of need requirements in ORS 442.315 to 442.361; and

(i) If the satellite is intended to provide emergency medical services, the satellite can comply with OAR 333-500-0027.

(3) A hospital applying for an emergency medical services satellite indorsement must also submit for its emergency department, the information described in OAR 333-500-0027(1)(e), for the previous six months.

(4) A satellite shall be subject to a plans review and must pass life safety code requirements.

(5) In order for a mobile satellite to be indorsed under a hospital's license, the applicant or licensee shall pay the appropriate fee and provide evidence to the Division that:

(a) The mobile satellite is operated in whole or in part by the hospital through lease, ownership or other arrangement;

(b) The services at the mobile satellite are integrated with the hospital;

(c) The financial operations of the mobile satellite are integrated with the hospital;

(d) The mobile satellite is physically separate from the hospital and other buildings on the hospital campus by at least 20 feet; and

(e) It meets the 2000 NFPA 101 Life Safety Code for mobile units.

(6) A mobile satellite shall keep and provide to the Division and the Fire Marshal upon request, a log that shows where the mobile satellite is located every day of the year, and its use. A copy of the log shall be kept in the mobile satellite at all times.

(7) A hospital that has a satellite that provides inpatient services that is indorsed under its license as of October 1, 2009, may continue to have that satellite indorsed under its license. On or after October 1, 2009, a satellite must meet the definition of satellite in OAR 333-500-0010(46) and comply with all other rules related to satellites in order to have a satellite indorsed under a hospital license.

(8) Nothing in these rules is meant to:

(a) Prevent a satellite as defined in OAR 333-500-0010(46) from providing outpatient medical services; or

(b) Permit the indorsement of satellite under a hospital license as a means to circumvent the certificate of need laws in ORS chapter 442 and OAR chapter 333, divisions 545 through 670.

(9) The Division may revoke the indorsement of a satellite at any time if it determines a hospital or its satellite:

(a) Is not complying with this rule or OAR 333-500-0027, as applicable; or

(b) Is unable to ensure the safety of patients at the satellite.

Stat. Auth.: ORS 441.025
Stats. Implemented: ORS 441.020
Hist.: PH 11-2009, f. & cert. ef. 10-1-09; PH 26-2010, f. 12-14-10, cert. ef. 12-15-10; PH 5-2015, f. & cert. ef. 2-6-15; PH 6-2015(Temp), f. & cert. ef. 2-20-15 thru 8-18-15; PH 7-2015(Temp), f. & cert. ef. 3-24-15 thru 9-19-15

333-500-0027
Emergency Medical Services Satellites

(1) A facility indorsed as a satellite under a hospital license for the provision of emergency medical services must, in addition to any requirements in OAR 333-500-0025:

(a) Operate 24 hours a day, seven days a week, 365 days a year;

(b) Comply with the hospital emergency department rule in OAR 333-520-0070;

(c) Coordinate with:

(A) Any 9-1-1 jurisdiction within the 9-1-1 service area as those terms are defined in ORS 403.105 to ensure, to the greatest extent possible, that only patients who can receive an appropriate level of care at the satellite are transported to the satellite to limit the need for multiple emergency transports; and

(B) Ambulance services within the ambulance service area as those terms are defined in OAR 333-250-0010 to ensure, to the greatest extent possible, that only patients who can receive an appropriate level of care at the satellite are transported to the satellite to limit the need for multiple emergency transports;

(d) Have transfer agreements with other hospitals if the satellite's parent hospital cannot provide definitive care to a patient evaluated or treated at the satellite; and

(e) On a quarterly basis, report to the Division, for each patient evaluated or treated at the satellite, a basic emergency medical services data set including but not limited to:

(A) Unique patient ID;

(B) Gender;

(C) Ethnicity;

(D) Race;

(E) Year of birth;

(F) Date and time of patient presentation to satellite;

(G) Chief complaint;

(H) Diagnosis;

(I) Discharge disposition;

(J) Date and time of patient discharge;

(K) Transport mode to and from the facility, including ambulance service provider, if applicable; and

(L) Facility transferred to, if applicable.

(2) A facility indorsed as a satellite under a hospital license for the provision of emergency medical services may not:

(a) Be located:

(A) In a county with three or more hospitals with an emergency department; or

(B) In a city with a hospital with an emergency department.

(b) Receive a trauma center categorization by the Division;

(c) Keep a patient for more than 24 hours; or

(d) Provide inpatient care.

(3) A hospital that applies for the indorsement of an emergency medical services satellite must provide documentation of the activities and agreements required in subsection (1)(c) and (d) of this rule upon request by the Division.

Stat. Auth.: ORS 441.025
Stats. Implemented: ORS 441.020
Hist.: PH 7-2015(Temp), f. & cert. ef. 3-24-15 thru 9-19-15

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Rule Caption: Health Care Acquired Infection Reporting and Public Disclosure
Adm. Order No.: PH 8-2015
Filed with Sec. of State: 3-24-2015
Certified to be Effective: 3-24-15

Notice Publication Date: 1-1-2015
Rules Amended: 333-018-0110, 333-018-0127
Subject: The Oregon Health Authority, Public Health Division is permanently amending rules in chapter 333, division 18 pertaining to health care acquired infection reporting and public disclosure. The amendments update references and add clarification to OAR 333-018-0110(9) regarding health care acquired process measures. The amendments also add a new health care facility type to the list of facilities under OAR 333-018-0127.
Rules Coordinator: Brittany Sande—(971) 673-1291

333-018-0110
HAI Reporting for Hospitals

(1) Hospitals must report to the Authority the following HAIs:
(a) SSIs for HPRO, LAM, CBGB and KPRO procedures.
(b) SSIs for inpatient COLO and HYST;
(c) MRSA bacteremia lab ID events;
(d) CLABSI in:
(A) Adult, pediatric, and neonatal ICUs; and
(B) On or after January 1, 2015, all adult, pediatric, medical, surgical, and medical/surgical wards.
(e) Inpatient CDI facility-wide, excluding neonatal and well-baby units;
(f) CAUTI in:
(A) Adult and pediatric ICUs; and
(B) On or after January 1, 2015, all adult and pediatric medical, surgical, and medical/surgical wards; and
(2) Hospitals must report to the Authority all fields required to be reported by NHSN in accordance with the NHSN manual, including discharge dates.
(3) A hospital must report the information required in section (1) of this rule to the Authority no later than 30 days after the end of the collection month.
(4) A hospital must have an infection control professional (ICP) who actively seeks out HAIs required to be reported under this rule by screening a variety of data from various sources that may include but are not limited to:
(a) Laboratory;
(b) Pharmacy;
(c) Admission;
(d) Discharge;
(e) Transfer;
(f) Radiology;
(g) Imaging;
(h) Pathology; and
(i) Patient charts, including history and physical notes, nurses' and physicians' notes, and temperature charts.
(5) An ICP shall use follow-up surveillance methods to detect SSIs for procedures listed in section (1) of this rule using at least one of the following:
(a) Direct examination of patients' wounds during follow-up visits to either surgery clinics or physicians' offices;
(b) Review of medical records, subsequent hospitalization records, or surgery clinic records;
(c) Surgeon surveys by mail or telephone;
(d) Patient surveys by mail or telephone; or
(e) Other facility surveys by mail or telephone.
(6) A hospital may train others employed by the facility to screen data sources for these infections required to be reported in section (1) of this rule but the ICP must determine that the infection meets the criteria established by these rules.
(7) Hospitals that report the information in subsection (1)(a) to (e) of this rule through NHSN in order to meet CMS reporting requirements, may, in lieu of reporting this information directly to the Authority, permit the Authority to access the information through NHSN. A hospital that permits the Authority to access the information through NHSN must:
(a) Join the Oregon HAI group in NHSN;
(b) Authorize disclosure of NHSN data to the Authority as necessary for compliance with these rules, including but not limited to summary data and denominator data for all SSIs, the annual hospital survey and data analysis components for all SSIs, and summary data and denominator data for all adult, pediatric and neonatal ICUs; and
(c) Permit the Authority to access data reported through NHSN dating back to when reporting was first required by CMS for the different HAIs.
(8) All hospitals must report to the Authority on a quarterly basis the following HAI process measures, including but not limited to definitions, data collection, data reporting and training requirements:
(a) SCIP-Inf-1;
(b) SCIP-Inf-2;
(c) SCIP-Inf-3;
(d) SCIP-Inf-4;
(e) SCIP-Inf-6;
(f) SCIP-Inf-9; and
(g) SCIP-Inf-10.
(9) Hospitals that report the information in section (8) of this rule to CMS or the Joint Commission do not have to provide the information directly to the Authority; the Authority will access the information through CMS or the Joint Commission. If a hospital is not reporting the information in section (8) of this rule to CMS or the Joint Commission, in accordance with CMS or Joint Commission reporting requirements, it must provide the information to the Authority no later than on the 15th calendar day, four months after the end of the quarter. As CMS reporting requirements for SCIP measures are removed, reporting requirements for the Authority will change accordingly.

Stat. Auth.: ORS 442.420 & 2007 OL Ch. 838 § 1–6 & 12
Stats. Implemented: ORS 442.405 & 2007 OL Ch. 838 § 1–6 & 12
Hist.: OHP 1-2008, f. & cert. ef. 7-1-08; OHP 1-2009, f. & cert. ef. 7-1-09; OHP 4-2010, f. 6-30-10, cert. ef. 7-1-10; OHP 4-2011(Temp), f. 7-28-11, cert. ef. 8-1-11 thru 1-25-12; OHP 7-2011, f. 9-30-11, cert. ef. 10-1-11; Renumbered from 409-023-0010 by PH 13-2013, f. 12-26-13, cert. ef. 1-1-14; PH 17-2014, f. & cert. ef. 6-9-14; PH 8-2015, f. & cert. ef. 3-24-15

333-018-0127
Annual Influenza Summary

Each hospital, ASC, Dialysis facility, LTCF, and IRF must submit an annual survey to the Authority, no later than May 31, on a form prescribed by the Authority, regarding influenza vaccination of staff. Facilities must report at least the following information:
(1) Number of staff with a documented influenza vaccination during the previous influenza season;
(2) Number of staff with a documented medical contraindication to influenza vaccination during the previous influenza season;
(3) Number of staff with a documented refusal of influenza vaccination during the previous influenza season; and
(4) Facility assessment of influenza vaccine coverage of facility staff during the previous influenza season and plans to improve vaccine coverage of facility staff during the upcoming influenza season.

Stat. Auth.: ORS 442.420 & OL 2007, Ch. 838 § 1-6 and 12
Stats. Implemented: ORS 442.405 & OL 2007, Ch. 838 § 1-6 and 12
Hist.: PH 17-2014, f. & cert. ef. 6-9-14; PH 8-2015, f. & cert. ef. 3-24-15

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Oregon Health Insurance Exchange
Chapter 945

Rule Caption: 2016 Administrative Charge on Insurers
Adm. Order No.: OHIE 2-2015
Filed with Sec. of State: 3-17-2015
Certified to be Effective: 3-31-15
Notice Publication Date: 2-1-2015
Rules Adopted: 945-030-0035
Subject: Establishes the 2016 administrative charge to be paid by insurers offering medical and dental plans through the Exchange.
Rules Coordinator: Gregory Jolivette—(503) 373-9406

945-030-0035
2016 Administrative Charge on Insurers

(1) Effective January 1, 2016, each health insurer offering qualified health plans through the Exchange shall pay a monthly administrative charge equal to $9.66 times the number of members enrolled through the Exchange in that month.
(2) Effective January 1, 2016, each health insurer offering standalone dental plans through the Exchange shall pay a monthly administrative charge equal to $0.97 times the number of members enrolled through the Exchange in that month.
(3) If the total charges collected exceed the maximum amount permissible under ORS 741.105, the Department of Consumer and Business Services will return excess funds to carriers on a pro-rata basis no later than the end of the 2nd quarter of the next calendar year.

Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.105
Hist.: OHIE 2-2015, f. 3-17-15, cert. ef. 3-31-15

Oregon Housing and Community Services Department
Chapter 813

Rule Caption: Amends the definition of 'Cap' for the Oregon Affordable Housing Tax Credits Program
Adm. Order No.: OHCS 3-2015(Temp)
Filed with Sec. of State: 3-18-2015
Certified to be Effective: 3-18-15 thru 9-13-15
Notice Publication Date:
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 proposed temporary 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

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Oregon Medical Board
Chapter 847

Rule Caption: Mandatory reporting requirements and fine for failure to report
Adm. Order No.: OMB 4-2015
Filed with Sec. of State: 4-3-2015
Certified to be Effective: 4-3-15
Notice Publication Date: 2-1-2015
Rules Amended: 847-010-0073
Subject: The rule amendments add clarity to the mandatory reporting requirements under Oregon Revised Statutes 676 and 677. The revised section (1) breaks the reporting requirements into categories for licensee self-reports, licensee obligations to report other professionals, and health care facility reports. The amendment adds a civil penalty for licensees who fail to report. The rule also updates the name of the state's monitoring program to the Health Professionals' Services Program and makes other housekeeping and general grammar updates.
Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-010-0073
Reporting Requirements

(1) Board licensees and health care facilities must report to the Board as required by ORS 676.150, 677.092, 677.190, and 677.415. These reports include, but are not limited to, the following:

(a) A licensee must self-report to the Board:

(A) Any conviction of a misdemeanor or felony or any arrest for a felony crime to the Board within 10 days after the conviction or arrest;

(B) Any adverse action taken by another licensing jurisdiction or any peer review body, health care institution, professional or medical society or association, governmental agency, law enforcement agency or court for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action as described in ORS chapter 677;

(C) Any official action taken against the licensee within 10 business days of the official action; or

(D) A voluntary withdrawal from practice, voluntary resignation from the staff of a health care facility or voluntary limitation of the licensee's staff privileges at a health care facility if the licensee's voluntary action occurs while the licensee is under investigation by the health care facility or its committee for any reason related to possible medical incompetence, unprofessional conduct or physical incapacity or impairment.

(b) A licensee who has reasonable cause to believe that another state licensed health care professional has engaged in prohibited or unprofessional conduct must report the conduct within 10 working days to the board responsible for the other professional unless disclosure is prohibited by state or federal laws relating to confidentiality or protection of health information.

(c) A licensee must report within 10 business days to the Board any information that appears to show that a licensee is or may be medically incompetent or is or may be guilty of unprofessional or dishonorable conduct or is or may be a licensee with a physical incapacity.

(d) A health care facility must report to the Board:

(A) Any official action taken against a licensee within 10 business days of the date of the official action; or

(B) A licensee's voluntary withdrawal from practice, voluntary resignation from the staff of a health care facility or voluntary limitation of the licensee's staff privileges at a health care facility if the licensee's voluntary action occurs while the licensee is under investigation by the health care facility or its committee for any reason related to possible medical incompetence, unprofessional conduct or physical incapacity or impairment.

(2) For purposes of the statutes, reporting to the Board means making a report to the Board's Investigation Unit or the Board's Executive Director or the Board's Medical Director. Making a report to the Board's Health Professionals' Services Program (HPSP) or HPSP's Medical Director does not satisfy the duty to report to the Board.

(3) For the purposes of the statutes, the terms medical incompetence, unprofessional conduct, and impaired licensee have the following meanings:

(a) Medical Incompetence: A licensee who is medically incompetent is one who is unable to practice medicine with reasonable skill or safety due

to lack of knowledge, ability, or impairment. Evidence of medical incompetence shall include:

(A) Gross or repeated acts of negligence involving patient care.

(B) Failure to achieve a passing score or satisfactory rating on a competency examination or program of evaluation when the examination or evaluation is ordered or directed by a health care facility.

(C) Failure to complete a course or program of remedial education when ordered or directed to do so by a health care facility.

(b) Unprofessional conduct: Unprofessional conduct includes the behavior described in ORS 677.188 (4) and is conduct which is unbecoming to a person licensed by the Board of Medical Examiners or detrimental to the best interest of the public and includes:

(A) Any conduct or practice contrary to recognized standards of ethics of the medical, podiatric or acupuncture professions or any conduct which does or might constitute a danger to the public, to include a violation of patient boundaries.

(B) Willful performance of any surgical or medical treatment which is contrary to acceptable medical standards.

(C) Willful and repeated ordering or performance of unnecessary laboratory tests or radiologic studies, administration of unnecessary treatment, employment of outmoded, unproved, or unscientific treatments, except as allowed in ORS 677.190 (1)(b), failing to obtain consultations when failing to do so is not consistent with the standard of care, or otherwise utilizing medical service for diagnosis or treatment which is or may be considered unnecessary or inappropriate.

(D) Committing fraud in the performance of, or the billing for, medical procedures.

(E) Engaging in repeated instances of disruptive behavior in the health care setting that could adversely affect the delivery of health care to patients.

(F) Any conduct related to the practice of medicine that poses a danger to the public health or safety.

(G) Sexual misconduct: Licensee sexual misconduct is behavior that exploits the licensee-patient relationship in a sexual way. The behavior is non-diagnostic and non-therapeutic, may be verbal or physical, and may include expressions of thoughts and feelings or gestures that are sexual or that reasonably may be construed by a patient as sexual. Sexual misconduct includes but is not limited to:

(i) Sexual violation: Licensee-patient sex, whether or not initiated by the patient, and engaging in any conduct with a patient that is sexual or may be reasonably interpreted as sexual, including but not limited to:

(I) Sexual intercourse

(II) Genital to genital contact

(III) Oral to genital contact

(IV) Oral to anal contact

(V) Genital to anal contact

(VI) Kissing in a romantic or sexual manner

(VII) Touching breasts, genitals, or any sexualized body part for any purpose other than appropriate examination or treatment, or where the patient has refused or has withdrawn consent

(VII) Encouraging the patient to masturbate in the presence of the licensee or masturbation by the licensee while the patient is present

(IX) Offering to provide practice-related services, such as medications, in exchange for sexual favors

(ii) Sexual impropriety: Behavior, gestures, or expressions that are seductive, sexually suggestive, or sexually demeaning to a patient or their family or associates, to include:

(I) Sexually exploitative behavior, to include taking, transmitting, viewing, or in any way using photos or any other image of a patient, their family or associates for the prurient interest of others.

(II) Intentional viewing in the health care setting of any sexually explicit conduct for prurient interests.

(III) Having any involvement with child pornography, which is defined as any visual depiction of a minor (a child younger than 18) engaged in sexually explicit conduct.

(c) Licensee Impairment: A licensee who is impaired is a licensee who is unable to practice medicine with reasonable skill or safety due to factors which include, but are not limited to:

(A) The use or abuse of alcohol, drugs, or other substances which impair ability.

(B) Mental or emotional illness.

(C) Physical deterioration or long term illness or injury which adversely affects cognition, motor, or perceptive skills.

(4) For the purposes of the reporting requirements of this rule and ORS 677.415, licensees shall be considered to be impaired if they refuse to undergo an evaluation for mental or physical competence or chemical impairment, or if they resign their privileges to avoid such an evaluation, when the evaluation is ordered or directed by a health care facility or by this Board.

(5) A report made by a board licensee or the Oregon Medical Association or other health professional association, to include the Osteopathic Physicians and Surgeons of Oregon, Inc, or the Oregon Podiatric Medical Association to the Board of Medical Examiners under ORS 677.415 shall include the following information:

(a) The name, title, address and telephone number of the person making the report;

(b) The information that appears to show that a licensee is or may be medically incompetent, is or may be guilty of unprofessional or dishonorable conduct or is or may be a licensee with an impairment.

(6) A report made by a health care facility to the Board under ORS 677.415 (5) and (6) shall include:

(a) The name, title, address and telephone number of the health care facility making the report;

(b) The date of an official action taken against the licensee or the licensee's voluntary action withdrawing from practice, voluntary resignation or voluntary limitation of licensee staff privileges; and

(c) A description of the official action or the licensee's voluntary action, as appropriate to the report, including:

(A) The specific restriction, limitation, suspension, loss or denial of the licensee's medical staff privileges and the effective date or term of the restriction, limitation, suspension, loss or denial; or

(B) The fact that the licensee has voluntarily withdrawn from the practice of medicine or podiatry, voluntarily resigned from the staff of a health care facility or voluntarily limited the licensee's privileges at a health care facility and the effective date of the withdrawal, resignation or limitation.

(7) A report made under ORS 677.415 Section 2 may not include any information that is privileged peer review data, see ORS 41.675.

(8) All required reports shall be made in writing.

(9) Any person who reports or provides information in good faith as required by the statutes is immune from civil liability for making the report.

(10) A licensee's failure to report information or conduct as required by this rule is a violation of ORS 676.150, 677.092, 677.190, 677.205, or 677.415 and is grounds for a $500 fine. The licensee may be subject to further disciplinary action by the Board.

Stat. Auth.: ORS 676.150, 677.205 & 677.265
Stats. Implemented: ORS 676.150, 677.092, 677.190, 677.205, 677.265 & 677.415
Hist.: BME 5-2004, f. & cert. ef. 4-22-04; BME 9-2006, f. & cert. ef. 5-8-06; BME 3-2007, f. & cert. ef. 1-24-07; BME 3-2008, f. & cert. ef. 1-22-08; BME 9-2009, f. & cert. ef. 5-1-09; BME 3-2010, f. & cert. ef. 1-26-10; OMB 4-2015, f. & cert. ef. 4-3-15

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Rule Caption: EMS Provider Scope of Practice
Adm. Order No.: OMB 5-2015
Filed with Sec. of State: 4-3-2015
Certified to be Effective: 4-3-15
Notice Publication Date: 2-1-2015
Rules Amended: 847-035-0030
Subject: The rule amendment makes four changes. First, the amendment clarifies that the scope of practice is the maximum functions that may be assigned to EMS providers; it is not standing orders, protocols, or curriculum. Second, the amendment moves the provision allowing an EMT to perform other tasks under visual supervision as directed by the physician to the scope of practice for an Emergency Medical Responder. Third, the amendment corrects "Albuterol sulfate" to "albuterol." Fourth, the amendment expands the Paramedic's ability to initiate and maintain urinary catheters.
Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-035-0030
Scope of Practice

(1) The Oregon Medical Board has established a scope of practice for emergency and nonemergency care for emergency medical services providers. Emergency medical services providers may provide emergency and nonemergency care in the course of providing prehospital care as an incident of the operation of ambulance and as incidents of other public or private safety duties, but is not limited to "emergency care" as defined in OAR 847-035-0001.

(2) The scope of practice for emergency medical services providers is the maximum functions which may be assigned to an emergency medical

services provider by a Board-approved supervising physician. The scope of practice is not a set of statewide standing orders, protocols, or curriculum.

(3) Supervising physicians may not assign functions exceeding the scope of practice; however, they may limit the functions within the scope at their discretion.

(4) Standing orders for an individual emergency medical services provider may be requested by the Board or Authority and must be furnished upon request.

(5) An emergency medical services provider, including an Emergency Medical Responder, may not function without assigned standing orders issued by a Board-approved supervising physician.

(6) An emergency medical services provider, acting through standing orders, must respect the patient's wishes including life-sustaining treatments. Physician-supervised emergency medical services providers must request and honor life-sustaining treatment orders executed by a physician, nurse practitioner or physician assistant if available. A patient with life-sustaining treatment orders always requires respect, comfort and hygienic care.

(7) Whenever possible, medications should be prepared by the emergency medical services provider who will administer the medication to the patient.

(8) An Emergency Medical Responder may:

(a) Conduct primary and secondary patient examinations;

(b) Take and record vital signs;

(c) Utilize noninvasive diagnostic devices in accordance with manufacturer's recommendation;

(d) Open and maintain an airway by positioning the patient's head;

(e) Provide external cardiopulmonary resuscitation and obstructed airway care for infants, children, and adults;

(f) Provide care for musculoskeletal injuries;

(g) Assist with prehospital childbirth;

(h) Complete a clear and accurate prehospital emergency care report form on all patient contacts and provide a copy of that report to the senior emergency medical services provider with the transporting ambulance;

(i) Administer medical oxygen;

(j) Maintain an open airway through the use of:

(A) A nasopharyngeal airway device;

(B) A noncuffed oropharyngeal airway device;

(C) A pharyngeal suctioning device;

(k) Operate a bag mask ventilation device with reservoir;

(L) Provide care for suspected medical emergencies, including administering liquid oral glucose for hypoglycemia;

(m) Prepare and administer aspirin by mouth for suspected myocardial infarction (MI) in patients with no known history of allergy to aspirin or recent gastrointestinal bleed;

(n) Prepare and administer epinephrine by automatic injection device for anaphylaxis;

(o) Prepare and administer naloxone via intranasal device or autoinjector for suspected opioid overdose; and

(p) Perform cardiac defibrillation with an automatic or semi-automatic defibrillator, only when the Emergency Medical Responder:

(A) Has successfully completed an Authority-approved course of instruction in the use of the automatic or semi-automatic defibrillator; and

(B) Complies with the periodic requalification requirements for automatic or semi-automatic defibrillator as established by the Authority; and

(q) Perform other emergency tasks as requested if under the direct visual supervision of a physician and then only under the order of that physician.

(9) An Emergency Medical Technician (EMT) may:

(a) Perform all procedures that an Emergency Medical Responder may perform;

(b) Ventilate with a non-invasive positive pressure delivery device;

(c) Insert a cuffed pharyngeal airway device in the practice of airway maintenance. A cuffed pharyngeal airway device is:

(A) A single lumen airway device designed for blind insertion into the esophagus providing airway protection where the cuffed tube prevents gastric contents from entering the pharyngeal space; or

(B) A multi-lumen airway device designed to function either as the single lumen device when placed in the esophagus, or by insertion into the trachea where the distal cuff creates an endotracheal seal around the ventilatory tube preventing aspiration of gastric contents.

(d) Perform tracheobronchial tube suctioning on the endotracheal intubated patient;

(e) Provide care for suspected shock;

(f) Provide care for suspected medical emergencies, including:

(A) Obtain a capillary blood specimen for blood glucose monitoring;

(B) Prepare and administer epinephrine by subcutaneous injection, intramuscular injection, or automatic injection device for anaphylaxis;

(C) Administer activated charcoal for poisonings; and

(D) Prepare and administer nebulized albuterol treatments for known asthmatic and chronic obstructive pulmonary disease (COPD) patients suffering from suspected bronchospasm.

(g) Perform cardiac defibrillation with an automatic or semi-automatic defibrillator;

(h) Transport stable patients with saline locks, heparin locks, foley catheters, or in-dwelling vascular devices;

(i) Assist the on-scene Advanced EMT, EMT-Intermediate, or Paramedic by:

(A) Assembling and priming IV fluid administration sets; and

(B) Opening, assembling and uncapping preloaded medication syringes and vials;

(j) Complete a clear and accurate prehospital emergency care report form on all patient contacts;

(k) Assist a patient with administration of sublingual nitroglycerine tablets or spray and with metered dose inhalers that have been previously prescribed by that patient's personal physician and that are in the possession of the patient at the time the EMT is summoned to assist that patient;

(L) In the event of a release of organophosphate agents, the EMT who has completed Authority-approved training may prepare and administer atropine sulfate and pralidoxime chloride by autoinjector, using protocols approved by the Authority and adopted by the supervising physician; and

(m) In the event of a declared Mass Casualty Incident (MCI) as defined in the local Mass Casualty Incident plan, monitor patients who have isotonic intravenous fluids flowing.

(10) An Advanced Emergency Medical Technician (AEMT) may:

(a) Perform all procedures that an EMT may perform;

(b) Initiate and maintain peripheral intravenous (I.V.) lines;

(c) Initiate saline or similar locks;

(d) Obtain peripheral venous blood specimens;

(e) Initiate and maintain an intraosseous infusion in the pediatric patient;

(f) Perform tracheobronchial suctioning of an already intubated patient; and

(g) Prepare and administer the following medications under specific written protocols authorized by the supervising physician or direct orders from a licensed physician:

(A) Physiologic isotonic crystalloid solution;

(B) Anaphylaxis: epinephrine;

(C) Antihypoglycemics:

(i) Hypertonic glucose;

(ii) Glucagon;

(D) Vasodilators: nitroglycerine;

(E) Nebulized bronchodilators:

(i) Albuterol;

(ii) Ipratropium bromide;

(F) Analgesics for acute pain: nitrous oxide.

(11) An EMT-Intermediate may:

(a) Perform all procedures that an Advanced EMT may perform;

(b) Initiate and maintain an intraosseous infusion;

(c) Prepare and administer the following medications under specific written protocols authorized by the supervising physician, or direct orders from a licensed physician:

(A) Vasoconstrictors:

(i) Epinephrine;

(ii) Vasopressin;

(B) Antiarrhythmics:

(i) Atropine sulfate;

(ii) Lidocaine;

(iii) Amiodarone;

(C) Analgesics for acute pain:

(i) Morphine;

(ii) Nalbuphine Hydrochloride;

(iii) Ketorolac tromethamine;

(iv) Fentanyl;

(D) Antihistamine: Diphenhydramine;

(E) Diuretic: Furosemide;

(F) Intraosseous infusion anesthetic: Lidocaine;

(G) Anti-Emetic: Ondansetron;

(d) Prepare and administer immunizations in the event of an outbreak or epidemic as declared by the Governor of the state of Oregon, the State Public Health Officer or a county health officer, as part of an emergency

immunization program, under the agency's supervising physician's standing order;

(e) Prepare and administer immunizations for seasonal and pandemic influenza vaccinations according to the CDC Advisory Committee on Immunization Practices (ACIP), and/or the Oregon State Public Health Officer's recommended immunization guidelines as directed by the agency's supervising physician's standing order;

(f) Distribute medications at the direction of the Oregon State Public Health Officer as a component of a mass distribution effort;

(g) Prepare and administer routine or emergency immunizations and tuberculosis skin testing, as part of an EMS Agency's occupational health program, to the EMT-Intermediate's EMS agency personnel, under the supervising physician's standing order;

(h) Insert an orogastric tube;

(i) Maintain during transport any intravenous medication infusions or other procedures which were initiated in a medical facility, if clear and understandable written and verbal instructions for such maintenance have been provided by the physician, nurse practitioner or physician assistant at the sending medical facility;

(j) Perform electrocardiographic rhythm interpretation; and

(k) Perform cardiac defibrillation with a manual defibrillator.

(12) A Paramedic may:

(a) Perform all procedures that an EMT-Intermediate may perform;

(b) Initiate the following airway management techniques:

(A) Endotracheal intubation;

(B) Cricothyrotomy; and

(C) Transtracheal jet insufflation which may be used when no other mechanism is available for establishing an airway;

(c) Initiate a nasogastric tube;

(d) Provide advanced life support in the resuscitation of patients in cardiac arrest;

(e) Perform emergency cardioversion in the compromised patient;

(f) Attempt external transcutaneous pacing of bradycardia that is causing hemodynamic compromise;

(g) Perform electrocardiographic interpretation;

(h) Initiate needle thoracostomy for tension pneumothorax in a prehospital setting;

(i) Obtain peripheral arterial blood specimens under specific written protocols authorized by the supervising physician;

(j) Access indwelling catheters and implanted central IV ports for fluid and medication administration;

(k) Initiate and maintain urinary catheters; and

(l) Prepare and initiate or administer any medications or blood products under specific written protocols authorized by the supervising physician, or direct orders from a licensed physician.

Stat. Auth.: ORS 682.245

Stats. Implemented: ORS 682.245

Hist.: ME 2-1983, f. & ef. 7-21-83; ME 3-1984, f. & ef. 1-20-84; ME 12-1984, f. & ef. 8-2-84; ME 7-1985, f. & ef. 8-5-85; ME 12-1987, f. & ef. 4-28-87; ME 27-1987(Temp), f. & ef. 11-5-87; ME 5-1988, f. & cert. ef. 1-29-88; ME 12-1988, f. & cert. ef. 8-5-88; ME 15-1988, f. & cert. ef. 10-20-88; ME 2-1989, f. & cert. ef. 1-25-89; ME 15-1989, f. & cert. ef. 9-5-89, & corrected 9-22-89; ME 6-1991, f. & cert. ef. 7-24-91; ME 10-1993, f. & cert. ef. 7-27-93; ME 3-1995, f. & cert. ef. 2-1-95; ME 1-1996, f. & cert. ef. 2-15-96; ME 3-1996, f. & cert. ef. 7-25-96; BME 6-1998, f. & cert. ef. 4-27-98; BME 13-1998(Temp), f. & cert. ef. 8-6-98 thru 2-2-99; BME 14-1998, f. & cert. ef. 10-26-98; BME 16-1998, f. & cert. ef. 11-24-98; BME 13-1999, f. & cert. ef. 7-23-99; BME 14-2000, f. & cert. ef. 10-30-00; BME 11-2001, f. & cert. ef. 10-30-01; BME 9-2002, f. & cert. ef. 7-17-02; BME 10-2002, f. & cert. ef. 7-22-02; BME 1-2003, f. & cert. ef. 1-27-03; BME 12-2003, f. & cert. ef. 7-15-03; BME 4-2004, f. & cert. ef. 1-27-04; BME 11-2004(Temp), f. & cert. ef. 4-22-04 thru 10-15-04; BME 12-2004(Temp), f. & cert. ef. 6-11-04 thru 12-8-04; BME 21-2004(Temp), f. & cert. ef. 11-15-04 thru 4-15-05; BME 2-2005, f. & cert. ef. 1-27-05; BME 5-2005, f. & cert. ef. 4-21-05; BME 9-2005, f. & cert. ef. 7-20-05; BME 18-2006, f. & cert. ef. 7-25-06; BME 22-2006, f. & cert. ef. 10-23-06; BME 7-2007, f. & cert. ef. 1-24-07; BME 11-2007, f. & cert. ef. 4-26-07; BME 24-2007, f. & cert. ef. 10-24-07; BME 11-2008, f. & cert. ef. 4-24-08; BME 19-2008, f. & cert. ef. 7-21-08; BME 10-2009, f. & cert. ef. 5-1-09; BME 13-2009, f. & cert. ef. 7-20-09; BME 18-2009, f. & cert. ef. 10-23-09; BME 22-2009(Temp), f. & cert. ef. 10-23-09 thru 4-15-10; BME 5-2010, f. & cert. ef. 1-26-10; BME 8-2010(Temp), f. & cert. ef. 4-26-10 thru 10-15-10; BME 12-2010, f. & cert. ef. 7-26-10; BME 18-2010, f. & cert. ef. 10-25-10; OMB 1-2011, f. & cert. ef. 2-11-11; OMB 5-2011, f. & cert. ef. 4-8-11; OMB 8-2011, f. & cert. ef. 4-25-11; OMB 15-2012, f. & cert. ef. 4-17-12; OMB 30-2012, f. & cert. ef. 10-22-12; OMB 11-2013, f. & cert. ef. 4-5-13; OMB 14-2014, f. & cert. ef. 10-8-14; OMB 5-2015, f. & cert. ef. 4-3-15

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Rule Caption: Repeal agency rule on discovery in contested case hearings

Adm. Order No.: OMB 6-2015

Filed with Sec. of State: 4-3-2015

Certified to be Effective: 4-3-15

Notice Publication Date: 2-1-2015

Rules Repealed: 847-001-0020

Subject: The repeal removes the discovery rule for contested case hearings because the Oregon Medical Board has adopted the Attorney General's model rule on discovery in contested case hearings, specifically OAR 137-003-0566 through 137-003-0569.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

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Oregon Patient Safety Commission
Chapter 325

Rule Caption: Updates the Oregon Patient Safety Commission 2013-2015 biennial budget by amending OAR 325-005-0015.

Adm. Order No.: PSC 1-2015

Filed with Sec. of State: 3-17-2015

Certified to be Effective: 3-17-15

Notice Publication Date: 2-1-2015

Rules Amended: 325-005-0015

Subject: In accordance with the rules governing semi-independent state agencies, this action updates the Oregon Patient Safety Commission 2013-2015 biennial budget from $3,242,464 to $3,734,138 by amending OAR 325-005-0015.

Rules Coordinator: Bethany A. Walmsley—(503) 224-9226

325-005-0015
Biennial Budget

The Commission hereby amends by reference the Oregon Patient Safety Commission's 2013-2015 Biennial Budget of $3,734,138 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 $3,734,138 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 & Sec. 9 Ch. 686 OL 2003

Stats. Implemented: ORS 183.453(1), 183.453(2)

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

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Oregon Public Employees Retirement System
Chapter 459

Rule Caption: Clarify the enrollment requirements for the PHIP dental insurance program.

Adm. Order No.: PERS 4-2015

Filed with Sec. of State: 3-30-2015

Certified to be Effective: 3-30-15

Notice Publication Date: 2-1-2015

Rules Amended: 459-035-0070

Subject: Retired members who are eligible to enroll in PHIP are also eligible to enroll in PERS dental insurance. A retired member must enroll in PHIP to be eligible to enroll in the dental program and is only eligible to enroll in the dental program at the same time as PHIP. If a retired member discontinues participation in the dental insurance program, that member can only re-enroll in the dental insurance program during an available enrollment period and subject to the same qualifications. The rule modifications clarify that the enrollment requirements are the same for both the health insurance and dental insurance programs.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-035-0070
Enrollment

(1) Enrollment requirements of PERS-sponsored health insurance plans for eligible persons are as follows:

(a) An eligible person must complete all applicable parts of PERS Medical & Dental Insurance Application form, and file the form with the Third Party Administrator including, in the case of a dependent domestic partner, an Affidavit of Dependent Domestic Partnership. The form must indicate which plan is desired and it must list individually all dependents,

including the spouse, that are to be enrolled. The form can be obtained from the Third Party Administrator or PERS;

(b) An eligible person who is a retiree may enroll:

(A) Within 90 days of the retiree's effective date of retirement;

(B) At any time if covered under another group health insurance plan for 24 consecutive months immediately preceding enrollment, provided that the application for enrollment is filed within 30 days of loss of coverage. Health care coverage under workers' compensation, Medicare or any other governmental entitlement program for health care do not qualify as other group health insurance coverage for purposes of this paragraph;

(C) Within 90 days of initial Medicare eligibility, if the retiree is enrolled in Parts A and B of Medicare; or

(D) During an open enrollment period designated by the Board.

(c) Except as provided in subsection (f) of this section, an eligible spouse or dependent must be enrolled at the same time and in the same plan as the eligible retiree;

(d) An eligible surviving spouse or dependent who is enrolled under the deceased retiree's plan at the time of death may continue coverage under that plan, and must complete a Medical & Dental Insurance Application form as soon as possible following the retiree's death;

(e) An eligible surviving spouse or dependent who is not covered under the retiree's plan at the time of the retiree's death, may enroll:

(A) Within 90 days of the retiree's death;

(B) At any time if covered under another group health insurance plan for 24 consecutive months immediately preceding enrollment, provided that the application for enrollment is filed within 30 days of loss of coverage. Health care coverage under workers' compensation, Medicare or any other governmental entitlement program for health care do not qualify as other group health insurance plan coverage for purposes of this paragraph;

(C) Within 90 days of initial Medicare eligibility, if he or she is enrolled in Parts A and B of Medicare; or

(D) During an open enrollment period designated by the Board.

(f) A new spouse, dependent domestic partner, or dependent may be enrolled:

(A) Within 30 days of becoming a spouse, a dependent domestic partner or dependent;

(B) If not enrolled in Medicare, only with the same carrier that the eligible retiree is enrolled in;

(C) If enrolled in Parts A and B of Medicare, only in the Medicare Companion Plan offered by the same carrier that covers the eligible retiree.

(g) An eligible retiree's spouse may enroll within 90 days of initial Medicare eligibility, if he/she is enrolled in Parts A & B of Medicare even though the retiree remains enrolled in a non-PERS health plan.

(2) Special enrollment requirements for dental insurance plans:

(a) Only persons who are enrolled in a PERS-sponsored health insurance plan may enroll in a PERS-sponsored dental insurance plan. Enrollment in a PERS-sponsored dental insurance plan must be made under the enrollment conditions for the PERS-sponsored health insurance that are described in section (1) of this rule.

(b) Dental insurance coverage is not available to any eligible person unless all family members (the retiree, spouse, dependent domestic partner and dependent(s)) who are enrolled in a PERS-sponsored health insurance plan also enroll in the same PERS-sponsored dental insurance plan.

Stat. Auth.: ORS 238.410 & 238.650
Stats. Implemented: ORS 238.410, 238.415 & 238.420
Hist.: PERS 4-1996, f. & cert. ef. 6-11-96; PERS 15-1998, f. & cert. ef. 12-17-98; PERS 14-2002, f. & cert. ef. 11-18-02; PERS 4-2015, f. & cert. ef. 3-30-15

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Rule Caption: Clarify earnings crediting for IAP Account payments and change definition of "Anniversary Date."
Adm. Order No.: PERS 5-2015
Filed with Sec. of State: 3-30-2015
Certified to be Effective: 3-30-15
Notice Publication Date: 2-1-2015
Rules Amended: 459-007-0320, 459-007-0330, 459-080-0250
Subject: OAR 459-007-0320 and 459-007-0330 outline how earnings are credited to distributions from the IAP. Lump sum distributions from the IAP are credited with the latest year-to-date calculation as of the date of distribution; IAP accounts of retired members electing installment payments are credited with the latest year-to-date calculation as of the date of the initial distribution. The latest year-to-date calculation is determined on a monthly basis, as defined in OAR 459-007-0001. The rule change clarifies that the monthly latest year-to-date calculation is applied on a calendar month basis, so all distributions made in the same month will receive the same earnings crediting rate. This revision is a clarification; there is no change in our administration of the IAP.

One of the retirement options for the IAP is the Anticipated Life Span Option. This option employs a distribution method approved by the Internal Revenue Service (IRS) intended to establish substantially equal payments to retired members, which is an exception to the additional 10 percent tax on early distributions. The IRS approved method requires an annual recalculation of the member's account to determine the distribution(s) for the following year. This annual recalculation is done on the member's anniversary date, currently defined in OAR 459-080-0250 as the first of the month following the initial distribution. The current definition of anniversary date causes the annual recalculation to fall out of sync with the timing of the distribution(s). For example, a member electing to receive annual installments would receive the second annual installment one month before the annual recalculation. The rule change establishes the anniversary date as the first day of the month of the date of distribution, bringing the annual recalculation in line with the timing of the distributions.
Rules Coordinator: Daniel Rivas—(503) 603-7713

459-007-0320
Crediting Earnings for IAP Account Lump Sum Payments

(1) When an IAP member retires and elects to receive a lump sum payment of their account(s) under ORS 238A.400(1), earnings will be credited in the manner specified in this section.

(a) If earnings for the calendar year before the date of distribution have not been credited, earnings for that year will be credited based on the latest IAP year-to-date calculation available for that year.

(b) Earnings credited for the calendar year of distribution will be credited based on the latest IAP year-to-date calculation as of the first day of the calendar month of the date of distribution.

(2) When an IAP member elects to withdraw their account(s) under ORS 238A.375, earnings will be credited in the manner specified in this section.

(a) If earnings for the calendar year before the date of distribution have not been credited, earnings for that year will be credited based on the latest IAP year-to-date calculation available for that year.

(b) Earnings credited for the calendar year of distribution will be credited based on the latest IAP year-to-date calculation as of the first day of the calendar month of the date of distribution.

Stat. Auth.: ORS 238A.450
Stats. Implemented: ORS 238A.350, 238A.375 & 238A.400
Hist.: PERS 4-2009, f. & cert. ef. 4-6-09; PERS 5-2015, f. & cert. ef. 3-30-15

459-007-0330
Crediting Earnings for IAP Account Installment Payments

(1) For the purposes of this rule, "monthly change rate" means the monthly earnings rate for IAP account(s) when a retiree elects installment payments.

(2) When an IAP member retires and elects to receive installment payments under ORS 238A.400(2), earnings will be credited in the manner specified in this rule:

(a) For the initial installment payment:

(A) If earnings for the calendar year before the date of distribution have not been credited, earnings for that year shall be credited based on the latest IAP year-to-date calculation available for that year.

(B) Earnings credited for the calendar year of distribution will be credited based on the latest IAP year-to-date calculation as of the first day of the calendar month of the initial date of distribution.

(b) After the initial installment payment is made, earnings will be credited monthly using the latest monthly change rate beginning with the first of the month after the initial date of distribution.

Stat. Auth.: ORS 238A.450
Stats. Implemented: ORS 238A.350 & 238A.400
Hist.: PERS 4-2009, f. & cert. ef. 4-6-09; PERS 5-2015, f. & cert. ef. 3-30-15

459-080-0250
IAP Account Installments

(1) Definitions.

(a) "Anniversary date" means the first day of the calendar month of the date of distribution of the first installment payment.

(b) "Date of distribution" has the same meaning as defined in OAR 459-007-0001(7).

(c) "Estimated Life Expectancy" means the member's life expectancy as determined by the applicable IRS mortality table.

(d) "Payout Period" means the span of years over which the member elects to receive installment payments under section (2) of this rule.

(2) Upon retirement, a member of the individual account program who elects to receive the amounts in the member's employee and employer accounts in installments under ORS 238A.400(2) shall designate the number of years over which the installments are to be paid, selecting a period of 5, 10, 15, or 20 years, or a period equal to the member's estimated life expectancy. The member may also request that installments be made on a monthly, quarterly, or annual basis.

(3) Account balances will be adjusted each month in accordance with OAR 459-007-0330.

(a) The amount of each 5-, 10-, 15-, or 20-year installment will be determined by dividing the member's adjusted balance by the number of remaining installment payments.

(b) The installment amount for the member's estimated life expectancy will be determined once a year by dividing the member's adjusted balance on the anniversary date by the member's remaining estimated life expectancy, which amount will then be paid monthly, quarterly, or annually.

(4) If a member requests installments under section (2) of this rule, but the amount of the requested installment would be less than $200 as determined at the time of the initial request, the frequency and Payout Period of the installment payment will be modified so that the amount of the installment is at least $200. If the member's account balance is $1,000 or less at the time of the initial request, the member will not be eligible for installments and the balance will be paid in a lump sum.

(5) Notwithstanding the Payout Period selected by the member under section (2) of this rule, any distribution will be adjusted to comply with the required minimum distribution requirements of 26 U.S.C. 401(a)(9) and regulations implementing that section, as in effect on December 31, 2013.

(6) Members who elect a five year Payout Period or a lump sum payment may elect to directly roll over any portion of their IAP installment or lump sum payment to an eligible retirement plan subject to the limitations in OAR 459-005-0595.

(7) Members who elect a 10-, 15-, or 20-year, or an estimated life expectancy Payout Period cannot elect to have any portion of their installment payments rolled over.

(8) Members who are subject to the required minimum distribution requirements referenced in section (5) of this rule may only roll over that portion of their installment or lump sum payments that exceeds required minimum distribution requirements.

Stat. Auth.: ORS 238A.450
Stats. Implemented: ORS 238A.400
Hist.: PERS 23-2003(Temp), f. & cert. ef. 9-22-04 thru 3-15-05; PERS 30-2004, f. & cert. ef. 11-23-04; PERS 21-2005, f. & cert. ef. 11-1-05; PERS 14-2006, f. & cert. ef. 9-26-06; PERS 21-2007, f. & cert. ef. 11-23-07; PERS 4-2009, f. & cert. ef. 4-6-09; PERS 10-2014, f. & cert. ef. 7-25-14; PERS 5-2015, f. & cert. ef. 3-30-15

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Oregon State Library
Chapter 543

Rule Caption: Hours of Service
Adm. Order No.: OSL 1-2015
Filed with Sec. of State: 3-23-2015
Certified to be Effective: 3-23-15
Notice Publication Date: 2-1-2015
Rules Amended: 543-010-0034
Subject: ORS 543-010-0034 is being amended to reflect the authority the State Librarian has regarding the operations of the State Library and specifically the hours of public service for the Talking Book and Braille Library and the State Library's reference room.
Rules Coordinator: MaryKay Dahlgreen—(503) 378-4367

543-010-0034
Hours of Service

The Oregon State Library Building will be open from 8:00 a.m. to 5:00 p.m., Monday through Friday, excepting legal holidays, and may be open at other times by special arrangement with the State Librarian. The State Library Board authorizes the State Librarian to set times for public access to materials and services. Schedules will be available to the public in a State Library policy.

Stat. Auth.: ORS 357.015(2)
Stats. Implemented: ORS 357.012(2)
Hist.: OSL 1-1981(Temp), f. 6-16-81, ef. 7-1-81; OSL 2-1981, f. 9-28-81, ef. 10-1-81; OSL 1-1989, f. 4-18-89, cert. ef. 4-17-89; OSL 1-1992, f. 2-11-92, ef. 2-17-92; OSL 1-2000, f. & cert. ef. 4-13-00; OSL 1-2014(Temp), f. 9-29-14, cert. ef. 10-1-14 thru 3-30-15; OSL 1-2015, f. & cert. ef. 3-23-15

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Oregon State Marine Board
Chapter 250

Rule Caption: Slow-no wake on Dexter Dam Reservoir from the Covered Bridge to the west shore.
Adm. Order No.: OSMB 1-2015(Temp)
Filed with Sec. of State: 3-24-2015
Certified to be Effective: 4-10-15 thru 4-20-15
Notice Publication Date:
Rules Amended: 250-020-0221
Subject: This rule will temporarily adopt a slow-no wake zone on the portion of the lake from the Covered Bridge to the west shoreline on April 11, 2015 and for the weekend of April 18-19, 2015, for scheduled rowing events.
Rules Coordinator: June LeTarte—(503) 378-2617

250-020-0221
Boat Operations on Certain Waters in Lane County

(1) No person shall operate a motorboat in excess of 5 MPH ("Slow-No Wake") in the following areas:

(a) Triangle Lake: Within 200 feet of a marked swimming area or a designated public launching ramp;

(b) Fern Ridge Lake:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp;

(B) In the Coyote Creek Channel;

(C) Between shore and buoy line which extends southerly from the north shore to a point approximately 200 feet of the northern most Eugene Yacht Club mooring dock thence generally south and west approximately 200 feet of the docks to a point approximately 200 feet south of the Tri Pass Club mooring dock thence generally west to the southern tip of the Tri Pass Club dock as buoyed except for the buoyed corridor immediately south of the Eugene Yacht Club southernmost dock;

(D) South of the buoy line which extends easterly from a point approximately 100 yards north of the Perkins Boat Ramp to the adjacent shoreline;

(E) In the Main Long Tom River Channel.

(c) Dexter Dam Reservoir:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp;

(B) Within 50 feet of the causeway crossing the reservoir.

(C) On the portion of the lake from the Covered Bridge to the west shore from 9:00 am to 4:00 pm or finish of race on April 11, 2015; and from 6:00 am to 6:00 pm or finish of race on April 18-19, 2015.

(d) Lookout Point Reservoir:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp;

(B) East of the Southern Pacific Railroad bridge.

(e) Dorena Dam Reservoir:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp.

(B) Southeast of a line between markers on Humphrey Point and the northeast shore.

(f) Cottage Grove Reservoir:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp;

(B) South of a line between a marker on the east shore, near the Wilson Creek area, and on the west shore near Cedar Creek.

(g) Hills Creek Reservoir:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp;

(B) On Packard Creek arm west of Rigdon Road (USFS Road #21);

(C) On Hills Creek south of the Hills Creek Crossing Bridge;

(D) On the Middle Fork, Willamette River south of the Rigdon Road (USFS #21) (Upper Crossing) Bridge;

(E) No person shall operate a motorboat for any purpose on Larison Creek arm west of Rigdon Road (USFS Road #21).

(h) Collard Lakes;

(i) Picket Lake;

(j) Munsel Lake — west of the line of marker buoys;

(k) Fall Creek Lake:

(A) Within 200 feet of a designated public launching ramp or marked swimming area;

(B) On Fall Creek upriver from the buoys located approximately 200 feet downstream of the Big Fall Creek Road;

(C) On Winberry Creek upriver from the buoys located approximately 1800 feet downstream of the Winberry Creek Road Bridge.

(l) Siltcoos Lake:

(A) Within 200 feet of a designated public launching ramp or marked swimming area;

(B) Between shore and buoy line at the mouth if Kiechle Arm beginning at a point at the east shoreline of Arrowhead Point and extending northerly approximately 900 yards to a point approximately 100 yards off shore of Camp Baker during the period of June 1 through September 30.

(C) In Miller Arm north of the buoy line, located at the entrance near Nightingales' Fishing Camp, during the period of May 1 through September 31.

(2) No person shall operate a motorboat in excess of 5 MPH on Leaburg Reservoir and the McKenzie River from the dam upstream to Good Pasture Bridge.

(3) No person shall operate a motorboat in excess of a "Slow-No Wake" speed within 300 feet of a boat launching ramp or a boat moorage on the following bodies of water (for purpose of this regulation, "Slow-No Wake" speed means the speed of a boat shall not exceed 5 MPH):

(a) Cougar Reservoir;

(b) Blue River Reservoir;

(c) Siuslaw River — between the river entrance and the highway bridge at Mapleton.

(4) No person shall operate a motorboat for any purpose on the following lakes: Scott, Melakwa, Hidden, Blair, Upper Erma Bell, Middle Erma Bell, Lower Erma Bell, Torrey, Whig, Wahanna, Rigdon, Lower Rigdon, Kiwa, Upper Eddeeleo, Round, Betty, and Alameda.

(5) No person shall operate a motorboat for any purpose in excess of 10 MPH on Munsel Lake east of the line of marker buoys, except from June 1 through September 30, between the hours of 10 a.m. and 5 p.m.

(6) No person shall operate a motorboat on the McKenzie River above Good Pasture Bridge, except a representative of the Oregon State Police or the County Sheriff's Office pursuant to a criminal investigation or search and rescue operation.

(7) No person shall operate a motorboat, except with an electric motor:

(a) In the Old Long Tom River Channel;

(b) On Fern Ridge Reservoir south of State Highway 126;

(c) On Hult Reservoir.

(8) No person shall operate a propeller-driven airboat or non-displacement hull type hovercraft in the following areas on Fern Ridge Reservoir where there is emergent vegetation present:

(a) Coyote Creek area — east of a line beginning at the West Coyote Creek bridge at Highway 126 extending north approximately one mile to a point near the mouth of Coyote Creek, then extending north approximately 1.4 miles to a point located approximately 100 yards off shore of the northwest corner of Gibson Island;

(b) Amazon Bay area — east of a line beginning at a point located approximately 100 yards off shore of the northwest corner of Gibson Island extending northeast approximately one mile to the Shore Lane access;

(c) South Marsh area — west of a line extending from a point on the shoreline at the southern boundary of Zumwalt Park near the end of Vista Drive extending southeast approximately one mile to a point on the shoreline at the tip of Perkins Peninsula;

(d) Long Tom Area — southwest of a line beginning at a point on the shore line at the end of Moyer Lane extending southeast approximately 0.9 miles to a point on the west shoreline of the Jeans Peninsula at the north end of Winter Lane.

(9) No person shall operate a motorboat north and east of a line across the entrance of Bannister Cove on Lookout Point Reservoir, as marked.

Stat. Auth.: ORS 830.110 & 830.175

Stats. Implemented: ORS 830.175

Hist.: MB 21, f. 8-23-63; MB 27, f. 6-3-65; MB 31, f. 6-20-66; MB 42, f. 12-3-68; MB 44, f. 8-21-69; MB 48, f. 6-28-71, ef. 7-25-71; MB 49, f. 8-14-72, ef. 9-1-72; MB 3-1979(Temp), f. & ef. 6-22-79; MB 5-1979, f. 7-31-79, ef. 8-1-79; Renumbered from 250-020-0131; MB 8-1981, f. & ef. 11-16-81; MB 5-1982, f. & ef. 6-1-82; MB 6-1982, f. & ef. 6-1-82; MB 15-1984, f. 11-30-84, ef. 12-1-84; MB 6-1995, f. & cert. ef. 7-14-95; MB 9-1996, f. & cert. ef. 5-29-96; OSMB 2-2000, f. & cert. ef. 7-14-00; OSMB 2-2001, f. & cert. ef. 1-25-01; OSMB 1-2008, f. & cert. ef. 1-15-08; OSMB 3-2010, f. & cert. ef. 1-15-10; OSMB 9-2010(Temp), f. & cert. ef. 5-6-10 thru 9-30-10; Administrative correction 10-26-10; OSMB 13-2010, f. & cert. ef 11-1-10; OSMB 5-2011(Temp), f. 3-28-11, cert. ef. 4-8-11 thru 4-11-11; Administrative correction, 4-25-11; [OSMB 10-2011(Temp). f. 6-30-11, cert. ef. 7-1-11 thru 10-1-11; OSMB 10-2011(Temp) Suspended by OSMB 11-2011(Temp), f. & cert. ef. 8-5-11 thru 10-1-11, Administrative correction, 8-25-11]; OSMB 4-2012(Temp), f. & cert. ef. 4-2-12 thru 4-30-12; OSMB 8-2012, f. 4-24-12, cert. ef. 5-1-12; OSMB 1-2013(Temp), f. 3-18-13, cert. ef. 4-12-13 thru 4-27-13; Administrative correction, 5-22-13; OSMB 6-2013, f. 10-28-13, cert. ef. 11-1-13; OSMB 8-2014(Temp), f. & cert. ef. 4-11-14 thru 5-3-14; Administrative correction, 5-21-14; OSMB 1-2015(Temp), f. 3-24-15, cert. ef. 4-10-15 thru 4-20-15

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Physical Therapist Licensing Board
Chapter 848

Rule Caption: Amend current rule expense budget figure to reflect 2015-2017 Board approved expenditures.
Adm. Order No.: PTLB 1-2015
Filed with Sec. of State: 3-31-2015
Certified to be Effective: 7-1-15
Notice Publication Date: 3-1-2015
Rules Amended: 848-005-0010
Subject: The Physical Therapist Licensing Board hereby adopts by reference the Physical Therapist Licensing Board 2015–2017 Biennium Budget of $1,022,000 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 $1,022,000 for the effective operation of the Board. The Board will not exceed the approved 2015–2017 Biennium Budget expenditures without amending this rule, notifying holders of licenses, and holding a public hearing thereon as required by ORS Chapter 182.462(1) and (2). Copies of the budget are available from the Board's office and posted on the Board's website.
Rules Coordinator: James Heider—(971) 673-0203

848-005-0010
Board Budget

The Physical Therapist Licensing Board hereby adopts by reference the Physical Therapist Licensing Board 2015–2017 Biennium Budget of $1,022,000 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 $1,022,000 for the effective operation of the Board. The Board will not exceed the approved 2015–2017 Biennium Budget expenditures without amending this rule, notifying holders of licenses, and holding a public hearing thereon as required, by ORS Chapter 182.462(1) and (2). Copies of the budget are available from the Board's office and posted on the Board's website.

Stat. Auth.: ORS 688.210

Stats. Implemented: ORS 688.160(5)(c)

Hist.: PTLB 3-1999(Temp), f. & cert. ef. 9-7-99 thru 3-1-00; PTLB 5-1999, f. 11-23-99, cert. ef. 12-1-99; PTLB 5-2001(Temp) f. & cert. ef. 6-18-01 thru 9-30-01; PTLB 6-2001, f. & cert. ef. 10-1-01; PTLB 2-2003, f. 6-30-03, cert. ef. 7-1-03; Renumbered from 848-010-0105, PTLB 2-2004, f. & cert. ef. 12-29-04; PTLB 1-2005, f. & cert. ef. 4-8-05; PTLB 2-2007, f. 5-25-07, cert. ef. 6-1-07; PTLB 1-2009, f. & cert. ef. 5-14-09; PTLB 2-2009 f. 5-14-09 cert. ef. 7-1-09; PTLB 1-2011, f. 6-20-11, cert. ef. 7-1-11; PTLB 1-2013, f. 6-3-13, cert. ef. 7-1-13; PTLB 1-2015, f. 3-31-15, cert. ef. 7-1-15

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Public Utility Commission, Board of Maritime Pilots
Chapter 856

Rule Caption: Implements reporting requirements of pilot organizations for fatigue mitigation programs.
Adm. Order No.: BMP 1-2015
Filed with Sec. of State: 4-2-2015
Certified to be Effective: 4-7-15
Notice Publication Date: 3-1-2015
Rules Adopted: 856-010-0029
Subject: In October 2012, the Board established a committee to respond to an NTSB recommendation to require state pilot oversight authorities that have not already done so to implement fatigue mitigation and prevention programs that (1) regularly inform mariners of the hazards of fatigue and effective strategies to prevent it and (2) promulgate hours of service rules that prevent fatigue resulting from extended hours of service, insufficient rest within a 24-hour period, and disruption of circadian rhythms. Fatigue mitigation programs have been established, and this rule will assure that there is continued adherence to scientifically valid fatigue standards.
Rules Coordinator: Susan Johnson—(971) 673-1530

856-010-0029
Fatigue Mitigation Programs

(1) Pilot organizations shall adopt and maintain fatigue management programs that are based on peer-reviewed science in the fields of occupational or sleep medicine and that, at a minimum:

(a) Limit the number of continuous hours on duty;

(b) Provide off-duty time sufficient for an adequate, continuous sleep opportunity at least once each 24 hour period;

(c) Mitigate cumulative fatigue associated with work during successive circadian low periods; and

(d) Limit the number of successive days on duty.

(2) Pilot organizations shall submit copies of their fatigue management programs and any subsequent modifications of their programs to the Board.

(3) The Board shall establish a regular reporting process for the purpose of tracking the results of the fatigue management programs adopted by the pilot organizations.

Stat. Auth.: ORS 776
Stats. Implemented: ORS 776.115
Hist.: BMP 1-2015, f. 4-2-15, cert. ef. 4-7-15

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Racing Commission
Chapter 462

Rule Caption: Amends rule to include single shareholder sub-chapter S Corporations in definition of a "Person".
Adm. Order No.: RC 2-2015
Filed with Sec. of State: 3-25-2015
Certified to be Effective: 3-25-15
Notice Publication Date: 3-1-2015
Rules Amended: 462-210-0010
Subject: Amendment expands 462-210-0010 (15) definition of "Person" to include a Single Shareholder Sub-Chapter S Corporation in which the shareholder is a natural person as defined in the current rule and is at least 18 years of age.
Rules Coordinator: Karen Parkman—(971) 673-0208

462-210-0010
Definitions

The following definitions and interpretations shall apply to these rules unless otherwise indicated or text otherwise requires.

(1) "Account": An account for account wagering with a specific identifiable record of deposits, wagers, and withdrawals established by an account holder and managed by the advance deposit wagering licensee or race meet licensee.

(2) "Account Holder": A person who successfully completed an application and for whom an account has been opened.

(3) "Account Wagering": A form of pari-mutuel wagering in which a person may deposit money in an account with an advance deposit wagering licensee or race meet licensee and then use the current balance to pay for pari-mutuel wagering.

(4) "Account Wagering Center": An actual location, equipment, and staff of an advance deposit wagering licensee or race meet licensee and/or agents involved in the management, servicing, and operation of account wagering.

(5) "Advance Deposit Wagering Licensee or ADW": Any person or entity holding a currently valid license to engage in related activities as a multi-jurisdictional simulcasting and interactive wagering totalizator hub as defined in Oregon Administrative Rule 462-220-0010(1).

(6) "Agent": Those persons or entities with the authority to accept deposits and wagers or issue a receipt or other confirmation to the account holder evidencing such deposits and wagers, and transfer credits and debits to and from accounts on behalf of the advance deposit wagering licensee or race meet licensee.

(7) "Applicant": A person who has submitted an application to establish an account with an advance deposit wagering licensee or race meet licensee.

(8) "Application": The form or forms and other required submissions received from an applicant with the intent of opening an account.

(9) "Business Day": Monday through Friday with the exception of a federal or state observed holiday.

(10) "Commission": The Oregon Racing Commission or any successor agency.

(11) "Confidential Information":

(a) The amount of money credited to, debited from, withdrawn from, or present in any particular account holder's account;

(b) The amount of money wagered by a particular account holder on any race or series of races;

(c) The account number and secure personal identification code of a particular account holder;

(d) The identities of particular entries on which the account holder is wagering or has wagered; and

(e) Unless otherwise authorized by the account holder, the name, address, and other information in the possession of the account wagering center and race meet licensee that would identify the account holder to anyone other than the commission, the account wagering center or the race meet licensee.

(12) "Credits": All positive inflows of money to an account.

(13) "Debits": All negative outflow of money from an account.

(14) "Deposit": A payment of money by cash, check, money order, credit card, debit card, or electronic funds transfer made by an account holder to the account holder's account.

(15) "Person": Any natural person at least 18 years of age or a single member limited liability company where the single member is a natural person at least 18 years of age or a single shareholder sub-chapter S corporation in which the shareholder is a natural person at least 18 years of age.

(16) "Principal Residence Address": That place where the person submitting an application for an account resides at least fifty percent (50%) of the time during the calendar year.

(17) "Proper Identification": A form of identification accepted in the normal course of business to establish that the person making a transaction is an account holder.

(18) "Race Course": As defined in ORS 462.010(5).

(19) "Race Meet Licensee": Any person or entity holding a currently valid license to engage in racing or related regulated activities.

(20) "Secure Personal Identification Code": An alpha-numeric character code chosen by an account holder as a means by which the advance deposit wagering licensee or race meet licensee may verify a wager or account transaction as authorized by the account holder.

(21) "Withdrawal": A payment of money from an account by the advance deposit wagering licensee or race meet licensee to the account holder when properly requested by the account holder.

(22) "Withdrawal Slip": A form provided by the race meet licensee for use by an account holder in withdrawing funds from an account.

Stat. Auth.: ORS 462.270(3) & 462.700
Stats. Implemented: ORS 462.142
Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2012, f. 5-29-12, cert. ef. 6-1-12; RC 3-2012, f. 10-9-12, cert. ef. 10-15-12; RC 3-2014(Temp), f. & cert. ef. 10-23-14 thru 4-21-15; RC 2-2015, f. & cert. ef. 3-25-15

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Teacher Standards and Practices Commission
Chapter 584

Rule Caption: Adopts and amends rules related to educator licensure, preparation programs and professional practices.
Adm. Order No.: TSPC 3-2015
Filed with Sec. of State: 4-15-2015
Certified to be Effective: 4-15-15
Notice Publication Date: 2-1-2015
Rules Adopted: 584-018-1070, 584-066-0030
Rules Amended: 584-001-0010, 584-042-0008, 584-042-0036, 584-060-0062, 584-060-0181, 584-090-0100, 584-090-0120
Subject: Adopts ELL standards; Adopts American Sign Language Specialization; Removes restrictions from CTE licenses; Clarifies that Charter School Registrants CPD rules; Clarifies rules related to substitute licenses and basic skills tests; other housekeeping changes.
Rules Coordinator: Victoria Chamberlain—(503) 378-6813

584-001-0010
Access to Information in Licensure Files

Oregon law establishes the right of public access to general information in files maintained by public agencies while reserving the right to withhold certain information potentially injurious to the affected party. The Commission makes available to the public information in licensure files subject to the following rules:

(1) General information available to the public shall include: the person's license type and status, academic degree(s) and the institutions awarding them, the names and addresses of verified educational employers,

and orders adopted by the Commission as a result of disciplinary proceedings, if any.

(2) Personal information not routinely furnished the general public shall include: social security number, the date and place of birth, home address and telephone number, transcripts of credits and grades, reports of educational experience that include personal comments, and other forms or papers containing personal opinions about the educator.

(3) All requests for general information shall be in writing, with the exception of requests covered by subsection (7) of this rule.

(4) With the exception of requests covered by subsection (7) of this rule, a charge of $5 shall be made to process a written request for general information.

(5) All requests for personal information shall be in writing, with the exception of requests covered by subsection (7) of this rule, and shall provide clear and convincing evidence of public interest in disclosure or a showing that disclosure of the record will not constitute an unreasonable invasion of privacy. Upon receipt of a request for personal information, the Executive Director shall notify the educator by certified and first class mail that personal information has been requested and that he or she has an opportunity to show that making disclosure as requested will unreasonably invade privacy. The Executive Director shall determine, based on the evidence of public interest and showing of unreasonable invasion of privacy, whether exemption from disclosure is justified and shall release the record or deny the request for disclosure.

(6) With exception of requests covered by subsection (7) of this rule, a charge of $15 shall be made to process a written request for personal information.

(7) General and personal information in licensure files may be provided by letter, telephone or facsimile, at no cost, to the director of teacher education or his or her designee at a teacher education institution, a school district superintendent or personnel officer, or an Oregon judge or district attorney.

Stat. Auth.: ORS 183, 192 & 283
Stats. Implemented: ORS 183, 192.440 & 283.110
Hist.: TS 13, f. 12-20-76, ef. 1-1-77; TS 2-1982, f. & ef. 4-16-82; TS 1-1987, f. & ef. 3-3-87; TS 1-1992, f. & cert. ef. 1-15-92; TS 7-1992, f. 12-17-92, cert. ef. 1-15-93; TS 1-1996, f. & cert. ef. 1-29-96; TS 4-1997, f. 9-25-97, cert. ef. 10-4-97; TSPC 3-2015, f. & cert. ef. 4-15-15

584-018-1070
English Language Learner (ELL) Endorsement: Competency Standards

(1) Purpose of the Standards: It is the Commission's policy that every p-12 educator has a responsibility to meet the needs of Oregon's English Language Learner students. As such, accreditation and educator preparation requirements must support the demand for well-prepared educators to work with second language learners of all ages.

(2) These standards apply to pre-service candidates working to become teachers, administrators, personnel service educators and educator preparation program (EPP) faculty.

(3) The ELL Knowledge, Skills, Abilities and Dispositions:

(a) Language: Candidates, and higher education faculty know, understand, and use the major concepts, theories, and research related to the nature and acquisition of language to construct learning environments that support English Language Learners (ELL) and bilingual students' language and literacy development and content area achievement. Candidates and higher education faculty:

(A) Understand concepts related to academic versus social language, oracy versus literacy, and grammatical forms and linguistic functions;

(B) Are familiar with characteristics of students at different stages of second language acquisition and English Language Proficiency (ELP) levels;

(C) Recognize the role of first language (L1) in learning the second language (L2); and

(D) Are aware of personal, affective and social variables influencing second language acquisition.

(b) Culture: Candidates, and higher education faculty know and understand the major concepts, principles, theories, and research related to the nature and role of culture and cultural groups to construct learning environments that support ELL students' cultural identities, language and literacy development, and content area achievement. Candidates, and higher education faculty:

(A) Understand the impact of culture on language learning;

(B) Recognize and combat deficit perspectives and views on second language learner students;

(C) Understand that learners' skills, knowledge and experiences should be used as resources for learning; and

(D) Understand how one's own culture impacts one's teaching practice.

(c) Planning, Implementing, and Managing Instruction: Candidates and higher education faculty know and understand the use of standards-based practices and strategies related to planning, implementing, and managing ESL and content instruction, including classroom organization, teaching strategies for developing and integrating language skills, and choosing and adapting classroom resources. Candidates and higher education faculty:

(A) Are familiar with different ELL program models for language acquisition English Language Development (ELD) and content pedagogy (sheltered & bilingual models);

(B) Incorporate basic sheltered strategies (e.g., visuals, grouping strategies, frontloading, and explicit vocabulary) appropriate to learners at different levels of English language proficiency within a gradual release of responsibility model;

(C) Are familiar with state-adopted English Language Proficiencies standards, and are able to develop lessons that include both content and language objectives related to those standards; and

(D) Incorporate primary language support within instruction.

(d) Assessment: Candidates and higher education faculty understand issues of assessment and use standards-based assessment measures with ELL and bilingual learners of all ages. Candidates and higher education faculty:

(A) Understand the role of language in content assessments; and

(B) Implement multiple and varied assessments that allow learners to demonstrate knowledge of content regardless of language proficiency level.

(e) Professionalism: Candidates and higher education faculty demonstrate knowledge of the history of ESL teaching. Candidates keep current with new instructional techniques, research results, advances in the ESL field, and public policy issues. Candidates use such information to reflect upon and improve their instructional practices. Candidates provide support and advocate for ELL and bilingual students and their families and work collaboratively to improve the learning environment. Candidates and higher education faculty:

(A) Understand the importance of fostering family and school partnerships; and

(B) Understand the importance of collaborating and consulting with English Language Development specialists.

(f) Technology: Candidates and higher education faculty use information technology to enhance learning and to enhance personal and professional productivity. Candidates and higher education faculty:

(A) Demonstrate knowledge of current technologies and application of technology with ELL students;

(B) Design, develop, and implement student learning activities that integrate information technology; and

(C) Use technologies to communicate, network, locate resources, and enhance continuing professional development.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.200 & 342.400
Hist.: TSPC 3-2015, f. & cert. ef. 4-15-15

584-042-0008
Five-Year Career and Technical Education Teaching License

(1) The Five-Year Career and Technical Education Teaching License is only valid to teach in career and technical education programs for which the educator is specifically licensed. The license is not eligible for any other district assignment including substituting in general education classes.

(2) The Five-Year Career and Technical Education Teaching License may be transferred to another Oregon school district if the new instructional assignment is consistent with the CTE endorsement on the license and is in a career and technical education program established by the district.

(3) The Five-Year Career and Technical Education Teaching License is renewable upon completion of 125 clock hours or the equivalent of continuing professional development (CPD) consistent with OAR 584, division 90.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 - 342.200 & 342.400
Hist.: TSPC 3-2002, f. 3-15-02, cert. ef. 1-15-03; TSPC 11-2006, f. & cert. ef. 8-17-06; TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 2-2012, f. & cert. ef. 2-15-12; TSPC 2-2015(Temp), f. & cert. ef. 2-10-15 thru 8-7-15; TSPC 3-2015, f. & cert. ef. 4-15-15

584-042-0036
Career and Technical Education II Teaching License

(1) Upon filing a correct and complete application in form and manner prescribed by the Commission, an applicant may be granted a Career

and Technical Education II Teaching License, valid for three years of teaching in an approved career and technical education program.

(2) The Career and Technical Education II Teaching License is valid to teach in a career and technical education programs in the endorsement areas for which the educator is specifically licensed. All CTE II Teaching License holders are eligible to teach within the full scope of the CTE endorsement. Any CTE teaching license is valid for assignments in diversified occupations or as work experience coordinators.

(3) The application packet must include the following:

(a) A signed and dated TSPC application and the appropriate fees;

(b) Evidence that all the requirements for the Career and Technical Education I Teaching License as set forth in OAR 584-042-0031 have been met;

(c) Evidence of one year or the equivalent of career and technical education teaching experience while holding a license valid for the assignment as verified on a Professional Educational Experience Report Form (PEER);

(d) Evidence of completion of the CTE professional development plan as prescribed by the IAC and as filed with TSPC when the CTE I was first issued, including evidence the applicant has either:

(A) Transcripts of any coursework required by the CTE professional development plan; or

(B) Official verification of work experience required by the CTE professional development plan on a form approved by the ODE.

(4) Transcripts of coursework submitted for eligibility for the Career and Technical Education II Teaching License must be completed through an approved teacher education institution or an accredited community college.

(5) The Career and Technical Education II Teaching License is renewable upon completion of 75 clock hours or the equivalent of continuing professional development in accordance with OAR 584, division 90.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430; 342.455 – 342.495, 342.553

Hist.: TSPC 4-2010, f. & cert. ef. 7-15-10; TSPC 2-2012, f. & cert. ef. 2-15-12; TSPC 2-2015(Temp), f. & cert. ef. 2-10-15 thru 8-7-15; TSPC 3-2015, f. & cert. ef. 4-15-15

584-060-0062

Adding Endorsements to Initial or Professional Teaching Licenses

(1) An endorsement is the subject matter or specialty education field in which the educator is licensed to teach. Educators may only teach the subjects in which they are licensed in the grade levels authorized on the license (authorization level).

(2) A multiple subjects self-contained endorsement does not allow the teacher to teach: Adaptive Physical Education, Art, Communications Disorders, Early Intervention/Special Education, ESOL, ESOL/Bilingual, Hearing Impaired, Library Media, Music, Physical Education, Reading Specialist, Special Education, or Vision Impaired.

(3) Subject-Matter Competency: A new endorsement will be added to a new or existing Initial I, Initial II or Professional Teaching License upon documentation of one of the following: (For Middle-Level Endorsement exceptions see subsection (5) below.)

(a) For endorsements where subject-matter mastery tests are required by the Commission, documentation of the completion and passage of the required subject-matter mastery test.

(b) For the endorsements where the Commission has not approved subject-matter mastery tests including but not limited to: Drama, Japanese, Latin, Chinese, Russian, and Adaptive Physical Education:

(A) Completion of a program or demonstrated completion of required coursework; or

(B) A non-provisional out-of-state license showing endorsement in the subject-area.

(c) Special Exception for Out-of-State Applicants: For out-of-state applicants upon first licensure in Oregon. (See OAR 584-036-0080 Licensure Tests.)

(4) Practicum Requirements: In addition to the requirements in subsection (3)(a) and (b) of this rule, one of the following practical experiences must be completed:

(a) A program-supervised practicum of two semester hours or three 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;

(b) Verification of 60 hours or more of experience teaching the new subject-area at least one hour each day or the equivalent on either an optional assignment of ten hours or less or an approved License for Conditional Assignment (LCA) as allowed by OAR 584-060-0250; or

(c) Completion of an approved program in the new subject-matter endorsement area.

(5) Adding Endorsements to the Middle-Level (ML) Authorization Level:

(a) Teachers holding an Initial, Initial I, Initial II, or Professional Teaching License with a multiple subjects self-contained or a multiple subjects endorsement with either an elementary or middle-level authorization are not required to complete an additional subject-related practicum to add the endorsements specified in this subsection.

(b) To add the endorsements listed below, teachers qualifying under this section must pass the Commission-approved high school or middle school test or tests in the appropriate subject-matter area:

(A) Language Arts or middle-school Language Arts;

(B) Social Studies or middle-school Social Studies;

(C) Science or middle school science; or

(D) Basic or Advanced Math.

(c) A multiple subjects endorsement is also required to add all general education endorsements at the middle-level authorization except the following specialty endorsements:

(A) Adaptive Physical Education

(B) Art;

(C) ESOL;

(D) ESOL/Bilingual;

(E) Library Media Specialist;

(F) Music;

(G) Physical Education;

(H) Reading; and

(I) Special Education;

(J) Vision Impaired;

(K) Hearing Impaired;

(L) Communications Disorders;

(M) Early Intervention/Special Education.

(6) Grade Authorization Level: Some endorsement areas may require the completion of a new authorization level program prior to being added to the license. The applicant should obtain a check sheet of requirements from TSPC prior to pursing adding a new endorsement to an existing license. (See, OAR 584-060-0052 Adding Authorization Levels to Existing Initial and Professional Teaching Licenses.)

(7) When Programs are required:

(a) An approved program including content courses, methods courses, and practica is always required as preparation for added endorsement in the following areas:

(A) All Special Education endorsements, including:

(i) Early Intervention/Special Education;

(ii) Hearing Impairment;

(iii) Vision Impairment;

(iv) Special Education; and

(v) Communication Disorders;

(B) English to Speakers of Other Languages (ESOL);

(C) Reading; or

(D) Subjects for which no subject mastery test has been required by the Commission for endorsement including but not limited to:

(i) Drama;

(ii) Japanese;

(iii) Latin;

(iv) Chinese;

(v) Russian; and

(vi) Adaptive Physical Education.

(b) Program evaluations for waiver of the subject matter test for out-of-state applicants requesting these endorsements must align with the requirements in division 38;

(c) Adding a Multiple Subjects or other General Education Endorsement to a License with Only a Specialty Endorsement: To add any general education endorsement to a license that holds a "specialty endorsement" only requires the following:

(A) Evidence of completion of a general education program at the grade levels at which the general education endorsement is sought; or

(B) A recommendation by C-2 form by an Oregon program approved to offer the endorsement.

(8) Specialty Endorsements: Adding specialty endorsements such as art, music, ESOL, ESOL/bilingual, reading, physical education, and library media specialists may involve additional course work. (See, OAR 584-060-0071 Endorsements Requiring Special Preparation.)

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 –342.430; 342.455 – 342.495; 342.553

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 2-2007, f. & cert. ef. 4-23-07; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 4-2009, f. & cert. ef. 9-22-09; TSPC 2-2011, f. & cert. ef. 1-28-11; TSPC 6-2011, f. 8-15-11,

cert. ef. 9-1-11; TSPC 4-2012, f. & cert. ef. 5-18-12; TSPC 3-2013, f. & cert. ef. 8-19-13; TSPC 5-2014, f. & cert. ef. 8-5-14; TSPC 3-2015, f. & cert. ef. 4-15-15

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

584-066-0030
American Sign Language (ASL) Specialization: Competency Standards

(1) Definitions:

(a) "American Sign Language Teacher Association (ASLTA):" ASLTA is the national professional organization for American Sign Language and Deaf Studies Educators.

(b) "American Sign Language Proficiency Interview (ASLPI):" The American Sign Language Proficiency Interview (ASLPI) is a holistic language evaluation used to determine global ASL proficiency.

(c) "Sign Language Proficiency Interview (SLPI):" SLPI is the interview results in a language proficiency rating for educators.

(d) "American Sign Language Teachers Association Certification:" The ASLTA organization offers a certification program with three levels of certification: Provisional, Qualified and Professional.

(e) "Provisional Certification." Provisional certified teachers have met minimum requirements in the ASLTA certification process. The teacher, certified at the Provisional level, has demonstrated proficiency in ASL, basic knowledge about ASL teaching including developing course outlines and lesson planning.

(2) The Commission may provide approval to an educator preparation program or course of study that prepares candidates for a World Language: American Sign Language specialization only if it includes:

(a) Content that will enable candidates to gain the knowledge, skills, abilities, professional dispositions, and cultural competencies to meet the competency standards set forth in this rule;

(b) Field experiences that include supervised teaching or internships in classrooms with American Sign Language learners; and

(c) Integration of principles of cultural competency and equitable practice in each competency standard through the entire American Sign Language Specialization program.

(3) A candidates for the World Language: American Sign Language specialization will demonstrate the knowledge, skills, professional dispositions and cultural competencies necessary to promote the academic, career, and personal and social development of students participating in an American Sign Language learning environment, including:

(a) First and second language acquisition;

(b) Linguistics of American Sign Language;

(c) Aspects of the deaf culture and community;

(d) Methods of teaching American Sign Language;

(e) American Sign Language Literature; and

(f) Cultural Competency and Equity in the Classroom: Candidates must demonstrate the cultural competency and proficiencies necessary to provide equitable outcomes for all students.

(4) To be eligible to add a World Language: American Sign Language Specialization to a Commission-approved license, the applicant must:

(a) Hold an ASLTA Provisional, Qualified or Professional Certification;

(b) Complete a Bachelor's degree or equivalent in teaching American Sign Language or equivalent preparation that meets the competency standards set forth in this rule. The Executive Director will make the determination if applicant's equivalent preparation is sufficient to meet the competency standards.

(c) Provide evidence of ASLPI rating of 3 or better; or, an SLPI rating of Advanced Plus; and

(d) Complete a Commission-approved program for American Sign Language (ASL) specialization or equivalent preparation that meets the competency standards set forth in this rule. The Executive Director will make the determination if applicant's equivalent preparation is sufficient to meet the competency standards.

(5)(a) A World Language: American Sign Language (ASL) specialization may not be added to a provisional license;

(b) The notation of a World Language: American Sign Language specialization will appear on a license as follows: Specialization: World Language: American Sign Language;

(c) Once the specialization is noted on a license, it may only be removed at the educator's request.

Stat. Auth.: ORS 342
Stats. Implemented: ORS 342.120 –342.430; 342.455 – 342.495; 342.553
Hist.: TSPC 3-2015, f. & cert. ef. 4-15-15

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) Substitute;

(l) Restricted Substitute;

(m) Distinguished Teaching License;

(n) Distinguished Administrator;

(o) Exceptional Administrator;

(p) Five Year Administrator (pre-1965);

(q) Five Year Personnel Service (pre-1965); and

(r) Professional School Nurse Certificate.

(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

584-090-0120

Verification of Continuing Professional Development

(1) Licensed educators employed in a public school, ESD or public charter school must supply evidence to their employer that they have completed PDUs in accordance with these rules. Districts may indicate compliance through acknowledgement on the Professional Educator Experience Report (PEER) form.

(2) Educators who are not employed at the time of renewal must supply evidence to TSPC upon renewal of licensure that the PDUs were completed in accordance with these rules.

(3) Educators who are employed, but are unable to obtain district or employer "sign off" of PDUs obtained during the life of the license, may appeal this decision of the employer and submit evidence of that professional development to TSPC for review in accordance with these rules.

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; TSPC 3-2015, f. & cert. ef. 4-15-15

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Water Resources Department
Chapter 690

Rule Caption: Local rules governing control of well use in the Off-project Area in the Klamath Basin.

Adm. Order No.: WRD 1-2015

Filed with Sec. of State: 3-16-2015

Certified to be Effective: 3-16-15

Notice Publication Date: 2-1-2015

Rules Adopted: 690-025-0010

Subject: Establishes procedures in the Klamath Basin for the control of groundwater uses in the Off-Project Area for the benefit of senior surface water rights. The Off-Project Area is defined and limits the rules of application to the Sprague River basin, Williamson River basin, and the Wood River Valley, including Sevenmile Creek. The area of applicability is displayed in Attachment B in the rules.

Rules Coordinator: Joshua Spansail—(503) 986-0874

690-025-0010

Untitled

(1) The following definitions apply solely to OAR 690-025-0010:

(a) "Call Threshold" means the instream flow threshold associated with a Primary or Secondary SIF Measurement Location, to which the Klamath Tribes and the United States Bureau of Indian Affairs may call for regulation of junior water rights under the terms of the Settlement Agreement. The terms "Primary SIF Measurement Location" and "Secondary SIF Measurement Location" have the meanings given in Section 15 of the Settlement Agreement.

(b) "Gaining Reach" means a reach of a perennial stream where streamflow is increasing as a result of groundwater discharge to the stream, as shown in the Upper Basin Wells and Gaining Reaches Map (included as Attachment A to these rules), except that the Department may modify the location of a Gaining Reach for the purposes of OAR 690-025-0010 based on the best available information.

(c) "Irrigation Season" means the period from March 1 to October 31 of every year.

(d) "Off-Project Area" means the area by that name shown in the WUP Regions Map (included as Attachment B to these rules).

(e) "Rate" means the amount of water as expressed in cubic feet per second (cfs).

(f) "Scenic Waterways Act" means ORS 390.805 to 380.925.

(g) "Settlement Agreement" means the Upper Klamath Basin Comprehensive Agreement that took effect April 18, 2014.

(2) OAR 690-025-0010 implements Sections 3.11.3 through 3.11.9 of the Settlement Agreement, which address control of well use in the Off-Project Area when such use affects surface water supplies in the Klamath Basin.

(3) OAR 690-025-0010 only governs the Department's control of well use in the Off-Project Area when the Department determines such use has the potential to cause substantial interference with surface water. OAR 690-025-0010 does not govern:

(a) Applications for the use of groundwater;

(b) Control of well use as a result of interference with another well;

(c) Control of well use in any other part of the Klamath Basin or the state;

(d) Control of well use pursuant to the Scenic Waterways Act or the Department's rules implementing the Scenic Waterways Act, or the enforcement of water permit conditions pertaining to the Scenic Waterways Act; or

(e) Use of wells in the Off-Project Area outside the Irrigation Season.

(4) OAR 690-009 also governs the Department's control of well use that affects surface water supplies. 690-009 applies statewide, but 690-009-0030 authorizes the Oregon Water Resources Commission to adopt local rules governing control of well use when such use has the potential to cause substantial interference with surface water. OAR 690-025-0010 is a local rule adopted pursuant to this authority and to existing statutes governing the control of groundwater.

(5) As a local rule, OAR 690-025-0010 both works in conjunction with and supersedes some parts of OAR 690-009. OAR 690-009 provides a two-step process for control of well use that affects surface water supplies. First, the Department must determine that well use has the potential for substantial interference with a surface water source. OAR 690-009-0040 provides the process for making this determination. OAR 690-025-0010 does not modify this step. Second, if the well is greater than 500 feet from a surface water source, the Department must determine that control of the well would provide relief to the surface water supply in an effective and timely manner. OAR 690-025-0010 supersedes this step with respect to the control of well use in the Off-Project Area during the Irrigation Season by providing a detailed process for evaluating whether control of a well in the Off-Project Area will provide relief to the surface water supply in an effective and timely manner. Specifically, 690-025-0010 supersedes 690-009-0050(2). The following sections provide the process for making the effective and timely determination.

(6) The Department shall control the use of wells greater than one mile from a surface water source only through a critical ground water area determination in accordance with ORS 537.730 through 537.740.

(7) Notwithstanding section (5), the Department shall control the use of a well in the Off-Project Area that is no more than 500 feet from a Gaining Reach in a manner consistent with OAR 690-009.

(8) The Department shall control the use of a well in the Off-Project Area that is greater than 500 feet and less than or equal to one mile from a Gaining Reach if and only if control is allowed by both sections (9) through (12) and by section (13). Sections (9) through (12) describe criteria for control that are based on the distance from a well to the nearest Gaining Reach. Section (13) requires the Department to calculate the relief to the stream from control of the well use. Section (13) also provides a rate of relief to the stream that must be met or exceeded prior to control of the well use.

(9) The Department shall control the use of a well that is greater than 500 feet and less than one-quarter mile from a Gaining Reach in favor of senior surface water rights, provided that control is allowed pursuant to section (13).

(10) The Department shall control the use of a well that is between one-quarter mile and one mile of a Gaining Reach in favor of senior surface water rights as described in this section, provided that control is allowed pursuant to section (13):

(a) The Department shall control wells between one-quarter mile and one-half mile of a Gaining Reach, provided:

(A) A valid call is made by a senior surface water right holder; and

(B) The rate of the shortfall of water validly called is equal to or greater than 5% of the amount of the senior water right call or the Call Threshold (as applicable); and

(C) The first valid call based on a specific senior water right or Call Threshold (as applicable) is made on or before August 31. If the first valid call based on a specific senior water right or Call Threshold (as applicable) is made after August 31, the Department shall not control the use of a well that is between one-quarter mile and one-half mile of a Gaining Reach during that Irrigation Season. For example, if a senior user makes a valid call on July 15th based on a water right or Call Threshold, as applicable, of 100 cfs, and the Watermaster determines the flow (measured at the appropriate location) is 93 cfs, then the shortfall is 7 cfs. This equates to a 7% shortfall, which under this provision has the result that wells between one-quarter mile and one-half mile of a Gaining Reach shall be controlled to satisfy the call. (In this scenario wells less than one-quarter mile from a Gaining Reach would also be controlled, pursuant to sections (7) and (9)).

(b) The Department shall control the use of a well that is greater than one-half mile and up to and including one mile of a Gaining Reach, provided:

(A) A valid call is made by a senior surface water right holder; and

(B) The rate of the shortfall of water validly called is greater than 10% of the amount of the senior water right call or the Call Threshold (as applicable); and

(C) The first valid call based on a specific senior water right or Call Threshold (as applicable) is made on or before July 31. If the first valid call based on a specific senior water right or Call Threshold (as applicable) is made after July 31, the Department shall not control the use of a well that is between one-half mile and one mile of a Gaining Reach during that Irrigation Season. For example, if a senior user makes a valid call on July 15th based on a water right or Call Threshold, as applicable, of 100 cfs, and the Watermaster determines the flow (measured at the appropriate location) is 87 cfs, then the shortfall is 13 cfs. This equates to a 13% shortfall, which under this provision has the result that wells between one-half mile and one mile of a Gaining Reach shall be controlled to satisfy the call. (In this scenario wells less than one-half mile from a Gaining Reach would also be controlled, pursuant to sections (7), (9), and (10)(a)).

(c) Notwithstanding sections (10)(a) and (10)(b), if a valid call is made by a senior surface water right holder, and the Department determines that the rate of the shortfall of water validly called has been greater than 5% of the amount of the senior water right call or the Call Threshold (as applicable) for more than thirty-one days within a contiguous forty-five day period, then the Department shall control the use of a well that is between one-quarter mile and one mile of a Gaining Reach.

(11) Notwithstanding section (10), if a valid call is made to a Call Threshold after the 25th day of a month, the Department may not control the use of a well that is between one-quarter mile and one mile of a Gaining Reach for the remainder of the month, unless the Department determines that the rate of the shortfall of water validly called is greater than 10% of the amount of the Call Threshold.

(12) For the purposes of section (10):

(a) Wells located between one-quarter and one-half mile of a Gaining Reach that are continuously cased and continuously sealed to a minimum depth of 500 feet below land surface will be regulated as if they are located between one-half mile and one mile of a Gaining Reach; and

(b) Wells located greater than one-half mile from a Gaining Reach that are continuously cased and continuously sealed to a minimum depth of 500 feet below land surface will be regulated as if they are located greater than one mile from a Gaining Reach, and will not be subject to regulation in the absence of a critical groundwater determination.

(13) If one or more of the criteria for control of a well in sections (9) through (12) are met, then prior to controlling the use of any well in the Off-Project Area that is greater than 500 feet and less than or equal to one mile from a Gaining Reach, the Department shall calculate (using an analytical test) the relief to a stream from control of a given well based on a calculated 30-day pumping cycle followed by a 90-day idle period. The calculation shall be based on the best available information, including historical pumping rates for a well (measured or estimated), and employ analytical or numerical methods. The Department shall control the use of the well if and only if the relief to the stream at the conclusion of the 90-day idle period is equal to or greater than 0.10 cubic feet per second. Relief to a stream is calculated as the streamflow reduction after the 30-day calculated pumping period of a well minus the remaining streamflow reduction after the 90-day idle period that followed. For example, if calculated use of a well reduces streamflow by 0.40 cfs after 30 days, and the streamflow reduction after the 90-day idle period that followed was 0.15 cfs, then the relief to the stream would be 0.25 cfs (0.40 minus 0.15 cfs) and the well would be subject to control under sections (9) through (12).The Department shall periodically update the stream relief calculations for individual wells based on the best available information.

(14) Notwithstanding the requirements of sections (6) through (13), following a valid call made by a senior surface water right holder:

(a) The Department shall control a well located within one mile of a spring or stream if use of the well would result in depletion of the flow of a Gaining Reach at a rate greater than 25 percent of the rate of appropriation within 30 days of pumping.

(b) The Department shall control wells located within a one-mile radius of a particular spring if the combined use of these wells would result in depletion of the spring flow rate in an amount that is greater than 20 percent within 30 days of pumping.

(c) The Department shall make the determinations described in subsections (14)(a) and (14)(b) based on the best available information, which could include employing at least one of the methods set forth in OAR 690-009-0040(4)(d). Prior to making such a determination, the Department shall notify the water right holder(s) subject to the call and the party or parties making the call, and provide them with an opportunity to submit additional information to the Department.

(15) For the purposes of OAR 690-025-0010, distances from individual wells to springs, streams, or Gaining Reaches, as applicable, will initially be determined based on the location of individual wells as shown in Exhibit F to the Settlement Agreement, relative to the location of the spring or the nearest edge of the water visible in the National Agricultural Inventory Program (NAIP) imagery for July 15–August 1, 2012, subject to the provisions regarding such distances in subsections (a) through (e), below. If a well subject to 690-025-0010 is not shown in Exhibit F to the Settlement Agreement, the Department will determine the location of the well based on the best available information. The Department shall correct any errors in well location based on the best available information. For the purposes of measuring distances from individual wells to springs, streams, or Gaining Reaches, as applicable, resulting from the changes described in subsections (a) through (e), the Department will use the most current year of NAIP imagery.

(a) If a replacement or additional well under an existing registration, permit, or certificate is located at a distance greater than one mile from a surface water source, the well may not be regulated without a critical groundwater area determination.

(b) If a riparian restoration action results in movement of the nearest edge of a surface water body to a well to an extent that would change how a well is regulated based on the distance measurement criteria in sections (6) through (14), then for the purposes of sections (6) through (14), the distance prior to the restoration action will continue to apply for that well.

(c) A replacement or additional well under an existing registration, permit, or certificate shall be evaluated for the purposes of sections (6) through (14) based on the distance criterion applicable to the original well; except that for the purpose of the stream relief calculation described in section (13), the replacement or additional well's measured distance, according to the applicable criterion, shall be used.

(d) The Department may determine, based on the best available information, whether a natural change in stream location has caused a material change in the distance of a well to a Gaining Reach or stream. If the Department determines that a material change has occurred, then for the purposes of sections (6) through (14), the new distance shall apply. If the

Department determines that there is a material change, the Department shall notify affected persons.

(e) The Department may modify the location of a Gaining Reach for the purposes of OAR 690-025-0010 based on the best available information. The Department shall notify affected persons of a proposed modification and of the Department's decision on the proposed modification.

(16) If the Settlement Agreement terminates, groundwater regulation in the Off-Project Area will be in accordance with OAR 690-009.

Stat. Auth.: ORS 537.505 - 537.795, 540.045
Stats. Implemented: ORS 537.505 - 537.795, 540.045
Hist.: WRD 1-2015, f. & cert. ef. 3-16-15

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Rule Caption: Dam safety administration, engineering design requirements, approvals and emergency preparations.
Adm. Order No.: WRD 2-2015
Filed with Sec. of State: 3-17-2015
Certified to be Effective: 3-17-15
Notice Publication Date: 9-1-2014
Rules Adopted: 690-020-0023, 690-020-0036, 690-020-0037, 690-020-0038, 690-020-0041, 690-020-0042, 690-020-0043, 690-020-0044, 690-020-0047, 690-020-0048, 690-020-0055, 690-020-0060, 690-020-0065, 690-020-0070, 690-020-0080, 690-020-0120, 690-020-0150, 690-020-0250, 690-020-0300, 690-020-0350, 690-020-0400
Rules Amended: 690-020-0000, 690-020-0022, 690-020-0025, 690-020-0029, 690-020-0035, 690-020-0100, 690-020-0200
Rules Ren. & Amend: 690-020-0050 to 690-020-0500
Subject: The purpose of these rules is to implement ORS 540.350 through ORS 540.390 with actions that are intended to ensure the safety of dams insofar as they may affect possible damage to life or property. These changes update rules to reflect current engineering and safety practices used to keep dams safe. The rules are objective-based, with additional standards for higher hazard ratings (potential for an accidental dam breach that could damage property or result in loss of life). The general requirements for engineering design, drawings specifications and administration are detailed in these rules, as is the approval process used by the Water Resources Department, how the hazard rating is determined, and uses of the dam safety fee.
Rules Coordinator: Joshua Spansail—(503) 986-0874

690-020-0000
Purpose and Applicability

(1) The purpose of these rules is to implement ORS 537.400(4) and ORS 540.350 through ORS 540.390 with actions that are intended to ensure the safety of the dams insofar as dams may affect possible damage to life or property. The Department is authorized to review design and specifications for dam construction and modification, to conduct routine inspections, and to take enforcement actions on dams that do not ensure the safety of life and property.

(2) These rules apply to dams that are subject to ORS 540.350 through 540.390 and which exceed the height and storage limits described in ORS 540.400.

(3) These rules do not apply to:

(a) Dams that are less than ten feet high or that store less than 3 million gallons (9.2 acre feet), except for general guidance and permit requirements described in OAR 690-020-0029; or

(b) Water storage tanks or various types of tanks that are part of water treatment facilities.

(4) The dam safety fee authorized by ORS 536.050(2) shall be used to support the dam safety program as described in OAR 690-020-0200.

(5) The State Engineer may delegate dam safety duties to a dam safety engineer working for the Department for the purposes of ORS 540.350 through 540.390.

Stat. Auth.: ORS 540.350 - 540.400, 536.050
Stats. Implemented: ORS 183, 540, 536
Hist.: WRD 12-1986, f. & ef. 10-3-86; WRD 12-1994, f. & cert. ef. 11-7-94; Renumbered from 690-020-0021, WRD 7-2009, f. 12-7-09, cert. ef. 1-1-10; WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0022
Definitions

Unless the context requires otherwise, the following definitions apply in OAR 690, division 20:

(1) "Abutment" means a natural valley or canyon side against which the dam is built;

(2) "Acre-foot" means the equivalent volume of one acre covered with one foot of water (325,900 gallons);

(3) "Annual Exceedance Probability Flood" means the likelihood of specific flood flow being equaled to or exceeded in any given year at that specific location, expressed as a percentage;

(4) "As-built drawing" means an engineering drawing of a dam as it was actually constructed, noting all differences between original design and actual constructed condition;

(5) "Conduit" means a closed conveyance used to release water through a dam;

(6) "Core" means a soil of low permeability within an embankment dam;

(7) "Cutoff Trench" means a trench excavated beneath the dam foundation and backfilled with low permeability material to retard water seepage;

(8) "Dam" means a hydraulic structure built above the natural ground grade line that is used to impound water. Dams include all appurtenant structures, and together are sometimes referred to as "the works." Dams include wastewater lagoons and other hydraulic structures that store water, attenuate floods, and divert water into canals;

(9) "Dam Crest" means the top of the dam;

(10) "Dam Height" means the maximum height of the dam as measured at the maximum section along the dam's longitudinal axis;

(11) "Department" means the Oregon Water Resources Department;

(12) "Director" means the Director of the Oregon Water Resources Department;

(13) "Embankment" means an engineered earth fill;

(14) "Emergency Action Plan" (EAP) means a plan that assists the dam owner or operator and local emergency manager perform actions that ensure the safety of people in the event of a potential or actual dam failure or in the event of a sudden release of water;

(15) "Engineer of Record" means the professional engineer registered in Oregon working for the dam owner to design the dam to current safety standards and is responsible to oversee safe construction of the dam;

(16) "Foundation" means the ground surface upon which a dam is constructed;

(17) "Freeboard" means the vertical distance between the high-water level in the reservoir and the dam crest;

(18) "Gate" or "Valve" means a permanent device for regulating water flow through the dam;

(19) "Hazard Rating" means the rating established by the Department of the potential damage to life and property downstream of a dam in the event of a dam failure;

(20) "High Hazard Rating" means that if a dam were to fail, loss of human life would be expected;

(21) "Inflow Design Flood" (IDF) means a volume and peak flood flow that the engineer of record will design to safely pass over or through the spillway;

(22) "Low Hazard Rating" means that if a dam were to fail, loss of life would be unlikely and damage to property would not be extensive;

(23) "Pressurized Conduit" means any pipe that penetrates into a dam that may have a gate, valve, or irrigation pipe placed in the dam or at the outlet so that all or a portion of the pipe within the dam is under hydrostatic pressure when the valve is closed;

(24) "Probable Maximum Flood" (PMF) is the largest flood that could occur at a specific location, determined by the most severe set of atmospheric, soil moisture and snowpack conditions that are reasonably possible at that location;

(25) "Significant Hazard Rating" means that if a dam were to fail, loss of life would be unlikely but damage to property would be extensive;

(26) "Soil Filter" means soil with a gradation designed to inhibit movement of adjacent, finer grained soils;

(27) "Spillway" means a structure constructed to bypass flood water and prevent water overtopping the dam crest. Dams may have two or more spillways.

(28) "State Engineer" means a registered professional engineer working for the Department, and may be either the Director or a principal assistant working for the Director as described in ORS 536.032.

(29) "Tank" means a fully-enclosed (bottom and sides) hydraulic structure made from metal, reinforced concrete, rigid fiberglass, or plastic that provides its own water-sealing and structural stability.

(30) "Toe Drain" is a drainage structure designed to collect and remove seepage water from the toe of the dam and to discharge this water in a manner where it can be measured;

(31) "Zoned Embankment" means an embankment dam with a core of low permeability materials, soil filter materials, drainage and other materials placed to improve performance and safety of the dam.

Stat. Auth.: ORS 183 & 540
Stats. Implemented: ORS 183 & 540, 536
Hist.: WRD 12-1986, f. & ef. 10-3-86; WRD 7-2009, f. 12-7-09, cert. ef. 1-1-10; WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0023
Dam Safety Process Requirements for Construction of Dams

(1) Dam safety requirements shall be based on the hazard rating of the dam, in order to efficiently protect life and property.

(2) Any person, corporation, association, firm, partnership, limited liability company, joint stock company, unit of local government as defined in ORS 190.003, or State agency must, before beginning any construction on a dam, secure the services of a qualified engineer to design the dam and also to provide information on the dam as it was actually constructed. This engineer shall be deemed the engineer of record for the purposes of these rules.

(3) The engineer of record shall design the dam and develop plans and specifications consistent with these rules.

(4) Prior to beginning construction on any dam subject to these rules, written approval of dam designs, drawings and specifications must be obtained from the State Engineer as described in OAR 690-020-0080.

(5) The engineer of record must oversee construction of the dam consistent with rules governing administration of dam construction in OAR 690-020-0065 to evaluate whether the dam is constructed consistently with approved plans and specifications. Any essential design changes must be described and justified in a letter sent to the State Engineer with the "as-built" drawings.

Stat. Auth.: ORS 540.350 - 540.400
Stats. Implemented: ORS 183, 536 & 543
Hist.: WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0025
General Requirements

(1) The Director may require additional information or data beyond that specified in these rules to determine the safety of a proposed dam.

(2) The Director may include, as part of any permit to construct a dam, limitations and conditions that pertain to construction, operation, maintenance, and the protection of lives and property. These limitations and conditions become, by reference, part of the water right certificate and remain in effect throughout the life of the water right.

(3) Approved plans and specifications for construction are, by reference, considered limitations and conditions placed on the water right permit and water right certificate. The Director retains the authority to place additional limitations and conditions on the water right relative to operation and maintenance.

(4) Dams constructed or operated in violation of limitations and conditions included in the water right permit or certificate are subject to restricted use. The certificate affirms the applicant's right to store water subject to the limitations and conditions therein.

(5) For new dams on stream channels, an outlet conduit must be installed to permit drainage of all or most of the reservoir and for passage of flow to downstream, instream and out of stream water right holders or instream minimum releases unless the engineer of record provides another alternative and demonstrates the safety and efficacy of this alternative to the State Engineer.

(6) The Department shall determine water impoundment volumes in acre-feet as follows:

(a) For dams impounding water for an authorized beneficial use, the impoundment volume indicated in the area-capacity curve as measured from the bottom of the reservoir to the spillway crest. For dams with multiple spillways, 'spillway crest' is referring to the crest of the lower elevation spillway.

(b) For wastewater treatment lagoons, the impoundment volume is that indicated in the wastewater lagoon plans and specifications.

(c) For diversion or flood control dams, the impoundment volume is that calculated at full reservoir at the dam highest elevation spillway crest level.

(7) The State Engineer may approve final designs, drawings and specifications for water storage reservoirs after a water storage application and a draft final order for that application have been issued by the Department.

(8) Any person, firm or private or municipal corporation must provide to the State Engineer an evaluation of whether the dam includes measures that make it readily adaptable to power generation for any new dam over 25 feet high on a stream with average annual flow over 2 cubic feet per second, unless exempted from this requirement as provided in ORS 540.350(3).

(9) For any dam rated high hazard, the Department must review and approve an Emergency Action Plan prior to filling the reservoir.

(10) For any dam rated high or significant hazard, the Department must review and approve an operations and maintenance manual prior to construction on the dam.

Stat. Auth.: ORS 540.350 - 540.400
Stats. Implemented: ORS 183, 536 & 543
Hist.: WRD 3, f. & ef. 2-18-77; WRD 12-1986, f. & ef. 10-3-86; WRD 12-1994, f. & cert. ef. 11-7-94; WRD 7-2009, f. 12-7-09, cert. ef. 1-1-10; WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0029
Recommendations for Dams Under 10 Feet High or Storing less than 9.2 Acre-feet

(1) Persons constructing or designing dams under ten feet high or storing less than 9.2 acre feet may be subject to requirements for use of registered engineers as specified in ORS 672.002 through 672.091.

(2) The Department is authorized to provide guidance for the construction of dams requiring a water right permit but not requiring State Engineer review and approval of designs, plans and specifications.

(3) Potential dam owners are advised that even small dams, should they fail, may cause injury to people and property. Dam owners should consider designs and inundation analysis methods described in OAR 690-020-0035 through 690-020-0065, 690-020-0100, and 690-020-0120.

(4) Persons proposing to build a dam under 10 feet high or storing less than 9.2 acre-feet must comply with all the requirements for a storage permit in ORS 537.409 and in OAR 690-020-0310.

Stat. Auth.: ORS 183 & 540
Stats. Implemented: ORS 183 & 540
Hist.: WRD 12-1986, f. & ef. 10-3-86; WRD 7-2009, f. 12-7-09, cert. ef. 1-1-10; WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0035
Minimum Engineering Design Requirements

(1) A design report or multiple design reports must be submitted with the drawings and specifications by the engineer of record for all new dam construction. Design reports may be completed by other engineers registered to practice in Oregon.

(2) The design report(s) for new dam construction must include the following elements:

(a) Site suitability evaluation as provided in OAR 690-020-0036;

(b) Hydrology and inflow design flood as provided in OAR 690-020-0037;

(c) Dam structure design (embankment, concrete or other) as applicable and as provided in OAR 690-020-0038 – 690-020-0041;

(d) Spillway design as provided in OAR 690-020-0042;

(e) Design for penetrating conduit(s) as provided in OAR 690-020-0043; and

(f) Methods for determining whether a dam is operating properly based on the hazard rating of the dam as provided in OAR 690-020-0044 (monitoring and instrumentation).

(3) If multiple reports are submitted, each must be stamped by the engineer who prepared the report and the engineer of record must compile and understand reports for preparation of drawings and specifications.

Stat. Auth.: ORS 540.350 - 540.400
Stats. Implemented: ORS 183, 536 & 540
Hist.: WRD 3, f. & ef. 2-18-77; WRD 12-1986, f. & ef. 10-3-86; WRD 12-1994, f. & cert. ef. 11-7-94; WRD 7-2009, f. 12-7-09, cert. ef. 1-1-10; WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0036
Site Suitability and/or Geotechnical Evaluation

The design for new dam construction shall characterize the soil and rock at and around the dam site and shall include the following elements:

(1) A description of the general and local geology and geomorphology at and around the dam and reservoir. Field investigation by a geotechnical engineer and/or engineering geologist is required for all high hazard dams and also for significant hazard dams where landslides, faults, dispersive soils or liquefiable soils could reasonably be expected near the dam site. All such features shall be shown on a map of the dam site, and described as necessary for design of the dam. For dams on rock, mapping of discontinuities relevant to safety of the dam and evaluation of the need for grouting is required.

(2) Subsurface investigation to determine distribution of relevant earth materials. This investigation shall include borings or test pits; identification of springs, seeps and groundwater encountered at the dam site; and evaluation of the potential for landslides into the dam or reservoir.

(a) All materials shall be logged by the Unified Soil Classification System; blow counts (for borings only); and description of samples taken for testing.

(b) Subsurface investigations for High Hazard dams shall include drilling to a minimum depth 1.5 times the height of the dam or at least 10 feet into bedrock, whichever is less.

(3) Soil and or rock evaluation and testing of relevant materials. This evaluation may include: proctor compaction testing from all borrow areas; estimation or testing the permeability of soils to be used in dam construction; and an assessment for the presence of dispersive soils.

(a) An analysis of materials in the foundation and proposed embankment shall be completed if materials are prone to liquefaction or significant settlement.

(b) Where suitable materials can be collected, strength tests shall be required for all high hazard dams, and may be required by the State Engineer for significant hazard dams.

(c) Testing of dynamic soil properties may be required for high hazard dams in areas with large ground acceleration potential from earthquake loading.

(4) Borrow area locations. Areas proposed for borrow shall be identified and shown on the drawings.

(5) Earthquake considerations. Seismic site characterization is required for high hazard dams, and may be required for significant hazard dams. A seismic site characterization shall include earthquake sources, ground motion hazard, peak ground acceleration, and recommended ground motions (time histories).

(6) Site preparation criteria. The site evaluation shall recommend a depth of stripping unsuitable materials, and also a minimum, and where necessary, maximum depth for the cutoff trench.

Stat. Auth.: ORS 540.350 - 540.400
Stats. Implemented: ORS 183, 536 & 540
Hist.: WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0037
Hydrology and Inflow Design Flood

The design shall characterize flow into and through the reservoir and dam and shall include the following elements:

(1) A topographic map delineating the drainage area contributing to the dam, with the drainage area size labeled in square miles and showing the specific location of the proposed dam.

(2) For dams on stream channels, the name of the stream where the dam is located, the name of the principal watershed, and a determination of average annual inflow into reservoir and potential to fill the reservoir.

(3) Dam failure inundation analysis is required for any dam that might be high or significant hazard. The inundation analysis shall comply with OAR 690-020-0120.

(4) The inflow design flood that is the basis of hydraulic design for the dam shall be determined based on the hazard rating of the dam.

(a) The inflow design flood for a high hazard dam is the Probable Maximum Flood (PMF).

(b) The minimum inflow design flood for a significant hazard dam is the 0.2 percent annual exceedance probability flow.

(c) The minimum inflow design flood for a low hazard dam is a 1.0 percent annual exceedance probability flow.

(d) The inflow design flood for a lagoon or off channel reservoir is the maximum capacity of inflow pumps, ditches plus the maximum local storm precipitation over the lagoon.

(e) For watersheds under 30 square miles, the engineer may consider just the 24-hour storm to help determine the PMF, while for larger basins the engineer shall utilize at least a 72-hour storm for calculating the PMF for a general storm.

(5) For a high hazard dam, the engineer of record may also propose to determine an inflow design flood based on a quantitative analysis of risk to people and property.

(6) Designs shall include a description of all hydrologic parameters and the method used to determine the inflow design flood hydrograph and the volume of the inflow design flood, which is to be determined considering basin size and other factors as appropriate to the watershed above the dam.

(7) The design report must include the information used to develop the stage and storage capacity curve for the reservoir, including the capacity with and without excavation for construction.

Stat. Auth.: ORS 540.350 - 540.400
Stats. Implemented: ORS 183, 536 & 540
Hist.: WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0038
Embankment Dam Structures

Designs for Embankment (soil and or rock) dams shall include the following elements:

(1) A determination of embankment stability and stable embankment slope angles.

(a) Embankment dams shall be designed to have stable slopes during construction, and under all conditions of reservoir operation.

(b) Standard slopes of 3:1 upstream and 2:1 downstream may be used at the discretion of the engineer of record for low and significant hazard dams as long as low strength materials are not used in the embankment and conditions leading to elevated pore water pressures are not present.

(c) Dams that are rated high hazard must be designed as zoned embankment dams and/or include a chimney drain designed also as a filter.

(d) High hazard dams shall be analyzed for static and seismic slope stability, and also for deformation analysis. The State Engineer may require static and or seismic slope stability analysis for significant hazard dams. At a minimum, seismic analysis shall be based on full reservoir under steady state seepage conditions. Factors of safety shall be evaluated by slope stability analyses using appropriate strength parameters based on laboratory or insitu testing. For materials that can be reasonably tested either on site or in a laboratory, soil strength values may not be based on assumptions and must be made on strength testing of the appropriate soil or rock units.

(e) High Hazard dams shall be designed for the maximum credible earthquake. If the State Engineer requires seismic analysis of a significant hazard dam, deformation analysis shall be designed for the 0.2 percent annual exceedance probability earthquake.

(f) Abrupt changes in depth of compressible foundation material shall be identified and where present, the design shall prevent significant differential settlement.

(2) Analysis of seepage and leakage expected through the dam and design of measures to prevent internal erosion and excess leakage.

(a) Steady state seepage and internal drainage conditions beneath, around and through the dam shall be quantified for all high hazard dams, and may be required by the State Engineer for significant hazard dams.

(b) A core of low permeability material protected by a soil filter is required for all high hazard dams. A core and soil filter is required for any significant hazard dams where the engineer of record or State Engineer determines piping could potentially occur. All core and filter zones must be of a configuration with dimensions that can be readily constructed.

(c) Internal drains and/or soil filters shall be used as needed to drain water and prevent internal erosion of the dam. Toe drains shall be standard design practice for water storage facilities, but not for most wastewater lagoons.

(d) Internal drain pipes to collect and distribute seepage flows from internal filters and drains shall be comprised of material that is non-corrodible, designed to carry the overburden load, and be no smaller than 6 inches in diameter.

(3) A safe and accessible dam crest.

(a) The dam crest shall be of sufficient width to be accessible by equipment and vehicles for emergency operations and maintenance, and shall have a road to allow crest access during periods when the spillway is flowing.

(b) The crest shall have a camber sufficient to maintain the design freeboard, based on the anticipated crest settlement, and in no case shall the camber be less than 0.5 feet.

(c) Roads located on the dam crest shall have appropriate surfacing to provide a stable base that resists rutting and provides adequate traction for access and safety in wet conditions.

(d) The crest shall have adequate cross slopes to prevent ponding.

(4) Measures to control wave and surface erosion as needed.

(a) For reservoirs large enough to generate significant waves, the design shall include a determination of minimum freeboard based on expected waves. The design shall also include slope protection for wave action if significant waves are likely.

(b) The downstream slope shall be provided with a well maintained cover of non-woody vegetative cover, or a gravel or rock surface, to prevent surface erosion. No woody vegetation shall be planted on the dam during the life of the structure unless specifically designed by the engineer of record, by demonstrating that cover plants will not affect critical dam functions.

Stat. Auth.: ORS 540.350 - 540.400
Stats. Implemented: ORS 183, 536 & 540
Hist.: WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0041
Concrete Dam Structures

Designs for concrete mass dams must be prepared by a structural engineer and a geotechnical engineer and/or engineering geologist. This rule does not apply to concrete flashboard dams. Designs for all other concrete dams shall include the following elements:

(1) Concrete dams shall be specified as gravity, arch, arch-gravity, or buttress. Gravity dams can be of conventional mass concrete or roller compacted concrete.

(2) Dams shall be designed to be stable during construction and under all conditions of reservoir operation.

(a) Headwater and tailwater elevations pertinent to the design shall be described with respect to both static and dynamic loading.

(b) Uplift pressure distributions assumed for design shall be provided.

(c) When foundation drains are used to reduce uplift, the assumed drain efficiency shall be indicated and permanent access shall be provided at the project to inspect and maintain the drains.

(3) Sliding stability shall be evaluated at lift joint surfaces, at the dam foundation interface, and at discontinuities in the foundation materials beneath the dam and abutments.

(a) Factors of safety shall be based on limit equilibrium methods.

(b) For earthquake loadings, the critical acceleration (acceleration required to initiate sliding) may be less than the peak ground acceleration of the design earthquake. In such cases a permanent sliding displacement shall be determined in lieu of a sliding factor of safety.

(c) Overturning of the dam on its foundation shall be evaluated for static and seismic loading.

(4) Seismic stability analysis is required for certain concrete dams and shall demonstrate the dam can withstand the design earthquake without loss of life or damage to property.

(a) High hazard dams shall be designed for the maximum credible earthquake based on current information from the US Geological Survey or a site specific seismic evaluation. A dynamic stress analysis that considers the dynamic characteristics of the dam and the ground motions of the design earthquake shall be provided for high hazard dams.

(b) Where the State Engineer requires seismic analysis on significant hazard dams, they shall be designed for the 0.2 percent annual probability of exceedance earthquake. The Department may require a dynamic stress analysis for significant hazard dams.

(5) When foundation grouting is needed, the design for the grout curtain and/or consolidation grouting of the foundation shall be required.

(6) Specific properties of mass concrete that can be important to design and construction include the compressive strength (at 28 days and one-year), modulus of elasticity, Poison's ratio, shear strength, tensile strength, volume change during drying, thermal coefficient of expansion, specific heat, thermal conductivity, permeability and durability.

(a) As a minimum for static loadings, the assumed compressive and shear strengths for the parent concrete, lift joint surfaces, and the dam-foundation contact shall be provided.

(b) In addition, tensile strength assumptions for the aforementioned regions for dynamic loadings (seismic) shall also be provided.

(c) Air entraining agents shall be provided in the concrete mix to provide freeze-thaw protection and to improve the workability of lean mass concrete mixes. The quantity of air entrained in mass concrete shall be in the order of 5 percent.

(7) Mix design and construction methods used to minimize cracking due to temperature gradients between interior regions subject to heat of hydration effects and surfaces exposed to ambient temperatures shall be specified. Treatment of lift joint surfaces to achieve desired shear and tensile strengths shall be indicated. Treatment of contraction joints to prevent leakage and/or to transfer load between adjacent monoliths shall be described.

(8) When reinforcing steel is used, the strength properties of the reinforcement shall be provided and contract drawings shall clearly indicate the size, location, spacing, and cover requirements.

(9) The minimum crest width must be 15 feet unless otherwise approved. The dam crest and appurtenant structures shall be accessible by equipment and vehicles for emergency operations and maintenance.

Stat. Auth.: ORS 540.350 - 540.400
Stats. Implemented: ORS 183, 536 & 540
Hist.: WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0042
Spillways

All dams must have a spillway. Spillway(s) design shall include the following minimum elements:

(1) Utilization of inflow design flood. Determination of inflow design flood as described in OAR 690-020-0037 is required to determine the required spillway capacity.

(2) Hydraulic evaluation of flow through control section. Flood flow through the control section must be calculated and the minimum freeboard at the inflow design flood must be 1 foot for high hazard dams and 2 feet for significant and low hazard dams.

(3) Optional low elevation spillway. An interior spillway connected to the low level conduit may be used for low and significant hazard dams, and for high hazard dams only with specific approval by the State Engineer. The capacity of the low elevation spillway may be considered in design of the overflow spillway.

(4) Stable spillway control section. The spillway control section must be hydraulically and structurally stable for the inflow design flood and have permanent features so that the control section is identifiable for re-measurement of cross section during routine inspections.

(5) Spillway channel stability. Spillways shall be designed to be structurally adequate and stable under all conditions of reservoir operation. Spillway structures of high hazard dams shall be designed for earthquake ground motions per OAR 690-020-0036.

(6) Reinforced concrete specifications. Structural elements of reinforced concrete shall be designed for both strength and serviceability. The 28 day strength of structural concrete shall be provided. The strength properties of the reinforcing materials shall also be provided and contract drawings shall clearly indicate the size, location, spacing, and cover requirements. Treatment of construction joints and contraction/expansion joints shall be described and special provisions for strength transfer and leakage prevention identified. Air entrainment shall be provided in cast-in-place concrete if needed for freeze-thaw protection, durability, and workability.

(7) Debris booms. For high and significant hazard dams, debris or log booms may be required. Where required, they shall be designed for the spillway approach where logs and other debris may block or damage the spillway structure. The design shall specify the necessary anchor capacity, and the design of the anchors.

(8) Gates and Flashboards. Detailed drawings and specifications are required for spillway gate structures or flashboards, if present on the proposed dam. Operations and maintenance manuals are required for any dam with a gated spillway, or where flashboards or stop-logs are used in the spillway.

(9) Energy dissipation. The design of stilling basins for high hazard dams, and where required by the State Engineer for significant hazard dams, shall be based on calculated hydraulic forces and designed to dissipate energy from the inflow design flood.

Stat. Auth.: ORS 540.350 - 540.400
Stats. Implemented: ORS 183, 536 & 540
Hist.: WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0043
Penetrating Conduit (s) and Control of Flow Through Conduits

All new dams on stream channels must have a low level conduit. All other dams must have a low level conduit or other means to safely drain the reservoir. The conduit and related control structures must be designed to meet the following criteria:

(1) Ability to lower the reservoir. The minimum diameter of the conduit should be determined through analysis of the time required to drain the dam at average inflow.

(a) The conduits for high hazard dams shall be capable of releasing the top five feet of the reservoir in five days.

(b) The conduits for significant and low hazard dams must be able to release the top five feet of the reservoir in ten days.

(c) All conduits must be of sufficient size to allow passage of inflows as needed.

(d) In no case shall conduits be smaller than 8 inches in diameter.

(2) Durable and water-tight conduits. Conduits must be made of medium to heavy gage durable materials. Pipe joints must be designed to seal and prevent leakage. Corrugated metal culverts are only acceptable for low hazard dams, and only when the conduits are encased in concrete. Encasement of conduits in concrete may be used to assist in the design of a durable conduit and to reduce the potential for seepage and erosion adjacent to the conduit.

(a) Diaphragms using materials designed as an effective soil filter are required for any conduits not designed as encased in concrete, and are required regardless of encasement for all high hazard dams.

(b) Seepage collars may not be used in any dam.

(3) Control Mechanisms. The design for the control mechanism must be sturdy, durable, allow for air venting when needed, and allow manual operation to drain the reservoir if hydraulic or other power controls are inoperable. Hydraulic controls must have redundancy if control relies on any submerged hydraulic hoses. Intake structures for outlet works must have trash racks unless the engineer of record shows trash racks are unnecessary, or unsafe to construct due to conditions at the dam site. For high and significant hazard dams, measures to prevent unauthorized use of the control mechanism must be included in this design.

(4) Outlet structure. The outlet structure must not be submerged when the inlet control gate or valve is fully closed. The outlet structure must be designed to protect the conduit from mechanical damage and convey water to the stream channel without channel erosion and cavitation near the gate structure.

(5) Pressurized operation. Conduits must be specified as suitable for pressurized operation if they are to be operated with controls other than at the inlet of the conduit. Conduits for dams with pressurized conduits shall have a guard gate installed at the upstream end of the conduit. Operations and maintenance manuals are required for any dam designed for pressurized operation, and the plans must include procedures for periodic inspections of the interior of any pressurized pipes.

Stat. Auth.: ORS 540.350 - 540.400
Stats. Implemented: ORS 183, 536 & 540
Hist.: WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0044
Monitoring and Instrumentation

Designs must include methods for determining if the dam is operating properly based on the hazard rating of the dam, and include:

(1) Staff gage near controls for the conduit. The staff gage shall be clearly marked in feet and tenths of feet, and extend to within one foot of the crest of the dam. Markings and numbers on the gage rod shall be of sufficient size to be easily readable from the crest of the dam.

(2) Multiple and easily accessible outlets of all toe drains. Toe drains shall be designed to discharge into locations where flows can be evaluated and monitored. Multiple discharge points are required in order to isolate seepage to various sections of the dam and foundation. Discharge points must be located where routine dam maintenance is not likely to damage the drains.

(a) For high hazard dams, drains must have a measuring weir or other device, and a basin for settling drainage water so that internal erosion can be identified.

(b) Where drainage galleries are provided for concrete dams, seepage measuring devices should be provided and accessible for making the necessary readings.

(3) Unique Identification. All instrumentation and exterior drains shall be labeled with a unique identifying marker designed for durability and to withstand maintenance activities.

(4) All high hazard and where required by the engineer of record or State Engineer, significant hazard dams shall have the following instrumentation:

(a) Monuments that allow measurement of the horizontal and vertical movements of the dam. Control or benchmark monuments shall be placed in areas not subject to movement;

(b) Piezometers to allow monitoring of the phreatic surface within the dam or for concrete dams, to determine uplift pressures.

(c) Instrumentation to measure strong ground motions for dams in locations where the peak ground acceleration in the 0.2 percent annual probability of exceedance earthquake is greater than 0.4g.

Stat. Auth.: ORS 540.350 - 540.400
Stats. Implemented: ORS 183, 536 & 540
Hist.: WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0047
Geosynthetics

Geosynthetics shall not be used as the sole element employed to perform an essential dam safety function. Redundant design features are required whenever geosynthetics are used for essential dam safety functions.

Stat. Auth.: ORS 540.350 - 540.400
Stats. Implemented: ORS 183, 536 & 540
Hist.: WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0048
Modification of Standard Design Requirements

Exceptions to design standards may only be obtained with written approval from the State Engineer. Where the engineer of record requests design exceptions, the request must be in writing, be affixed with the engineer of record's professional stamp, and include a report describing why design standards are inapplicable to the safety of the dam.

Stat. Auth.: ORS 540.350 - 540.400
Stats. Implemented: ORS 183, 536 & 540
Hist.: WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0055
Design Drawings

The engineer of record shall submit applicable drawings when the engineer believes the design is ready for review and approval by the State Engineer.

(1) Drawings must accurately portray the work to be accomplished and be of sufficient detail to clearly define all features of the project. After all changes required by the State Engineer are made, final design drawings must be neatly and accurately drawn to a scale sufficiently large for the drawings to be readily interpreted.

(2) Drawings must be uncluttered and easy to understand for determination of design compliance by the contractor, the engineer of record, and the State Engineer.

(3) Drawings must be no larger than 24" X 36". Other acceptable sizes for drawings are 17" X 22" and 22" X 34". All drawings must have a graphic scale bar so that scale can be determined after enlargement or reduction. Each sheet shall be numbered sequentially with the first sheet being sheet number one along with the total number of sheets; e.g., 1 of 6.

(4) Drawings shall include the following information:

(a) An official dam name, which must not have already been used for a dam as indicated in the Oregon dam safety database. This unique name must be affixed on each drawing;

(b) The first drawing must include a location map with the drainage basin, the dam and reservoir, streams within the drainage area, and the location of the nearest access highway. This drawing must include legal location of the dam (Section, Township and Range), and the location of the survey reference point with latitude, longitude, elevation, and datum elevation (NAVD1988);

(c) A contour map of the reservoir site showing the legal location of the dam with a contour interval no greater than 5 feet. A plan of the dam should be superimposed on this map. If scale permits, this drawing should show the location of the spillway(s), conduit inlet and outlet, and the location, distance and direction to a government land corner or other permanent survey marker;

(d) Area and storage capacity curves and information on the hydrology of the proposed reservoir drainage area in square miles;

(e) A profile of the dam site at the center of the dam;

(f) A cross section of the dam at maximum section;

(g) Plan view(s) of dam at maximum section, and other sections as needed;

(h) Cross section(s) of dam, including the maximum section with the official dam height;

(i) Spillway details, spillway approach control discharge, and energy dissipation;

(j) Low level conduit details, including diameter, material, encasement; and

(k)Slide gate or valve details including the trash rack, control stem, pedestal and wheel, or other control details, and air vent.

(5) Elevations must be clearly labeled on applicable drawings and include the:

(a) Base of dam and official height of dam;

(b) Dam crest;

(c) Spillway control section;

(d) Base of spillway discharge; and

(e) Invert of the conduit at both the inlet and outlet.

(6) All drawings must be dated and have sufficient space for State Engineer's approval stamp, at least 3" x 3" near the lower right hand corner of the drawing.

(7) Drawings must be designated as final design drawing or as-built drawings.

Stat. Auth.: ORS 540.350 - 540.400
Stats. Implemented: ORS 183, 536 & 540
Hist.: WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0060
Construction Specifications

All drawings for dams must be accompanied by construction and material specifications that include the following:

(1) Construction conditions. Specifications must include the construction period based on typical weather for that location and in-stream work periods if applicable, and may include a process for the engineer of record to modify the construction period.

(2) Clearing of the dam site and reservoir. Specifications must include the area to be submerged by the new or enlarged reservoir and specify that the submerged area shall be cleared of logs and debris prior to filling the reservoir. The specifications must require that the footprint of the dam shall be cleared of all soils containing organic materials, and that this material may not be used for dam construction.

(3) Cutoff trench requirements. Specifications must include the minimum trench depth, width at base of the trench, and maximum side slope steepness. These specifications shall be based on the subsurface investigations and direct that the cutoff trench may not be filled if it contains standing water. A requirement not to begin filling the cutoff trench until approved by engineer of record, and where specified, by State Engineer or Dam Safety Engineer, must also be included in the specifications.

(4) Material specification standards. The specifications shall include material and testing specifications for dam materials, conduits, control structures, and other appurtenant structures, using an ASTM standard methodology if available.

(5) Soil Compaction. The typical compaction specification is 95 percent of standard proctor density, though the engineer of record may use a different compaction standard. Specifications shall include the types of acceptable compaction equipment, by material source if necessary. Specifications shall also include maximum lift thickness. To reduce potential for leakage around the conduit, specifications shall prohibit soil compaction dry of optimum moisture content for materials placed immediately above or adjacent to the conduit. Specifications must also include verification testing of soils, with representative samples selected for testing by the engineer of record and not the contractor.

(6) Concrete placement. Specifications shall include means to prevent separation of aggregate and cement, air entrainment requirements if needed, methods for placement and vibration of concrete, required minimum 28 day strength, slump, moisture and temperature requirements for curing. Alkali reactive aggregate shall not be used in the concrete.

(7) Conduit specifications. Specifications must include the material, diameter, and thickness of the conduit, and the length of conduit required for the project. Methods for sealing joints must be specific. Specifications must require that all materials from a manufacture are certified to meet this test, or that the engineer of record has tested the materials directly.

(8) Accepting and Rejecting Materials. Specifications must include tolerances for acceptable departure from material specifications and a process for rejection of defective materials or workmanship.

(9) Notification by the engineer of record to the State Engineer of changed conditions critical to the safety or operations of the dam. Specifications shall include State Engineer notification if previously unidentified springs, slope movement or sand lenses are identified, or if storm or other damage occurs during construction.

(10) The specifications must require supervision by the engineer of record during construction and for inspection by the Director or Director's authorized representative at any time during the construction period.

(11) The specifications must also contain a provision to the effect that plans or specifications shall not be altered or changed without the written approval of the State Engineer.

Stat. Auth.: ORS 540.350 - 540.400
Stats. Implemented: ORS 183, 536 & 540
Hist.: WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0065
Dam Construction

The Engineer of record shall submit plans for administering the construction of the dam to the State Engineer for approval. Construction plans must include the following:

(1) Construction of the dam shall be observed and documented by the engineer of record and employees working for the engineer of record as applicable.

(2) The engineer of record or an inspector working for the engineer of record shall be on-site as needed for instructions to the contractor, approval of initial excavation, acceptance of materials, and general project administration.

(3) The dam owner shall cease construction activity if the engineer of record is no longer employed or for any reason cannot complete necessary construction administration activities. Construction may resume when a new engineer of record is employed, the State Engineer has been notified of the new engineer of record, and both engineers have discussed the project.

(4) The engineer of record shall observe the construction of the dam. It is the engineer of record's responsibility to make periodic inspections to evaluate whether the construction is proceeding in accordance with the approved plans and specifications. The engineer of record shall endeavor to prevent defects and deficiencies in the construction of the dam and appurtenant structures, and shall disapprove or reject work identified that fails to conform to the approved plans and specifications.

(5) The engineer of record shall confirm foundation design assumptions once surface materials have been stripped and the cutoff trench excavated. Changes in actual foundation conditions from assumptions made in the initial site evaluation shall be communicated to the Department.

(6) The engineer of record shall maintain a record of construction that shall include:

(a) Logs of construction inspections whenever such inspections are made by the engineer or the engineer's employee;

(b) All test results pertaining to construction;

(c) Photographs; and

(d) Construction problems and remedies.

(7) The engineer of record shall complete as-built drawings and a final construction report, including statements that the observations are either consistent or inconsistent with the design drawings and specifications. If key elements of construction were not observed, the construction report shall detail those specific elements that were not observed.

Stat. Auth.: ORS 540.350 - 540.400
Stats. Implemented: ORS 183, 536 & 540
Hist.: WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0070
Submittals and Notifications by the Engineer of Record

(1) When necessary, the engineer of record must include an inundation analysis that complies with OAR 690-020-0120 prior to submitting the design report, plans and specifications, so that the Department can determine the hazard rating of the dam.

(2) All final designs, drawings and specifications submitted to the State Engineer for approval must be prepared and stamped by a professional engineer licensed to practice in the State of Oregon. The first page of the drawings, the specifications, and the construction administration plan must be stamped by the engineer of record. All submitted materials must be addressed directly to the State Engineer and labeled as a dam safety submission.

(3) Final drawings shall be submitted on full size paper. The design reports and specifications must be submitted as packaged 8.5 x 11 inch bound documents, with essential maps folded within.

(4) A schedule of construction will be provided to the State Engineer prior to initiating construction of any significant or high hazard dam.

(5) Prior to completion of the cutoff trench and all stripping of foundation and embankments the engineer of record shall notify the State Engineer to allow for State Engineer inspection of the excavation. The required notice to the State Engineer is as follows:

(a) 48-hours for a low hazard dam;

(b) 120-hours for a significant hazard dam; and

(c) for high hazard dams, 240-hours or the time specified in the approval, whichever is longer.

(6) Any changes made to the designed location, height or width of the dam, or to materials used in dam construction shall be reported in writing immediately to the State Engineer.

(7) If any slope instability is observed during construction in the embankment or adjacent to the dam or into reservoir, it shall immediately be reported to the State Engineer by phone.

(8) If for any reason the engineer of record ceases construction administration work, the engineer of record must immediately notify the State Engineer of the situation, by phone and in writing.

(9) For high hazard rated dams, the final emergency action plan and any additional inundation analysis required for the EAP as described in OAR 690-020-0400 must be submitted by the engineer of record prior to or concurrent with submission of the as-built drawings and the project completion report.

(10) The engineer of record must submit as-built drawings and a project completion report. A project completion report must include the following:

(a) As-built drawings, if possible on the same sheet as the initial design drawings. As-built drawings shall be submitted in the form of electronic copies of all applicable drawings;

(b) A completion report stating either that the dam has been built according to the drawings with changes to improve safety as documented in the as-built drawings, or that essential safety functions are unknown;

(c) A list of the days the engineer of record was on site, the number and location of material tests, and observations of all changed conditions;

(d) Test results (compaction, strength, permeability) must be summarized in the completion report;

(e) The completion report must document the observations and decisions made and communicated to the contractor or dam owner. Photographs of key stages of construction, including but not limited to photographs of the cutoff trench, borrow pit development, trenching and placement of the conduit, the spillway before and after placement of concrete; and

(f) The project completion report shall be stamped by the engineer of record.

Stat. Auth.: ORS 540.350 - 540.400
Stats. Implemented: ORS 183, 536 & 540
Hist.: WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0080
Written Approval by State Engineer

(1) Prior to commencing construction activity, all design reports, drawings of the dam and critical appurtenant structures, specifications, and plans for construction administration must be approved by the State Engineer as indicated by the State Engineer's stamp and a written letter of approval from the State Engineer.

(2) The State Engineer's approval of design plans and specifications shall be valid only for five years. Upon request, written requests for time extensions may be granted in writing by the State Engineer.

(3) The following activities which involve the construction or operation of an existing permitted dam that may impair the safety of the dam require State Engineer approval of engineered designs:

(a) Any changes that affect storage capacity of the dam or increase dam height above that in the approved drawings for the dam, including all dam rises other than adding fill to restore crest height lost to settlement or erosion;

(b) Any changes to or near the spillway that may affect spillway capacity or ability to pass flows safely;

(c) Installation of any valve or gate on the downstream side of the dam;

(d) Removing and replacing or otherwise excavating into or near the dam to place or replace any conduit or utility in the dam;

(e) Replacement of the conduit control structure;

(f) Installation of any valve on the downstream side of the low level conduit, or directly connecting irrigation pipe to the low level conduit;

(g) Repair of damage which has already significantly weakened the dam;

(h) Any activity where at least 30 percent of fill material in the dam is impacted by that activity; and

(i) Any other change to the dam that affects its safety as determined by the State Engineer.

(4) Prior written approval will not be required for replacement or lining of toe drains, relining of conduits of low hazard dams, and for specific actions required in a safety emergency. As-built drawings may be sent to the State Engineer after completion of such projects to show these projects have been completed in a safe manner.

(5) For pre-existing dams without a valid storage permit, the State Engineer may approve plans and specifications so that a permit may be issued only if the engineer of record provides the following:

(a) Drawings of the dam as it exists during the engineer's evaluation and survey of the dam. These drawings should include all the critical features as described in OAR 690-020-0035, except for those elements that cannot be evaluated such as the cutoff trench;

(b) Evaluation of any embankment distress, including erosion, seepage or leakage;

(c) Condition and function of the conduit and its controls, capacity and stability of the spillway;

(d) Any other safety information needed as determined by the State Engineer;

(e) Designs as needed to bring the dam up to the current standards based on the hazard classification of that dam;

(f) As improved drawings of the dam showing that all necessary modifications have been made with a report from the engineer describing the necessary work that was completed; and

(g) The source of all information used to develop the as-improved drawings must be documented in a report submitted by the engineer. This includes but is not limited to the engineer's measurements, engineer's observations, a photographic record, and testimony of individuals.

(6) No newly constructed dam may store water until final written approval of necessary plans, specifications or other information is received from the Department.

(a) Final approval may be obtained only after construction has been completed and as-built drawings and a satisfactory project completion report have been submitted to and approved by the State Engineer.

(b) The State Engineer shall notify the engineer of record and dam owner in writing when final documents have been approved.

Stat. Auth.: ORS 540.350 - 540.400
Stats. Implemented: ORS 183, 536 & 540
Hist.: WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0100
Hazard Rating of Dams

(1) Dams shall be assigned a hazard rating of high, significant, or low.

(2) The Department shall utilize dam breach inundation analysis as a primary factor to determine the hazard rating of dams as described in OAR 690-020-0120.

(3) Using the dam breach inundation analysis described in OAR 690-020-0120, the Department shall make the final determination of any hazard rating using the following criteria:

(a) An inundation depth of flowing water of at least two feet over the finished floors of dwellings, other frequently occupied buildings, or road surfaces where a vehicle is likely to be present establishes a "high hazard" rating.

(b) Any inundation depth of water over the floorboards of structural buildings establishes a "significant hazard" rating.

(c) For other roads and vulnerable utilities, an inundation depth of two feet or evidence of depth and velocity capable of creating damage establishes a "significant hazard" rating.

(d) Wherever heavy recreational or other frequent use occurs downstream a "high hazard" rating shall be established to prevent probable loss of life. Such designation shall not depend on the presence of downstream infrastructure.

(e) For water depths close to those listed in the subsections (a) and (c), the Department may also consider water velocity in its determination of hazard rating.

(4) The hazard rating of a dam shall remain in effect until the rating is revised by the Department using the procedures described in OAR 690-020-0120. A dam owner may request that the Department revise a hazard rating. The owner must provide information in support of the request and prepared by an engineer licensed in Oregon and familiar with hydraulic and hydrologic calculations and using the procedures described in OAR 690-020-0120.

Stat. Auth.: ORS 183 & 540
Stats. Implemented: ORS 183 & 536, 540
Hist.: WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0120
Dam Breach Inundation Analysis

(1) A dam breach inundation analysis must be submitted with the design for any new dam, except only for dams in a remote location far enough from buildings, high use recreation sites or high use public roads so that damage or fatalities from a dam breach would be very unlikely as determined by the State Engineer.

(2) A dam breach inundation analysis is required to change the hazard rating of an existing dam.

(3) The dam breach inundation analysis must use a breach time based on dam materials and thickness and other factors that would influence the time it would take for the dam to breach from internal erosion, overtopping, or displacement.

(4) Any simplified and conservative hydraulic model may be used to show that a dam should be rated low hazard. The State Engineer may determine if the model was used appropriately and conservatively.

(5) Accepted and hydraulically consistent models must be used to conduct the inundation analysis for significant and high hazard dams, as these will be used in the event of an emergency at the dam. Models developed by the US Army Corps of Engineers including HEC-RAS are the preferred methods of analysis. Other models that use hydrodynamic equations checked for minimum tolerances such as FLO 2D are also acceptable for conducting dam breach inundation analysis. Information on the specific model used for analysis, dam breach parameters and justification, and all

assumptions made for the analysis must be included in the documentation for the inundation analysis.

(6) Inundation analysis for hazard rating of high and significant hazard dams must be conducted with the reservoir at full pool and inflow equal to the 0.2 percent annual exceedance probability flood flow. The analysis must show on a map areas inundated, areas inundated by greater than 2 feet, and all frequently occupied structures.

(7) The following additional information shall also be required for newly constructed or modified high hazard rated dams.

(a) A sunny day and a PMF inflow analysis as part of the emergency action plan.

(b) The inundation mapping must include cross sections with depth and times to flood wave arrival, and must be extended downstream to a location where no significant property damage exists.

Stat. Auth.: ORS 540.350 - 540.400
Stats. Implemented: ORS 183, 536 & 540
Hist.: WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0150
Routine Inspection of Dams

(1) The Department shall maintain a program of inspecting dams and may conduct routine safety inspections of dams with an inspection frequency based on the hazard rating of the dam and may specify modifications necessary to insure the safety of the works to prevent possible damage to life or property.

(2) The frequency of inspections may be based on the hazard classification of the dam. Inspections may occur as follows:

(a) Inspections for high hazard dams may be scheduled on an annual basis;

(b) Inspections for significant hazard dams may be scheduled every three years; and

(c) Inspections for low hazard dams may be scheduled every six years.

(3) Expedited inspections may be conducted if an urgent dam safety issue is identified or if there is a potential change in hazard classification.

(4) Following an inspection, the Department shall provide to dam owners a letter with the inspection observations and recommendations that assist the dam owner to ensure the safety of the dam.

Stat. Auth.: ORS 540.350 - 540.400
Stats. Implemented: ORS 183, 536 & 540
Hist.: WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0200
Fees for Dams

(1) Dam owners subject to dam safety regulations shall submit to the Department an annual fee on the basis established under ORS 536.050(2).

(2) Dam owners who fail to pay an annual fee on or before six months after the billing date may be required to pay a late fee of $100.

(3) If a dam owner fails to pay the annual fee or late fee charged by the Department, the Department may, after giving the dam owner notice by certified mail, place a lien on the real property where the dam is located for the fees owed by the dam owner.

(4) Multiple large dams connected together and separated only by embankments or other manmade materials (common with sewage lagoons) will count as one dam for fee purposes.

(5) The Department may use the dam safety fee to support dam safety inspections; conduct dam breach inundation analysis for existing dams; help dam owners complete emergency action plans for existing dams; conduct or support the technical analysis of the safety of specific dams; and other actions as needed to support the dam safety program.

Stat. Auth.: ORS 536.050
Stats. Implemented: ORS 536.050
Hist.: WRD 7-2009, f. 12-7-09, cert. ef. 1-1-10; WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0250
Maintenance of Dams

(1) When inspecting dams to insure the safety of the dam, the Department may consider whether the dam owner has conducted routine maintenance on dams as follows:

(a) Whether brush and trees have been removed and whether vegetation on the embankment or spillway has been mowed;

(b) Whether burrowing animals are controlled and animal burrows are filled;

(c) Whether surface erosion is effectively controlled;

(d) Whether freeboard and adequate crest width have been maintained;

(e) Whether the spillway is functioning correctly and that its capacity has not been reduced;

(f) Whether mechanical equipment has been properly cycled and lubricated;

(g) Whether cracked concrete structures have been properly patched, sealed, caulked or replaced to prevent deterioration;

(h) Whether debris, rock, or earth have been removed from outlet conduits, outlet channels or spillway channels;

(i) Whether worn or damaged parts of conduits, outlet valves or controls are in need of repair or replacement;

(j) Any other condition or activity that might affect safety of the dam.

(2) The Department may find that a dam is not safe if large trees or large woody vegetation exists on the dam.

(3) Maintenance deficiencies observed during periodic dam safety inspections shall be described in an inspection letter provided to the dam owner.

Stat. Auth.: ORS 540.350 - 540.400
Stats. Implemented: ORS 183, 536 & 540
Hist.: WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0300
Modification of Dams Requiring Notification and/or Approval

(1) The activities described in OAR 690-020-0080(3) are considered such significant modification of the dam so as to constitute new construction requiring approval of engineered designs prior to initiating these activities.

(2) Any activity that will increase the volume or rate of water released during failure requires a new inundation analysis using methods described in OAR 690-020-0120 unless the dam is in a remote area with no downstream development or high recreational use areas that might be affected by a dam breach flood.

(3) Certain repairs that may affect the safety of the dam require on site analysis by an engineer during the actual repair process in order to determine the specific repairs needed. Prior approval of drawings for these repairs will not be required, as conditions encountered on site are likely to deviate from plans. Therefore, submission of an as-built drawing by the engineer of record of the following repairs indicating the repairs have been made correctly may be deemed as evidence of the safety of the dam:

(a) Slip lining of existing conduits that does not involve excavation into the dam and does not result in a significant reduction in the time required for the conduit to empty the reservoir;

(b) Replacement of toe drains; and

(c) Any other such repairs as determined by the State Engineer.

Stat. Auth.: ORS 540.350 - 540.400
Stats. Implemented: ORS 183, 536 & 540
Hist.: WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0350
Operations and Maintenance Plans

(1) As part of the plans submitted with the design, the engineer of record shall provide to the Department operations and maintenance plans for new significant and high hazard dams, and for any new dam with a gate or flashboard as part of the spillway. The dam owner shall be responsible for implementation of operations and maintenance plans, and compliance with these may be reviewed during dam safety inspections.

(2) Operations and maintenance plans may include but are not limited to:

(a) Procedures for operation of all gates and valves;

(b) Specified frequency for cycling of the slide gate and/or valves;

(c) The time of year flashboards are allowed in the spillway;

(d) Removal of trees and shrubs, and mowing other vegetation as needed;

(e) Routine inspections, including evaluation of seepage flow, and visual identification of any turbid seepage;

(f) Water release plan in the event of a flood forecast when reservoir is above a certain level; and

(g) Measurement frequency for all monitoring instrumentation installed at the dam.

Stat. Auth.: ORS 540.350 - 540.400
Stats. Implemented: ORS 183, 536 & 540
Hist.: WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0400
Emergency Action Plans (EAP) and Emergencies

(1) Draft Emergency Action Plans are required prior to completion of new dam construction or modification as described in OAR 690-020-0300(1), and final EAP's must be submitted prior to filling the reservoir. The final emergency action plan must be reviewed and approved by the State Engineer. EAPs for dams constructed after March 2015 must be

updated at least once every two years, including but not limited to ensuring all notification contacts are current.

(2) Dam owners are encouraged to complete emergency action plans for their existing high hazard dams.

(3) An EAP shall contain, as a minimum, the following key elements:

(a) Emergency condition detection;

(b) Emergency level determination;

(c) Notification and communication lists applicable to each of the emergency levels;

(d) Expected actions to prevent a dam failure incident or to help reduce the effects of a dam failure and facilitate response to an emergency;

(e) Inundation mapping that normally includes both a sunny day and a probable maximum flood failure; and

(f) Procedures for termination of the emergency.

(4) Dam owners of high or significant hazard dams shall immediately notify the State Engineer of potential or actual dam failure situations.

(5) Dam owners shall notify the State Engineer of any breach of any dam subject to these regulations.

(6) If the Department observes evidence of a dam at risk of imminent failure and a risk to life or property, local public safety officials shall be notified of the situation.

Stat. Auth.: ORS 540.350 - 540.400

Stats. Implemented: ORS 183, 536 & 540

Hist.: WRD 2-2015, f. & cert. ef. 3-17-15

690-020-0500

Enforcement

(1) When any dam is found to be in violation of the terms and conditions of the water right permit or certificate, or directly threatens life or property, or when any structure is found where lack of maintenance or unauthorized alterations could lead to a direct threat to life or property, the Department shall notify the owner in writing of the violation and the action necessary and specified time allowed to bring the structure up to design, operation, or maintenance standards.

(2) Failure by the owner to perform the required action may result in proceedings for one or more of the following:

(a) Notice and opportunity for a contested case hearing as provided for in ORS 540.350(5).

(b) Posting of the structure to prevent storage or to limit operation until the owner has complied with the requested action required to fulfill conditions of the permit or certificate.

(c) Instituting legal action by the District Attorney or Attorney General to have the facility declared a public nuisance.

(d) Issuance of an order to prevent storage or to breach the embankment as provided for in ORS 540.370.

(e) Any other enforcement action permitted by law.

(3) Engineering work that is inconsistent with any rules in this Division may be referred to the Oregon State Board of Examiners for Engineering and Land Surveying, for appropriate actions.

Stat. Auth.: ORS 540.350 - 540.400

Stats. Implemented: ORS 183, 536 & 540

Hist.: WRD 12-1986, f. & ef. 10-3-86; Renumbered from 690-020-0039, WRD 7-2009, f. 12-7-09, cert. ef. 1-1-10; Renumbered from 690-020-0050, WRD 2-2015, f. & cert. ef. 3-17-15

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123-021-0090	1-26-2015	Amend(T)	3-1-2015
123-021-0110	1-26-2015	Amend(T)	3-1-2015
123-052-1000	2-24-2015	Adopt	4-1-2015
123-052-1100	2-24-2015	Adopt	4-1-2015
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123-052-1800	2-24-2015	Adopt	4-1-2015
123-052-1900	2-24-2015	Adopt	4-1-2015
123-052-2000	2-24-2015	Adopt	4-1-2015
123-052-2100	2-24-2015	Adopt	4-1-2015
123-052-2200	2-24-2015	Adopt	4-1-2015
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123-052-2400	2-24-2015	Adopt	4-1-2015
123-630-0000	2-12-2015	Amend(T)	3-1-2015
123-630-0030	2-12-2015	Amend(T)	3-1-2015
123-630-0050	2-12-2015	Amend(T)	3-1-2015
125-120-0000	4-5-2015	Amend	5-1-2015
125-120-0100	4-5-2015	Amend	5-1-2015
125-120-0120	4-5-2015	Amend	5-1-2015
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125-246-0316	1-1-2015	Amend	2-1-2015
125-246-0318	1-1-2015	Amend	2-1-2015
125-246-0330	1-1-2015	Amend	2-1-2015
125-246-0333	1-1-2015	Amend	2-1-2015
125-246-0350	1-1-2015	Amend	2-1-2015
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125-247-0690	1-1-2015	Amend	2-1-2015
125-247-0805	1-1-2015	Amend	2-1-2015
125-248-0100	1-1-2015	Amend	2-1-2015
125-248-0270	1-1-2015	Adopt	2-1-2015
137-046-0130	2-3-2015	Amend	3-1-2015
137-047-0260	2-3-2015	Amend	3-1-2015
137-047-0265	2-3-2015	Amend	3-1-2015
137-047-0270	2-3-2015	Amend	3-1-2015
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137-049-0690	2-3-2015	Amend	3-1-2015
137-049-0820	2-3-2015	Amend	3-1-2015
137-050-0740	2-4-2015	Amend(T)	3-1-2015
137-050-0740	3-30-2015	Amend	5-1-2015
137-050-0740(T)	3-30-2015	Repeal	5-1-2015
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137-055-2160	3-30-2015	Amend	5-1-2015
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137-055-3500	3-30-2015	Amend	5-1-2015
137-055-5030	3-30-2015	Amend	5-1-2015
137-055-5110	3-30-2015	Amend	5-1-2015
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137-130-0001(T)	2-23-2015	Repeal	4-1-2015
137-130-0005	2-23-2015	Adopt	4-1-2015
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137-130-0210(T)	2-23-2015	Repeal	4-1-2015
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141-102-0030	3-1-2015	Amend	3-1-2015
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150-306.265	1-1-2015	Amend	2-1-2015
150-307.130-(B)	1-1-2015	Repeal	2-1-2015
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150-308.057	1-1-2015	Amend	2-1-2015
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150-311.670(1)	1-1-2015	Am. & Ren.	2-1-2015
150-311.672(1)(a)	1-1-2015	Amend	2-1-2015
150-314.515(2)	1-1-2015	Amend	2-1-2015
150-317.131	1-1-2015	Adopt	2-1-2015
150-457.440(9)-(B)	1-1-2015	Adopt	2-1-2015
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161-006-0025	1-1-2015	Amend	2-1-2015
161-006-0155	1-1-2015	Amend	2-1-2015
161-006-0160	1-1-2015	Amend	2-1-2015
161-008-0010	1-1-2015	Amend	2-1-2015
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161-010-0035	1-1-2015	Amend	2-1-2015

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161-010-0085	1-1-2015	Amend	2-1-2015
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161-015-0030	1-1-2015	Amend	2-1-2015
161-020-0005	1-1-2015	Amend	2-1-2015
161-020-0015	1-1-2015	Amend	2-1-2015
161-020-0035	1-1-2015	Amend	2-1-2015
161-020-0045	1-1-2015	Amend	2-1-2015
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165-020-2036	3-10-2015	Adopt(T)	4-1-2015
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166-200-0235	1-27-2015	Amend	3-1-2015
166-200-0260	1-27-2015	Amend	3-1-2015
166-200-0350	1-27-2015	Amend	3-1-2015
166-200-0370	1-27-2015	Amend	3-1-2015
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230-001-0005	2-9-2015	Amend	3-1-2015
230-001-0010	2-9-2015	Amend	3-1-2015
230-030-0150	2-9-2015	Amend	3-1-2015
230-140-0030	2-9-2015	Amend	3-1-2015
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255-030-0013	4-15-2015	Amend	5-1-2015
255-032-0022	4-15-2015	Amend	5-1-2015
259-008-0005	3-24-2015	Amend	5-1-2015
259-008-0010	1-1-2015	Amend	2-1-2015
259-008-0010	3-24-2015	Amend	5-1-2015
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259-008-0025	3-24-2015	Amend	5-1-2015
259-008-0060	1-5-2015	Amend	2-1-2015
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259-009-0015	12-29-2014	Adopt	2-1-2015
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259-009-0062	12-31-2014	Amend	2-1-2015
259-009-0070	12-31-2014	Amend	2-1-2015
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259-020-0015	12-30-2014	Amend	2-1-2015
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259-060-0130	3-24-2015	Amend	5-1-2015
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259-060-0300	3-24-2015	Amend	5-1-2015
259-060-0450	3-24-2015	Amend	5-1-2015
259-061-0005	1-5-2015	Amend	2-1-2015
259-061-0190	3-24-2015	Repeal	5-1-2015
259-061-0240	1-5-2015	Amend	2-1-2015
259-061-0260	1-5-2015	Repeal	2-1-2015
259-061-0300	3-24-2015	Amend	5-1-2015
259-070-0010	12-30-2014	Amend	2-1-2015
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274-005-0045	3-26-2015	Adopt(T)	5-1-2015
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291-016-0020(T)	12-3-2014	Repeal	1-1-2015
291-016-0120	12-3-2014	Adopt	1-1-2015
291-016-0120(T)	12-3-2014	Repeal	1-1-2015
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291-055-0010	12-29-2014	Amend	2-1-2015
291-055-0010(T)	12-29-2014	Repeal	2-1-2015
291-055-0014	12-29-2014	Amend	2-1-2015
291-055-0014(T)	12-29-2014	Repeal	2-1-2015
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291-055-0025	12-29-2014	Amend	2-1-2015
291-055-0025(T)	12-29-2014	Repeal	2-1-2015
291-055-0031	12-29-2014	Amend	2-1-2015
291-055-0031(T)	12-29-2014	Repeal	2-1-2015
291-055-0040	12-29-2014	Amend	2-1-2015
291-055-0040(T)	12-29-2014	Repeal	2-1-2015
291-055-0045	12-29-2014	Amend	2-1-2015
291-055-0045(T)	12-29-2014	Repeal	2-1-2015
291-055-0050	12-29-2014	Amend	2-1-2015
291-055-0050(T)	12-29-2014	Repeal	2-1-2015
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291-078-0010(T)	2-25-2015	Repeal	4-1-2015
291-078-0020	2-25-2015	Amend	4-1-2015
291-078-0020(T)	2-25-2015	Repeal	4-1-2015
291-078-0026	2-25-2015	Amend	4-1-2015
291-078-0026(T)	2-25-2015	Repeal	4-1-2015
291-078-0031	2-25-2015	Amend	4-1-2015
291-078-0031(T)	2-25-2015	Repeal	4-1-2015
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291-082-0105	1-6-2015	Amend(T)	2-1-2015
291-082-0110	1-6-2015	Amend(T)	2-1-2015
291-082-0115	1-6-2015	Amend(T)	2-1-2015
291-082-0120	1-6-2015	Amend(T)	2-1-2015
291-082-0130	1-6-2015	Amend(T)	2-1-2015
291-082-0135	1-6-2015	Amend(T)	2-1-2015
291-082-0140	1-6-2015	Amend(T)	2-1-2015
291-082-0145	1-6-2015	Amend(T)	2-1-2015
291-104-0111	1-6-2015	Amend(T)	2-1-2015
291-104-0116	1-6-2015	Amend(T)	2-1-2015
291-104-0125	1-6-2015	Amend(T)	2-1-2015
291-104-0135	1-6-2015	Amend(T)	2-1-2015
291-104-0140	1-6-2015	Amend(T)	2-1-2015
291-109-0120	11-19-2014	Amend	1-1-2015
291-109-0140	11-19-2014	Amend	1-1-2015
291-109-0150	11-19-2014	Amend	1-1-2015
291-109-0160	11-19-2014	Amend	1-1-2015
291-109-0170	11-19-2014	Amend	1-1-2015
291-109-0180	11-19-2014	Amend	1-1-2015
291-109-0200	11-19-2014	Renumber	1-1-2015
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291-130-0016	1-1-2015	Amend(T)	2-1-2015
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291-130-0020	1-1-2015	Amend(T)	2-1-2015
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309-019-0170	3-25-2015	Amend(T)	5-1-2015
309-031-0010	12-12-2014	Amend(T)	1-1-2015
309-114-0005	12-1-2014	Amend(T)	1-1-2015
309-114-0025	12-1-2014	Amend(T)	1-1-2015
325-005-0015	3-17-2015	Amend	5-1-2015
330-070-0010	1-1-2015	Amend	1-1-2015
330-070-0013	1-1-2015	Amend	1-1-2015
330-070-0014	1-1-2015	Amend	2-1-2015
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330-070-0021	1-1-2015	Amend	1-1-2015
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330-070-0025	1-1-2015	Amend	1-1-2015
330-070-0026	1-1-2015	Amend	1-1-2015
330-070-0027	1-1-2015	Amend	1-1-2015
330-070-0029	1-1-2015	Amend	1-1-2015
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330-070-0045	1-1-2015	Amend	1-1-2015
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330-070-0060	1-1-2015	Amend	1-1-2015
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330-070-0089	1-1-2015	Amend	1-1-2015
330-070-0091	1-1-2015	Repeal	1-1-2015
330-090-0160	3-23-2015	Amend(T)	5-1-2015
330-230-0150	3-23-2015	Amend(T)	5-1-2015
331-410-0050	12-1-2014	Amend	1-1-2015
331-800-0010	1-1-2015	Amend	1-1-2015
331-800-0020	1-1-2015	Amend	1-1-2015
331-810-0010	1-1-2015	Adopt	1-1-2015
331-810-0020	1-1-2015	Amend	1-1-2015
331-810-0025	1-1-2015	Adopt	1-1-2015
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331-810-0031	1-1-2015	Adopt	1-1-2015
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331-810-0040	1-1-2015	Amend	1-1-2015
331-810-0050	1-1-2015	Repeal	1-1-2015
331-810-0055	1-1-2015	Amend	1-1-2015
331-810-0060	1-1-2015	Adopt	1-1-2015
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331-820-0020	1-1-2015	Amend	1-1-2015
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331-830-0010	1-1-2015	Amend	1-1-2015
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331-840-0030	1-1-2015	Repeal	1-1-2015
331-840-0040	1-1-2015	Amend	1-1-2015
331-840-0050	1-1-2015	Repeal	1-1-2015
331-840-0060	1-1-2015	Amend	1-1-2015
331-840-0070	1-1-2015	Amend	1-1-2015
331-850-0010	1-1-2015	Amend	1-1-2015
332-015-0000	1-1-2015	Amend	2-1-2015
332-015-0025	1-1-2015	Adopt	2-1-2015
332-015-0030	1-1-2015	Amend	2-1-2015
332-015-0030	1-2-2015	Amend(T)	2-1-2015
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333-014-0040	12-17-2014	Amend	2-1-2015
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333-014-0080	12-17-2014	Adopt	2-1-2015
333-014-0080(T)	12-17-2014	Repeal	2-1-2015
333-014-0090	12-17-2014	Adopt	2-1-2015
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333-014-0100	12-17-2014	Adopt	2-1-2015
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333-018-0110	3-24-2015	Amend	5-1-2015
333-018-0127	3-24-2015	Amend	5-1-2015
333-019-0010	1-7-2015	Amend(T)	2-1-2015
333-072-0215	1-16-2015	Amend	3-1-2015
333-072-0215(T)	1-16-2015	Repeal	3-1-2015
333-102-0203	1-1-2015	Amend	2-1-2015
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333-106-0215	1-1-2015	Amend	2-1-2015
333-106-0220	1-1-2015	Amend	2-1-2015
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333-106-0240	1-1-2015	Amend	2-1-2015
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334-010-0033	7-1-2015	Amend	4-1-2015
334-020-0005	7-1-2015	Amend	4-1-2015
334-040-0010	7-1-2015	Amend	4-1-2015
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410-172-0220	1-1-2015	Suspend	2-1-2015
410-172-0230	1-1-2015	Suspend	2-1-2015
410-172-0240	1-1-2015	Suspend	2-1-2015
410-172-0250	1-1-2015	Suspend	2-1-2015
410-172-0260	1-1-2015	Suspend	2-1-2015
410-172-0270	1-1-2015	Suspend	2-1-2015
410-172-0280	1-1-2015	Suspend	2-1-2015
410-172-0290	1-1-2015	Suspend	2-1-2015
410-172-0300	1-1-2015	Suspend	2-1-2015
410-172-0310	1-1-2015	Suspend	2-1-2015
410-172-0320	1-1-2015	Suspend	2-1-2015
410-172-0330	1-1-2015	Suspend	2-1-2015
410-172-0340	1-1-2015	Suspend	2-1-2015
410-172-0350	1-1-2015	Suspend	2-1-2015
410-172-0360	1-1-2015	Suspend	2-1-2015
410-172-0370	1-1-2015	Suspend	2-1-2015
410-172-0380	1-1-2015	Suspend	2-1-2015
410-172-0390	1-1-2015	Suspend	2-1-2015
410-172-0400	1-1-2015	Suspend	2-1-2015
410-172-0410	1-1-2015	Suspend	2-1-2015
410-172-0420	1-1-2015	Suspend	2-1-2015
410-172-0430	1-1-2015	Suspend	2-1-2015
410-172-0440	1-1-2015	Suspend	2-1-2015
410-172-0450	1-1-2015	Suspend	2-1-2015
410-172-0460	1-1-2015	Suspend	2-1-2015
410-172-0470	1-1-2015	Suspend	2-1-2015
410-172-0480	1-1-2015	Suspend	2-1-2015
410-172-0490	1-1-2015	Suspend	2-1-2015
410-172-0500	1-1-2015	Suspend	2-1-2015
410-172-0510	1-1-2015	Suspend	2-1-2015
410-172-0600	1-1-2015	Adopt(T)	2-1-2015
410-172-0610	1-1-2015	Adopt(T)	2-1-2015
410-172-0620	1-1-2015	Adopt(T)	2-1-2015
410-172-0630	1-1-2015	Adopt(T)	2-1-2015
410-172-0640	1-1-2015	Adopt(T)	2-1-2015
410-172-0650	1-1-2015	Adopt(T)	2-1-2015
410-172-0660	1-1-2015	Adopt(T)	2-1-2015
410-172-0670	1-1-2015	Adopt(T)	2-1-2015
410-172-0680	1-1-2015	Adopt(T)	2-1-2015
410-172-0690	1-1-2015	Adopt(T)	2-1-2015
410-172-0700	1-1-2015	Adopt(T)	2-1-2015
410-172-0710	1-1-2015	Adopt(T)	2-1-2015
410-172-0720	1-1-2015	Adopt(T)	2-1-2015
410-172-0730	1-1-2015	Adopt(T)	2-1-2015
410-172-0740	1-1-2015	Adopt(T)	2-1-2015
410-172-0750	1-1-2015	Adopt(T)	2-1-2015
410-172-0760	1-1-2015	Adopt(T)	2-1-2015
410-172-0770	1-1-2015	Adopt(T)	2-1-2015
410-172-0780	1-1-2015	Adopt(T)	2-1-2015
410-172-0790	1-1-2015	Adopt(T)	2-1-2015
410-172-0800	1-1-2015	Adopt(T)	2-1-2015
410-172-0810	1-1-2015	Adopt(T)	2-1-2015
410-172-0820	1-1-2015	Adopt(T)	2-1-2015
410-172-0830	1-1-2015	Adopt(T)	2-1-2015
410-172-0840	1-1-2015	Adopt(T)	2-1-2015
410-172-0850	1-1-2015	Adopt(T)	2-1-2015
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(T)	1-30-2015	Repeal	3-1-2015
410-200-0400	1-30-2015	Amend	3-1-2015

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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
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(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(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
411-050-0625	1-1-2015	Amend(T)	2-1-2015
411-050-0640	1-1-2015	Amend(T)	2-1-2015
411-050-0645	1-1-2015	Amend(T)	2-1-2015
411-050-0655	1-1-2015	Amend(T)	2-1-2015
411-050-0665	1-1-2015	Amend(T)	2-1-2015
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
411-054-0200	1-15-2015	Amend	2-1-2015
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
411-085-0010	1-1-2015	Amend(T)	2-1-2015
411-085-0013	1-1-2015	Amend(T)	2-1-2015
411-085-0015	1-1-2015	Amend(T)	2-1-2015
411-085-0030	1-1-2015	Amend(T)	2-1-2015
411-085-0040	1-1-2015	Amend(T)	2-1-2015
411-085-0060	1-1-2015	Amend(T)	2-1-2015
411-085-0310	1-1-2015	Amend(T)	2-1-2015
411-085-0350	1-1-2015	Amend(T)	2-1-2015
411-085-0360	1-1-2015	Amend(T)	2-1-2015
411-085-0370	1-1-2015	Amend(T)	2-1-2015
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
411-089-0020	1-1-2015	Amend(T)	2-1-2015
411-089-0030	1-1-2015	Amend(T)	2-1-2015
411-089-0040	1-1-2015	Amend(T)	2-1-2015
411-089-0050	1-1-2015	Amend(T)	2-1-2015
411-089-0070	1-1-2015	Amend(T)	2-1-2015
411-089-0075	1-1-2015	Amend(T)	2-1-2015
411-089-0100	1-1-2015	Amend(T)	2-1-2015
411-089-0110	1-1-2015	Amend(T)	2-1-2015
411-089-0120	1-1-2015	Amend(T)	2-1-2015
411-089-0130	1-1-2015	Amend(T)	2-1-2015
411-089-0140	1-1-2015	Amend(T)	2-1-2015
411-300-0100	2-16-2015	Amend	3-1-2015
411-300-0110	2-16-2015	Amend	3-1-2015

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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
411-308-0020(T)	12-28-2014	Repeal	2-1-2015
411-308-0030	12-28-2014	Amend	2-1-2015
411-308-0030	1-29-2015	Amend	3-1-2015
411-308-0030(T)	12-28-2014	Repeal	2-1-2015
411-308-0040	12-28-2014	Amend	2-1-2015
411-308-0040	1-29-2015	Amend	3-1-2015
411-308-0050	12-28-2014	Amend	2-1-2015
411-308-0050	1-29-2015	Amend	3-1-2015
411-308-0050(T)	12-28-2014	Repeal	2-1-2015
411-308-0060	12-28-2014	Amend	2-1-2015
411-308-0060	1-29-2015	Amend	3-1-2015
411-308-0060(T)	12-28-2014	Repeal	2-1-2015
411-308-0070	12-28-2014	Amend	2-1-2015
411-308-0070	1-29-2015	Amend	3-1-2015
411-308-0070(T)	12-28-2014	Repeal	2-1-2015
411-308-0080	12-28-2014	Amend	2-1-2015
411-308-0080	1-29-2015	Amend	3-1-2015
411-308-0080(T)	12-28-2014	Repeal	2-1-2015
411-308-0090	12-28-2014	Amend	2-1-2015
411-308-0090	1-29-2015	Amend	3-1-2015
411-308-0100	12-28-2014	Amend	2-1-2015
411-308-0100	1-29-2015	Amend	3-1-2015
411-308-0100(T)	12-28-2014	Repeal	2-1-2015
411-308-0110	12-28-2014	Amend	2-1-2015
411-308-0110	1-29-2015	Amend	3-1-2015
411-308-0120	12-28-2014	Amend	2-1-2015
411-308-0120	1-29-2015	Amend	3-1-2015
411-308-0120(T)	12-28-2014	Repeal	2-1-2015
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
411-308-0135(T)	12-28-2014	Repeal	2-1-2015
411-308-0140	12-28-2014	Amend	2-1-2015
411-308-0140	1-29-2015	Amend	3-1-2015
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
411-318-0030(T)	12-28-2014	Repeal	2-1-2015
411-320-0020	12-28-2014	Amend	2-1-2015
411-320-0020(T)	12-28-2014	Repeal	2-1-2015
411-320-0040	12-28-2014	Amend	2-1-2015
411-320-0040(T)	12-28-2014	Repeal	2-1-2015
411-320-0060	12-28-2014	Amend	2-1-2015
411-320-0060(T)	12-28-2014	Repeal	2-1-2015
411-320-0070	12-28-2014	Amend	2-1-2015
411-320-0080	12-28-2014	Amend	2-1-2015
411-320-0080(T)	12-28-2014	Repeal	2-1-2015
411-320-0090	12-28-2014	Amend	2-1-2015
411-320-0090(T)	12-28-2014	Repeal	2-1-2015
411-320-0100	12-28-2014	Amend	2-1-2015
411-320-0100(T)	12-28-2014	Repeal	2-1-2015
411-320-0110	12-28-2014	Amend	2-1-2015
411-320-0110(T)	12-28-2014	Repeal	2-1-2015
411-320-0120	12-28-2014	Amend	2-1-2015
411-320-0120(T)	12-28-2014	Repeal	2-1-2015
411-320-0130	12-28-2014	Amend	2-1-2015
411-320-0130(T)	12-28-2014	Repeal	2-1-2015
411-320-0160	12-28-2014	Amend	2-1-2015
411-320-0170	12-28-2014	Amend	2-1-2015
411-320-0170(T)	12-28-2014	Repeal	2-1-2015
411-320-0175	12-28-2014	Amend	2-1-2015
411-320-0175(T)	12-28-2014	Repeal	2-1-2015
411-320-0190	12-28-2014	Amend	2-1-2015
411-320-0200	12-28-2014	Amend	2-1-2015
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
411-323-0020(T)	12-28-2014	Repeal	2-1-2015
411-323-0030	12-28-2014	Amend	2-1-2015

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411-323-0030(T)	12-28-2014	Repeal	2-1-2015
411-323-0035	12-28-2014	Amend	2-1-2015
411-323-0035(T)	12-28-2014	Repeal	2-1-2015
411-323-0040	12-28-2014	Amend	2-1-2015
411-323-0050	12-28-2014	Amend	2-1-2015
411-323-0050(T)	12-28-2014	Repeal	2-1-2015
411-323-0060	12-28-2014	Amend	2-1-2015
411-323-0060(T)	12-28-2014	Repeal	2-1-2015
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
411-325-0060	12-28-2014	Amend	2-1-2015
411-325-0060(T)	12-28-2014	Repeal	2-1-2015
411-325-0110	12-28-2014	Amend	2-1-2015
411-325-0110(T)	12-28-2014	Repeal	2-1-2015
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
411-325-0390	12-28-2014	Amend	2-1-2015
411-325-0390(T)	12-28-2014	Repeal	2-1-2015
411-325-0400	12-28-2014	Repeal	2-1-2015
411-325-0430	12-28-2014	Amend	2-1-2015
411-325-0430(T)	12-28-2014	Repeal	2-1-2015
411-325-0460	12-28-2014	Amend	2-1-2015
411-325-0460(T)	12-28-2014	Repeal	2-1-2015
411-328-0550	12-28-2014	Amend	2-1-2015
411-328-0560	12-28-2014	Amend	2-1-2015
411-328-0560(T)	12-28-2014	Repeal	2-1-2015
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
411-328-0640	12-28-2014	Amend	2-1-2015
411-328-0650	12-28-2014	Amend	2-1-2015
411-328-0660	12-28-2014	Amend	2-1-2015
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
411-328-0700(T)	12-28-2014	Repeal	2-1-2015
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
411-328-0720(T)	12-28-2014	Repeal	2-1-2015
411-328-0740	12-28-2014	Repeal	2-1-2015
411-328-0750	12-28-2014	Amend	2-1-2015
411-328-0750(T)	12-28-2014	Repeal	2-1-2015
411-328-0760	12-28-2014	Amend	2-1-2015
411-328-0760(T)	12-28-2014	Repeal	2-1-2015
411-328-0770	12-28-2014	Amend	2-1-2015
411-328-0770(T)	12-28-2014	Repeal	2-1-2015
411-328-0780	12-28-2014	Amend	2-1-2015
411-328-0790	12-28-2014	Amend	2-1-2015
411-328-0790(T)	12-28-2014	Repeal	2-1-2015
411-328-0800	12-28-2014	Repeal	2-1-2015
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
411-330-0030(T)	12-28-2014	Repeal	2-1-2015
411-330-0040	12-28-2014	Amend	2-1-2015
411-330-0040(T)	12-28-2014	Repeal	2-1-2015
411-330-0050	12-28-2014	Amend	2-1-2015
411-330-0050(T)	12-28-2014	Repeal	2-1-2015
411-330-0060	12-28-2014	Amend	2-1-2015
411-330-0060(T)	12-28-2014	Repeal	2-1-2015
411-330-0065	12-28-2014	Amend	2-1-2015
411-330-0070	12-28-2014	Amend	2-1-2015
411-330-0070(T)	12-28-2014	Repeal	2-1-2015
411-330-0080	12-28-2014	Amend	2-1-2015
411-330-0080(T)	12-28-2014	Repeal	2-1-2015
411-330-0090	12-28-2014	Amend	2-1-2015
411-330-0090(T)	12-28-2014	Repeal	2-1-2015
411-330-0100	12-28-2014	Amend	2-1-2015
411-330-0100(T)	12-28-2014	Repeal	2-1-2015
411-330-0110	12-28-2014	Amend	2-1-2015
411-330-0110(T)	12-28-2014	Repeal	2-1-2015
411-330-0130	12-28-2014	Amend	2-1-2015
411-330-0130(T)	12-28-2014	Repeal	2-1-2015
411-330-0140	12-28-2014	Amend	2-1-2015
411-340-0020	12-28-2014	Amend	2-1-2015
411-340-0020(T)	12-28-2014	Repeal	2-1-2015
411-340-0050	12-28-2014	Amend	2-1-2015
411-340-0060	12-28-2014	Amend	2-1-2015
411-340-0060(T)	12-28-2014	Repeal	2-1-2015
411-340-0080	12-28-2014	Amend	2-1-2015
411-340-0090	12-28-2014	Amend	2-1-2015
411-340-0100	12-28-2014	Amend	2-1-2015
411-340-0100(T)	12-28-2014	Repeal	2-1-2015
411-340-0110	12-28-2014	Amend	2-1-2015
411-340-0110(T)	12-28-2014	Repeal	2-1-2015
411-340-0120	12-28-2014	Amend	2-1-2015
411-340-0120(T)	12-28-2014	Repeal	2-1-2015
411-340-0125	12-28-2014	Amend	2-1-2015
411-340-0130	12-28-2014	Amend	2-1-2015
411-340-0130(T)	12-28-2014	Repeal	2-1-2015
411-340-0135	12-28-2014	Adopt	2-1-2015
411-340-0135(T)	12-28-2014	Repeal	2-1-2015
411-340-0140	12-28-2014	Amend	2-1-2015
411-340-0150	12-28-2014	Amend	2-1-2015
411-340-0150(T)	12-28-2014	Repeal	2-1-2015
411-340-0160	12-28-2014	Amend	2-1-2015
411-340-0160(T)	12-28-2014	Repeal	2-1-2015
411-340-0170	12-28-2014	Amend	2-1-2015
411-340-0170(T)	12-28-2014	Repeal	2-1-2015
411-340-0180	12-28-2014	Amend	2-1-2015
411-345-0010	12-28-2014	Amend	2-1-2015

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411-345-0010(T)	12-28-2014	Repeal	2-1-2015
411-345-0020	12-28-2014	Amend	2-1-2015
411-345-0020(T)	12-28-2014	Repeal	2-1-2015
411-345-0025	12-28-2014	Amend	2-1-2015
411-345-0025(T)	12-28-2014	Repeal	2-1-2015
411-345-0027	12-28-2014	Adopt	2-1-2015
411-345-0027(T)	12-28-2014	Repeal	2-1-2015
411-345-0030	12-28-2014	Amend	2-1-2015
411-345-0030(T)	12-28-2014	Repeal	2-1-2015
411-345-0050	12-28-2014	Amend	2-1-2015
411-345-0050(T)	12-28-2014	Repeal	2-1-2015
411-345-0085	12-28-2014	Adopt	2-1-2015
411-345-0085(T)	12-28-2014	Repeal	2-1-2015
411-345-0090	12-28-2014	Amend	2-1-2015
411-345-0090(T)	12-28-2014	Repeal	2-1-2015
411-345-0095	12-28-2014	Amend	2-1-2015
411-345-0095(T)	12-28-2014	Repeal	2-1-2015
411-345-0100	12-28-2014	Repeal	2-1-2015
411-345-0110	12-28-2014	Amend	2-1-2015
411-345-0110(T)	12-28-2014	Repeal	2-1-2015
411-345-0130	12-28-2014	Amend	2-1-2015
411-345-0130(T)	12-28-2014	Repeal	2-1-2015
411-345-0140	12-28-2014	Amend	2-1-2015
411-345-0140(T)	12-28-2014	Repeal	2-1-2015
411-345-0160	12-28-2014	Amend	2-1-2015
411-345-0160(T)	12-28-2014	Repeal	2-1-2015
411-345-0170	12-28-2014	Amend	2-1-2015
411-345-0170(T)	12-28-2014	Repeal	2-1-2015
411-345-0180	12-28-2014	Amend	2-1-2015
411-345-0180(T)	12-28-2014	Repeal	2-1-2015
411-345-0190	12-28-2014	Amend	2-1-2015
411-345-0190(T)	12-28-2014	Repeal	2-1-2015
411-345-0200	12-28-2014	Amend	2-1-2015
411-345-0200(T)	12-28-2014	Repeal	2-1-2015
411-345-0230	12-28-2014	Amend	2-1-2015
411-345-0230(T)	12-28-2014	Repeal	2-1-2015
411-345-0240	12-28-2014	Amend	2-1-2015
411-345-0240(T)	12-28-2014	Repeal	2-1-2015
411-345-0250	12-28-2014	Amend	2-1-2015
411-345-0250(T)	12-28-2014	Repeal	2-1-2015
411-345-0260	12-28-2014	Amend	2-1-2015
411-345-0260(T)	12-28-2014	Repeal	2-1-2015
411-345-0270	12-28-2014	Amend	2-1-2015
411-345-0270(T)	12-28-2014	Repeal	2-1-2015
411-346-0110	12-28-2014	Amend	2-1-2015
411-346-0110(T)	12-28-2014	Repeal	2-1-2015
411-346-0150	12-28-2014	Amend	2-1-2015
411-346-0150(T)	12-28-2014	Repeal	2-1-2015
411-346-0180	12-28-2014	Amend	2-1-2015
411-346-0180(T)	12-28-2014	Repeal	2-1-2015
411-346-0190	12-28-2014	Amend	2-1-2015
411-346-0190(T)	12-28-2014	Repeal	2-1-2015
411-346-0210	12-28-2014	Amend	2-1-2015
411-350-0010	2-16-2015	Amend	3-1-2015
411-350-0020	2-16-2015	Amend	3-1-2015
411-350-0020(T)	2-16-2015	Repeal	3-1-2015
411-350-0030	2-16-2015	Amend	3-1-2015
411-350-0030	3-12-2015	Amend	4-1-2015
411-350-0030	4-10-2015	Amend(T)	5-1-2015
411-350-0030(T)	2-16-2015	Repeal	3-1-2015
411-350-0040	2-16-2015	Amend	3-1-2015
411-350-0040(T)	2-16-2015	Repeal	3-1-2015
411-350-0050	2-16-2015	Amend	3-1-2015
411-350-0050	3-12-2015	Amend	4-1-2015
411-350-0050(T)	2-16-2015	Repeal	3-1-2015
411-350-0075	2-16-2015	Adopt	3-1-2015
411-350-0075(T)	2-16-2015	Repeal	3-1-2015
411-350-0080	2-16-2015	Amend	3-1-2015
411-350-0080(T)	2-16-2015	Repeal	3-1-2015
411-350-0085	2-16-2015	Adopt	3-1-2015
411-350-0100	2-16-2015	Amend	3-1-2015
411-350-0100(T)	2-16-2015	Repeal	3-1-2015
411-350-0110	2-16-2015	Amend	3-1-2015
411-350-0110(T)	2-16-2015	Repeal	3-1-2015
411-350-0115	2-16-2015	Amend	3-1-2015
411-350-0115(T)	2-16-2015	Repeal	3-1-2015
411-350-0118	2-16-2015	Repeal	3-1-2015
411-350-0120	2-16-2015	Repeal	3-1-2015
411-360-0020	12-28-2014	Amend	2-1-2015
411-360-0020(T)	12-28-2014	Repeal	2-1-2015
411-360-0030	12-28-2014	Amend	2-1-2015
411-360-0130	12-28-2014	Amend	2-1-2015
411-360-0140	12-28-2014	Amend	2-1-2015
411-360-0140(T)	12-28-2014	Repeal	2-1-2015
411-360-0170	12-28-2014	Amend	2-1-2015
411-360-0170(T)	12-28-2014	Repeal	2-1-2015
411-360-0190	12-28-2014	Amend	2-1-2015
411-360-0190(T)	12-28-2014	Repeal	2-1-2015
411-360-0250	12-28-2014	Amend	2-1-2015
411-360-0250(T)	12-28-2014	Repeal	2-1-2015
411-360-0275	12-28-2014	Amend	2-1-2015
411-360-0275(T)	12-28-2014	Repeal	2-1-2015
411-375-0000	12-28-2014	Adopt	2-1-2015
411-375-0000(T)	12-28-2014	Repeal	2-1-2015
411-375-0010	12-28-2014	Adopt	2-1-2015
411-375-0010(T)	12-28-2014	Repeal	2-1-2015
411-375-0020	12-28-2014	Adopt	2-1-2015
411-375-0020(T)	12-28-2014	Repeal	2-1-2015
411-375-0030	12-28-2014	Adopt	2-1-2015
411-375-0030(T)	12-28-2014	Repeal	2-1-2015
411-375-0040	12-28-2014	Adopt	2-1-2015
411-375-0040(T)	12-28-2014	Repeal	2-1-2015
411-375-0050	12-28-2014	Adopt	2-1-2015
411-375-0050(T)	12-28-2014	Repeal	2-1-2015
411-375-0060	12-28-2014	Adopt	2-1-2015
411-375-0060(T)	12-28-2014	Repeal	2-1-2015
411-375-0070	12-28-2014	Adopt	2-1-2015
411-375-0070(T)	12-28-2014	Repeal	2-1-2015
411-375-0080	12-28-2014	Adopt	2-1-2015
411-375-0080(T)	12-28-2014	Repeal	2-1-2015
413-010-0180	1-1-2015	Amend	2-1-2015
413-010-0185	1-1-2015	Amend	2-1-2015

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413-010-0310	2-1-2015	Amend	3-1-2015
413-015-0115	12-24-2014	Amend	2-1-2015
413-015-0115(T)	12-24-2014	Repeal	2-1-2015
413-015-0400	12-24-2014	Amend	2-1-2015
413-015-0409	12-24-2014	Amend	2-1-2015
413-015-0409(T)	12-24-2014	Repeal	2-1-2015
413-015-0415	12-24-2014	Amend	2-1-2015
413-015-0415(T)	12-24-2014	Repeal	2-1-2015
413-015-0420	12-24-2014	Amend	2-1-2015
413-015-0420(T)	12-24-2014	Repeal	2-1-2015
413-015-0432	12-24-2014	Amend	2-1-2015
413-015-0432(T)	12-24-2014	Repeal	2-1-2015
413-015-0450	12-24-2014	Amend	2-1-2015
413-015-0540	12-24-2014	Amend	2-1-2015
413-015-0540(T)	12-24-2014	Repeal	2-1-2015
413-015-1105	12-24-2014	Amend	2-1-2015
413-015-1105(T)	12-24-2014	Repeal	2-1-2015
413-015-9000	4-1-2015	Amend	5-1-2015
413-015-9020	4-1-2015	Amend	5-1-2015
413-015-9030	12-24-2014	Amend	2-1-2015
413-015-9040	12-24-2014	Amend	2-1-2015
413-015-9040(T)	12-24-2014	Repeal	2-1-2015
413-070-0063	2-1-2015	Amend	3-1-2015
413-070-0069	1-21-2015	Amend(T)	3-1-2015
413-070-0072	1-21-2015	Amend(T)	3-1-2015
413-070-0410	1-1-2015	Amend	2-1-2015
413-070-0430	1-1-2015	Amend	2-1-2015
413-070-0450	1-1-2015	Amend	2-1-2015
413-070-0470	1-1-2015	Amend	2-1-2015
413-070-0480	1-1-2015	Amend	2-1-2015
413-070-0490	1-1-2015	Amend	2-1-2015
413-070-0505	2-1-2015	Amend	3-1-2015
413-070-0620	2-1-2015	Amend	3-1-2015
413-070-0655	2-1-2015	Amend	3-1-2015
413-070-0905	1-21-2015	Amend(T)	3-1-2015
413-070-0905	2-1-2015	Amend	3-1-2015
413-070-0905	2-1-2015	Amend(T)	3-1-2015
413-070-0905(T)	1-21-2015	Suspend	3-1-2015
413-070-0905(T)	2-1-2015	Repeal	3-1-2015
413-070-0917	1-21-2015	Amend(T)	3-1-2015
413-070-0949	1-21-2015	Amend(T)	3-1-2015
413-090-0110	1-1-2015	Amend	2-1-2015
413-090-0120	1-1-2015	Amend	2-1-2015
413-090-0133	1-1-2015	Amend	2-1-2015
413-090-0133	2-5-2015	Amend(T)	3-1-2015
413-090-0135	1-1-2015	Amend	2-1-2015
413-090-0136	1-1-2015	Amend	2-1-2015
413-090-0140	1-1-2015	Amend	2-1-2015
413-090-0150	1-1-2015	Amend	2-1-2015
413-090-0150	2-5-2015	Amend(T)	3-1-2015
413-090-0210	1-1-2015	Amend	2-1-2015
413-120-0010	2-1-2015	Amend	3-1-2015
413-120-0195	2-1-2015	Amend	3-1-2015
413-120-0510	2-1-2015	Amend	3-1-2015
413-120-0710	2-1-2015	Amend	3-1-2015
413-200-0414	12-24-2014	Amend	2-1-2015
413-200-0414(T)	12-24-2014	Repeal	2-1-2015
413-300-0200	3-6-2015	Repeal	4-1-2015
413-300-0210	3-6-2015	Repeal	4-1-2015
413-300-0220	3-6-2015	Repeal	4-1-2015
413-300-0230	3-6-2015	Repeal	4-1-2015
413-300-0240	3-6-2015	Repeal	4-1-2015
413-300-0250	3-6-2015	Repeal	4-1-2015
413-300-0260	3-6-2015	Repeal	4-1-2015
413-300-0270	3-6-2015	Repeal	4-1-2015
413-300-0280	3-6-2015	Repeal	4-1-2015
414-061-0000	2-3-2015	Amend	3-1-2015
414-061-0010	2-3-2015	Amend	3-1-2015
414-061-0020	2-3-2015	Amend	3-1-2015
414-061-0030	2-3-2015	Amend	3-1-2015
414-061-0040	2-3-2015	Amend	3-1-2015
414-061-0050	2-3-2015	Amend	3-1-2015
414-061-0060	2-3-2015	Amend	3-1-2015
414-061-0065	2-3-2015	Amend	3-1-2015
414-061-0070	2-3-2015	Amend	3-1-2015
414-061-0080	2-3-2015	Amend	3-1-2015
414-061-0090	2-3-2015	Amend	3-1-2015
414-061-0100	2-3-2015	Amend	3-1-2015
414-061-0110	2-3-2015	Amend	3-1-2015
414-061-0120	2-3-2015	Amend	3-1-2015
414-205-0000	2-3-2015	Amend	3-1-2015
414-205-0010	2-3-2015	Amend	3-1-2015
414-205-0020	2-3-2015	Amend	3-1-2015
414-205-0035	2-3-2015	Amend	3-1-2015
414-205-0040	2-3-2015	Amend	3-1-2015
414-205-0055	2-3-2015	Amend	3-1-2015
414-205-0065	2-3-2015	Amend	3-1-2015
414-205-0075	2-3-2015	Amend	3-1-2015
414-205-0085	2-3-2015	Amend	3-1-2015
414-205-0090	2-3-2015	Amend	3-1-2015
414-205-0100	2-3-2015	Amend	3-1-2015
414-205-0110	2-3-2015	Amend	3-1-2015
414-205-0120	2-3-2015	Amend	3-1-2015
414-205-0130	2-3-2015	Amend	3-1-2015
414-205-0140	2-3-2015	Amend	3-1-2015
414-205-0150	2-3-2015	Amend	3-1-2015
414-205-0160	2-3-2015	Amend	3-1-2015
414-205-0170	2-3-2015	Amend	3-1-2015
414-300-0005	2-3-2015	Amend	3-1-2015
414-300-0015	2-3-2015	Amend	3-1-2015
414-300-0070	2-3-2015	Amend	3-1-2015
414-350-0030	2-3-2015	Amend	3-1-2015
414-350-0050	2-3-2015	Amend	3-1-2015
414-350-0090	2-3-2015	Amend	3-1-2015
414-400-0000	11-25-2014	Amend	1-1-2015
414-400-0010	11-25-2014	Amend	1-1-2015
414-400-0020	11-25-2014	Amend	1-1-2015
414-400-0031	11-25-2014	Amend	1-1-2015
414-400-0033	11-25-2014	Renumber	1-1-2015
414-400-0040	11-25-2014	Amend	1-1-2015
414-400-0050	11-25-2014	Amend	1-1-2015
414-400-0060	11-25-2014	Amend	1-1-2015

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414-400-0080	11-25-2014	Amend	1-1-2015
414-400-0090	11-25-2014	Adopt	1-1-2015
414-400-0095	11-25-2014	Adopt	1-1-2015
414-700-0000	11-25-2014	Amend	1-1-2015
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414-700-0020	11-25-2014	Amend	1-1-2015
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414-700-0060	11-25-2014	Amend	1-1-2015
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418-030-0020	12-1-2014	Adopt	1-1-2015
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436-009-0998	4-1-2015	Amend	4-1-2015
436-010-0005	3-1-2015	Amend	3-1-2015
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436-030-0020	3-1-2015	Amend	3-1-2015
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603-048-0900	1-29-2015	Adopt	3-1-2015
603-048-1000	1-29-2015	Adopt	3-1-2015
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
635-004-0215	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(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(T)	1-15-2015	Repeal	2-1-2015
635-004-0505	1-16-2015	Amend(T)	3-1-2015
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
635-006-0209	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	5-1-2015	Amend(T)	5-1-2015
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
635-011-0100	1-1-2015	Amend	2-1-2015
635-011-0104	1-1-2015	Amend	2-1-2015
635-013-0004	1-1-2015	Amend	2-1-2015
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635-014-0090	4-1-2015	Amend(T)	5-1-2015
635-016-0080	1-1-2015	Amend	2-1-2015
635-016-0090	1-1-2015	Amend	2-1-2015
635-017-0080	1-1-2015	Amend	2-1-2015
635-017-0090	1-1-2015	Amend	2-1-2015
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
635-021-0080	1-1-2015	Amend	2-1-2015
635-021-0090	1-1-2015	Amend	2-1-2015
635-023-0080	1-1-2015	Amend	2-1-2015
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635-023-0095	1-1-2015	Amend(T)	2-1-2015
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(T)	3-5-2015	Suspend	4-1-2015
635-023-0125(T)	4-10-2015	Suspend	5-1-2015
635-023-0128	1-1-2015	Amend	2-1-2015
635-023-0130	1-1-2015	Amend	2-1-2015
635-023-0134	1-1-2015	Amend	2-1-2015
635-023-0140	1-1-2015	Amend	2-1-2015
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635-039-0080	3-10-2015	Amend	4-1-2015
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(T)	3-10-2015	Repeal	4-1-2015
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(T)	2-20-2015	Suspend	4-1-2015
635-041-0065(T)	3-12-2015	Suspend	4-1-2015
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
635-042-0130	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(T)	3-9-2015	Suspend	4-1-2015
635-042-0145(T)	3-24-2015	Suspend	5-1-2015
635-042-0160	2-9-2015	Amend(T)	3-1-2015
635-042-0170	2-9-2015	Amend(T)	3-1-2015
635-042-0180	2-9-2015	Amend(T)	3-1-2015
635-043-0151	1-15-2015	Adopt(T)	2-1-2015

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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
635-065-0090	1-6-2015	Amend	2-1-2015
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
635-065-0760	1-1-2015	Amend(T)	1-1-2015
635-065-0765	1-6-2015	Amend	2-1-2015
635-066-0000	1-6-2015	Amend	2-1-2015
635-067-0000	1-6-2015	Amend	2-1-2015
635-067-0015	1-6-2015	Amend	2-1-2015
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635-069-0000	2-26-2015	Amend	4-1-2015
635-070-0000	4-8-2015	Amend	5-1-2015
635-070-0020	4-8-2015	Amend	5-1-2015
635-071-0000	4-8-2015	Amend	5-1-2015
635-071-0010	1-7-2015	Amend(T)	2-1-2015
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690-020-0025	3-17-2015	Amend	5-1-2015
690-020-0029	3-17-2015	Amend	5-1-2015
690-020-0035	3-17-2015	Amend	5-1-2015
690-020-0036	3-17-2015	Adopt	5-1-2015
690-020-0037	3-17-2015	Adopt	5-1-2015
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690-020-0050	3-17-2015	Am. & Ren.	5-1-2015
690-020-0055	3-17-2015	Adopt	5-1-2015
690-020-0060	3-17-2015	Adopt	5-1-2015
690-020-0065	3-17-2015	Adopt	5-1-2015
690-020-0070	3-17-2015	Adopt	5-1-2015
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690-025-0010	3-16-2015	Adopt	5-1-2015
690-033-0120	11-25-2014	Amend	1-1-2015
690-200-0005	11-25-2014	Amend	1-1-2015
690-210-0310	11-25-2014	Amend	1-1-2015
690-210-0340	11-25-2014	Amend	1-1-2015
690-215-0045	11-25-2014	Amend	1-1-2015
690-240-0005	11-25-2014	Amend	1-1-2015
690-240-0035	11-25-2014	Amend	1-1-2015
690-240-0046	11-25-2014	Amend	1-1-2015
690-310-0080	1-1-2015	Amend	1-1-2015
690-325-0010	11-25-2014	Adopt	1-1-2015
690-325-0020	11-25-2014	Adopt	1-1-2015
690-325-0030	11-25-2014	Adopt	1-1-2015
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690-325-0060	11-25-2014	Adopt	1-1-2015
690-325-0070	11-25-2014	Adopt	1-1-2015
690-325-0080	11-25-2014	Adopt	1-1-2015
690-325-0090	11-25-2014	Adopt	1-1-2015
690-325-0100	11-25-2014	Adopt	1-1-2015
690-325-0110	11-25-2014	Adopt	1-1-2015
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690-340-0040	1-1-2015	Amend	1-1-2015
690-382-0400	1-1-2015	Amend	1-1-2015
710-010-0000	11-30-2014	Adopt	1-1-2015
715-001-0030	1-20-2015	Adopt	3-1-2015

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715-010-0015	12-18-2014	Amend	2-1-2015
715-013-0005	3-16-2015	Adopt	5-1-2015
715-013-0020	3-16-2015	Adopt	5-1-2015
715-013-0025	7-1-2015	Adopt	5-1-2015
715-013-0040	7-1-2015	Adopt	5-1-2015
715-045-0007	12-18-2014	Amend	2-1-2015
715-045-0009	12-18-2014	Amend	2-1-2015
715-045-0012	12-18-2014	Amend	2-1-2015
715-045-0018	12-18-2014	Amend	2-1-2015
715-045-0190	12-18-2014	Amend	2-1-2015
715-045-0200	12-18-2014	Amend	2-1-2015
715-045-0220	12-18-2014	Adopt	2-1-2015
734-035-0010	12-8-2014	Amend	1-1-2015
734-035-0040	12-8-2014	Amend	1-1-2015
734-035-0200	12-8-2014	Adopt	1-1-2015
734-035-0200(T)	12-8-2014	Repeal	1-1-2015
734-059-0015	12-19-2014	Amend	2-1-2015
734-059-0020	12-19-2014	Amend	2-1-2015
734-059-0025	12-19-2014	Amend	2-1-2015
734-059-0040	12-19-2014	Adopt	2-1-2015
734-059-0220	12-19-2014	Amend	2-1-2015
734-060-0000	12-19-2014	Amend	2-1-2015
734-060-0007	12-19-2014	Amend	2-1-2015
734-060-0175	12-19-2014	Amend	2-1-2015
734-060-0190	12-19-2014	Adopt	2-1-2015
735-001-0040	12-19-2014	Amend	2-1-2015
735-022-0065	1-1-2015	Adopt	1-1-2015
735-062-0005	12-1-2014	Amend	1-1-2015
735-062-0007	12-1-2014	Amend	1-1-2015
735-062-0010	12-1-2014	Amend	1-1-2015
735-062-0015	12-1-2014	Amend	1-1-2015
735-062-0030	12-1-2014	Amend	1-1-2015
735-062-0040	12-1-2014	Amend	1-1-2015
735-062-0096	12-1-2014	Amend	1-1-2015
735-062-0110	12-1-2014	Amend	1-1-2015
735-062-0125	12-1-2014	Amend	1-1-2015
735-062-0200	12-1-2014	Amend	1-1-2015
735-170-0000	7-1-2015	Amend	1-1-2015
735-170-0010	7-1-2015	Amend	1-1-2015
735-170-0015	7-1-2015	Adopt	1-1-2015
735-170-0020	7-1-2015	Amend	1-1-2015
735-170-0035	7-1-2015	Adopt	1-1-2015
735-170-0040	7-1-2015	Amend	1-1-2015
735-170-0045	7-1-2015	Amend	1-1-2015
735-170-0105	7-1-2015	Amend	1-1-2015
735-174-0000	7-1-2015	Amend	1-1-2015
735-174-0020	7-1-2015	Amend	1-1-2015
735-174-0030	7-1-2015	Amend	1-1-2015
735-174-0040	7-1-2015	Amend	1-1-2015
735-174-0045	7-1-2015	Amend	1-1-2015
735-176-0000	7-1-2015	Repeal	1-1-2015
735-176-0010	7-1-2015	Repeal	1-1-2015
735-176-0017	7-1-2015	Repeal	1-1-2015
735-176-0019	7-1-2015	Repeal	1-1-2015
735-176-0020	7-1-2015	Repeal	1-1-2015
735-176-0021	7-1-2015	Repeal	1-1-2015
735-176-0022	7-1-2015	Repeal	1-1-2015
735-176-0023	7-1-2015	Repeal	1-1-2015
735-176-0030	7-1-2015	Repeal	1-1-2015
735-176-0040	7-1-2015	Repeal	1-1-2015
735-176-0045	7-1-2015	Repeal	1-1-2015
735-176-0100	7-1-2015	Adopt	1-1-2015
735-176-0110	7-1-2015	Adopt	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
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800-030-0050	2-1-2015	Amend	3-1-2015
801-001-0000	1-8-2015	Amend	1-1-2015
801-001-0005	1-8-2015	Amend	1-1-2015
801-001-0015	1-8-2015	Repeal	1-1-2015
801-001-0020	1-8-2015	Repeal	1-1-2015
801-001-0035	1-8-2015	Amend	1-1-2015
801-005-0010	1-8-2015	Amend	1-1-2015
801-010-0010	1-8-2015	Amend	1-1-2015
801-010-0045	1-8-2015	Amend	1-1-2015
801-010-0050	1-8-2015	Amend	1-1-2015
801-010-0060	1-8-2015	Amend	1-1-2015
801-010-0065	1-8-2015	Amend	1-1-2015
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801-010-0110	1-8-2015	Amend	1-1-2015
801-010-0120	1-8-2015	Amend	1-1-2015
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801-030-0005	1-8-2015	Amend	1-1-2015
801-030-0010	1-8-2015	Amend	1-1-2015
801-030-0015	1-8-2015	Amend	1-1-2015
801-030-0020	1-8-2015	Amend	1-1-2015
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804-040-0000	11-19-2014	Amend	1-1-2015
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808-003-0040	2-1-2015	Amend	3-1-2015
808-003-0045	2-1-2015	Amend	3-1-2015
808-003-0065	12-1-2014	Amend	1-1-2015
808-003-0065	2-1-2015	Amend	3-1-2015
808-003-0065	2-12-2015	Amend(T)	3-1-2015
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
809-040-0001	12-5-2014	Amend	1-1-2015
809-050-0020	12-5-2014	Repeal	1-1-2015
809-050-0050	12-5-2014	Amend	1-1-2015
809-050-0050(T)	12-5-2014	Repeal	1-1-2015
811-010-0085	3-20-2015	Amend	5-1-2015
811-015-0005	4-10-2015	Amend	5-1-2015
813-013-0035	2-26-2015	Amend(T)	4-1-2015
813-044-0040	3-11-2015	Amend(T)	4-1-2015
813-044-0045	3-11-2015	Adopt(T)	4-1-2015
813-055-0001	12-2-2014	Amend	1-1-2015
813-055-0095	12-2-2014	Repeal	1-1-2015
813-055-0105	12-2-2014	Repeal	1-1-2015
813-055-0115	12-2-2014	Repeal	1-1-2015
813-090-0005	12-2-2014	Amend	1-1-2015
813-090-0005(T)	12-2-2014	Repeal	1-1-2015
813-090-0010	12-2-2014	Amend	1-1-2015
813-090-0010(T)	12-2-2014	Repeal	1-1-2015
813-090-0015	12-2-2014	Amend	1-1-2015
813-090-0015(T)	12-2-2014	Repeal	1-1-2015
813-090-0027	12-2-2014	Repeal	1-1-2015
813-090-0031	12-2-2014	Amend	1-1-2015
813-090-0031(T)	12-2-2014	Repeal	1-1-2015
813-090-0036	12-2-2014	Amend	1-1-2015
813-090-0036(T)	12-2-2014	Repeal	1-1-2015
813-090-0037	12-2-2014	Amend	1-1-2015
813-090-0037(T)	12-2-2014	Repeal	1-1-2015
813-090-0039	12-2-2014	Amend	1-1-2015
813-090-0039(T)	12-2-2014	Repeal	1-1-2015
813-090-0055	12-2-2014	Adopt	1-1-2015
813-090-0064	12-2-2014	Adopt	1-1-2015
813-090-0080	12-2-2014	Amend	1-1-2015
813-090-0080(T)	12-2-2014	Repeal	1-1-2015
813-090-0095	12-2-2014	Repeal	1-1-2015
813-090-0110(T)	12-2-2014	Repeal	1-1-2015
813-110-0005	12-2-2014	Amend	1-1-2015
813-110-0005(T)	12-2-2014	Repeal	1-1-2015
813-110-0010	3-18-2015	Amend(T)	5-1-2015
813-110-0015	12-2-2014	Amend	1-1-2015
813-110-0020	12-2-2014	Amend	1-1-2015
813-110-0021	12-2-2014	Amend	1-1-2015
813-110-0026	12-2-2014	Amend	1-1-2015
813-110-0027	12-2-2014	Amend	1-1-2015
813-110-0030	12-2-2014	Amend	1-1-2015
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
813-110-0045	12-2-2014	Repeal	1-1-2015
820-010-0417	2-3-2015	Amend	3-1-2015
820-010-0463	2-3-2015	Amend	3-1-2015
820-010-0505	2-3-2015	Amend	3-1-2015
820-010-0520	2-3-2015	Amend	3-1-2015
820-010-0730	2-3-2015	Amend	3-1-2015
820-015-0026	2-3-2015	Amend	3-1-2015
820-050-0010	2-3-2015	Amend	3-1-2015
824-030-0030	12-2-2014	Amend(T)	1-1-2015
836-010-0026	3-12-2015	Adopt	4-1-2015
836-011-0000	3-10-2015	Amend	4-1-2015
836-051-0210	1-1-2015	Amend	2-1-2015
836-051-0220	1-1-2015	Amend	2-1-2015
836-051-0230	1-1-2015	Amend	2-1-2015
836-051-0235	1-1-2015	Adopt	2-1-2015
837-085-0260	1-1-2015	Amend	2-1-2015
837-085-0270	1-1-2015	Amend	2-1-2015
837-085-0280	1-1-2015	Amend	2-1-2015
837-085-0290	1-1-2015	Amend	2-1-2015
837-085-0300	1-1-2015	Amend	2-1-2015
837-085-0305	1-1-2015	Amend	2-1-2015
837-085-0310	1-1-2015	Amend	2-1-2015
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837-095-0040	1-1-2015	Adopt	2-1-2015
837-095-0050	1-1-2015	Adopt	2-1-2015
839-002-0065	1-6-2015	Amend(T)	2-1-2015
839-009-0210	11-20-2014	Amend(T)	1-1-2015
839-009-0340	11-20-2014	Amend(T)	1-1-2015

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839-010-0010	1-28-2015	Amend	3-1-2015
839-010-0020	1-28-2015	Amend	3-1-2015
839-010-0100	1-28-2015	Amend	3-1-2015
839-010-0200	1-28-2015	Amend	3-1-2015
839-010-0205	1-28-2015	Amend	3-1-2015
839-010-0210	1-28-2015	Amend	3-1-2015
839-010-0300	1-28-2015	Amend	3-1-2015
839-010-0305	1-28-2015	Amend	3-1-2015
839-010-0310	1-28-2015	Amend	3-1-2015
839-025-0700	1-1-2015	Amend	1-1-2015
839-025-0700	4-1-2015	Amend	4-1-2015
847-001-0020	4-3-2015	Repeal	5-1-2015
847-010-0073	4-3-2015	Amend	5-1-2015
847-023-0005	1-13-2015	Amend	2-1-2015
847-023-0010	1-13-2015	Amend	2-1-2015
847-023-0015	1-13-2015	Amend	2-1-2015
847-026-0000	1-13-2015	Amend	2-1-2015
847-035-0030	4-3-2015	Amend	5-1-2015
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847-070-0045	1-13-2015	Amend	2-1-2015
848-005-0010	7-1-2015	Amend	5-1-2015
851-050-0000	1-1-2015	Amend	1-1-2015
851-050-0142	1-1-2015	Amend	1-1-2015
851-056-0000	1-1-2015	Amend	1-1-2015
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851-056-0006	1-1-2015	Amend	1-1-2015
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851-056-0016	1-1-2015	Amend	1-1-2015
851-056-0018	1-1-2015	Amend	1-1-2015
851-056-0020	1-1-2015	Amend	1-1-2015
851-056-0022	1-1-2015	Amend	1-1-2015
851-056-0026	1-1-2015	Amend	1-1-2015
851-061-0020	1-1-2015	Amend	1-1-2015
851-061-0030	1-1-2015	Amend	1-1-2015
851-061-0040	1-1-2015	Amend	1-1-2015
851-061-0050	1-1-2015	Amend	1-1-2015
851-061-0070	1-1-2015	Amend	1-1-2015
851-061-0080	1-1-2015	Amend	1-1-2015
851-061-0090	1-1-2015	Amend	1-1-2015
851-062-0010	1-1-2015	Amend	1-1-2015
851-062-0016	1-1-2015	Repeal	1-1-2015
851-062-0050	1-1-2015	Amend	1-1-2015
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851-063-0030	1-1-2015	Amend	1-1-2015
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852-010-0005	1-1-2015	Amend	2-1-2015
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852-010-0015	1-1-2015	Amend	2-1-2015
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852-010-0020	1-1-2015	Amend	2-1-2015
852-010-0023	1-1-2015	Amend	1-1-2015
852-010-0023	1-1-2015	Amend	2-1-2015
852-010-0024	1-1-2015	Adopt	1-1-2015
852-010-0024	1-1-2015	Adopt	2-1-2015
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852-010-0051	1-1-2015	Amend	2-1-2015
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852-010-0080	1-1-2015	Amend	2-1-2015
852-020-0029	1-1-2015	Amend	1-1-2015
852-020-0029	1-1-2015	Amend	2-1-2015
852-020-0031	1-1-2015	Amend	1-1-2015
852-020-0031	1-1-2015	Amend	2-1-2015
852-020-0035	1-1-2015	Amend	1-1-2015
852-020-0035	1-1-2015	Amend	2-1-2015
852-020-0060	1-1-2015	Amend	1-1-2015
852-020-0060	1-1-2015	Amend	2-1-2015
852-050-0001	1-1-2015	Amend	1-1-2015
852-050-0001	1-1-2015	Amend	2-1-2015
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852-050-0021	1-1-2015	Amend	1-1-2015
852-050-0021	1-1-2015	Amend	2-1-2015
852-050-0025	1-1-2015	Amend	1-1-2015
852-050-0025	1-1-2015	Amend	2-1-2015
852-060-0025	1-1-2015	Amend	1-1-2015
852-060-0025	1-1-2015	Amend	2-1-2015
852-060-0027	1-1-2015	Amend	1-1-2015
852-060-0027	1-1-2015	Amend	2-1-2015
852-070-0010	1-1-2015	Amend	1-1-2015
852-070-0010	1-1-2015	Amend	2-1-2015
852-070-0016	1-1-2015	Amend	1-1-2015

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852-070-0020	1-1-2015	Amend	2-1-2015
852-070-0025	1-1-2015	Amend	1-1-2015
852-070-0025	1-1-2015	Amend	2-1-2015
852-070-0030	1-1-2015	Amend	1-1-2015
852-070-0030	1-1-2015	Amend	2-1-2015
852-070-0035	1-1-2015	Amend	1-1-2015
852-070-0035	1-1-2015	Amend	2-1-2015
852-070-0055	1-1-2015	Amend	1-1-2015
852-070-0055	1-1-2015	Amend	2-1-2015
852-080-0040	1-1-2015	Amend	1-1-2015
852-080-0040	1-1-2015	Amend	2-1-2015
855-001-0005	1-1-2015	Amend	2-1-2015
855-019-0100	1-1-2015	Amend	2-1-2015
855-019-0120	1-1-2015	Amend	2-1-2015
855-019-0122	1-1-2015	Adopt	2-1-2015
855-019-0170	1-1-2015	Amend	2-1-2015
855-019-0171	1-1-2015	Adopt	2-1-2015
855-019-0205	1-1-2015	Amend	2-1-2015
855-019-0320	1-1-2015	Repeal	2-1-2015
855-021-0005	7-1-2015	Amend	2-1-2015
855-021-0010	7-1-2015	Amend	2-1-2015
855-021-0016	7-1-2015	Amend	2-1-2015
855-021-0025	7-1-2015	Amend	2-1-2015
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855-025-0001	1-1-2015	Amend	2-1-2015
855-025-0005	1-1-2015	Amend	2-1-2015
855-025-0010	1-1-2015	Amend	2-1-2015
855-025-0012	1-1-2015	Adopt	2-1-2015
855-025-0015	1-1-2015	Amend	2-1-2015
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855-025-0035	1-1-2015	Amend	2-1-2015
855-025-0040	1-1-2015	Amend	2-1-2015
855-025-0050	1-1-2015	Amend	2-1-2015
855-025-0060	1-1-2015	Amend	2-1-2015
855-031-0045	4-10-2015	Amend(T)	5-1-2015
855-031-0055	4-10-2015	Amend(T)	5-1-2015
855-041-1120	1-1-2016	Amend	2-1-2015
855-044-0070	12-4-2014	Amend	1-1-2015
855-080-0022	1-1-2015	Amend	2-1-2015
855-110-0003	4-1-2015	Amend	2-1-2015
855-110-0005	4-1-2015	Amend	2-1-2015
856-010-0010	11-26-2014	Amend	1-1-2015
856-010-0011	11-26-2014	Amend	1-1-2015
856-010-0012	11-26-2014	Amend	1-1-2015
856-010-0029	4-7-2015	Adopt	5-1-2015
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858-010-0015	11-17-2014	Amend	1-1-2015
858-010-0036	11-17-2014	Amend	1-1-2015
858-010-0062	1-21-2015	Adopt	3-1-2015
858-030-0005	11-17-2014	Amend	1-1-2015
858-040-0015	1-21-2015	Amend	3-1-2015
859-001-0005	12-18-2014	Amend	2-1-2015
859-001-0010	12-18-2014	Amend	2-1-2015
859-010-0005	12-18-2014	Amend	2-1-2015
859-050-0100	12-18-2014	Adopt	2-1-2015
859-050-0105	12-18-2014	Adopt	2-1-2015
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860-001-0140	3-3-2015	Amend	4-1-2015
860-001-0150	3-3-2015	Amend	4-1-2015
860-001-0160	3-3-2015	Amend	4-1-2015
860-001-0170	3-3-2015	Amend	4-1-2015
860-001-0180	3-3-2015	Amend	4-1-2015
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860-001-0340	3-3-2015	Amend	4-1-2015
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860-001-0390	3-3-2015	Adopt	4-1-2015
860-001-0400	3-3-2015	Amend	4-1-2015
860-001-0420	3-3-2015	Amend	4-1-2015
860-001-0480	3-3-2015	Amend	4-1-2015
860-001-0540	3-3-2015	Amend	4-1-2015
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860-016-0030	3-3-2015	Amend	4-1-2015
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860-021-0015	3-3-2015	Amend	4-1-2015
860-022-0005	3-3-2015	Amend	4-1-2015
860-022-0047	3-3-2015	Amend	4-1-2015
860-023-0151	3-3-2015	Amend	4-1-2015
860-024-0017	12-16-2014	Amend	2-1-2015
860-025-0060	3-3-2015	Amend	4-1-2015
860-027-0300	3-3-2015	Amend	4-1-2015
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860-029-0100	3-3-2015	Amend	4-1-2015
860-032-0002	3-3-2015	Amend	4-1-2015
860-032-0005	3-3-2015	Amend	4-1-2015
860-033-0006	3-3-2015	Amend	4-1-2015
860-034-0060	3-3-2015	Amend	4-1-2015
860-034-0300	3-3-2015	Amend	4-1-2015
860-036-0025	3-3-2015	Amend	4-1-2015
860-036-0605	3-3-2015	Amend	4-1-2015
860-037-0025	3-3-2015	Amend	4-1-2015
860-037-0410	3-3-2015	Amend	4-1-2015
860-038-0400	3-3-2015	Amend	4-1-2015
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860-085-0650	12-3-2014	Adopt	1-1-2015
860-085-0700	12-3-2014	Adopt	1-1-2015
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877-020-0012	1-1-2015	Amend	2-1-2015
877-020-0057	1-1-2015	Amend	2-1-2015
877-020-0060	1-1-2015	Amend	2-1-2015
918-098-1505	1-1-2015	Adopt	2-1-2015
918-098-1505(T)	1-1-2015	Repeal	2-1-2015
918-200-0025	1-1-2015	Amend	2-1-2015
918-200-0070	1-1-2015	Amend	2-1-2015
918-200-0100	1-1-2015	Amend	2-1-2015
918-225-0220	4-1-2015	Repeal	5-1-2015
918-225-0345	4-1-2015	Repeal	5-1-2015
918-225-0390	4-1-2015	Repeal	5-1-2015
918-225-0400	4-1-2015	Repeal	5-1-2015
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918-225-0606	4-1-2015	Amend	5-1-2015
918-305-0105	4-1-2015	Amend	5-1-2015
918-460-0015	4-1-2015	Amend	5-1-2015
918-480-0010	4-1-2015	Amend	5-1-2015
918-750-0115	4-1-2015	Amend	5-1-2015
918-800-0010	4-1-2015	Repeal	5-1-2015
918-800-0020	4-1-2015	Repeal	5-1-2015
918-800-0030	4-1-2015	Repeal	5-1-2015
918-800-0040	4-1-2015	Repeal	5-1-2015
943-090-0000	1-1-2015	Adopt	2-1-2015
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945-010-0006	3-11-2015	Suspend	4-1-2015
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945-010-0091	3-11-2015	Suspend	4-1-2015
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945-020-0010	3-11-2015	Amend(T)	4-1-2015
945-020-0020	3-11-2015	Amend(T)	4-1-2015
945-030-0020	3-11-2015	Amend(T)	4-1-2015
945-030-0030	3-11-2015	Amend(T)	4-1-2015
945-030-0035	3-31-2015	Adopt	5-1-2015
945-030-0040	3-11-2015	Amend(T)	4-1-2015
945-030-0045	3-11-2015	Amend(T)	4-1-2015
945-040-0005	3-11-2015	Adopt(T)	4-1-2015
945-050-0005	3-11-2015	Adopt(T)	4-1-2015
966-100-0700	4-1-2015	Adopt	5-1-2015
966-100-0800	4-1-2015	Adopt	5-1-2015
976-001-0010	12-17-2014	Adopt	2-1-2015
976-001-0020	12-17-2014	Adopt	2-1-2015
976-002-0010	3-1-2015	Adopt	4-1-2015
976-002-0020	3-1-2015	Adopt	4-1-2015
976-002-0030	3-1-2015	Adopt	4-1-2015
976-002-0040	3-1-2015	Adopt	4-1-2015