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Supplements the 2015 *Oregon Administrative Rules Compilation*

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Secretary of State
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INFORMATION ABOUT ADMINISTRATIVE RULES

General Information

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

Background on Oregon Administrative Rules

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

OAR Citations

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

Understanding an Administrative Rule's "History"

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

Locating Current Versions of Administrative Rules

The online version of the OAR Compilation is updated on the first of each month to include all rule actions filed with the Administrative Rules Unit by the 15th of the previous month. The annual printed OAR Compilation volumes contain text for all rules filed through November 15 of the previous year. Administrative Rules created or changed after publication in the print Compilation will appear in a subsequent edition of the online Bulletin. These are listed by rule number in the Bulletin's OAR Revision Cumulative Index, which is updated monthly. The listings specify each rule's effective date, 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 ORDER NO. 15 - 21

INVOCATION OF EMERGENCY CONFLAGRATION ACT FOR THE DRY GULCH FIRE IN BAKER COUNTY

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

The fire known as the "Dry Gulch Fire" is burning in Baker County.

The resources necessary for protecting life and property from the Dry Gulch Fire is beyond local capabilities. Assistance with life, safety, and structural fire protection was requested by Travis Hampton, Baker County Fire Defense Board Chief. The State Fire Marshal concurs with that request.

In accordance with ORS 476.510-610, I have determined that a threat to life, safety, and property exists due to a fire known as the Dry Gulch Fire in Baker County and the threat exceeds the firefighting capabilities of local firefighting personnel and equipment. Accordingly, I have invoked the Emergency Conflagration Act.

These findings were made at 12:25 p.m. on September 14, 2015, and I now confirm them with this Executive Order.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. The Oregon State Police and the Office of State Fire Marshal shall mobilize fire resources statewide and coordinate with all appropriate Fire Defense Chiefs for the use of personnel and equipment in accordance with the Emergency Conflagration Act to suppress and contain this fire. Resources responding to Dry Gulch Fire, burning near the towns of Pine Valley and Eagle River may be redistributed by the State Fire Marshal.

2. This emergency is declared only for the Dry Gulch Fire threatening structures in Baker County near the town of Halfway.

3. This order was made by verbal proclamation at 12:25 p.m. the 14th day of September, 2015, and signed this 30th day of September, 2015, in Salem, Oregon.

/s/ Kate Brown
Kate Brown
GOVERNOR

ATTEST

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

PUBLIC NOTICE
PROPOSED PROSPECTIVE PURCHASER AGREEMENT FOR FORMER CENTRAL MACHINE WORKS & CENTRAL FABRICATORS, INC.

COMMENTS DUE: 5 p.m., Tuesday, Dec.1, 2015
PROJECT LOCATION: 8009 N. Kerby Ave. and 8138 N. Albina Ave. in Portland
PROPOSAL: The Department of Environmental Quality seeks comments on its proposed consent judgment for a prospective purchaser agreement with Opal Creek Construction for the properties located at 8009 N. Kerby Ave. and 8138 N. Albina Ave. in Portland. Opal Creek Construction is acquiring the property from the current owner and plans to renovate and use the structures for commercial use.

The property was historically used for residential purposes and later became Central Machine Works & Central Fabricators, Inc., which were used for metal fabrication. Currently, the property is vacant. Opal Creek Construction has agreed to perform additional remediation including site restrictions if necessary, investigation, contaminated materials management, and stormwater assessment. Opal Creek Construction is a for-profit entity, which plans to remodel the existing structures for various new commercial uses.

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

Find information about requesting a review of DEQ project files at: http://www.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 #3390 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI #3390 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/lq/ECSI/ecsi.htm

If you do not have web access and want to review the project file contact the DEQ project manager.
THE NEXT STEP: DEQ will consider all public comments received by the date and time stated above before making a final decision regarding the proposed prospective purchaser agreement for the site.
ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, call DEQ at 503-229-5696 or toll free in Oregon at 800-452-4011; fax to 503-229-6762; or email to deqinfo@deq.state.or.us. People with hearing impairments may call 711.

REQUEST FOR COMMENTS
PROPOSED PROSPECTIVE PURCHASER AGREEMENT FOR ED'S MUFFLER SITE IN MILWAUKIE

COMMENTS DUE: 5 p.m., Wednesday, Dec. 1, 2015
PROJECT LOCATION: 17855 SE McLoughlin Boulevard, Milwaukie, OR 97267
PROPOSAL: The Department of Environmental Quality seeks comments on its proposed consent judgment for a prospective purchaser agreement with JOTZ, LLC for the property located at 17855 SE McLoughlin Boulevard in Milwaukie, Oregon. JOTZ, LLC is acquiring the property from the current owner and plans to use the property for automotive and truck repair.
HIGHLIGHTS: The property was historically used as a service station and a muffler repair shop. A release of hydraulic oil was discovered in 2012 and was eventually traced back to the shop's hydraulic lift systems. The property is in receivership due to the presence of the existing contamination and probably will become a non-remediated orphan site, if the proposed prospective purchaser agreement is not issued. JOTZ, LLC plans to complete multiple tasks, including removing the existing hydraulic lift systems and has agreed to additional remediation, site restrictions and contaminated materials management related to existing contamination at the property. JOTZ, LLC intends to employ eight to ten people at the site.

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

The proposed consent order will provide JOTZ, 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 JOTZ, LLC with third party liability protection.
HOW TO COMMENT: Send comments to DEQ Project Manager Michael Greenburg at 700 NE Multnomah Street, Suite 600, Portland, OR 97232 or email. For more information contact the project manager at 503-229-5153.

Find information about requesting a review of DEQ project files.

Find the file review application form:

To access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, select "Search complete ECSI database," then enter in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI 5909 in the Site ID/Info column. Alternatively, you can go directly to the database webpage for this site http://www.deq.state.or.us/lq/ECSI/ecsilist.asp?SiteID=5909&Bus_Name=&Address=&County=ALL&City=&Zip_Code=&LatitudeMin=&LatitudeMax=&LongitudeMin=&LongitudeMax=&Township=All&TownshipZone=N&Range=1&RangeZone=E&Section=All&ActionCode=All&Substance=None&Alias=None&Submit=Submit&listtype=lis

If you do not have web access and want to review the project file contact the DEQ project manager.
THE NEXT STEP: DEQ will consider all public comments received by the date and time stated above before making a final decision regarding the proposed prospective purchaser agreement for the site.
ACCESSIBILITY INFORMATION: 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 CLEANUP FOR BALZER PACIFIC EQUIPMENT CO. STORAGE LOT

COMMENTS DUE: 5 p.m., Monday, Nov. 30, 2015
PROJECT LOCATION: 2230 SE Grand Ave., Portland
PROPOSAL: TriMet proposes to place restrictive covenants on the future redevelopment of a former heavy equipment storage lot, east of SE Grand Ave. and north of SE Caruthers St. in Portland, which the agency acquired through condemnation for construction of the Portland-Milwaukie Light Rail (Orange) Line.

HIGHLIGHTS: Balzer Pacific Equipment Company operated a heavy equipment storage lot at the site from 1964 to 2012. Investigations have identified petroleum and metals in soils at the site, along with methane from decomposing wood waste. Without remediation, the contaminants pose an unacceptable risk to construction workers and future occupants of the site. The site does not pose an unacceptable risk to public health or the environment in its current state.
HOW TO COMMENT: Send comments to DEQ Project Manager Kevin Dana at 700 NE Multnomah St., Suite 600, Portland, Oregon, 97232-4100 or dana.kevin@deq.state.or.us. For more information contact the project manager at 503-229-5369.

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 5753 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 5753 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/lq/ECSI/ecsidetail.asp?seqnbr=5753.

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 cleanup.
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 CLEANUP PLAN FOR EAST WHITAKER POND

COMMENTS DUE: 5 p.m., Nov. 30, 2015
PROJECT LOCATION: 5611 NE Columbia Boulevard, Portland, Oregon
PROPOSAL: The Oregon Department of Environmental Quality is proposing cleanup action for East Whitaker Pond, within the Columbia Slough watershed. The proposed remedial action includes a combination of soil removal, dredging of contaminated sediments and placing a thin layer of clean material across the majority of the pond. In some locations, the clean material will include an activated carbon amendment.
HIGHLIGHTS: During past Metro Metals Northwest, Inc. (MMNW) metal recycling operations, hazardous substance releases likely occurred to East Whitaker Pond as a result of contaminated stormwater runoff. Since 2008, stormwater from the facility is filtered and treated before discharging into the pond.

MMNW performed a stormwater source control evaluation and sediment investigation in 2012 and 2013. Metals, petroleum constituents (PAHs) and PCBs were elevated in pond sediments. Chemical concentrations decrease from east to west with distance from the outfalls, with the exception of chromium, which is generally consistent across the Pond. PCBs were detected at concentrations above the screening criteria across the Pond.

The proposed remedial action for the sediment includes:

- Excavation and off-site disposal of soils above ecological risk based concentrations.
- Excavation and off-site disposal of sediment located in the eastern 170 feet of the pond.
- Placement of activated carbon-amended material between 170 and 800 feet from the east end of the pond to address moderate concentrations of PCBs remaining after dredging.
- Placement of a thin layer of clean material across the remainder of the pond bottom to enhance natural recovery.
- Confirmation sampling and long-term monitoring to evaluate the effectiveness of the remedial action.

HOW TO COMMENT: Send comments by 5 p.m., Nov. 30, 2015 to DEQ Project Manager Sarah Miller at 2020 SW 4th Ave. Suite #400, Portland, Oregon, or miller.sarah@deq.state.or.us

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#5455 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI #5455 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 East Whitaker Pond.
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 CERTIFICATE OF COMPLETION FOR PORT OF TOLEDO AT FRED WAHL MARINE

COMMENTS DUE: 5 p.m., Tuesday, Dec. 1 2015
PROJECT LOCATION: 1000 Altree Ln., Toledo, OR 97391
PROPOSAL: DEQ is preparing to certify that all cleanup actions required have been satisfactorily completed. This project has resulted in both environmental and economic benefits.
HIGHLIGHTS: In December 2010 the Port of Toledo entered a Prospective Purchaser Agreement Consent Judgment with DEQ and agreed to complete a Scope of Work on the subject property, including removing of nearly 3,000 cubic yards of contaminated sediments and placing them in a disposal cell on upland property.

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

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

The Certification of Completion confirms the Port of Toledo's release from liability for claims by the State of Oregon under ORS 465.200 to 465.545 and 465.990, 466.640, and 468B.310 regarding existing hazardous substance releases at or from the property. The consent judgment and Certification of Completion also provide the Port of Toledo with third-party liability protection.
HOW TO COMMENT: Send comments to DEQ Project Manager Eric Kelley at 4026 Fairview Industrial Dr. SE, Salem, OR 97302 or kelley.eric@deq.state.or.us . For more information contact the project manager at 503-378-5042.

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 3536 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 3536 in the Site ID/Info column. Alternatively, you may go directly to the database website for this page at http://www.deq.state.or.us/Webdocs/Forms/Output/FPController.ashx?SourceIdType=11&SourceId=3536&Screen=Load

If you do not have web access and want to review the project file contact the DEQ project manager.
THE NEXT STEP: DEQ will consider all public comments received by the date and time stated above before making a final

decision regarding the completion certification of the remedial actions taken at the site. A public notice of DEQ's final decision will be issued.

ACCESSIBILITY INFORMATION: 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 CONDITIONAL NO FURTHER ACTION FOR WILLAMETTE OAKS BUILDING SITE

COMMENTS DUE: 5 p.m., Monday, Nov. 30, 2015

PROJECT LOCATION: 6270 S.W. Macadam Ave., Portland, Oregon

PROPOSAL: DEQ is soliciting public comments on the proposed conditional no further action determination for the Willamette Oaks Building site. Remedial action at the site has been in progress since April 1989 when soil contaminated with petroleum and chlorinated volatile organics was managed onsite through aeration or disposed offsite. Cleanup action for groundwater contaminated with chlorinated volatiles was initiated in July 1997 by installation of a groundwater pump and treat system. Groundwater treatment continued until March 2014 when a rebound evaluation with groundwater monitoring was initiated. Concentrations in groundwater have not rebounded significantly following a year of groundwater monitoring. DEQ has determined that site cleanup activities have been successfully completed, consistent with the 2004 Record of Decision. Contaminants remaining in groundwater do not pose an unacceptable risk to public health provided groundwater use is restricted on the Willamette Oaks Building and the adjacent Willamette Park properties. This proposed determination meets the requirements of Oregon Administrative Rules Chapter 340 Division 122, Sections 010 to 0140 for Cleanup Sites; and ORS 465.200 through 465.455.

HIGHLIGHTS: The property is approximately 0.9 acre in size, and located in a commercial area along Macadam Ave. Releases from underground tanks resulted in soil contamination with petroleum and chlorinated volatile organic compounds, commonly known as CVOCs, and groundwater contamination with CVOCs. The groundwater contamination extends offsite to the east and beneath a portion of the adjacent property, Willamette Park. DEQ issued a Record of Decision for cleanup in December 2004 selecting groundwater extraction and treatment by air stripping as the preferred remedial action to treat contaminated groundwater. Following treatment, the groundwater was discharged under an NPDES permit. Approximately 53 pounds of CVOCs have been removed from groundwater. In addition, approximately 800 cubic yards of contaminated soil were removed and either disposed offsite or aerated on site. These remedial actions have reduced the source and concentrations of contamination in the groundwater.

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

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

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

To access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, go to http://www.deq.state.or.us/lq/ECSI/ecsi.htm, select "Search complete ECSI database", then enter ECSI#883 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI#883 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/lq/ecsi/ecsilist.asp?SiteID=883&Bus_Name=&Address=&County=ALL&City=&Zip_Code=&LatitudeMin=&LatitudeMax=&LongitudeMin=&LongitudeMax=&Township=All&TownshipZone=N&Range=1&RangeZone=E&Section=All&ActionCode=All&Substance=None&Alias=None&Submit=Submit&listtype=lis

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

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

ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. 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.

DEQ PROPOSES CONDITIONAL NO FURTHER ENVIRONMENTAL ACTION FORMER JONES OIL COMPANY SITE, SALEM, OREGON

PUBLISHING DATE: October 1, 2015

COMMENTS DUE: Extended to 5 p.m., November 5, 2015

PROJECT LOCATION: 650 15th St. SE, Salem, Marion County

PROPOSAL: DEQ proposes to make a conditional no further action determination for gasoline and diesel contamination found in shallow and deeper soil and groundwater from a fuel distribution facility that operated at the site until early 2009.

BACKGROUND: For detailed project information please see a copy of the final report prepared by the property owner's consultant on DEQ's website at: http://www.deq.state.or.us/Webdocs/Forms/Output/FPController.ashx?SourceIdType=11&SourceId=209&Screen=Load

The property has a long history of use as a fuel storage and distribution facility between 1921 and 2009, with above-ground storage tanks, underground storage tanks and distribution lines that leaked diesel and gasoline products.

Petroleum product was found on the groundwater table in one groundwater monitoring well. Dissolved petroleum contamination in shallow groundwater extends off-site in a southeasterly direction. There are no water supply wells within 1/4-mile of the property and it is not reasonably likely that groundwater will not be used in this area in the future given availability of municipal water.

Targeted excavations in three areas of the site removed the highest levels of contaminated soil. Confirmation sampling indicated that petroleum hydrocarbon contamination remains in the deeper soil and groundwater.

Petroleum hydrocarbon levels in soil and groundwater do not pose a risk to human health or the environment with current uses of the former Jones Oil Company site. In its current state, most of the property is capped with asphalt and/or concrete, and it is used for commercial purposes.

DEQ concludes that the residual petroleum contamination in soil and groundwater from past use of the former Jones Oil Company site will not pose a risk to human health and the environment if the following conditions are met:

- No use of groundwater extracted from the site;
- No excavation in areas of known contamination without notification to DEQ and adherence to a DEQ-approved Contaminated Media Management Plan; and
- No use of the site for residential or agricultural purposes.

To document these conditions for current and future property owners, DEQ will record Easement and Equitable Servitudes on the Jones Oil property at 650 15th Street SE in Salem.

DEQ proposes to make a conditional No Further Action determination for the site after deed restrictions are recorded for the site. DEQ also proposes to list the former Jones Oil site on its Inventory of contaminated sites to document the long-term implementation of an institutional control for final remedial action.

HOW TO COMMENT: Written comments must be received by 5 p.m., October 31, 2015. Comments should be submitted to DEQ's Eugene office, 165 East 7th Avenue, Suite 100, Eugene, Oregon

97401 or by e-mail at turnblom.susan@deq.state.or.us. Questions may also be directed to Susan Turnblom at the Eugene address or by calling her at 541-687-7464.

THE NEXT STEP: DEQ will consider all public comments before taking final action on this matter. A public meeting will be held to receive verbal comments on the proposed cleanup action upon written request by ten or more persons, or by a group with ten or more members.

REQUEST FOR COMMENTS
PROPOSED NO FURTHER ACTION FOR
NORTHGATE MARKETPLACE SITE

COMMENTS DUE: 5 p.m., Nov. 30, 2015

PROJECT LOCATION: 1100 Court St. (Tax Lots 700 and 800), Medford, Douglas County

PROPOSAL: The Oregon Department of Environmental Quality proposes a No Further Action determination under Oregon Environmental Cleanup Law ORS 465.200 for the property listed above. Alba Village LLC currently owns the property, formerly used by Medite lumber mill. The responsible party (Regency Centers) has requested No Further Action related to historical spills at the site, referred to as Northgate Marketplace Phase 1B (ECSI #5251).

HIGHLIGHTS: The former Medite lumber mill operated from the 1920s until 1993. The mill added plywood fabrication in the 1960's. Treatment processes created dioxin that contaminated soil and groundwater at the site. The properties associated with Northgate Marketplace (Tax Lots 700 and 800) were included with Medite mill as a suspected release under DEQ's Environmental Cleanup Program in 1997. The Medite cleanup site (ECSI #1987) was issued No Further Action in 1995, and new information on dioxin contamination was obtained through assessments in 2014 to create Northgate Marketplace Phase 1B.

Site investigations were completed in 2014 and 2015 to identify dioxin contamination, mostly in shallow soil at the properties. Concentrations of dioxin were statistically analyzed to evaluate results. Based on the calculations, there is no risk from contamination with commercial or industrial use of the property. Construction or excavation workers require no special safety equipment to prevent direct contact with soil or groundwater, though DEQ recommended a Health and Safety Plan and Contaminated Media Management Plan as a precautionary measure.

Regency Centers requested No Further Action for the site. DEQ proposes site closure with conditions, including an Easement & Equitable Servitudes to restrict groundwater and land use. No wells should be installed without approval, and residential housing is prohibited without further investigation or cleanup. The site (ECSI #5251) will be listed on the Confirmed Release List and Inventory because institutional and/or engineering controls are required to maintain protectiveness following regulatory closure.

HOW TO COMMENT: Send comments by 5 p.m., Nov. 30 to DEQ Project Manager Cathy Rodda at 165 E. Seventh Ave., Suite 100, Eugene, OR 97401, by fax 541-686-7551, or by email rodda.cathy@deq.state.or.us. The project manager is available by phone at 541-687-7325. Find information about requesting a review of DEQ project files at: www.deq.state.or.us/records/recordsRequestFAQ.htm

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

If you do not have web access and want to review the project file contact the DEQ project manager. To access site summary information and other documents in the DEQ Environmental Cleanup Site Information database, go to www.deq.state.or.us/lq/ECSI/ecsi.htm, select "Search complete ECSI database", then enter 5251 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 5251 in the Site ID/Info column. Alternatively, you may go directly to the database website for this page at: http://www.deq.state.or.us/Webdocs/Forms/Output/FPController.ashx?SourceIdType=11&SourceId=5251&Screen=Load.

THE NEXT STEP: If no comments opposed to closure are received, no further action (investigation or remedial action) will be required by Regency Centers for the Northgate Marketplace cleanup site.

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

Notices of Proposed Rulemaking and Proposed Rulemaking Hearings

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

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

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

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

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

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Board of Architect Examiners
Chapter 806

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

Date:	Time:	Location:
11-23-15	9 a.m.	205 Liberty St. NE, Suite A Salem, Oregon

Hearing Officer: Maria Brown
Stat. Auth.: ORS 671.020, 671.125
Stats. Implemented: ORS 671.020, 671.125
Proposed Amendments: 806-010-0010, 806-010-0020, 806-010-0035
Last Date for Comment: 11-23-15, Close of Business
Summary: To adopt a document outlining the experience requirement for registration and referencing its location. The experience requirement for registration is outlined within the adopted document.
Rules Coordinator: Maria Brown
Address: Board of Architect Examiners, 205 Liberty St. NE, Suite A, Salem, OR 97301
Telephone: (503) 763-0662

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Board of Nursing
Chapter 851

Rule Caption: Requirements for competency validation for new Nurse Emeritus type

Date:	Time:	Location:
11-19-15	9 a.m.	17938 SW Upper Boones Ferry Rd. Portland, OR 97224

Hearing Officer: Gary Hickmann, Board President
Stat. Auth.: ORS 678.021
Other Auth.: SB 547
Stats. Implemented: ORS 678.021
Proposed Amendments: 851-031-0005, 851-031-0086
Last Date for Comment: 11-19-15, 5 p.m.
Summary: SB 547 requires the Oregon State Board of Nursing to adopt rules regarding qualifications and competency validation for the Nurse Emeritus license type.
Rules Coordinator: Peggy A. Lightfoot
Address: Board of Nursing, 17938 SW Upper Boones Ferry Rd., Portland, OR 97224
Telephone: (971) 673-0638

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Board of Parole and Post-Prison Supervision
Chapter 255

Rule Caption: Establish permanent classification rules to begin implantation of the Sex Offender Notification Level System.

Date:	Time:	Location:
12-1-15	10:30 a.m.	3691 State St. Salem, OR 97301

Hearing Officer: Kristin Winges-Yanez
Stat. Auth.: ORS 181.800, 181.801, 181.802 & 181.803
Stats. Implemented: ORS 181.800, 181.801, 181.802 & 181.803
Proposed Adoptions: 255-085-0010, 255-085-0020, 255-085-0030, 255-085-0040, 255-085-0050
Last Date for Comment: 12-4-15, 5 p.m.
Summary: Establish permanent rules to classify sex offender registrants into risk levels to begin implementation of the Sex Offender Notification Level System. These rules contain the same language as the Division 85 rules the Board temporarily adopted in August 2015.
Rules Coordinator: Shawna Harnden
Address: Board of Parole and Post-Prison Supervision, 2575 Center St. NE, Salem, OR 97301
Telephone: (503) 945-0914

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Board of Pharmacy
Chapter 855

Rule Caption: Amend, adopt, repeal rules in Divisions 006, 019, 025, 041, 043, 062 and 090.

Date:	Time:	Location:
11-24-15	9:30 a.m.	800 NE Oregon St., Rm. 1A Portland, OR 97232

Hearing Officer: Staff
Stat. Auth.: ORS 433.441, 433.443, 468, 689.205 & 689.605
Stats. Implemented: ORS 676.350, 689.005, 689.025, 689.151, 689.155, 689.305, 689.405, 689.455, 689.505, 689.515, 689.645, 2015 OL Ch. 362 & 2015 OL Ch. 295
Proposed Adoptions: 855-019-0264
Proposed Amendments: 855-006-0005, 855-019-0110, 855-019-0200, 855-019-0270, 855-019-0280, 855-025-0015, 855-041-1120, 855-043-0130, 855-062-0040
Proposed Repeals: 855-090-0005
Last Date for Comment: 11-24-15, 4:30 p.m.
Summary: Proposed amendments in division 6 Definitions rules establish definitions for clinical pharmacy agreements and the practice of clinical pharmacy. Proposed amendments also clarify compounding under a shared pharmacy service agreement is only allowed by a pharmacy located in Oregon for a practitioner or dispenser located in Oregon for Oregon outlets and practitioners located in Oregon only. These amendments are primarily related to 2015 House Bill 2028.

Proposed amendments in the division 19 Pharmacist rules establish definitions for clinical pharmacy agreements and practice of clinical pharmacy. Amendments also define the type of activities that require the professional judgment of a pharmacist. Other amendments allow a pharmacist to permit an intern to perform the duties of a pharmacist under their direction and supervision after the intern has successfully completed his or her first academic year and only after successful completion of coursework corresponding to the specific duties. However, an intern may not perform final verification. State Drug Therapy Management Protocol rules are proposed for

adoption. Rules proposed for adoption are related to 2015 House Bill 2028.

Proposed amendments in the division 19 Pharmacist rules allow a pharmacist to administer vaccines to persons who are at least seven years of age and maintain CPR certification intended for a Healthcare Provider. Amendments also allow a pharmacist to prescribe immunizations, including oral vaccines, as established by written protocols approved by the Oregon Health Authority. These amendments are related to 2015 Senate Bill 520.

Proposed amendments in the division 25 Certified Oregon Pharmacy Technicians rules clarify in rule that newly licensed Certified Oregon Pharmacy Technicians do not need to complete the annual continuing education requirements prior to their first renewal. These amendments are currently a temporary rule.

The Board proposed a revised effective date change for the Division 041 Auto Refill rules. At the October 8, 2015 Board meeting, the Board considered a number of extension requests related to the 1/1/16 effective date. The Board voted to extend the effective date for the Auto Refill associated rules in OAR 855-041-1120 (5)-(8) from January 1, 2016 to July 1, 2016 to allow more time for implementation. The Board expects full compliance with these rules by July 1, 2016.

Proposed amendments in the division 43 Practitioner Dispensing Rules establish a waiver clause in the Drug Delivery and Control rule. The waiver clause allows for requests for exemption of certain requirements if the waived requirements will further public health and safety. These amendments are currently a temporary rule.

Proposed amendments in the division 62 Drug Distribution Agent rules update record keeping requirements. They also identify the information that a Drug Distribution Agent who distributes product to a Wholesaler or Pharmacy must contain in their records. Amendments also reflect that a pedigree must be maintained if a Drug Distribution Agent distributes product to another Drug Distribution Agent. These amendments are currently a temporary rule.

Division 090 Aerosol Sprays rules are proposed to be repealed. This is because all fluorocarbon aerosol sprays which contain a medication are no longer manufactured in the United States. The rules were established in 1977 as an exception to the banned use of fluorocarbon aerosol sprays which delivered a medication.

Full text of these proposed rules can be viewed on the Board's website at: www.pharmacy.state.or.us.

Rules Coordinator: Karen MacLean
Address: Board of Pharmacy, 800 NE Oregon St., # 150, Portland, OR 97232
Telephone: (971) 673-0001

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Board of Psychologist Examiners
Chapter 858

Rule Caption: Notice of proposed rule procedures, good cause application extension, and reapplication after revocation.
Stat. Auth.: ORS 675.010–675.150
Stats. Implemented: ORS 675.110
Proposed Amendments: 858-010-0007, 858-010-0020
Last Date for Comment: 1-6-16, 5 p.m.
Summary: The proposed rulemaking requires the Board of Psychologist Examiners (Board) to no longer mail a copy of continuing education-related rulemaking notices to the State Board of Higher Education (which no longer exists), but instead to mail notice to the State Higher Education Coordinating Commission. It also removes language already specified in ORS 183.360. The Board proposes that it will not review a subsequent application for licensure for at least two years after a license revocation or surrender under investigation, and clarifies that an applicant's active application period may be extended for good cause.
Rules Coordinator: LaRee' Felton
Address: Board of Psychologist Examiners, 3218 Pringle Rd. SE, Suite 130, Salem, OR 97302
Telephone: (503) 373-1196

Bureau of Labor and Industries
Chapter 839

Rule Caption: Implements legislation related to prevailing wage law; clarifies "public works" and "exemptions."
Stat. Auth.: ORS 651.060(4) & 279C.808
Stats. Implemented: SB 137 & HB 2664, Regular Session (Or.2015), ORS 279C
Proposed Amendments: Rules in 839-025, 839-025-0004, 839-025-0020, 839-025-0037, 839-025-0100, 839-025-0320, 839-025-0530,
Last Date for Comment: 11-21-15, Close of Business
Summary: SB 137 modifies the definition of a public works to include a project for the construction, reconstruction, major renovation or painting of a road, highway, building, structure or improvement of any type that uses $750,000 or more of funds of a public agency. Previously, this definition required funds of a private entity in addition to $750,000 or more of public funds. The proposed rule amendments would conform the definition of public works in OAR 839-025-0004(20)(a)(B) to the changes made by SB 137.

Additionally, the proposed rule amendments would add section (20)(a)(F) to OAR 839-025-0004 to include projects resulting from an agreement under the terms of which a private entity constructs, reconstructs, renovates or paints an improvement of any type that occurs, with or without public funds of a public agency, on real property owned by a university with a governing board or by a nonprofit organization or other entity that a university with a governing board owns or controls exclusively. This addition would reflect changes made to ORS 352.138(4) by HB 2664. Furthermore, as a consequence of other amendments made to ORS 352.138(4)(a) by HB 2664, universities with governing boards are exempt from certain prevailing wage rate laws when the project does not result from an agreement as described above in OAR 839-025-0004(20)(a)(F). The proposed amendments would cite the particular prevailing wage statutes in the list of exemptions found in OAR 839-025-0100.

Other changes made to OAR 839, division 025 would make clarifying changes and clean up grammar and typographical errors.
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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Rule Caption: Amends rules about employee insurance benefits while employee is on Oregon Family Leave Act leave.
Stat. Auth.: OL Ch. 323, 2015.
Stats. Implemented: OL Ch. 323, 2015.
Proposed Amendments: 839-009-0270
Last Date for Comment: 11-30-15, 5 p.m.
Summary: The rule amendment would make changes to 839-009-0270 relating to job protection under the Oregon Family Leave Act. Under OL Ch. 323, 2015 and these rules an employer would be prohibited from canceling an employee's insurance while the employee was out on protected OFLA leave.
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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Rule Caption: The rules would amend existing rules relating to employee and job applicant social media accounts.
Stat. Auth.: OL Ch. 229, 2015.
Stats. Implemented: OL Ch. 229, 2015.
Proposed Amendments: 839-005-0400
Last Date for Comment: 11-30-15, 5 p.m.
Summary: This rule would amend 839-005-0400 to add requiring employee's or applicants to establish or maintain a personal social media account as an unlawful employment practice. Implements OL Ch. 229, 2015.
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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Rule Caption: Amend existing rules and adopt new rules relating to domestic workers.
Stat. Auth.: OL Ch. 457, 2015. ORS 651.060
Stats. Implemented: OL Ch. 457, 2015.
Proposed Adoptions: 839-020-0052
Proposed Amendments: 839-005-0003, 839-020-0030, 839-020-0042, 839-020-0125, 839-020-1010
Last Date for Comment: 11-30-15, 5 p.m.
Summary: Implements Oregon Law Ch. 457, 2015. This law adds new protections for domestic workers. Removes domestic workers as exempt employees under discrimination statutes; addresses "base rate" for domestic workers; creates new protections for leave and rest breaks for domestic workers; removes domestic workers from list of exempt workers; and adds civil penalty language for violations.
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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Department of Consumer and Business Services, Division of Finance and Corporate Securities
Chapter 441

Rule Caption: Updates mortgage lending rules to comply with Federal mortgage disclosure requirements.

Date:	Time:	Location:
12-2-15	2:30 pm.	350 Winter St. NE, Conf. Rm. F Salem, OR 97301

Hearing Officer: Division Staff
Stat. Auth.: ORS 86A.112 & 86A.136
Other Auth.: 12 C.F.R. Parts 1024 & 1026; 80 Fed. Reg. 43911
Stats. Implemented: ORS 86A.112
Proposed Amendments: 441-865-0060
Last Date for Comment: 12-9-15, 5 p.m.
Summary: Under Oregon law, licensed mortgage bankers and mortgage brokers must maintain certain records created as part of the loan application process. The purpose of the existing recordkeeping rule is to preserve records of loan transactions to assist the department in performing full and fair examinations of licensed mortgage bankers and mortgage brokers. In addition to applications, correspondence, credit reports and fee agreements, Oregon rules specified that the lender or broker keep a copy of completed federally-mandated disclosures (e.g., the Truth in Lending Disclosure Statement). But since 2011, federal has mandated that the Consumer Financial Protection Bureau (Bureau) establish a single disclosure scheme for use by lenders or creditors in complying with the disclosure requirements of both the Real Estate Settlement Procedures Act (RESPA) and the Truth in Lending Act (TILA). The Bureau issued its final rule combining the disclosures on November 20, 2013, effective October 3, 2015. This proposed rulemaking simply updates the recordkeeping requirement to accommodate the changes to federally-mandated disclosures.
Rules Coordinator: Shelley Greiner
Address: Department of Consumer and Business Services, Division of Finance and Corporate Securities, 350 Winter St. NE, Rm. 410, Salem, OR 97301
Telephone: (503) 947-7484

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Rule Caption: Adopts conditions for credit unions paying compensation to boards of directors and supervisory committee members.

Date:	Time:	Location:
11-30-15	9 a.m.	350 Winter St. NE Salem, OR Conference Rm. 260

Hearing Officer: Lauren Winters
Stat. Auth.: ORS 723.108
Other Auth.: 2015 Or Laws ch 458 (Enrolled SB 582)
Stats. Implemented: ORS 723.266
Proposed Adoptions: 441-710-0305
Last Date for Comment: 12-7-15, 5 p.m.
Summary: Until recently, Oregon law prohibited credit unions from paying their boards of directors and supervisory committee members compensation. In the 2015 legislative session, the Assembly enacted Senate Bill 582. Among other things, SB 582 permitted the payment of "reasonable compensation." The Act did not specify what was reasonable, what would be considered (or not considered) compensation, or how to involve credit union membership in any decisions on whether to pay compensation. This rulemaking activity — undertaken under the department's general grant of authority to implement the Credit Union Act — provides definition to the inexact terms in the Act, sets up processes for bylaw change, adopting policies and procedures on compensation, and implements a public process of disclosure to keep the membership informed.
Rules Coordinator: Shelley Greiner
Address: Department of Consumer and Business Services, Division of Finance and Corporate Securities, 350 Winter St. NE, Rm. 410, Salem, OR 97301
Telephone: (503) 947-7484

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Rule Caption: Exempts owner of certain limited liability companies from licensing as a mortgage loan originator.

Date:	Time:	Location:
11-30-15	10 a.m.	350 Winter St. NE Salem, OR 97301

Hearing Officer: Aeron Teverbaugh
Stat. Auth.: ORS 86A.100
Other Auth.: 2015 OL Ch. 677 (Enrolled SB 879)
Stats. Implemented: ORS 86A.100 & 86A.203
Proposed Adoptions: 441-855-0114
Last Date for Comment: 12-7-15, 5 p.m.
Summary: In the 2013 session, the Legislature enacted House Bill 2856. That Act provided for a limited exemption from the mortgage loan originator statutes for individuals making loans on properties they owned for investment purposes. The intent of HB 2856 was to facilitate lending by individuals not necessarily in the business of making mortgage loans, but that extended credit as part a more diversified, personal investment portfolio. The 2013 Act did not make accommodations for the individual to own the properties through limited liability companies (LLCs). In the 2015 session, the Legislature passed SB 879 to allow members of limited liability companies the ability to make loans on homes owned by the LLC without a mortgage loan originator license. This authorization raised concerns that the LLCs would need a license as a mortgage banker or mortgage broker in order to operate. This rulemaking activity clarifies that certain LLCs are exempt from the business licensing side of the Oregon Mortgage Lender Law (ORS 86A.100–86A.198), as long as certain conditions are met.
Rules Coordinator: Shelley Greiner
Address: Department of Consumer and Business Services, Division of Finance and Corporate Securities, 350 Winter St. NE, Rm. 410, Salem, OR 97301
Telephone: (503) 947-7484

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Department of Consumer and Business Services, Insurance Division
Chapter 836

Rule Caption: Add Plans to Medicare Supplement Products Available and Delete Obsolete Plans

Date:	Time:	Location:
12-10-15	10 a.m.	Dept. of Consumer and Business Services, Labor & Industries Bldg. 350 Winter St. NE Basement Conf. Rm. E Salem, OR

Hearing Officer: Jeannette Holman
Stat. Auth.: ORS 731.244, 743.683, 743.685 & 743.688
Stats. Implemented: ORS 743.010 & 743.680–743.689
Proposed Amendments: 836-052-0142
Last Date for Comment: 12-17-15, 5 p.m.
Summary: These proposed rules amend the Insurance Division Medicare Supplement Insurance Guarantee Issue rule OAR 836-052-0142 to address the standardized Medicare Supplement products to which eligible persons are entitled to include Plans D, G, M, and N and to exclude any 1990 standardized Medicare Supplement products no longer sold after June 1, 2010. Plans D, G, M and N were inadvertently left out in a prior rulemaking.
Rules Coordinator: Karen Winkel
Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE, Salem, OR 97301
Telephone: (503) 947-7694

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Rule Caption: Limited License of Vehicle Rental Company as Limited License for Designated Agent of Rental Company

Date:	Time:	Location:
11-30-15	2 p.m.	Dept. of Consumer and Business Services, Labor & Industries Bldg. 350 Winter St. NE, Basement Conf. Rm. F Salem, OR

Hearing Officer: Jeannette Holman
Stat. Auth.: ORS 731.244, 731.804, 744.852, 744.856 & 744.858
Other Auth.: 2015 OL Ch. 524 (Enrolled HB 2958)
Stats. Implemented: ORS 731.804, 744.852, 744.856 & 744.858
Proposed Adoptions: 836-071-0354
Proposed Amendments: 836-071-0355, 836-071-0370, 836-071-0380
Last Date for Comment: 12-7-15, 5 p.m.
Summary: Existing rules of the Insurance Division establish the steps that a rental company with a limited license to sell rental insurance must take to educate and monitor employees selling insurance under the limited license. Enrolled House Bill 2958(2015 Legislative Session) now allows a rental company to identify a "designated agent" to sell rental insurance under the limited license of the rental company. The rental company must provide the same training and oversight to a designated agent as the rental company provides for employees. These proposed rules define "designated agent" and include designated agents in the description of the individuals who must be educated and monitored to sell rental insurance under the limited license of the rental company.

These proposed rules will replace temporary rules adopted on September 15, 2015 and are identical to the temporary rules with the exception of the addition of the new definition of "designated agent."
Rules Coordinator: Karen Winkel
Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE, Salem, OR 97301
Telephone: (503) 947-7694

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Rule Caption: Limiting surrender charges that an insurer imposes for withdrawal from an individual deferred annuity

Date:	Time:	Location:
12-2-15	1 p.m.	Dept. of Consumer and Business Services, Labor & Industries Bldg. 350 Winter St. NE, Basement Conf. Rm. E Salem, OR

Hearing Officer: Jeannette Holman
Stat. Auth.: 2015 OL Ch. 85, Sec. 2
Stats. Implemented: 2015 OL Ch. 85, Sec. 2
Proposed Adoptions: 836-051-0150, 836-051-0153, 836-051-0156
Last Date for Comment: 12-9-15, 5 p.m.
Summary: These proposed new rules establish limitations on the calculation of surrender charges imposed for withdrawal of funds from an individual deferred annuity insurance contract. The rules direct that withdrawals demonstrate minimum value compliance. If funds withdrawn are to be subject to surrender charges the insurer must treat the funds are to be treated on a first in first out basis to ensure fairness to the contract holder, unless an alternative more beneficial method is available.
Rules Coordinator: Karen Winkel
Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE, Salem, OR 97301
Telephone: (503) 947-7694

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

Rule Caption: Amends OAR 438-005-0035(1) & Division 015 rules to apply HB 2764 amendments re: atty fees.

Date:	Time:	Location:
12-4-15	10 a.m.	2601 25th St. SE, Ste. 150 Salem, OR 97302

Hearing Officer: Debra L. Young
Stat. Auth.: ORS 656.726(5)
Stats. Implemented: HB 2764 (2015), 656.012, 656.236(4), 656.262(11)(a), (14)(a), 656.267(3), 656.278(1), 656.289(4), 656.307, 656.308(2), 656.382, 656.386, 656.388 & 656.593(1)(a)
Proposed Adoptions: 438-015-0033, 438-015-0048
Proposed Amendments: 438-005-0035, 438-015-0010, 438-015-0019, 438-015-0025, 438-015-0045, 438-015-0055, 438-015-0065, 438-015-0070, 438-015-0080, 438-015-0110
Last Date for Comment: 12-4-15, 5 p.m.
Summary: After considering its Advisory Committee's September 23, 2015 report, the Board proposes to adopt and amend Division 015 rules to implement HB 2764 (2015), which amended statutes concerning attorney fees under the Workers' Compensation Law. The Board proposes to: (1) amend OAR 438-005-0035(1) to add the phrase "while providing for access to adequate representation for injured workers" to the Board's policy statement; (2) amend OAR 438-015-0010(2) to reference the new statute providing for assessed attorney fees for obtaining temporary disability benefits (HB 2764 § § 9, 10); (3) add OAR 438-015-0019(6) to provide for assessed attorney fees for prevailing over a dispute involving a claim for costs; (4) amend OAR 438-015-0025 to delete references to OAR 438-015-0045 (attorney fees when the claimant requests a hearing regarding temporary disability and prevails) and OAR 438-015-0055(1) (attorney fees when the claimant requests Board review regarding temporary disability and prevails), and add reference to OAR 438-015-0080(3) (approved attorney fees for an award of increased permanent disability by an

Own Motion order); (5) add OAR 438-015-0033 to establish procedures concerning an attorney fee under ORS 656.262(14)(a), providing for a reasonable hourly rate for an attorney's time spent during an interview or deposition; (6) amend OAR 438-015-0045 to delete provisions regarding approved attorney fees when the claimant requests a hearing and an Administrative Law Judge (ALJ) awards additional temporary disability benefits and to add provision for award of assessed attorney fee under such circumstances; (7) add OAR 438-015-0048 to provide for assessed attorney fees when the claimant requests a hearing and prevails over a claim reclassification order from the Workers' Compensation Division (WCD); (8) amend OAR 438-015-0055(1) to delete provisions regarding approved attorney fees when the claimant requests Board review and the Board awards additional temporary disability benefits and to add provision for award of assessed attorney fees under such circumstances; (9) add

OAR 438-015-0055(6) to provide for assessed attorney fees when the claimant requests Board review and prevails over an ALJ's order regarding a WCD's claim reclassification order; (10) amend OAR 438-015-0065(1) and (3) to include assessed attorney fees when the carrier requests a hearing and the ALJ finds "all or part of" compensation awarded or compensation awarded by the reconsideration order, respectively, should not be disallowed or reduced; (11) add OAR 438-015-0065(2) to provide for assessed attorney fees when the carrier requests a hearing and raises attorney fees, penalties, or costs and the ALJ does not disallow or reduce such awards; (12) amend OAR 438-015-0070(1) and (3) to include assessed attorney fees when the carrier requests

Board review and the Board finds "all or part of" compensation awarded or compensation awarded by the reconsideration order, respectively, should not be disallowed or reduced; (13) add OAR 438-015-0070(2) to provide for assessed attorney fees when the carrier requests Board review and raises attorney fees, penalties, or costs and the Board does not disallow or reduce such awards; (14) add OAR 438-015-0070(3) to provide for assessed attorney fees for the claimant's attorney's efforts when the carrier requests Board review of an ALJ's order and the matter is briefed, but the carrier withdraws the appeal before a decision from the Board; (15) amend OAR 438-015-0080(1) and (2) to delete provisions regarding approved attorney fees when an attorney is instrumental in obtaining temporary disability compensation or obtaining a voluntary reopening of an Own Motion claim that results in increased temporary disability compensation, respectively, and to add provision for award of assessed attorney fees under such circumstances; (16) amend OAR 438-015-0080(4) to provide that the Board may allow a fee in excess of the amount prescribed in section (3), which relates to Own Motion permanent disability benefits; (17) amend OAR 438-015-0110, regarding cases involving ORS 656.262(11)(a), to include "attorney fees or costs" in the list of items eligible for assessed attorney fees for unreasonable delay or refusal to pay; (18) amend OAR 438-015-0110(1) to provide: "Considers the proportionate benefit to the claimant"; and (19) amend OAR 438-015-0110(3) to raise the maximum assessed attorney fees under ORS 656.262(11)(a), absent a showing of extraordinary circumstances, from $3,000 to $4,000.

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

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

Rule Caption: Procedures on refunds and hearing requests; attorney fees; implementation of House Bill 2764 (2015)

Date:	Time:	Location:
11-24-15	9 a.m.	Room B Labor & Industries Bldg. 350 Winter St. NE Salem, OR

Hearing Officer: Fred Bruyns
Stat. Auth.: ORS 656.726(4)
Stats. Implemented: ORS 656, as amended by HB 2764 (2015 OL Ch. 521) & 293.445
Proposed Adoptions: 436-001-0435, 436-001-0500
Proposed Amendments: Rules in 436-001
Last Date for Comment: 11-30-15, Close of Business
Summary: The public may also listen to the hearing or testify by telephone: Dial-in number is 213-787-0529; Access code is 9221262#; Lines open at 8:45 a.m.

- Proposed amendments to OAR 436-001, "Procedural Rules, Rulemaking, Hearings, and Attorney Fees":

- Remove definitions of terms that will no longer be used in OAR 436-001 (if other proposed amendments are adopted);

- Require that if a worker sends a written request for hearing or administrative review to an employer or insurer, and the request should have been sent to the division, the employer or insurer must promptly forward the request to the division;

- Provide that, when moneys are received in excess of the amounts due and payable to the director, or when moneys have been received to which the director has no legal interest, the director will refund or credit the excess amount; but for amounts less than $20, when moneys are received for an assessment or a civil penalty, the director will refund the excess amount only upon receipt of a written request from the party entitled to the refund or credit;

- Implement House Bill 2764 (2015) by:

-- Explaining that the director must consider the proportionate benefit to the worker when determining the amount of an attorney fee awarded under ORS 656.262(11); and

-- Establishing criteria for determining a reasonable attorney fee under ORS 656.277(1).

Rules Coordinator: Fred Bruyns
Address: Department of Consumer and Business Services, Workers' Compensation Division, PO Box 14480, Salem, OR 97309-0405
Telephone: (503) 947-7717

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Department of Corrections
Chapter 291

Rule Caption: Facilitated Dialog Program Between Victims and Inmates in DOC Facilities
Stat. Auth.: ORS 170.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 170.040, 423.020, 423.030 & 423.075
Proposed Amendments: 291-205-0020, 291-205-0030, 291-205-0050
Last Date for Comment: 12-18-15, 4:30 p.m.
Summary: These revisions are necessary to expand the definition of crime victim to allow victims of non-adjudicated crimes to participate in the department's Facilitated Dialog Program, and clarify that in addition to legal appeals, Board of Parole administrative actions that challenge the validity of a conviction or sentence would make a request to participate in the program ineligible.
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: Jail Inspections
Stat. Auth.: ORS 169.070, 179.040, 423.020, 423.030 & 423.075
Stats. Implemented: ORS 169.070–169.750, 179.040, 419A.052, 419B.180, 423.020, 423.030 & 423.075
Proposed Amendments: 291-167-0005 through 291-167-0015
Last Date for Comment: 12-18-15, 4:30 p.m.
Summary: The revisions to these rules are necessary to align the rules with statutory requirements of ORS 169.090 and other minor housekeeping items. The rules have not been revised since 2001.
Rules Coordinator: Janet R. Worley
Address: Department of Corrections, 2575 Center St. NE, Salem, OR 97301-4667
Telephone: (503) 945-0933

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Department of Energy
Chapter 330

Rule Caption: Updates accountant guidelines and cost recovery provisions for self-direction of public purpose charge program.

Date:	Time:	Location:
11-24-15	1:30 p.m.	Oregon Department of Energy 625 Marion St. NE Salem, OR

Hearing Officer: Wendy Simons
Stat. Auth.: ORS 469.040 & 757.612
Stats. Implemented: ORS 757.612
Proposed Amendments: 330-140-0020, 330-140-0060, 330-140-0070, 330-140-0140

Last Date for Comment: 11-24-15, 5 p.m.
Summary: The primary purpose of these proposed rule amendments is to update the administrative rules for the Self-direction of Public Purpose Charges by Large Retail Electricity Customers (LECPPP) program to align with current Oregon Board of Accountancy guidelines and current agency practices. The proposed amendments would change the rules to require that a certified public accountant "attest" that project costs are accurate, rather than creating a "statement of compilation." The proposed amendments would also update the requirements for providing proof of qualified expenditures. With regard to cost recovery, the proposed amendments would eliminate a reference to the fixed annual deposit of $1,200 to be paid by LECPPP participants, while retaining the per-project deposit of up to four percent of project costs. As program costs have declined over time, the department no longer requires participants to pay an annual deposit. The proposed amendments would also modify the process for comparing deposits received with the department's cost of services, eliminating the current true-up process in favor of an annual review to assure that costs of operating the program are recovered.

This is the second of two public hearings scheduled for this rulemaking. One of the proposed rule amendments for this program, 330-140-0020, was inadvertently omitted from official notices for the first hearing scheduled for October 29, 2015.
Rules Coordinator: Elizabeth Ross
Address: Department of Energy, 625 Marion St. NE, Salem, OR 97301
Telephone: (503) 378-8534

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Department of Environmental Quality
Chapter 340

Rule Caption: Solid Waste Fee and Grants Rulemaking

Date:	Time:	Location:
11-18-15	6 p.m.	DEQ Headquarters 811 SW 6th Ave. 10th Floor, Rm. EQC-A Portland, OR

Hearing Officer: Jill Inahara
Stat. Auth.: ORS 45A.025, 459.045, 459.235, 459.236, 459A.025, 459A.100–459A.120, 468.020, 468.065
Other Auth.: Section 6a, Chapter 662, Oregon Laws 2015
Stats. Implemented: ORS 459.235, 459.236, 459A.110, 459A.115, 459A.120
Proposed Adoptions: 340-083-0500, 340-083-0510, 340-083-520, 340-083-0530
Proposed Amendments: 340-083-0010, 340-083-0020, 340-083-0030, 340-083-0040, 340-083-0050, 340-083-0070, 340-083-0080, 340-083-0090, 340-083-0100, 340-097-0001, 340-097-0110, 340-097-0120
Last Date for Comment: 11-23-15, 4 p.m.
Summary: DEQ proposes to:

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

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

Department of Fish and Wildlife
Chapter 635

Rule Caption: Amendments to Wildlife Control Operators Rules

Date:	Time:	Location:
12-4-15	8 a.m.	Embassy Suites 7900 NE 82nd Ave. Portland, OR 97220

Hearing Officer: ODFW Commission
Stat. Auth.: ORS Ch. 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS Ch. 496.012, 496.138, 496.146 & 496.162
Proposed Amendments: Rules in 635-435
Last Date for Comment: 12-4-15, Close of Hearing
Summary: These rules are needed to change or update various aspects of agency management of Wildlife Control Operators.
Rules Coordinator: Michelle Tate
Address: Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302
Telephone: (503) 947-6044

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Rule Caption: Amendments to Wildlife Rehabilitation Rules

Date:	Time:	Location:
12-4-15	8 a.m.	Embassy Suites 7900 NE 82nd Ave. Portland, OR 97220

Hearing Officer: ODFW Commission
Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242
Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498. 222 & 498.242
Proposed Adoptions: Rules in 635-062
Proposed Repeals: 635-044-0200 through 635-044-0310
Last Date for Comment: 12-4-15, Close of Hearing
Summary: The proposed rules are to change or to update various aspects of agency management of wildlife rehabilitation. At a later date, rule amendments related to Wildlife Holding and Wildlife Propagating will be addressed.
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: Per HB 3315 Adopt Rules Regarding Reporting on Rendering Recompensable Assistance to Other State Agencies

Date:	Time:	Location:
12-4-15	8 a.m.	Embassy Suites 7900 NE 82nd Ave. Portland, OR 97220

Hearing Officer: ODFW Commission
Stat. Auth.: ORS 496.012, 496 .138, 496.146 & HB 3315 (2015)
Stats. Implemented: HB 3315 (2015)
Proposed Adoptions: Rules in 635-001
Last Date for Comment: 12-4-15, Close of Hearing
Summary: Adopt rules to implement House Bill 3315, which requires the Oregon Department of Fish and Wildlife to track and prepare statements reporting on costs incurred by department personnel in rendering recompensable assistance to any executive department agency for advancing the administration of fee-funded programs on or after July 1, 2015, and before July 1, 2019.
Rules Coordinator: Michelle Tate
Address: Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302
Telephone: (503) 947-6044

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

Rule Caption: Oregon Project Independence Pilot for Adults with Disabilities

Date:	Time:	Location:
11-18-15	3 p.m.	Human Services Bldg., Rm. 160 500 Summer St. NE Salem, OR 97301

Hearing Officer: Staff
Stat. Auth.: ORS 409.050, 410.070 & 410.435
Stats. Implemented: ORS 409.010, 410.410–410.480
Proposed Amendments: 411-032-0050
Proposed Repeals: 411-032-0050(T)
Last Date for Comment: 11-23-15, 5 p.m.
Summary: The Department of Human Services (Department) is proposing to amend OAR chapter 411-032-0050 to make permanent temporary changes that became effective July 1, 2015. The Department is amending 411-032-0050 to continue providing services to younger adults with disabilities that are currently receiving such services in regionally diverse pilot locations under the Oregon Project Independence Pilot. This rulemaking expands the date of the pilot program to allow the Department to continue providing services through this biennium. Minor formatting adjustments were made to the rule as well.
Rules Coordinator: Kimberly Colkitt-Hallman
Address: Department of Human Services, Aging and People with Disabilities and Developmental Disabilities, 500 Summer St. NE, E48, Salem, OR 97301
Telephone: (503) 945-6398

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Rule Caption: ODDS - Medically Involved Children's Program

Date:	Time:	Location:
11-18-15	1:30 p.m.	Human Services Bldg. 500 Summer St. NE, Rm. 160 Salem, OR 97301

Hearing Officer: Staff
Stat. Auth.: ORS 409.050, 417.345
Other Auth.: Senate Bill 22 (2013 Regular Session)
Stats. Implemented: ORS 417.345, 427.005, 427.007, 430.215
Proposed Adoptions: 411-355-0045, 411-355-0075
Proposed Amendments: 411-355-0000, 411-355-0010, 411-355-0020, 411-355-0030, 411-355-0040, 411-355-0050, 411-355-0080, 411-355-0090, 411-355-0100
Proposed Repeals: 411-355-0060, 411-355-0070, 411-355-0110, 411-355-0120, 411-355-0000(T), 411-355-0010(T), 411-355-0020(T), 411-355-0030(T), 411-355-0040(T), 411-355-0045(T), 411-355-0050(T), 411-355-0075(T), 411-355-0080(T), 411-355-0090(T), 411-355-0100(T)
Last Date for Comment: 11-23-15, 5 p.m.
Summary: The Department of Human Services, Office of Developmental Disabilities Services (Department) is proposing to update the rules in OAR chapter 411, division 355 for the Medically Involved Children's Program (MICP).

The proposed rules:

- Make permanent temporary rule language that became effective on August 1, 2015;
- Incorporate the general definitions in OAR 411-317-0000, update the definitions to reflect correct terminology, and include definitions for terms created by the temporary rulemaking;
- Incorporate the expenditure guidelines;
- Account for changes in Medicaid service eligibility;
- Clarify when a child may be exited from the MICP and reiterate the requirement for a Notification of Planned Action in the instance services are terminated;
- Include a timeframe for when a functional needs assessment must be completed and clarify service planning;
- Update the language to reflect the completion of the transition period for implementation of the Community First Choice 1915(k) state plan amendment and update the available supports to reflect changes to the Medically Involved Model Waiver;
- Adopt standards for employers to assure the proper authority exists to withdraw employer authority in cases where it is necessary to protect a child, parent, or an employee from its misuse. The rule defines indications of misuse of employer authority, the steps that must be taken to remove employer authority, and appeals of the removal;
- Expand provider types to include personal support workers, independent providers, provider organizations, and general business providers, and specify the qualifications;
- Implement Senate Bill 22 by updating the rights of a child and providing a uniform dispute resolution process by incorporating the individual rights, complaint, Notification of Planned Action, and hearing rules adopted in OAR chapter 411, division 318; and
- Remove the sanctions for providers and include termination of provider enrollment.

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,
Child Welfare Programs
Chapter 413

Rule Caption: Amending rules relating to child welfare programs

Date:	Time:	Location:
11-23-15	1 p.m.	500 Summer St. NE, Rm. 255 Salem, OR 97301

Hearing Officer: Kris Skaro
Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 418.005, 418.598
Other Auth.: Preventing Sex Trafficking and Strengthening Families Act of 2014
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 418.005, 418.015, 418.027, 418.285, 418.312, 418.315, 418.490, 418.495, 418.575, 418.578, 418.580, 418.598
Proposed Adoptions: 413-080-0053, 413-090-0087
Proposed Amendments: 413-015, 413-080, 413-090, 413-100
Proposed Repeals: 413-015-0115(T), 413-015-0211(T), 413-015-0415(T), 413-015-9000(T), 413-080-0050(T), 413-080-0053(T), 413-080-0054(T), 413-090-0085(T), 413-090-0087(T), 413-100-0457
Last Date for Comment: 11-25-15, 5 p.m.
Summary: The Department of Human Services, Office of Child Welfare Programs, is proposing rule changes to do the following:

- Establish requirements when a child or young adult in substitute care is missing
- Expand implementation of Differential Response to additional counties
- Update the BRS Rates Table
- Remove references to the Former Foster Care Youth Medical Program

Each change is described in detail below. A copy of the draft rule and exhibit can be accessed at the Child Welfare policy website: http://www.dhs.state.or.us/policy/childwelfare/drafts/drafts.htm.

When a Child or Young Adult in Substitute Care is Missing:

The Department is proposing to make permanent temporary rules that were adopted on October 1, 2015. The rules implement provisions of the Preventing Sex Trafficking and Strengthening Families

Act of 2014, section 104, relating to the Department's responsibilities when a child or young adult in substitute care is missing. Specifically, the amendments do the following:

- State that when a child or young adult in substitute care is missing, the caseworker must:

-- Make immediate efforts to locate the child or young adult; and

-- Notify the court and legal parties to the case that the child or young adult is missing. (OAR 413-080-0053)

-State that when a child or young adult in substitute care is located, the caseworker must:

-- Determine and address the primary factors that contributed to the missing status of the child or young adult;

-- Determine the child or young adult's experiences while missing;

-- Determine if the child or young adult is a victim of sex trafficking or is at risk of being a victim of sex trafficking; and

-- Notify the court and legal parties to the case that the child or young adult has been located. (OAR 413-080-0053)

-State that monthly face-to-face contact is a required CPS (Child Protective Services) assessment activity (OAR 413-015-0415) and if a caseworker is unable to make face-to-face contact with a child or young adult because the child or young adult is missing, the caseworker must follow the protocols in OAR 413-080-0053 described above. (OAR 413-080-0054(1)(f))

-Add definitions for "monthly face-to-face contact," "sex trafficking," and "young adult." (OAR 413-080-0050(12) and (23) and OAR 413-015-0115(25) and (55))

-Clarify that reports of a missing child or young adult must be documented in the Department's electronic information system. (OAR 413-015-0211(2)(c)(D))

-Require BRS (Behavior Rehabilitation Services) providers to immediately report to the Department information about a missing child or young adult placed with a BRS program. (OAR 413-090-0087)

Differential Response:

The Department is proposing to make permanent a temporary amendment to OAR 413-015-9000 adopted on October 12, 2015, relating to Oregon's Differential Response (DR) system. DR is an approach to child protection that promotes partnering with parents, family, communities, and neighborhoods to keep children safe. Oregon began implementation of DR on a county-by-county basis in May 2014. The amendments specify DR implementation dates for additional counties, specifically:

- November 2, 2015 for Jackson and Josephine
- November 16, 2015, for Coos and Curry
- December 1, 2015, for Clackamas

BRS Rates:

The Department is proposing to make permanent a temporary amendment to OAR 413-090-0085 adopted on August 26, 2015. The temporary rule incorporated by reference and adopted as Exhibit 1 the BRS Rates Table dated July 1, 2015, which lists the rates at which the Department compensates BRS contractors, in accordance with Oregon Health Authority OAR 410-170-0110. The rates are effective as of July 1, 2015. The updated table changes rates, depending on type of service and placement model, as follows:

- The service rate per billable care day is increased from a range of $90.34 to $134.33 to a range of $96.10 to $142.02.

- The placement-related activities rate per billable care day is increased from a range of $47.19 to $51.99 to a range of $49.48 to $54.35.

- The total daily rate per billable care day is increased from a range of $137.53 to $186.32 to a range of $145.58 to $196.37.

- The absent day rate is increased from a range of $68.76 to $93.16 to a range of $72.79 to $98.19.

Former Foster Care Youth Medical Program:

The Department is proposing to remove references to the Former Foster Care Youth (FFCY) Medical Program. Effective December 1, 2015, this program will be administered by the Oregon Health Authority under rules in chapter 410. References to the program are being removed from OAR 413-100-0000 and 413-100-0420 and the FFCY eligibility rule, OAR 413-100-0457, is being repealed.

Additional non-substantive edits may be made to these rules to: ensure consistent terminology throughout child welfare rules and policies; make general updates consistent with current Department practices; update statutory and rule references; correct formatting and punctuation; remove unnecessary language; and clarify Department rules and processes.

Rules Coordinator: Kris Skaro

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

Telephone: (503) 945-6067

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Department of Human Services,
Self-Sufficiency Programs
Chapter 461

Rule Caption: Amending rules relating to public assistance programs, including SNAP and TANF

Date:	Time:	Location:
11-23-15	1 p.m.	500 Summer St. NE, Rm. 255 Salem, OR 97301

Hearing Officer: Kris Skaro

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.095, 411.816, 412.006, 412.009, 412.016, 412.049

Other Auth.: Food and Nutrition Act of 2008, 7 U.S.C. 2015(o), 7 CFR 273.12(e)(1), 7 CFR 273.2(f)(1)(xiv), 7 CFR 273.24, 7 CFR 721.7(f)

Stats. Implemented: ORS 183.415, 183.417, 409.010, 409.050, 411.060, 411.070, 411.081, 411.095, 411.097, 411.099, 411.103, 411.640, 411.816, 411.825, 411.837, 412.001, 412.006, 412.009, 412.016, 412.049, Or Laws 2015, ch 269

Proposed Amendments: 461-001-0025, 461-115-0651, 461-135-0520, 461-170-0011, 461-170-0101, 461-170-0103, 461-175-0200, 461-175-0220, 461-175-0250, 461-175-0340, 461-190-0211, 461-195-0521, 461-195-0621

Proposed Repeals: 461-001-0025(T), 461-170-0103(T), 461-190-0211(T)

Last Date for Comment: 11-27-15, 5 p.m.

Summary: The Department of Human Services, Office of Self-Sufficiency Programs, is proposing rule changes to:

- Implement a three-month time limit on SNAP benefits for able-bodied adults without dependents (ABAWD)

- Clarify notice requirements for JPI payments, signed IPV waiver, and mass changes

- Include job skills training and short-term self-initiated training as JOBS activities eligible to TANF clients

- Clarify when an underpayment of benefits is credited against an overpayment of benefits

These changes are described in detail below. Rule text showing edits is available at http://www.dhs.state.or.us/policy/self sufficiency/ar_proposed.htm.

ABAWD TIME LIMIT.

Under the Food and Nutrition Act of 2008, able-bodied adults without dependents (ABAWD) are subject to a three-month time limit for SNAP benefits unless they meet certain requirements. Oregon's statewide waiver of this requirement approved by Food and Nutrition Services of the US Department of Agriculture expires on December 31, 2015. Therefore, pending approval of a new waiver application, OAR 461-135-0520 about eligibility requirements and time limits for ABAWD is being amended to limit ABAWD to three months of SNAP benefits, unless work requirements are met or other exemptions apply. (See 7 U.S.C. 2015(o) and 7 CFR 273.24) Corresponding amendments are being made to implement federal reporting requirements for these clients:

- OAR 461-115-0651 about verification requirements in the SNAP program is being amended to add two new verification requirements for ABAWD who are subject to the three-month time limit for SNAP

benefits. Specifically, when an ABAWD initially applies for SNAP benefits, the individual must verify work hours, if the work requirement is being satisfied by working, and the number of countable months used in another state if an ABAWD previously received food benefits in another state. (See 7 CFR 273.2(f)(1)(xiv))

- OAR 461-170-0011 about changes that must be reported is being amended to require ABAWD in the SNAP program to report a change in work hours when hours are below 20 hours per week, averaged monthly. (See 7 CFR 273.24)

- OAR 461-170-0101 about the Simplified Reporting System (SRS) is being amended to state that ABAWD may participate in SRS even with a certification period less than six months.

NOTICE REQUIREMENTS FOR JPI, SIGNED WAIVERS, MASS CHANGES.

The following updates are being made to notice requirements:

- OAR 461-170-0103 about actions resulting from changes in household circumstances and OAR 461-175-0200 about notice situations are being amended to allow JPI (Job Participation Incentive) payments to be closed with a basic notice (instead of a 10-days advance notice with a right to continuing benefits) when a client reports a change in income that results in eligibility for increased SNAP benefits. The JPI program is a $10 food benefits. This amendment covers situations in which net benefits are increasing. This makes permanent temporary rules adopted on October 1, 2015.

- OAR 461-175-0200 about notice situations generally; OAR 461-175-0220 about notice situations for disqualifications; OAR 461-175-0340 about notice situations for voluntary actions; and OAR 461-195-0621 about intentional program violations are being amended to clarify that when a client signs an IPV waiver, that qualifies as a final order and no notice to that client is required. It is also clarified that other members of the benefit group do receive notice if the benefits of the remaining members are reduced as a result of the disqualification based on a signed IPV waiver.

- OAR 461-175-0250 is notices required when there are mass changes (such as a cost-of-living adjustment or federal government shutdown) is being amended to: state that the Department is not required to send notice of intended action to each SNAP client when the federal government changes a benefit or standard that results in the mass suspension or closure of SNAP benefits; describe the kinds of notification the Department may undertake instead; and state that there is no right to a hearing or continuing benefits in this situation. This is in compliance with 7 CFR 721.7(f), 7 CFR 273.12(e)(1), and ORS 411.095 as amended by SB 225 (Oregon Laws 2015, chapter 269).

JOBS ACTIVITIES.

OAR 461-190-0211 about case plan activities and standards for support service payments for the Temporary Assistance for Needy Families (TANF) Job Opportunity and Basic Skills (JOBS) program is being amended to include job skills training and short-term self-initiated training as available JOBS activities to eligible TANF clients and to correct the title of "supported work." To align with OAR 461-190-0211, OAR 461-001-0025 about definitions of terms, components, and activities in the JOBS, Pre-TANF, Post-TANF, and TANF programs is being amended to define "crisis intervention" as short-term services to address an immediate crisis need; correct the title of "supported work;" and update the definition of "self-initiated training" to align with changes to OAR 461-190-0211. This makes permanent temporary rules adopted on July 1, 2015.

OVERPAYMENT CREDITS.

OAR 461-195-0521 about the calculation of overpayments is being amended to clarify that an underpayment of benefits can be credited against an overpayment only when they occur in the same program. This aligns with existing practice and with OAR 461-195-0551(4)(b).

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

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 APD programs

Date:	**Time:**	**Location:**
11-23-15	1 p.m.	500 Summer St. NE, Rm. 255 Salem, OR 97301

Hearing Officer: Kris Skaro

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.083, 411.404, 411.706, 413.085, 414.685

Other Auth.: P.L. 92-336; Section 1902(r)(2) of the Social Security Act and 42 USC 1396a; 20 CFR 416.2099

Stats. Implemented: ORS 409.010, 409.050, 410.070, 411.060, 411.083, 411.404, 411.704, 411.706, 413.085, 414.685, 414.826, 414.839

Proposed Adoptions: 461-145-0259

Proposed Amendments: 461-115-0700, 461-135-0780, 461-150-0050, 461-170-0011, 461-175-0310, Rules in 461-140, 461-145, 461-155, 461-160

Last Date for Comment: 11-27-15, 5 p.m.

Summary: The Department of Human Services is proposing several changes to Aging and People with Disabilities (APD) medical programs. The changes:

- Remove resource limits for three of the Medicare Savings Programs (QMB-BAS, SMB, and SMF).

- Update rules to reflect annual changes to the federal poverty level (FPL) and cost of living adjustment (COLA).

- Increase the amount of in-home supplement in Oregon Supplemental Income Program Medical (OSIPM) from $15 to $22 per month and clarify the type of income counted in determining eligibility for the special need.

- Clarify that in the OSIPM and Qualified Medical Beneficiary (QMB) programs the $20 deduction is not allowed to be taken from income received from a program based on need and that is federally funded.

- Clarify policy relating to treatment of Indian (Native American) benefits in APD medical programs.

These changes are described in more detail below. Rule text showing edits is available at http://www.dhs.state.or.us/policy/selfsufficiency/ar_proposed.htm.

Remove Resource Limits for QMB-BAS, SMB, and SMF.

OAR 461-160-0015 about Resource Limits being is amended to remove resource limits for three of the Medicare Savings Programs (QMB-BAS, SMB, and SMF), which are currently based on the resource limits of the Medicare Part D Low Income Subsidy ($7,280 for a need group of one and $10,930 for a 2-person need group). States are authorized to use flexibility under Section 1902(r)(2) of the Social Security Act for the purposes of simplifying administrative processes. Amending this rule will facilitate more timely eligibility determinations for DHS staff as well as make the application and redetermination process less cumbersome for applicants for and recipients of Medicare Savings Programs. Note: CMS has clarified that the Department may not eliminate resource limits for the QMB-DW program, and that is reflected in these amendments. Oregon currently has no QMB-DW clients because individuals who would qualify for QMB-DW would also qualify for OSIPM-EPD (in order to qualify for QMB-DW, one must not be eligible for any other Medicaid program).

As a result of excluding all resources, a number of rules require amendments as they refer to how resources are treated and counted in the QMB-BAS, SMB, and SMF programs:

- OAR 461-115-0700 about required verifications is being amended to remove QMB-BAS/SMB/SMF programs from the section

regarding verifying resources because resources will no longer be an eligibility factor.

- OAR 461-140-0020 about availability of resources is being amended to remove the QMB-BAS/SMB/SMF programs; whether a resource is available will no longer be relevant because resources are all excluded.

- OAR 461-140-0120 about availability and treatment of lump-sum income is being amended to account for the fact that QMB-BAS/SMB/SMF programs will no longer count lump-sum income as a resource in the month after receipt.

- OAR 461-140-0250 about determining the uncompensated value of a transferred asset is being amended to remove QMB-BAS/SMB/SMF programs for two reasons: there is no longer a resource limit and because disqualifying transfers only affect eligibility for long-term-care services, not QMB-BAS/SMB/SMF programs.

- OAR 461-145-0010 about animals is being amended to state that all animals are excluded as a resource in the QMB-BAS/SMB/SMF programs.

- OAR 461-145-0020 is being amended to remove reference to counting annuities as a resource in the QMB-BAS/SMB/SMF programs and to state that only the interest portion of annuity payments can be counted as income.

- OAR 461-145-0040 about burial arrangements and burial funds is being amended to state that these items are excluded in the QMB-BAS/SMB/SMF programs.

- OAR 461-145-0050 about burial space and merchandise is being amended to remove QMB-BAS/SMB/SMF programs from sections that refer to these items as countable resources.

- OAR 461-145-0220 about the home has been amended to remove QMB-BAS/SMB/SMF programs from sections that refer to the home as a countable resource.

- OAR 461-145-0240 about income-producing sales contracts is being amended to remove references to QMB-BAS/SMB/SMF programs in sections which address these items as countable resources.

- OAR 461-145-0310 about life estates is being amended to remove QMB-BAS/SMB/SMF programs as life estates are resources and will no longer be an eligibility factor.

- OAR 461-145-0320 about life insurance is being amended to remove QMB-BAS/SMB/SMF programs as life insurance is a resource and will no longer be an eligibility factor.

- OAR 461-145-0330 about loans and interest on loans is being amended to remove references to QMB-BAS/SMB/SMF programs in sections which address loans as a resource and to establish new rules for how to treat payments to both a lender and a borrower.

- OAR 461-145-0360 about motor vehicles is being amended to remove QMB-BAS/SMB/SMF programs as motor vehicles are a resource and will no longer be an eligibility factor.

- OAR 461-145-0380 about pension and retirement plans is being amended to remove QMB-BAS/SMB/SMF programs from sections which refer to these items as countable resources.

- OAR 461-145-0410 about program benefits is being amended to remove associations between QMB-BAS/SMB/SMF programs and benefits that are counted as a resource.

- OAR 461-145-0420 is being amended to remove QMB-BAS/SMB/SMF programs because real property is a resource.

- OAR 461-145-0460 about sale of a resource is being amended to establish new rules about how proceeds from a sale are counted, namely that they are not countable as a resource and under what conditions they are counted as income.

- OAR 461-145-0490 about Social Security benefits is being amended to remove the association between QMB-BAS/SMB/SMF programs and circumstances when these benefits are counted as a resource.

- OAR 461-145-0510 about SSI is being amended to remove any association between QMB-BAS/SMB/SMF programs and treatment of SSI as a resource.

- OAR 461-145-0540 about trusts is being amended to remove the association between QMB-BAS/SMB/SMF programs and treatment of trusts as a resource and establish that distributions from trust funds are excluded as income.

- OAR 461-145-0600 about work-related capital assets, equipment, and inventory is being amended to remove QMB-BAS/SMB/SMF programs.

- OAR 461-150-0050 about prospective eligibility and budgeting is being amended to clarify that certain monies are excluded as income and to remove the association between QMB-BAS/SMB/SMF programs and the resource provisions.

- OAR 461-160-0010 about use of resources in determining financial eligibility is being amended to establish that resources have no effect in determining eligibility for the QMB-BAS/SMB/SMF programs.

- OAR 461-170-0011 about changes that must be reported is being amended to state that a change in resources does not need to be reported for the QMB-BAS/SMB/SMF programs.

- OAR 461-175-0310 about the notice situation for asset transfer disqualifications is being amended to remove QMB-BAS/SMB/SMF programs as they have no effect on eligibility.

FPL and COLA Updates.

The standards in the rules listed below are being amended to reflect annual federal cost of living adjustments that happen every January. These amendments keep Oregon in line with current federal standards for Department Medicaid programs and changes in the cost of living. These amendments will take effect January 1.

- OAR 461-135-0780 about eligibility for Pickle Amendment clients in the OSIPM program.

- OAR 461-145-0220 about treatment of the home.

- OAR 461-155-0250 about income and payment standard for OSIPM.

- OAR 461-155-0270 about room and board standards for OSIPM.

- OAR 461-160-0580 about excluded resources (community spouse provision) OSIPM program (except OSIP-EPD and OSIPM-EPD).

- OAR 461-160-0620 about income deductions and client liability for Long Term Care Services and Waivered Services.

The standards in the rules listed below are being amended to reflect the annual updates to the Federal Poverty Level that happens every March. These amendments keep Oregon in line with current federal standards for Department Medicaid programs and changes in the Federal Poverty Level. These amendments will take effect March 1.

- OAR 461-155-0290 about income standards for QMB-BAS.

- OAR 461-155-0291 about income standards for QMB-DW.

- OAR 461-155-0295 about income standards for QMB-SMB and QMB-SMF.

OSIPM In-Home Supplement Increase.

OAR 461-155-0575 about the in-home supplement special need in Oregon Supplemental Income Program Medical (OSIPM) is being amended to increase the amount of the payment authorized by the rule from $15 to $22 per month. The increase may be adjusted higher or lower depending on spending patterns during the last quarter of 2015. Additionally, the rule is being amended to clarify the type of income counted in determining eligibility for the special need by stating that countable income is used in determining eligibility.

OSIPM and QMB Income Deduction.

OARs 461-160-0550, 461-160-0551, and 461-160-0552 about income deductions related to OSIPM and QMB are being amended to clarify that the $20 deduction is not allowed to be taken from income received from a program based on need and that is federally funded.

Treatment of Indian (Native American) Benefits.

OAR 461-145-0260 about Indian (Native American) benefits is being amended to remove APD medical programs because APD medical policy is no longer aligned with the other programs covered

in this rule. A new rule, OAR 461-145-0259, is being adopted to address this topic for APD medical programs.

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 public and medical assistance programs

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.083, 411.892 & 412.049

Other Auth.: 45 CFR 400

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.083, 411.892 & 412.049

Proposed Amendments: 461-120-0125, 461-145-0080, 461-145-0280, 461-145-0300, 461-145-0365, 461-145-0420, 461-145-0430, 461-150-0090, 461-155-0030, 461-155-0035, 461-160-0015, 461-160-0040, 461-175-0305

Last Date for Comment: 11-27-15, 5 p.m.

Summary: The Department is making several updates to policy relating to the Refugee (REF) and Refugee Medical (REFM) programs. Specifically:

- OAR 461-120-0125 relating to alien status is being amended to: remove Afghan and Iraqi aliens granted Special Immigrant Status (SIV) as qualified non-citizens; add Afghan and Iraqi aliens granted Special Immigrant Status (SIV) as meeting the alien status requirements in the ERDC, TA-DVS, and TANF programs; add victims of trafficking as qualified non-citizens; and increase eligibility for OSIPM and QMB by expanding individuals who meet the alien status requirements.

OAR 461-145-0080 relating to child support and cash medical support is being amended to remove reference to the REF and REFM programs.

- OAR 461-145-0280 about in-kind income is being amended to remove reference to REF and REFM as it relates to noncustodial parents.

OAR 461-145-0300 relating to the treatment of payments made to clients under the Workforce Investment Act is being amended to remove reference to REF and REFM as it relates to caretaker relatives, which does not apply in those programs.

- OAR 461-145-0365 about how payments from the National and Community Services Trust Act, including AmeriCorps, are treated is being amended to remove the reference to the REF program as it relates to child care, which is not applicable in the REF program.

- OAR 461-145-0420 and 461-145-0430 relating to real property are being amended to exclude all real property as a resource in the REF and REFM programs.

- OAR 461-150-0090 about prospective budgeting and annualizing and prorating contracted or self-employment income is being amended to clarify how contract income is treated.

- OAR 461-155-0030 about income and payment standards in the JOBS, REF, and TANF programs is being amended to remove reference to the REF program as it relates to need groups that contain no adult.

- OAR 461-155-0035 about cooperation incentive payment standards is being amended so that the rule no longer applies to the REF program, which does not issue cooperation incentive payments.

- OAR 461-160-0015 about resource limits is being amended to move the REF program from the TANF section into its own section.

- OAR 461-160-0040 about dependent child care costs is being amended to remove reference to the REF program.

- OAR 461-175-0305 about the notice situation when an individual is removed from a benefit group is being amended to remove reference to the REF and REFM programs as it relates to removing a child from the benefit group as a result of placement in child care by the caretaker relative. This is not applicable in the REF and REFM programs.

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 child care assistance

Stat. Auth.: ORS 409.050, 411.060, 411.070

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

Stats. Implemented: ORS 409.050, 409.610, 411.060, 411.070, Or Laws 2015, ch 698

Proposed Amendments: 461-001-0000, 461-125-0830, 461-135-0405, 461-135-0407, 461-145-0910, 461-160-0040, 461-160-0300, 461-170-0150, 461-170-0160, 461-175-0222, 461-175-0300

Proposed Repeals: 461-001-0000(T), 461-125-0830(T), 461-135-0405(T), 461-135-0407(T), 461-145-0910(T), 461-160-0040(T), 461-160-0300(T), 461-170-0150(T), 461-170-0160(T), 461-175-0222(T), 461-175-0300(T)

Last Date for Comment: 11-27-15, 5 p.m.

Summary: The Department of Human Services is proposing the rule changes described below as part of the implementation of the Child Care Development Block Grant (CCDBG) Act of 2014 and HB 2015 (Oregon Laws 2015, chapter 698). The changes were adopted by temporary rule on October 1, 2015.

- OAR 461-001-0000 about definitions is being amended to include a definition of "homeless" in the ERDC program.

- OAR 461-125-0830 about acceptable documentation is being amended to include confirmation by Child Welfare that supervised contact is required between the child and a parent or spouse living in the child's home.

- OAR 461-135-0405 about children in Head Start is amended to remove the statement "other than self-employment" and to remove the subsection about caretakers who have enrolled in school.

- OAR 461-135-0407 about children in Oregon Program of Quality (OPQ) contracted child care is amended to add reference for a caretaker who is no longer employed and in school full-time; remove language about not eligible due to self-employment; and set the copayment in contracted care.

- OAR 461-145-0910 about self-employment is being amended to include an exception in the ERDC program when anticipating income for a new self-employment business.

- OAR 461-160-0040 about dependent care costs deductions and coverage is being amended to list circumstances during which child care payments can continue, including during a job loss, medical leave, or military transition, and establish when a copay can be waived.

- OAR 461-160-0300 about use of income to determine eligibility and benefits for ERDC is being amended to state the eligibility income standards at initial and recertification.

- OAR 461-170-0150 about the certification period in the ERDC program is being amended to increase the ERDC certification period to not less than 12 months; allow "priority processing" for homeless families and families who have a current child care need for a foster child; and define "priority processing" as opening benefits for up to three months pending verification of income and other eligibility requirements.

- OAR 461-170-0160 about when a reapplication form is considered complete or not received in the ERDC program is being amended to include and make allowance for the reapplication to be turned in later than the 12 month certification date when authorized work search, medical leave, and military transition end dates are later than the 12 month end of certification period date and effective close date

at reapplication when the case is coded with authorized work search, medical leave, or military transition.

- OAR 461-175-0222 about notice situations and the expiration of certification period in the ERDC, SNAP, and TANF programs is being amended to include an exception for ERDC when households are certified for one or two months.

- OAR 461-175-0300 about notice situations and prior notice is being amended to include when an ERDC case in "priority processing" can be closed without further notice.

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

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Department of Justice
Chapter 137

Rule Caption: Rule changes to comply with 2015 legislation; incarcerated obligors; confidentiality
Stat. Auth.: ORS 25.020, 25.080, 25.125, 25.260, 25.287, 25.729, 180.345, 293 & 416.448
Stats. Implemented: ORS 25.015, 25.020, 25.080, 25.089, 25.091, 25.125, 25.167, 25.260, 25.287, 25.372-25.424, 25.729, 30.701, 127.005, 192.820-192.858, 293.525, 411.320, 416.429, 416.448 & 2015 OL Ch. 298, Sec. 1-80
Proposed Amendments: 137-055-1140, 137-055-1160, 137-055-3240, 137-055-3300, 137-055-3490, 137-055-3660, 137-055-5035, 137-055-5080, 137-055-5110, 137-055-6220, 137-055-6240, 137-055-7040, 137-055-7060, 137-055-7100, 137-055-7120, 137-055-7140, 137-055-7180, 137-055-7190
Proposed Repeals: 137-055-7020, 137-055-7160
Last Date for Comment: 12-15-15, 5 p.m.
Summary: The following rules are being amended to implement 2015 SB 604A (2008 amendments to the Uniform Interstate Family Support Act): 137-055-3240, 137-055-5035, 137-055-5080, 137-055-7040, 137-055-7060, 137-055-7100, 137-055-7120, 137-055-7140, 137-055-7180 and 137-055-7190.

OAR 137-055-7020 is being repealed, and OAR 137-055-7160 is being repealed and consolidated into 137-055-7140.

OAR 137-055-3490 is being amended to implement 2015 HB 3156. The amendments clarify that enforcement of a support order may be suspended pending certain legal actions if a credit balance will result, or when continued enforcement will create a hardship for the parent paying support when he/she now has custody of all of the children.

OAR 137-055-3660 is being amended to implement 2015 HB 3158. The amendments clarify the options when it is discovered that two or more child support judgments exist involving the same obligor and child for the same period.

OAR 137-055-6220 and 137-055-6240 are being amended to implement 2015 HB 3159 to allow the Program to establish a state debt against a third party who issued a check that is dishonored after being disbursed.

OAR 137-055-1140, 137-055-1160 and 137-055-5110 are being amended to comply with the federal Office of Child Support Enforcement Security Agreement, clarifying that all child support information is confidential and may only be disclosed as necessary for the administration of the Program or when otherwise required by law.

OAR 137-055-3300 is being amended to allow the Program to initiate a modification for a change in circumstances upon notice and verification that an obligor qualifies as an incarcerated obligor under the rule.

Please submit written comments to Lori Woltring, Policy Analyst, Division of Child Support, 1162 Court St NE Salem, Oregon 97301. Questions may be directed to that address or emailed to lori.woltring@doj.state.or.us
Rules Coordinator: Carol Riches
Address: Department of Justice, 1162 Court St. NE, Salem, OR 97301
Telephone: (503) 378-5987

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Rule Caption: Annual self-support reserve update
Stat. Auth.: 25.275, 25.280, 180.345
Other Auth.: n/a
Stats. Implemented: 25.275, 25.280
Proposed Amendments: 137-050-0745
Last Date for Comment: 12-15-15, 5 p.m.
Summary: OAR 137-050-0745 is being amended to update the self-support reserve using the federal poverty guidelines for 2015.

Please submit written comments to Lori Woltring, Policy Analyst, Division of Child Support, 1162 Court St NE Salem, Oregon 97301. Questions may be directed to that address or emailed to lori.woltring@doj.state.or.us
Rules Coordinator: Carol Riches
Address: Department of Justice, 1162 Court St. NE, Salem, OR 97301
Telephone: (503) 378-5987

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Department of Revenue
Chapter 150

Rule Caption: Personal Income Tax: Amnesty program, Biomass Credit transfer, University Venture Fund

Date:	Time:	Location:
11-23-15	10 a.m.	Revenue Bldg. 955 Center St. NE, Fishbowl Conference Rm. Salem OR 97301

Hearing Officer: Jason Larimer
Stat. Auth.: ORS 305.100; 315.144
Stats. Implemented: ORS 305.100, 315.144, 315.521
Proposed Amendments: 150-315.144
Proposed Repeals: 150-305.100(C), 150-315.521
Last Date for Comment: 11-23-15, 5 p.m.
Summary: 150-315.144 — modifies when a Biomass credit transfer schedule must be filed with the Department of Revenue.

150-305.100(C) — repeal of the rule for the amnesty program that is no longer in effect.

150-315.521 — repeal the rule for the University Venture Fund credit as it sunsets December 31, 2015.

Rules Coordinator: Deanna Mack
Address: Department of Revenue, 955 Center St. NE, Salem, OR 97301
Telephone: (503) 947-2082

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Rule Caption: Personal Income tax: Public Notification of Delinquent Taxpayers pilot project. Renumber Discretionary Penalty Waiver rule.

Date:	Time:	Location:
11-23-15	10 a.m.	Revenue Bldg. 955 Center St. NE Fishbowl Conference Rm. Salem OR 97301

Hearing Officer: Jason Larimer
Stat. Auth.: ORS 305.100 & 305.145
Stats. Implemented: ORS 305.120
Proposed Adoptions: 150-305.120
Proposed Renumberings: 150-305.145(5) to 150-305.145-(A)
Last Date for Comment: 11-23-15, 5 p.m.
Summary: 150-305.120 is required to provide rules and criteria to for posting the names of delinquent taxpayers to the Department of Revenue's website to incentivize these individuals to contact the department to become compliant. This rule also provides clarity on how the delinquent taxpayer can be removed from this list and what information will be posted.

150-305.145(5) for Discretionary Penalty Waivers for Information Returns will be renumbered to 150-305.145-(A) to conform to department rule numbering policies.
Rules Coordinator: Deanna Mack
Address: Department of Revenue, 955 Center St. NE, Salem, OR 97301
Telephone: (503) 947-2082

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Rule Caption: Corporate income/excise tax and Estate tax: Listed jurisdictions, Apportionment, Credits, Sales factor, Estimated tax payments

Date:	Time:	Location:
11-23-15	10 a.m.	Revenue Bldg. 955 Center St. NE Fishbowl Conference Rm. Salem OR 97301

Hearing Officer: Jason Larimer
Stat. Auth.: ORS 118.140, 305.100, 314.280, 314.665 & 317.152
Stats. Implemented: ORS 118.140, 314.280, 314.515, 314.665, 317.152, 317.705 & 317.717
Proposed Adoptions: 150-314.280-(O), 150-317.152, 150-317.717
Proposed Amendments: 150-118.140, 150-314.280-(N), 150-314.665(1)-(A), 150-317.705(3)(a)
Proposed Repeals: 150-118.NOTE, 150-314.665(2)-(C)
Proposed Ren. & Amends: 150-314.515(2) to 150-314.515-(A)
Last Date for Comment: 11-23-15, 5 p.m.
Summary: 150-118.NOTE is obsolete and should be repealed.

150-118.140 incorporates changes made by the 2015 Oregon Legislature to the Estate Tax Credit for Natural Resource Property.

150-314.280-(N) clarifies the meaning of the terms investment assets and activities and trading assets and activities.

150-314.280-(O) moves the provisions under current OAR 150-314.665(2)-C to this rule applicable only to public utilities.

150-314.515(2) to 150-314.515-(A) modifies the criteria for the crediting of overpayments of tax to estimated tax installments for amended or delinquent returns; also makes clear that an overpayment of tax will be subject to offset prior to the overpayment being credited to an estimated tax installment.

150-314.665(1)-(A) prescribes that sales taxes are excluded from the sales factor as of January 1, 2014.

150-314.665(2)-(C) is repealed upon adoption of 150-314.280-(O) to make clear that the rule now applies to public utilities under ORS 314.280.

150-317.152 provides that the Qualified Research Credit may be calculated in any manner that is allowed under IRC 41; applicable percentage is 5%.

150-317.705(3)(a) provides the level of common ownership necessary to establish a unitary relationship between an Oregon corporate tax filer and a corporation in a listed jurisdiction.

150-317.717 prescribes a procedure to solicit feedback from potential listed jurisdictions and other stakeholders prior to the Department of Revenue's biannual listed jurisdiction report.
Rules Coordinator: Deanna Mack
Address: Department of Revenue, 955 Center St. NE, Salem, OR 97301
Telephone: (503) 947-2082

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Rule Caption: Personal Tax: Farm Income Averaging, Amended Schedule, Failure to Pay, Refund Applications, Substantial Underpayment

Date:	Time:	Location:
11-23-15	10 a.m.	Revenue Bldg. 955 Center St. NE Fishbowl Conference Rm. Salem OR 97301

Hearing Officer: Jason Larimer
Stat. Auth.: ORS 305.100, 314.297 & 316.583
Stats. Implemented: ORS 314.297, 314.380, 314.400 & 316.583
Proposed Repeals: 150-314.402
Proposed Ren. & Amends: 150-314.297(6) to 150-314.297, 150-314.380(2)(B) to 150-314.380-(A), 150-314.400(1) to 150-314.400 , 150-316.583(2) to 150-316.583, 150-314.402(1) to 150-314.402-(A), 150-314.402(6) to 150-314.402(C)
Last Date for Comment: 11-23-15, 5 p.m.
Summary: 150-314.297(6) — renumber to 150-314.297 eliminates requirement to file Form FIA-40 with tax return and amends to require retention with records.

150-314.380(2)(B) — renumbered to 150-314.380 -(A) eliminates the requirement to attach an amended schedule with an amended return.

150-314.400(1) — renumbered to 150-314.400 clarifies how to calculate the 90% paid exception to the failure to pay penalty. Ties this exception to the authority provided in 305.299.

150-316.583(2) — renumbered to 150-316.583 modifies what year a carryforward is applied toward, application dates, payment of interest and offsets.

150-314.402 — repealed due to statute change from substantial understatement of income to substantial understatement of tax. Provisions incorporated into other related rules.

150-314.402(1) to 150-314.402-(A); amends the rule to comply with requirements of statute change from substantial understatement of income to substantial understatement of tax.

150-314.402(6) to 150-314.402(C); amends the rule to comply with requirements of statute change from substantial understatement of income to substantial understatement of tax.
Rules Coordinator: Deanna Mack
Address: Department of Revenue, 955 Center St. NE, Salem, OR 97301
Telephone: (503) 947-2082

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Rule Caption: Tax Collections: Suspended collection status, refund offset priority, reciprocal offset programs

Date:	Time:	Location:
11-23-15	10 a.m.	Revenue Bldg. 955 Center St. NE, Fishbowl Conference Rm. Salem OR 97301

Hearing Officer: Jason Larimer
Stat. Auth.: ORS 305.100, 305.155 & 305.612
Stats. Implemented: ORS 305.155, 305.612 & 314.415
Proposed Adoptions: 150-305.155-(A)
Proposed Amendments: 150-314.415(2)(f)-(B), 150-305.612
Last Date for Comment: 11-23-15, 5 p.m.
Summary: 105-305.155-(A) Clarifies which assets will not be included in $5,000 asset allowance under ORS 305.155(2) (enrolled HB 2089; 2015 session)

150-314.415(2)(f)-(B) adds Senior Property Tax Deferral Revolving Account and state reciprocal offset programs to the refund offset priority list. Clarifies definition of self-assessed debt.

150-305.612 Clarifies that state debt reciprocal offset notices may be sent by regular mail or certified mail.
Rules Coordinator: Deanna Mack
Address: Department of Revenue, 955 Center St. NE, Salem, OR 97301
Telephone: (503) 947-2082

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Rule Caption: Property tax: Appraisal, Forestland, Education, Exemptions, Elderly, Appeals, Values, Enterprise Zones, Training

Date:	Time:	Location:
11-23-15	10 a.m.	Revenue Bldg. 955 Center St. NE Fishbowl Conference Rm. Salem OR 97301

Hearing Officer: Jason Larimer
Stat. Auth.: ORS 305.100, 307.010, 308.010, 308.205, 308.290, 308.411 & 321.207

Stats. Implemented: ORS 285C.420, 294.175, 306.125, 306.126, 307.115, 307.242, 308.010, 308.205, 308.290, 309.026, 309.110, 311.234, 321.207 & 358.505
Proposed Adoptions: 150-285C.420-(A)
Proposed Amendments: 150-308.010, 150-308.205-(A), 150-308.205-(D), 150-308.290-(B), 150-309.110-(A), 150-311.234, 150-358.505
Proposed Repeals: 150-306.125, 150-307.405(3), 150-308.290-(A), 150-310.110(1)
Proposed Ren. & Amends: 150-294.175(1)(c) to 150-294.175-(B), 150-294.175(2) to 150-294.175-(C), 150-306.126(1) to 150-306.126-(A), 150-306.126(2) to 150-306.126-(B), 150-306.126(3)-(A) to 150-306.126-(C), 150-307.242(2) to 150-307.242, 150-308.205(2) to 150-308.205-(H), 150-309.026(2)-(A) to 150-309.026-(A), 150-321.207(1) to 150-321.207-(A)
Last Date for Comment: 11-23-15, 5 p.m.
Summary: 150-285C.420-(A) the department will establish criteria for disqualifying a business if it does not begin operations under ORS 285C.420.

150-294.175(1)(c) to 150-294.175-(B)references to ORS 308.027, which was repealed, need to be removed.

150-294.175(2) to 150-294.175-(C) references to ORS 308.027, which was repealed, need to be removed.

150-306.125 references to "standard magnetic exchange formats" are no longer in use so the rule is to be repealed.

150-306.126(1) to 150-306.126-(A) update language for County Appraised and State Appraised Accounts (HB 2482).

150-306.126(2) to 150-306.126-(B) update language for County Appraised and State Appraised Accounts (HB 2482).

150-306.126(3)-(A) to 150-306.126-(C) update language for County Appraised and State Appraised Accounts (HB 2482).

150-307.242(2) to 150-307.242 to clarify the Department's role in the property tax exemption claim approval process for Nonprofit Homes for the Elderly.

150-307.405(3) the number of years for the exception has passes make the rule obsolete and is to be repealed.

150-308.010 give DOR flexibility to create appraisal training for different audiences.

150-308.205-(A) remove reference to "The Appraisal of Real Estate, 12th addition (2001) (section (1)(e)) for determining "highest and best use."

150-308.205-(D) remove reference to "The Appraisal of Real Estate, 12th addition (2001) (section (1)(e)) for determining "highest and best use." And adds language for items that contribute to the value of machinery and equipment.

150-308.205(2) to 150-308.205-(H): House Bill 2482 amends the language in several statutes that refer to responsibility over industrial property appraisals, thus the language in the rule also needs to change.

150-308.290-(A) the passage of 2015 house bill 2484 make this rule obsolete and is to be repealed.

150-309.026(2)-(A) to 150-309.026-(A) to conform with ORS 305.287 and the outcome of Supreme Court case Village at Main Street Phase II v. Department of Revenue, 356 Or. 164, 339 P.3d 428 (2014).

150-309.110-(A) combines sections 1 and 2 of the old rule.

150-310.110(1) the repeal of ORS 334.350 and 334.410 make this rule obsolete and is to be repealed.

150-321.207(1) to 150-321.207-(A) change the data collection year to an assessment year and use sales from a rolling 5-10 year sales base to eliminate using data from 1993.

150-358.505 to provide consistency between the rule and the statue regarding the initial calculation of the specially assessed value.

150-311.234 clarifies the procedure to correct MAV when there is an error in square footage for the property, consistent with changes in statute.
Rules Coordinator: Deanna Mack
Address: Department of Revenue, 955 Center St. NE, Salem, OR 97301
Telephone: (503) 947-2082

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Rule Caption: Public Records requests, Requesting information from Department of Revenue

Date:	Time:	Location:
11-23-15	10 a.m.	Revenue Bldg. 955 Center St. NE Fishbowl Conference Rm. Salem OR 97301

Hearing Officer: Jason Larimer
Stat. Auth.: ORS 305.100 & 183.330
Stats. Implemented: ORS 183.330 & 192.440
Proposed Amendments: 150-192.440
Proposed Ren. & Amends: 150-183.330(1) to 150-183.330
Last Date for Comment: 11-23-15, 5 p.m.
Summary: 150-183.330(1) — Moving language related to taxpayer information requests and public records requests to 150-192.440.

150-192.440 — Reflecting changes in Department of Revenue processes for public records requests, including taxpayer information requests.
Rules Coordinator: Deanna Mack
Address: Department of Revenue, 955 Center St. NE, Salem, OR 97301
Telephone: (503) 947-2082

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Department of Transportation
Chapter 731

Rule Caption: Procedures for grants under the Connect Oregon program

Date:	Time:	Location:
11-23-15	2 p.m.	ODOT Mill Creek 555 13th St. NE, Suite 2 Salem, OR

Hearing Officer: Roseann O'Laughlin
Stat. Auth.: ORS 184.616, 184.619, 367.082 & 2005 OL Ch. 816
Stats. Implemented: ORS 367.080–367.086, HB 2274 & HB 5030 (2015)
Proposed Amendments: 731-035-0010, 731-035-0020, 731-035-0050, 731-035-0060, 731-035-0080
Last Date for Comment: 11-23-15, Close of Hearing
Summary: The proposed amendments are needed to implement 2015 HB 2274 and HB 5030, to add language specifying definition of bicycle and pedestrian projects as eligible projects, revising the name from Multimodal Fund to Connect Oregon Fund, increasing required match to 30% and moving Columbia County to Connect Oregon Region 2. The proposed amendments would also make revisions to the project considerations to add useful life and adjust final review committee membership eligibility. Other proposed amendments implement changes regarding applicant eligibility with regard to applicable taxes liability.
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: Makes technical changes to DMV vehicle dealer rules.
Stat. Auth.: ORS 184.616, 184.619, 802.010, 802.012, 802.370, 803.030, 803.600, 803.625, 821.060, 821.080, 822.020, 822.025, 822.027, 822.035, 822.040, 822.042, 822.045, 822.050, 822.605 and 2014 OL Ch. 21
Stats. Implemented: ORS 802.012, 803.030, ORS 822.005–822.080 and 2014 OL Ch. 21

Proposed Amendments: 735-150-0015, 735-0150-0037, 735-150-0110
Last Date for Comment: 11-23-15, Close of Business
Summary: DMV proposes to amend:

OAR 735-150-0110(20) for consistency with ORS 822.050(1)(g) and ORS 822.605, related to knowingly certifying false information on a dealer application and false swearing relating to regulation of vehicle related businesses;

OAR 735-150-0015 to specify form numbers required for an application, renewal or correction of a dealer certificate. Other non-substantive changes clarify rule language to improve readability; and

OAR 735-150-0037(2)(c)(D) to restore a sentence that was inadvertently altered when the rule was last amended (2014).

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: HB 2259 Self-loading log trucks
Stat. Auth.: ORS 184.616, 184.619 & 818.220
Stats. Implemented: ORS 818.200, 818.220
Proposed Amendments: 734-074-0027
Last Date for Comment: 11-23-15, Close of Business
Summary: The proposed rule amendments implement House Bill 2259. HB 2259 modifies the authority of the Department to issue a variance permit to operate a self-loading log truck.
Rules Coordinator: Lauri Kunze
Address: Department of Transportation, Highway Division, 355 Capitol St. NE, MS 51, Salem, OR 97301
Telephone: (503) 986-3171

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Rule Caption: Flip Axles
Stat. Auth.: ORS 184.616, 184.619, 810.050 & 810.060
Stats. Implemented: ORS 818.220, 818.225
Proposed Amendments: 734-082-0005, 734-082-0040, 734-082-0045, 734-082-0070
Last Date for Comment: 11-23-15, Close of Business
Summary: OAR chapter 734, division 82 governs the operation of vehicles transporting loads that exceed legal limits and variance permits issued for vehicles or loads having weight or dimension greater than that allowed by statute. A request was made by Gresham Transfer during a Motor Carrier Transportation Advisory Committee meeting to allow permits to be issued for an unladen trailer over legal length (53 feet), which includes a flip axle deployed. The request was to allow single trip permits (STPs) on an individual basis for flip axle trailers which can't be reduced to 53' without special equipment. New language is added to the OARs to allow STPs and annual permits for a variety of trailers including those with flip axles deployed. Currently, the trailer is required to be reduced to 53 feet or less when operating unladen (the flip axle must be up). Not all trailers are equipped with hydraulics, and it's not always practical for carriers to get equipment onsite to assist with lifting the axle. The proposed rulemaking describes the circumstances under which permits may be issued, both laden and unladen.
Rules Coordinator: Lauri Kunze
Address: Department of Transportation, Highway Division, 355 Capitol St. NE, MS 51, Salem, OR 97301
Telephone: (503) 986-3171

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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.
Stat. Auth.: ORS 406.050, 406.115
Stats. Implemented: ORS 279A.065, 286A.130
Proposed Adoptions: 274-005-0046
Proposed Amendments: 274-005-0040
Last Date for Comment: 11-22-15, 5 p.m.
Summary: The rules clarify 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
Address: Department of Veterans' Affairs, 700 Summer St. NE, Salem, OR 97301
Telephone: (503) 373-2016

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Higher Education Coordinating Commission,
Office of Student Access and Completion
Chapter 575

Rule Caption: Changes to Oregon Opportunity Grant Awarding Process

Date:	Time:	Location:
11-16-15	11:30 a.m.	775 Court St. NE Small Conference Rm. Salem, OR 97301

Hearing Officer: Kelly Dickinson
Stat. Auth.: ORS 348
Other Auth.: HB 2407 (2015) & SB 932 (2015)
Stats. Implemented: ORS 348
Proposed Adoptions: 575-031-0060
Proposed Amendments: 575-030-0005, 575-031-0005, 575-031-0010, 575-031-0015, 575-031-0022, 575-031-0023, 575-031-0025, 575-031-0030, 575-031-0046
Last Date for Comment: 11-23-15, 5 p.m.
Summary: HB 2407 proposed changes to the existing structure of Oregon Opportunity Grant (OOG) that focus on improving access and completion for students with the greatest financial need and stimulating achievement of Oregon's 40-40-20 goals. SB 932 expands OOG eligibility to students who are exempt from paying nonresident tuition under ORS 351.641. This new legislation requires HECC-OSAC to implement a number of changes through rulemaking. Residency now includes students who are exempted from paying nonresident tuition under ORS 351.641. Application requirements now include an alternative need analysis process for students who legally cannot file a FAFSA. Awards will be guaranteed for a second year of aid if students meet academic progress and other benchmarks. Rules now align OOG eligibility more closely with Federal Pell Grant eligibility. The agency will prioritize awards to students based on highest financial need or whose circumstances enhance promotion of the HECC's equity lens. The Student Information section has been expanded to include that OSAC must collect from schools in order to comply with legislative reporting requirements. A new section has been added to address OOG awarding priorities, as specified in HB 2407. Finally, several minor changes in wording have been added to improve clarity or to make phrasing consistent across all rules in Division 30 and Division 31.
Rules Coordinator: Kelly Dickinson
Address: Higher Education Coordinating Commission, Office of Student Access and Completion, 775 Court St. NE, Salem, OR 97301
Telephone: (503) 947-2379

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Land Conservation and Development Department
Chapter 660

Rule Caption: This rule will provide a baseline for monitoring disturbance in core sage-grouse habitat.

Date:	Time:	Location:
12-3-15	8 a.m.	DLCD Basement Hearing Rm. 635 Capitol St. NE Salem, OR 97301

Hearing Officer: Land Conservation and Development Commission
Stat. Auth.: ORS 197.040
Other Auth.: Statewide Planning Goal 5
Stats. Implemented: ORS 197.040
Proposed Amendments: 660-023-0115
Last Date for Comment: 12-3-15, Close of Hearing
Summary: This rule is needed to provide a baseline for monitoring disturbance in core sage-grouse habitat. Existing rules do not allow conflicting uses to exceed one percent of any core area in 10-year increments or an absolute total three percent of any core area. A disturbance baseline is necessary to allow state and local decision makers to adequately consider proposals for large-scale development in core areas of sage-grouse habitat. Failure to adopt a disturbance baseline will increase the legal vulnerability of state and local decisions.
Rules Coordinator: Casaria Taylor
Address: Land Conservation and Development Department, 635 Capitol St. NE, Suite 150, Salem, OR 97301
Telephone: (503) 373-0050, ext. 322

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Rule Caption: Alternative, streamlined process for evaluation and amendment of urban growth boundaries (UGB)

Date:	Time:	Location:
12-3-15	8 a.m.	DLCD Basement Hearing Rm. 635 Capitol St. NE Salem, OR 97301

Hearing Officer: Land Conservation and Development Commission
Stat. Auth.: ORS 197.040, 197.235 & 197A.305
Other Auth.: ORS 195, 197 & Statewide Planning Goals (OAR 660-015)
Stats. Implemented: ORS 197A.300–197A.325
Proposed Adoptions: Rules in 660-024, 660-038
Proposed Amendments: Rules in 660-015, 660-024
Last Date for Comment: 12-3-15, Close of Hearing
Summary: The proposed new rules and rule amendments, and conforming amendments to statewide planning Goal 14, will establish an optional alternative, streamlined process for local governments outside of Metro to evaluate and amend urban growth boundaries (UGBs) and will implement related legislation enacted by the 2013 Oregon Legislature (HB 2254, codified as ORS 197A) which requires LCDC to adopt administrative rules establishing the new alternative UGB process by January 1, 2016. In addition, the new and amended rules will provide interpretive guidance to provisions at ORS 197A.320 that apply to both the existing UGB process described in OAR chapter 660, division 24 and the proposed new alternative process. The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

LCDC will hold a public hearing on the proposed rules at the time and locations indicated above. LCDC may adopt the rules after the hearing. The public is encouraged to provide comments prior to the hearing.
Rules Coordinator: Casaria Taylor
Address: Land Conservation and Development Department, 635 Capitol St. NE, Suite 150, Salem, OR 97301
Telephone: (503) 373-0050, ext. 322

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Landscape Contractors Board
Chapter 808

Rule Caption: Clarifies new laws effective January 1, 2016 enacted by the 2015 legislature (SB580).

Date:	Time:	Location:
12-3-15	9 a.m.	LCB Office 2111 Front St. NE, Suite 2-101 Salem, OR 97301

Hearing Officer: Elizabeth Boxall, Administrator
Stat. Auth.: ORS 670.300 & 671.670
Other Auth.: 2015 OL Ch. 672
Stats. Implemented: ORS 183 & 671.520–671.997
Proposed Amendments: 808-002-0020, 808-002-0200, 808-002-0300, 808-002-0320, 808-002-0338, 808-002-0455, 808-002-0480, 808-002-0490, 808-002-0495, 808-002-0500, 808-002-0730, 808-002-0780, 808-002-0920, 808-003-0015, 808-003-0018, 808-003-0040, 808-003-0060, 808-003-0095, 808-003-0125, 808-003-0126, 808-003-0230, 808-003-0610, 808-003-0611, 808-003-0613, 808-004-0180, 808-004-0211, 808-004-0320, 808-005-0020, 808-040-0020, 808-040-0080
Proposed Repeals: 808-002-0250, 808-002-0810, 808-002-0884
Last Date for Comment: 12-3-15, Close of Hearing
Summary: Clarifies new laws effective January 1, 2016 enacted by the 2015 legislature (SB 580).
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 Board of Naturopathic Medicine
Chapter 850

Rule Caption: Increase Board member compensation in OAR 850-005-0190
Stat. Auth.: ORS 685, 292 & 182
Stats. Implemented: ORS 182
Proposed Amendments: 850-005-0190
Last Date for Comment: 11-24-15, 2 p.m.
Summary: Increase compensation to Board members from $100 to $200 for a full day of service, and from $30 to $60 for less than 3 hours of service per day.
Rules Coordinator: Anne Walsh
Address: Oregon Board of Naturopathic Medicine, 800 NE Oregon St., Suite 407, Portland, OR 97232
Telephone: (971) 673-0193

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Rule Caption: Amend 850-060-0226 to include amendments recommended at the 9/16/2015 FC meeting
Stat. Auth.: ORS 685
Stats. Implemented: ORS 685.145
Proposed Amendments: 850-060-0226
Last Date for Comment: 11-24-15, 2 p.m.
Summary: Amend 850-060-0226 to include the following changes:
(8) Remove "Selective Serotonin Agonists";
(19) Change "Hormone and Synthetic Substitutes" to "Endocrine Metabolic Agents"; Add "Corticosteroids" and "Prostagladin"
(21) Remove "except for Mifepristone" and add "not to be used as an abortifacient".
(25) Add "and Nutrients";
(26) Delete limiting language after Biologic Response Modifiers; Add "Hyaluronic Acid" and "Oxygen"
and correct spelling errors.
Rules Coordinator: Anne Walsh
Address: Oregon Board of Naturopathic Medicine, 800 NE Oregon St., Suite 407, Portland, OR 97232
Telephone: (971) 673-0193

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Oregon Business Development Department
Chapter 123

Rule Caption: These rules relate to the Certification Office for Business Inclusion and Diversity (COBID) formerly OMWESB.

Date:	Time:	Location:
11-12-15	12 p.m.	Oregon Business Development Dept. 775 Summer St. NE, Suite 200 Conference Rm. 201 Salem,OR 97301

Hearing Officer: Mindee Sublette
Stat. Auth.: ORS 200.055
Stats. Implemented: ORS 200.005–200.090
Proposed Amendments: Rules in 123-200

Last Date for Comment: 12-14-15, Close of Business
Summary: During the 2015 Legislative Session, three bills passed affecting the Office of Minority, Women, and Emerging Small Business (OMWESB). Because of this legislation, the Oregon Administrative Rules related to certification will also change. The statutes and rules will rename OMWESB to the Certification Office for Business Inclusion and Diversity (COBID), add a Service Disabled Veteran certification, define the roles and responsibilities between COBID and public contracting agencies, and incorporate various other amendments, adoptions, and renumbering to clarify the rules.

There will be a public hearing for those who want to comment on these rule changes on November 12, 2015 from 12:00 pm–4:00 pm at Oregon Business Development Department 775 Summer Street NE, Suite 200, Salem, Oregon.
Rules Coordinator: Mindee Sublette
Address: Oregon Business Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301
Telephone: (503) 986-0036

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Oregon Department of Aviation
Chapter 738

Rule Caption: Civil Penalties

Date:	Time:	Location:
12-8-15	10 a.m.	Port of Portland, Multnomah Rm. 7200 NE Airport Way Portland, OR

Hearing Officer: Joy Howard
Stat. Auth.: ORS 835.035, 835.112 & 837.998
Stats. Implemented: ORS 835.035, 835.112 & 837.998
Proposed Adoptions: 738-140-0005 through 738-140-0040
Last Date for Comment: 12-8-15, Close of Hearing
Summary: ORS 837.998 grants the Director of the Department of Aviation (ODA) the ability to impose civil penalties on citizens or public agencies for violating any part of ORS Chapter 837. These OARs help to define and explain the determination of the civil penalties and their process.
Rules Coordinator: Lauri Kunze
Address: Oregon Department of Aviation, 3040 25th St. SE, Salem, OR 97302-1125
Telephone: (503) 986-3171

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Rule Caption: Public Records Access and Fees
Stat. Auth.: ORS 192.430, 192.440, 835.035, 835.112
Stats. Implemented: ORS 192.410–192.505
Proposed Amendments: 738-001-0035
Last Date for Comment: 11-23-15, Close of Business
Summary: This rule amendment simply raises the cost of public records photocopy fees from $0.20 to $0.25; reduces the amount of free staff time from 30 minutes to 15 minutes; and increases labor rates for public records requests from $15 to $50 per hour for professional staff time, and $60 per hour for managerial staff time. These changes are designed to allow ODA to recapture costs incurred commensurate with inflation and increasing frequency of public records requests.
Rules Coordinator: Lauri Kunze
Address: Oregon Department of Aviation, 3040 25th St. SE, Salem, OR 97302-1125
Telephone: (503) 986-3171

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Rule Caption: Tie-Down Fees
Stat. Auth.: ORS 835.112 & 835.035
Stats. Implemented: ORS 835.112, 835.035 & 836.055
Proposed Amendments: 738-010-0025, 738-010-0035, 738-010-0050, 738-010-0060
Proposed Repeals: 738-010-0040
Last Date for Comment: 11-23-15, Close of Business
Summary: Oregon Administrative Rule 738-005-0010(129) defines "Tie-Down Area" as State-owned airport property, either pavement or turf, which is designated for parking based or transient aircraft. Tiedowns are "D" rings and chains fixed in the ground used to secure aircraft while parked to protect against winds moving the aircraft.

OAR 738-0010-0025 has required the Department of Aviation's (ODA) Fixed Based Operator (FBO) tenants to pay 30% of the tiedown fees they collect through their commercial operations at State airports. ODA does not have the ability to monitor the use of tiedowns at our tenants' facilities; therefore our tenants are on their honor to pay the 30% fee. However, our tenants most often do not pay us. In order to simplify this rule, and to encourage compliance, we wish to change the fee from a percentage to a flat fee.
Rules Coordinator: Lauri Kunze
Address: Oregon Department of Aviation, 3040 25th St. SE, Salem, OR 97302-1125
Telephone: (503) 986-3171

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Rule Caption: Public Agency Registration of Unmanned Aircraft System (UAS)
Stat. Auth.: ORS 835.035, 835.112 & 837.360
Stats. Implemented: ORS 835.035, 835.112 & 837.360
Proposed Adoptions: 738-080-0015, 738-080-0045
Proposed Amendments: 738-080-0010, 738-080-0020, 738-080-0030
Proposed Repeals: 738-080-0040
Last Date for Comment: 11-23-15, Close of Business
Summary: ORS 837.360(4), which was enacted during the 2013 legislative session, requires the Department of Aviation (ODA) to register all Public Use Unmanned Aerial Systems (UAS) by January 1, 2016. ODA is permitted by statute to charge a fee sufficient to reimburse the department for the maintenance of the registry.
Rules Coordinator: Lauri Kunze
Address: Oregon Department of Aviation, 3040 25th St. SE, Salem, OR 97302-1125
Telephone: (503) 986-3171

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Oregon Department of Education
Chapter 581

Rule Caption: Amends LTCT to allow implementation of the Minimum Staffing Level Model required by HB 5016.

Date:	Time:	Location:
11-23-15	1 p.m.	255 Capitol St. NE, Rm. 200A Salem, OR

Hearing Officer: Emily Nazarov
Stat. Auth.: ORS 326.051 & 343.961
Stats. Implemented: ORS 343.243 & 343.961
Proposed Amendments: 581-015-2572
Last Date for Comment: 12-10-15, 9 a.m.
Summary: Currently OAR 581-015-2572 identifies a funding model based upon a predetermined formula which includes student counts as the basis for the allocation of state funding. HB 5016 contained a budget note which directs the department to allocate funding based upon an MSL model. This model bases the allocation of funding on a formula related to minimum classroom support rather than student count.
Rules Coordinator: Cindy Hunt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 947-5651

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Rule Caption: Amends rules for District Collaboration Grant to align with SB 216.

Date:	Time:	Location:
11-23-15	1 p.m.	255 Capitol St. NE, Rm. 200A Salem, OR

Hearing Officer: Emily Nazarov
Stat. Auth.: ORS 329.838

Stats. Implemented: ORS 329.838
Proposed Amendments: 581-018-0110, 581-018-0120
Last Date for Comment: 12-10-15, 9 a.m.
Summary: Amends OAR to align with SB 216. Provides a $50,000 supplement to districts under 1,500 ADMw to hire a Project Director, and caps their award at $150,000. Includes a stipulation for an additional 10% of grant funds to be provided to districts who implement a new, research-based program to increase student achievement, and removes he provision to include district consortiums.
Rules Coordinator: Cindy Hunt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 947-5651

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Rule Caption: Implement provisions of SB 217 amending strategic initiatives including the Regional Promise Replication Grant Program.

Date:	Time:	Location:
11-23-15	1 p.m.	255 Capitol St. NE, Rm. 200A Salem, OR

Hearing Officer: Emily Nazarov
Stat. Auth.: ORS 327.800
Stats. Implemented: ORS 327.820
Proposed Amendments: 581-017-0350 through 581-017-0362
Last Date for Comment: 12-10-15, 9 a.m.
Summary: The 2015 adopted SB 217 which amended the former Eastern Promise Replication Grant provisions to provide more flexibility to the Department of Education for administration of the grant. The legislation and Department budget also provided that the grant was intended for Regional Promise Grants and no longer to specifically fund the Eastern Promise.

The rule amendments allow for different membership in consortia applying for a grant, specify competitive priorities for grant awards, change terminology and address prior grant recipients.
Rules Coordinator: Cindy Hunt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 947-5651

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Rule Caption: Aligning K–12 Biliteracy Pathways Grant Program with HB3499 to support students eligible for ELL programs.

Date:	Time:	Location:
11-23-15	1 p.m.	255 Capitol St. NE, Rm. 200A Salem, OR

Hearing Officer: Emily Nazarov
Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 336.079
Proposed Adoptions: 581-017-0380, 581-017-0383, 581-017-0386, 581-017-0389, 581-017-0392, 581-017-0395
Last Date for Comment: 12-10-15, 9 a.m.
Summary: New rules are needed to support a K–12 Biliteracy Pathways Grant Program, in accordance with HB 3499's provision relating to the development and implementation of a statewide plan to support students eligible for English Language Learner programs.

The rules will provide grants (up to $120,000, depending on available funds) to district and school sites that are in the midst of developing or with established K-12 biliteracy pathways for students. The program will also provide expert consultants to grantees to assist them with program design, implementation and evaluation to ensure (a) that the biliteracy pathways developed under the grant are well implemented and (b) that ODE can continue to develop a solid research base on effective EL instructional practice and EL program models.
Rules Coordinator: Cindy Hunt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 947-5651

Rule Caption: Revises STEM grant rules to align with HB3072. Creates rule identifying fiscal agents for grants.

Date:	Time:	Location:
11-23-15	1 p.m.	255 Capitol St. NE, Rm. 200A Salem, OR

Hearing Officer: Emily Nazarov
Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (enrolled HB 3072)
Stats. Implemented: 2015 OL Ch. 763, Sec. 1 (enrolled HB 3072)
Proposed Adoptions: 581-017-0302
Proposed Amendments: 581-017-0301, 581-017-0306, 581-017-0309, 581-017-0312, 581-017-0315, 581-017-0318
Last Date for Comment: 12-10-15, 9 a.m.
Summary: Revises the existing rules on STEM Hub grants to align with new requirements in HB 3072 (2015) and creates a new rule specifying what entities can be a fiscal agent for CTE and STEM grants.
Rules Coordinator: Cindy Hunt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 947-5651

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Rule Caption: Clarifies school district role when requested by tribe to display tribal flag.

Date:	Time:	Location:
11-23-15	1 p.m.	255 Capitol St. NE, Rm. 200A Salem, OR

Hearing Officer: Emily Nazarov
Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 326.051
Proposed Adoptions: 581-021-0043
Last Date for Comment: 12-10-15, 9 a.m.
Summary: Clarifies school district role when requested by tribe to display tribal flag. Prohibits district from charging tribe to display tribal flag.
Rules Coordinator: Cindy Hunt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 947-5651

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Rule Caption: Requires truancy notices to parents inform parents they may request evaluation or IEP review .

Date:	Time:	Location:
11-23-15	1 p.m.	255 Capitol St. NE, Rm. 200A Salem, OR

Hearing Officer: Emily Nazarov
Stat. Auth.: ORS 8.665, ORS 153.110–ORS 153.310, ORS 153.990, ORS 339.010–ORS 339.090, ORS 339.925 & ORS 339.990
Stats. Implemented: ORS 339.090, ORS 339.925, ORS 339.990 & ORS 8.665
Proposed Amendments: 581-021-0077
Last Date for Comment: 12-10-15, 9 a.m.
Summary: Requires that truancy notices sent to parents include a statement informing parents of their right to request a special education evaluation or review of an existing IEP. If a parent makes this request, an attendance conference cannot be scheduled or a citation issued until an evaluation is complete or IEP has been held.
Rules Coordinator: Cindy Hunt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 947-5651

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Rule Caption: Changes poverty eligibility update to twice during the State School Fund calendar not three times.

Date:	Time:	Location:
11-23-15	1 p.m.	255 Capitol St. NE, Rm. 200A Salem, OR

Hearing Officer: Emily Nazarov
Stat. Auth.: ORS 327.013 & 327.125

Stats. Implemented: ORS 327.013
Proposed Amendments: 581-023-0102
Last Date for Comment: 12-10-15, 9 a.m.
Summary: Changes poverty eligibility update to twice during the State School Fund calendar instead of three times. This will provide more predictability and stability for the districts while still providing updated poverty data for the state.
Rules Coordinator: Cindy Hunt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 947-5651

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Rule Caption: Changes student accounting and reporting rule to reflecting changes in student enrollment from full-day kindergarten.

Date:	Time:	Location:
11-23-15	1 p.m.	255 Capitol St. NE, Rm. 200A Salem, OR

Hearing Officer: Emily Nazarov
Stat. Auth.: ORS 326.310 & 327.125
Stats. Implemented: ORS 327.125
Proposed Amendments: 581-023-0006
Last Date for Comment: 12-10-15, 9 a.m.
Summary: Changes the student accounting and reporting rule to reflect changes in student enrollment that result from full-day kindergarten implementation in 2015.
Rules Coordinator: Cindy Hunt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 947-5651

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Rule Caption: Kindergarten through grade 12 student suspensions

Date:	Time:	Location:
11-23-15	1 p.m.	255 Capitol St. NE Salem, OR

Hearing Officer: Emily Nazarov
Stat. Auth.: ORS 339.240
Stats. Implemented: ORS 339.240, 339.250 & 339.260
Proposed Amendments: 581-021-0065
Last Date for Comment: 12-10-15, 9 a.m.
Summary: State and national data reveal an increased reliance on use of exclusionary discipline (i.e., out-of-school suspension and expulsion) under "zero tolerance" school discipline policies. In response, Oregon's school discipline statute has been significantly revised in the last two years (HB 2912 in 2013 regular session; SB 553 & SB 556 in 2015 regular session). In general, the legislative changes represent a move away from punitive "zero tolerance" school discipline policies to those that focus on correcting behavior while striving to keep students in school. SB 553 adds to this general legislative scheme by creating more stringent requirements for the use of out-of-school suspension for students in fifth grade and younger. The proposed addition to 581-021-0065 inserts the statutory language into regulation.
Rules Coordinator: Cindy Hunt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 947-5651

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Rule Caption: Kindergarten through grade 12 student expulsions

Date:	Time:	Location:
11-23-15	1 p.m.	255 Capitol St. NE Salem, OR

Hearing Officer: Emily Nazarov
Stat. Auth.: ORS 339.250
Stats. Implemented: ORS 339.240, 339.250 & 339.260
Proposed Amendments: 581-021-0070
Last Date for Comment: 12-10-15, 9 a.m.
Summary: State and national data reveal an increased reliance on use of exclusionary discipline (i.e., out-of-school suspension and expulsion) under "zero tolerance" school discipline policies. In response, Oregon's school discipline statute has been significantly revised in the last two years (HB 2912 in 2013 regular session; SB 553 & SB 556 in 2015 regular session). In general, the legislative changes represent a move away from punitive "zero tolerance" school discipline policies to those that focus on correcting behavior while striving to keep students in school. SB 556 adds to this general legislative scheme by prohibiting the use of expulsion to address truancy. The proposed addition to 581-021-0070 inserts the statutory language into regulation.
Rules Coordinator: Cindy Hunt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 947-5651

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Rule Caption: Establishes Farm to School Program Grant

Date:	Time:	Location:
11-23-15	1 p.m.	255 Capitol St. NE Salem, OR

Hearing Officer: Emily Nazarov
Stat. Auth.: 2015 OL Ch. 840, Sec. 13
Stats. Implemented: 2015 OL Ch. 840, Sec. 13
Proposed Adoptions: 581-017-0432, 581-017-0435, 581-017-0438, 581-017-0441, 581-017-0444, 581-017-0447
Last Date for Comment: 12-10-15, 9 a.m.
Summary: The legislature modified the Oregon Farm to School Grant Program in 2015, creating a noncompetitive grant available to all school districts and a competitive grant. These proposed rules will govern the competitive grant. School districts, nonprofit organizations, and commodity commissions or counsels organized under ORS 576.051 to 576.455 or ORS chapter 577 or 578, may apply for a competitive grant to assist in paying costs of providing food-based, agriculture-based, or garden-based educational activities in a school district.
Rules Coordinator: Cindy Hunt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 947-5651

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Rule Caption: Establishes Oregon CTE Teacher Preparation Program

Date:	Time:	Location:
11-23-15	1 p.m.	255 Capitol St. NE Salem, OR

Hearing Officer: Emily Nazarov
Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Stats. Implemented: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Proposed Adoptions: 581-017-0450, 581-017-0453, 581-017-0456, 581-017-0459, 581-017-0462
Last Date for Comment: 12-10-15, 9 a.m.
Summary: The purpose of the Oregon CTE Teacher Preparation Program is to facilitate the recruitment and retention of industry professionals into the education profession as classroom teachers in career and technical education through preparation in a Teacher Standards and Practices approved educator program.

To accomplish the purpose of the CTE Teacher Preparation Program, the Oregon Department of Education shall distribute funds to establish:

(a) A consortia of Teacher Standards and Practices Commission approved teacher education institutions responsible for developing coursework that fulfills licensure requirements established by the Oregon Teacher Standards and Practice Commission for career and technical education teachers; and

(b) A network of providers of professional development for both pre-service and in-service career and technical education teachers.

The rules establish eligibility, criteria, funding and reporting requirements.
Rules Coordinator: Cindy Hunt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 947-5651

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Rule Caption: School district funding for transportation of students placed in foster care

Date:	Time:	Location:
11-23-15	1 p.m.	255 Capitol St. NE Salem, OR

Hearing Officer: Emily Nazarov
Stat. Auth.: ORS 327.013 & 820.100–820.120
Stats. Implemented: ORS 327.013 & 820.100–820.120
Proposed Amendments: 581-023-0040
Last Date for Comment: 12-10-15, 9 a.m.
Summary: Updating the pupil transportation reimbursement rule to allow school districts to collect fees from public agencies, such as the Department of Human Services, for transporting foster kids and not have them considered a reduction in cost in order to make these services budget-neutral for school districts.

The rule changes the definitions used for the calculation of approved transportation costs for the State School Fund grants.
Rules Coordinator: Cindy Hunt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 947-5651

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Rule Caption: School District Improvement Partnership Pilot

Date:	Time:	Location:
11-23-15	1 p.m.	255 Capitol St. NE Salem, OR

Hearing Officer: Emily Nazarov
Stat. Auth.: ORS 327.800
Stats. Implemented: ORS 327.800 & 329.105
Proposed Adoptions: 581-020-0530, 581-020-0533, 581-020-0536, 581-020-0539, 581-020-0541
Last Date for Comment: 12-10-15, 9 a.m.
Summary: The 2015 Legislative Session provided the Oregon Department of Education (ODE) with resources to support school districts with large numbers of students experiencing difficulty meeting benchmarks in achievement, growth, and graduation. ODE convened a taskforce that met several times to outline their recommendations for the selection of districts and use of the resources. As such, ODE will begin partnering with selected school districts during the 2015-2017 biennium. The partnerships will be forged to support focused improvement efforts, through a pilot approach and will be guided by the recommendations of the taskforce, the support from the state legislature, and an interest in developing the most effective and sustainable state model for comprehensive district improvement efforts moving forward.

The rules provide the criteria and process for the selection of the districts.
Rules Coordinator: Cindy Hunt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 947-5651

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Rule Caption: English Language Learner Revenue and Expenditure Report Criteria

Date:	Time:	Location:
11-23-15	1 p.m.	255 Capitol St. NE Salem, OR

Hearing Officer: Emily Nazarov
Stat. Auth.: OL Ch. 604, Sec. 1 (Enrolled HB 3499)
Stats. Implemented: OL Ch. 604, Sec. 1 (Enrolled HB 3499)
Proposed Adoptions: 581-023-0250
Last Date for Comment: 12-10-15, 9 a.m.
Summary: Per HB 3499(2015), the Legislature directed the Department of Education to convene an advisory group to develop uniform budget coding requirements and uniform reporting requirements to provide budget transparency for the spending of moneys received by school districts as provided by ORS327.013 (1)(c)(A)(ii) for students in average daily membership eligible for and enrolled in an English Language Learner programs. This new rule establishes the criteria for this new transparency report.
Rules Coordinator: Cindy Hunt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 947-5651

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Rule Caption: English Language Learners District and School Improvement program

Date:	Time:	Location:
11-23-15	1 p.m.	255 Capitol St. NE Salem, OR

Hearing Officer: Emily Nazarov
Stat. Auth.: OL Ch. 604, Sec. 3 (Enrolled HB 3499)
Stats. Implemented: ORS 339.079 & OL Ch. 604, Sec. 3 (Enrolled HB 3499)
Proposed Adoptions: 581-020-0600, 581-020-0603, 581-020-0606, 581-020-0609, 581-020-0612, 581-020-0615
Last Date for Comment: 12-10-15, 9 a.m.
Summary: House Bill 3499 directed the Department to select school districts for improvement based on the achievement of the district's English Language Learners. The rules establish the criteria for district selection for two categories of schools and establish the process.
Rules Coordinator: Cindy Hunt
Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 947-5651

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Oregon Health Authority, Division of Medical Assistance Programs
Chapter 410

Rule Caption: Service Area Change for Existing CCOs

Date:	Time:	Location:
11-17-15	10:30 a.m.	500 Summer St. NE, Rm. 137C Salem OR 97301

Hearing Officer: Sandy Cafourek
Stat. Auth.: ORS 413.042 & 414.645
Stats. Implemented: ORS 413.042
Proposed Amendments: 410-141-3040
Proposed Repeals: 410-141-3040(T)
Last Date for Comment: 11-19-15, 5 p.m.
Summary: These rules provide the framework for Coordinated Care Organization (CCO) for existing CCOs electing to apply to the Authority for service area change, once the Authority has stated that it has a need for network and capacity in a given service area. The rule provides for the service area change process, the review tool and mechanism, and designates a means for dispute should a CCO not agree with the application review findings or process. The temporary rule OAR 410-141-3040 will be repealed.
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: Process for Resolving Disputes between CCOs and the Oregon Health Authority

Date:	Time:	Location:
11-17-15	10:30 a.m.	500 Summer St. NE, Rm. 137C Salem OR 97301

Hearing Officer: Sandy Cafourek
Stat. Auth.: ORS 183.484 & 413.042

Stats. Implemented: ORS 413.042
Proposed Amendments: 410-141-3267
Proposed Repeals: 410-141-3267(T)
Last Date for Comment: 11-19-15, 5 p.m.
Summary: These rules provide the existing Coordinated Care Organizations direction and clarification regarding recourse available when in dispute with the Oregon Health Authority. This rule offers Administrative Review, as specified in OAR 410-120-1580 and mediation, as outlined in the Attorney General's Model Rules located in the Administrative Procedures Act. OAR 410-141-3267(T) will be repealed.
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 March 26, May 28, 2015 DUR/P&T Action

Date:	Time:	Location:
11-17-15	10:30 a.m.	500 Summer St. NE, Rm. 137C 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: 11-19-15, 5 p.m.
Summary: The Pharmaceutical Services Program administrative rules (Division 121) govern Division payments for services provided to certain clients. The Division needs to amend rules as follows:

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

Isosorbide dinitrate - capsule ER
Nitroglycerin - capsule ER
Adalimumab (Humira Pediatric Crohn's™)
Calcium Citrate - tablet
Buprenorphine HCL / Naloxone HCL
Dexmethylphenidate HCL
Chlorpromazine HCL
Fluphenazine HCL
Dabigatran
Rivaroxaban
Apixaban
Edoxaban
Linezolid
Tobramycin (Tobi Poldhaler™)
Tobramycin / Nebulizer (Kitabis™ Pak)
All rectal subclass products
All acetaminophen with codeine products
Ibuprofen containing products
Hydrocodone APAP solution
Metoprolol Succinate
Non-Preferred:
Bulk forming laxatives $1/unit or more
Osmotic laxatives $1/unit or more
Lubricant laxatives
Cimetidine - tablet
Spinosad
Semprivir Sodium
Tedizolid Phosphate
Ivacaftor (Kalydeco™)
All Butalbital subclass 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: Amending Prior Authorization Approval Criteria Guide

Date:	Time:	Location:
11-17-15	10:30 a.m.	500 Summer St. NE, Rm. 137C 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: 11-19-15, 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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Oregon Health Authority, Health Policy and Analytics
Chapter 409

Rule Caption: Specifies percentage of low-income patients a facility must serve to qualify for J-1 Visa physician.
Stat. Auth.: ORS 413.248
Stats. Implemented: ORS 413.248
Proposed Amendments: 409-035-0020
Last Date for Comment: 11-18-15, 5 p.m.
Summary: The rule is being amended to state that OAR 409-035-0020 is being amended to add specifications regarding the percentage of low income or Medicare patients a facility must serve in order to qualify for a J-1 Visa physician. The rule clarifies that at least 40 percent of patients must be Medicaid, Medicare or other low income patients.

The proposed changes are available on the agency's rulemaking website at: http://www.oregon.gov/OHA/pages/rulemaking/index.aspx.

Rules Coordinator: Zarie Haverkate
Address: Oregon Health Authority, Health Policy and Analytics, 500 Summer St. NE, E-65, Salem, OR 97301
Telephone: (503) 931-6420

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Oregon Health Authority, Oregon Prescription Drug Program
Chapter 431

Rule Caption: Authority to purchase prescription drugs through the program for recipients of medical assistance.

Date:	Time:	Location:
12-1-15	10 a.m.	1225 Ferry St. SE Salem, OR 97301

Hearing Officer: Betty Wilton
Stat. Auth.: HB 2638 Enrolled 2015

Other Auth.: ORS 414.312–414.320
Stats. Implemented: ORS 414.312–414.320
Proposed Amendments: 431-121-2005
Last Date for Comment: 12-1-15, Close of Hearing
Summary: OAR 434-121-2005 is amended to implement the revisions adopted by HB 2638 Enrolled 2015, which deleted 414.312(5. (5) The Authority may not purchase prescription drugs directly or indirectly through the program for recipients of medical assistance.
Rules Coordinator: Betty Wilton
Address: Oregon Health Authority, Oregon Prescription Drug Program, 1225 Ferry St. SE, Salem, OR 97301
Telephone: (503) 945-7834

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Oregon Health Authority,
Public Health Division
Chapter 333

Rule Caption: Implementing changes to the Oregon Indoor Clean Air Act (ICAA)

Date:	Time:	Location:
11-30-15	11 a.m.	Mike Maier Bldg. 1130 NW Harriman Ave., Suite B; Community Board Rm. Bend, OR 97703
12-2-15	11 a.m.	Portland State Office Bldg. 800 NE Oregon St. Rm. 918 Portland, OR 97232
12-4-15	11 a.m.	Jackson County Health and Human Services, 140 S Holly St. Union Creek Rm. #206 Medford, OR 97501

Hearing Officer: Jana Fussell
Stat. Auth.: ORS 433.855
Stats. Implemented: ORS 433.835–433.870
Proposed Amendments: 333-015-0030, 333-015-0035, 333-015-0040, 333-015-0045, 333-015-0064, 333-015-0068, 333-015-0070, 333-015-0075, 333-015-0078, 333-015-0085
Last Date for Comment: 12-4-15, 5 p.m.
Summary: The Oregon Health Authority, Public Health Division is proposing to permanently amend administrative rules in chapter 333, division 15 related to the Oregon Indoor Clean Air Act (ICAA).

The proposed rulemaking:

1. Amends and adds definitions to bring the rules into line with the ICAA, better reflect the purpose of the statute, and/or add clarity to the rules.

2. Includes 'inhalant delivery systems' and 'inhalants' as part of the ICAA.

3. Allows on premises consumption of food and drink, excluding alcoholic drinks, in certified smoke shops.

4. Provides exemption for medical use of marijuana in the place of employment of a licensee of a professional licensing board as described in ORS 475.328.

5. Revises content of ICAA related signs.

Rules Coordinator: Brittany Sande
Address: Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232
Telephone: (971) 673-1291

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Rule Caption: List of high priority chemicals of concern for children's health when used in children's products

Date:	Time:	Location:
11-19-15	10 a.m.	Portland State Office Bldg. 800 NE Oregon St. Rm. 1C Portland, OR 97232

Hearing Officer: Jana Fussell
Stat. Auth.: 2015 OL Ch. 786
Stats. Implemented: 2015 OL Ch. 786
Proposed Adoptions: 333-016-2000, 333-016-2010, 333-016-2020, 333-016-2030
Last Date for Comment: 11-23-15, 5 p.m.
Summary: The Oregon Health Authority (Authority), Public Health Division is proposing to permanently adopt administrative rules in chapter 333, division 16 related to high priority chemicals of concern for children's health.

SB 478 (Oregon Laws 2015, chapter 786) was passed by the Oregon Legislature during the 2015 legislative session. The law requires the Authority to maintain a list of high priority chemicals of concern for children's health when used in children's products. The law states that the initial Authority list shall "include on the list chemicals that are listed on the Washington State Department of Ecology's Reporting List of Chemicals of High Concern to Children". These proposed rules establish the initial list of high priority chemicals of concern for children's health when used in children's products that a manufacturer of children's products sold or offered for sale in this state shall provide biennial notice to the Oregon Health Authority beginning on January 1, 2018. This rulemaking is only establishing the list of high priority chemicals of concern for children's health when used in children's products. No requirements are being imposed on manufacturers at this time.
Rules Coordinator: Brittany Sande
Address: Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232
Telephone: (971) 673-1291

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Oregon Liquor Control Commission
Chapter 845

Rule Caption: The amendments align the rules with the amendments made in HB 2567.

Date:	Time:	Location:
11-18-15	10 a.m.	OR Liquor Control Commission 9079 SE McLoughlin Blvd. Portland, OR 97222

Hearing Officer: Bryant Haley
Stat. Auth.: ORS 471, 471.030, 471.040 & 471.730(1) & (5)
Stats. Implemented: ORS 471.230, 471.404 & 471.730(8)
Proposed Amendments: 845-004-0101, 845-005-0413, 845-005-0431, 845-006-0452
Proposed Repeals: 845-004-0105
Last Date for Comment: 12-2-15, 5 p.m.
Summary: HB 2567 passed in the 2015 Oregon legislative session with an effective date of June 25, 2015. It makes several changes to ORS 471.230 (the distillery license statute). The following amendments are required to align the rules with the statute changes.

- 845-005-0413 will be amended to allow a distillery licensee to hold a Special Events Distillery (SED) license at its annually licensed premises, change the number of license days for an SED at one address from a limit of 31 to a limit of 62, and allow a taste to contain liquids other than the distilled liquor manufactured by the distillery licensee.

- 845-005-0431 will be amended to allow more than one distillery to be licensed at a primary location to provide tastings.

- 845-006-0452 will be amended to allow a taste to contain liquids other than the distilled liquor manufactured by the distillery licensee.

In addition, the Commission needs to update how it controls the use of alcohol for scientific, pharmaceutical, manufacturing, mechanical, and industrial purposes.

- 845-004-0101 will be amended to change the name to an Industrial Alcohol Authority and create a process that will be less work for the industry and the Commission.

- 845-004-0105 will be repealed because creating the Industrial Alcohol Authority and clarifying its privileges eliminates the need for this rule.

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

Oregon Medical Board
Chapter 847

Rule Caption: Acupuncturists must use single-use, disposable acupuncture needles and follow clean needle technique standards

Date:	Time:	Location:
12-4-15	11 a.m.	OR Medical Board 1500 SW 1st Ave., #602 Portland, OR 97201

Hearing Officer: Kathleen Haley
Stat. Auth.: ORS 677.265 & 677.759
Stats. Implemented: ORS 677.757, 677.759 & 677.785
Proposed Adoptions: 847-070-0021
Last Date for Comment: 12-4-15, 12 p.m.
Summary: The proposed new rule requires Oregon-licensed acupuncturists to follow clean needle technique standards and use only disposable, single-use acupuncture needles.
Rules Coordinator: Nicole Krishnaswami
Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
Telephone: (971) 673-2667

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Rule Caption: Physician Assistant Committee
Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.100, 677.190, 677.235, 677.265, 677.512 & 677.540
Proposed Amendments: 847-050-0025
Proposed Repeals: 847-050-0063, 847-050-0065
Last Date for Comment: 11-23-15, Close of Business
Summary: The proposed rule amendment repeals and abolishes the Physician Assistant Committee pursuant to Senate Bill 905, effective 1/1/16.
Rules Coordinator: Nicole Krishnaswami
Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
Telephone: (971) 673-2667

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Rule Caption: Volunteer emeritus licensees must be able to demonstrate competency
Stat. Auth.: ORS 677.120 & 677.265
Stats. Implemented: ORS 677.100, 677.120, 677.132 & 677.265
Proposed Amendments: 847-023-0005
Last Date for Comment: 11-23-15, Close of Business
Summary: The proposed rule amendments clarify that applicants for a Volunteer Emeritus license must be able to demonstrate competency to qualify for licensure.
Rules Coordinator: Nicole Krishnaswami
Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
Telephone: (971) 673-2667

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Rule Caption: Issuance of Final Orders
Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 183.335, 183.341, 183.630, 677.205 & 677.275
Proposed Amendments: 847-001-0015
Last Date for Comment: 11-23-15, Close of Business
Summary: The proposed rule amendment provides an exemption to the Attorney General's Model Rule 137-003-0655(7) because the Board has determined that, due to the nature of the cases, 90 days is an insufficient time in which to issue an amended proposed or final order.
Rules Coordinator: Nicole Krishnaswami
Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
Telephone: (971) 673-2667

Rule Caption: Reactivation requirements for licensees who want to change their license status
Stat. Auth.: ORS 677.265 & 677.759
Stats. Implemented: ORS 677.172, 677.175, 677.190, 677.265, 677.512, 677.759, 677.825 & 677.830
Proposed Amendments: 847-008-0020, 847-008-0022, 847-008-0023, 847-008-0025, 847-008-0030, 847-008-0035, 847-008-0037, 847-008-0050, 847-008-0055, 847-050-0043, 847-070-0045
Proposed Repeals: 847-008-0056
Last Date for Comment: 11-23-15, Close of Business
Summary: The proposed rule amendments streamline the reactivation process so that OMB staff will collect much of the documentation previously required of the applicant. In addition, the amendments clarify which license statuses are required to reactivate and provides one comprehensive rule on the reactivation process. Finally, the rule amendments remove references to paper forms and affidavits in anticipation of moving the reactivation application to an online process. The amendments also contain minor grammar and housekeeping changes.
Rules Coordinator: Nicole Krishnaswami
Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
Telephone: (971) 673-2667

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Rule Caption: Updates to the definitions of sexual misconduct and licensee impairment
Stat. Auth.: ORS 676.150, 677.205 & 677.265
Stats. Implemented: ORS 676.150, 677.092, 677.190, 677.205, 677.265 & 677.415
Proposed Amendments: 847-010-0073
Last Date for Comment: 11-23-15, Close of Business
Summary: The proposed rule amendment revises the definition of "sexual misconduct" to include electronic forms of communication such as text message and e-mail under the "sexual impropriety heading." The proposed amendment also clarifies that the use of alcohol or other substances, including the legal use of recreational marijuana, should not be used while a licensee is working in any capacity or used while off duty if it may cause impairment while on duty. The proposed rule amendment also removes section (8), which allows a civil penalty to be issued through an administrative process to licensees who fail to report as required by statute and this rule. The proposed amendment includes an update to the name of the Board.
Rules Coordinator: Nicole Krishnaswami
Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
Telephone: (971) 673-2667

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Rule Caption: Licensure for Distinguished Professors
Stat. Auth.: ORS 677.265 & SB 684 (2015)
Stats. Implemented: ORS 677.100, 677.132, 677.265 & SB 684 (2015)
Proposed Adoptions: 847-020-0135
Last Date for Comment: 11-23-15, Close of Business
Summary: The proposed new rule creates a new Distinguished Professor license that may be issued to a physician who has not passed the United States Medical Licensing Exam or the equivalent but is recognized as a highly distinguished physician who is licensed in another state or country, has received a full-time professor appointment at a school of medicine in this state, and meets a set of criteria that demonstrates experience and achievement in his or her field of medicine.
Rules Coordinator: Nicole Krishnaswami
Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
Telephone: (971) 673-2667

Rule Caption: Supervising Physician Organizations
Stat. Auth.: ORS 677.265 & 677.510
Stats. Implemented: ORS 677.205, 677.495, 677.510 & 677.515
Proposed Adoptions: 847-050-0036
Proposed Amendments: 847-050-0010, 847-050-0027, 847-050-0037, 847-050-0040
Last Date for Comment: 11-23-15, Close of Business
Summary: The proposed new OAR 847-050-0036 is a collective rule for all requirements for establishing and maintaining a supervising physician organization. The proposed rule amendments (1) remove substantive provisions regarding agents, supervising physician organizations and supervision from the definitions rule; (2) add a definition for primary supervising physician; (3) clarify that communication between a supervising physician and physician assistant must be synchronous; (4) require each supervising physician who is a member of a supervising physician organization to be approved by the Board as a supervising physician; (5) clarify that the rules on supervision apply equally to supervising physician organizations, not just individual supervising physician-physician assistant teams; (6) outline statutory requirements for appropriate delegation of medical services to a physician assistant; and (7) provide the statutory language that requires the supervising physician or supervising physician organization to ensure competent practice of the physician assistant. The rule amendments also contain general grammar and housekeeping updates.
Rules Coordinator: Nicole Krishnaswami
Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
Telephone: (971) 673-2667

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Rule Caption: Removing the physician assistant surcharge and correcting the statute authorizing criminal records check fees
Stat. Auth.: ORS 181.534, 431.972, 676.410, 677.265 & 677.290
Stats. Implemented: ORS 181.534, 192.440, 431.972, 676.410, 677.265 & 677.290
Proposed Amendments: 847-005-0005
Last Date for Comment: 11-23-15, Close of Business
Summary: The proposed rule amendment removes the reference to the Physician Assistant Surcharge assessed for the 2014-2015 licensing period because it is no longer needed and corrects the citation to the statutory authority for assessing a criminal records check fee.
Rules Coordinator: Nicole Krishnaswami
Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
Telephone: (971) 673-2667

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Oregon State Lottery
Chapter 177

Rule Caption: Adopts rule for recovery of public assistance overpayments from certain Lottery prizes; prioritizes child support

Date:	Time:	Location:
11-24-15	2:30 p.m.	Oregon State Lottery 500 Airport Rd. SE Salem, Oregon 97301

Hearing Officer: Staff
Stat. Auth.: ORS 461
Other Auth.: Oregon Constitution, Art. XV, Sec. 4(4); HB 2393 (2015)
Stats. Implemented: ORS 461.___ (Chapter 711, 2015 Oregon Laws)
Proposed Adoptions: 177-010-0094
Last Date for Comment: 11-24-15, 3 p.m.
Summary: The Oregon State Lottery has initiated permanent rulemaking to adopt OAR 177-010-0094 regarding the recovery of certain public assistance overpayments from Lottery prizes greater than $600 when a Lottery ticket or share is presented at the Lottery for payment.

The rule implements HB 2393 (2015) effective January 1, 2016.

Priority is given to past due child support payments when a claimant owes both public assistance and child support. Public assistance includes:

(a) Medical assistance as defined in ORS 411.025.

(b) Public assistance as defined in ORS 411.010.

(c) Supplemental nutrition assistance provide under ORS 411.806 to 411.845.

(d) Any other benefit, aid, or assistance for which the Department of Human Services or the Oregon Health Authority is authorized to issues a final order for an overpayment under ORS Chapter 183.

Rules Coordinator: Mark W. Hohlt
Address: Oregon State Lottery, 500 Airport Rd. SE, Salem, OR 97301
Telephone: (503) 540-1417

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Parks and Recreation Department
Chapter 736

Rule Caption: Amend Special Access Pass Rules

Date:	Time:	Location:
12-2-15	5:30 p.m.	North Mall Office Bldg., Park Headquarters. 725 Summer St. NE, Suite C Salem, OR 97301
12-3-15	6:30 p.m.	Pine Ridge Inn 1200 SW Mt. Bachelor Dr. Bend, OR 97702
12-7-15	6:30 p.m.	Valley River Inn 1000 Valley River Way Eugene, OR 97401
12-12-15	9 a.m.	Tryon Creek State Park Nature Center 11321 SW Terwilliger Blvd. Portland, OR 97219
12-15-15	6:30 p.m.	Tryon Creek State Park Nature Center 11321 SW Terwilliger Blvd. Portland, OR 97219
12-16-15	6:30 p.m.	Rogue Regency Inn 2300 Biddle Rd. Medford, OR 97504

Hearing Officer: Staff
Stat. Auth.: ORS 390.124
Stats. Implemented: ORS 390.111, 390.121 & 390.124
Proposed Amendments: 736-015-0035
Last Date for Comment: 12-18-15, 5 p.m.
Summary: Revisions to the Special Access Pass program for Veterans with a service connected disability will: 1) allow these reservations to be made on-line; 2) simplify the stay limit to ten days per month; 3) add showers to the list of fee waivers available to pass holders; 4) add a $5 fee for replacement of a lost pass; 5) clarify when a pass can be revoked or temporarily suspended;

6) add penalties for failure to cancel and leaving early without letting park staff know.

NOTE: Those who wish to make public comment must register with the hearing officer within thirty minutes of the listed start time on the scheduled hearing dates.

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

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Real Estate Agency
Chapter 863

Rule Caption: This notice relates to establishing a condominium filing review hourly rate.

Date:	Time:	Location:
12-21-15	10 a.m.	Equitable Center 530 Center St. NE, Suite 100 Salem, OR

Hearing Officer: Mike Hanifan

Stat. Auth.: ORS 100.670
Stats. Implemented: ORS 100.670
Proposed Adoptions: 863-060-0011
Last Date for Comment: 12-21-15, 12 p.m.
Summary: The Oregon Real Estate Agency currently has the following statutory authority:

ORS 100.670 Fees; hourly rate; deposit. (1) A developer or other person required to file materials or information with the Real Estate Commissioner under ORS 100.005 to 100.910 shall pay to the commissioner a fee as required under subsections (2) and (3) of this section for the review, approval and handling of the filings by the commissioner at the time of the initial filing with the commissioner.

(2) A fee charged by the commissioner under subsection (1) of this section shall be determined by the commissioner to cover the costs of the commissioner's review, approval or revision activity. The fee shall be based upon an hourly rate that is subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fee and shall be within the budget authorized by the Legislative Assembly as that budget may be modified by the Emergency Board.

(3) The commissioner shall collect a deposit of $100 from a developer at the time of submitting a filing described in subsection (1) of this section. The amount of the deposit shall be deducted from the final fee computed as provided in subsection (2) of this section. [Formerly 94.354; 1991 c.703 §3]

As defined in subsection (2), the fee shall cover the costs of the review and approval. Currently, our fee of $46/per hour has not been changed in at least 10 years. There is no record of how that fee was established. It does not cover the costs of the review and approval.

The Real Estate Agency will make clear in rule the hourly rate that captures the costs of the duties charged with condominium review, approval or revision activity.

The effective date of this rule would be on or after January 1, 2016.

Suggested language for rule:

863-060-0011

Condominium Filing Review Fee

The hourly fee for review, approval or revision activities related to materials or information filed by a developer or other person with the Real Estate Commissioner under ORS 100.005 to 100.910 is two hundred dollars ($200) per hour.

Rules Coordinator: Dean Owens
Address: Real Estate Agency, 530 Center St. NE, Suite 100, Salem, OR 97301
Telephone: (503) 378-4407

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Secretary of State, Elections Division
Chapter 165

Rule Caption: Adopts revisions to the Vote by Mail Manual
Stat. Auth.: ORS 246.150, 254.465 & 254.470
Stats. Implemented: ORS 254.465 & 254.470
Proposed Amendments: 165-007-0030
Last Date for Comment: 11-25-15, 5 p.m.
Summary: The proposed rule amendment adopts the August 2015 revision of the Vote by Mail Manual as the processes, procedures and requirements for conducting an election by mail. The August 2015 revision incorporates updates to the procedures for voters lacking a residential address and the oath a voter is required to sign on the ballot return envelope. Non-substantive technical changes and clarifications were also incorporated into the Vote by Mail Manual revision.
Rules Coordinator: Brenda Bayes
Address: Secretary of State, Elections Division, 255 Capitol St. NE, Suite 501, Salem, OR 97310
Telephone: (503) 986-1518

Board of Accountancy
Chapter 801

Rule Caption: Conforms rules with SB 272 (2015); raises licensing/exam fees commensurate with SB 581 (2015)
Adm. Order No.: BOA 1-2015
Filed with Sec. of State: 9-30-2015
Certified to be Effective: 10-1-15
Notice Publication Date: 9-1-2015
Rules Amended: 801-005-0010, 801-005-0400, 801-010-0010, 801-010-0050, 801-010-0065, 801-010-0075, 801-010-0100, 801-010-0130, 801-010-0340, 801-010-0345, 801-020-0690, 801-040-0010, 801-040-0030, 801-040-0040, 801-040-0050, 801-040-0150, 801-040-0160, 801-040-0090, 801-040-0150, 801-040-0160
Rules Repealed: 801-005-0200, 801-005-0300, 801-040-0080
Subject: The proposed rules implement portions of Senate Bill 272 especially with respect to updating the definitions in rule of the Board of Accountancy, including the definition of attest services which was a central piece of SB 272.

In addition, the Board of Accountancy has fees set by statute and rule. The Board worked closely with its stakeholders and came to a consensus with its stakeholders on the need for significant fee increases in statute and rule. As a result, OSCPA spearheaded a statutory fee increase bill (SB 581) that passed the 2015 Oregon Legislature. The proposed rules raise fees of the Board set by rule in line with the fee increases approved by statute. Both the statutory fee increases and rule-based fee increased were analyzed and negotiated together in one package between the Board and its stakeholders. All other proposed changes are housekeeping only.
Rules Coordinator: Kimberly Fast—(503) 378-2268

801-005-0010
Definitions

As used in OAR Chapter 801, the following terms or abbreviations have the following meanings, unless otherwise defined therein:

(1) Active means a license issued by the Oregon Board of Accountancy to an individual who has met the requirements to hold a CPA or PA license, maintains the license and is in good standing.

(2) AICPA means American Institute of Certified Public Accountants.

(3) Applicant means a person applying for a license to practice public accountancy.

(4) Attestation Services means the following professional services required to be performed under the following standards:

(a) Any audit or other engagement for which performance standards are included in the Statements on Auditing Standards (SAS), International Standards on Auditing (ISA), or other internationally recognized auditing standards.

(b) Any review of a financial statement for which performance standards are included in the Statement on Standards for Accounting and Review Services (SSARS);

(c) Any examination of prospective financial information for which performance standards are included in the Standards for Attest Engagements (SSAE);

(d) Any examination, review or agreed upon procedures engagement other than an examination described in paragraph (c) of this subsection for which performance standards are included in the Statements on Standards for Attestation Engagements (SSAE); and

(e) Any engagement for which performance standards are included in the Auditing Standards of the Public Company Accounting Oversight Board in the United States (PCAOB)

(f) The statements on standards specified in subsections (a) through (d) of this definition are those developed by the AICPA.

(5) Business organization means any form of business organization authorized by law, including but not limited to a proprietorship, partnership, corporation, limited liability company, limited liability partnership or professional corporation.

(6) CPA or Certified Public Accountant means a person who has a certificate of certified public accountant issued under ORS 673.040.

(7) CPA Exam means the Uniform Certified Public Accountant Examination.

(8) CPE means continuing professional education.

(9) Candidate means a person applying for the CPA Exam.

(10) Censure means an official written expression of reprimand, by Board action, to a licensee for specified conduct.

(11) Certificate means a certificate of certified public accountant issued under ORS 673.040.

(12) Client means a person or entity who agrees with a licensee, or employer of a licensee to receive any professional service from the licensee or employer of licensee.

(13) Commission means a fee calculated as a percentage of the total value of the sale of a product or service that is paid or received in the form of money or other valuable consideration.

(14) Compilation Services means a professional service required to be performed in accordance with the Statement on Standards for Accounting and Review Services (SSARS) in which the person performing the services presents a financial statement that:

(a) Is based on the representation of the owner or management of the company for which the statement is presented; and

(b) Does not include assurances by the person that the representations in the financial statement conform to generally accepted accounting principles.

(15) Contingent fee means a fee established for the performance of any professional service and directly or indirectly paid to a licensee pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service. A fee is not contingent if the fee:

(a) Is fixed by courts or other public authorities; or

(b) In tax matters, is determined based on the results of judicial proceedings or the findings of governmental agencies.

(16) Enterprise means any person or entity, whether organized for profit or not, for which a licensee provides public accounting services.

(17) Expired means a license that has not been renewed after six years from the close of the last license period for which the license was active, inactive or retired. An expired license may be restored only if the Board determines that there is good cause to do so.

(18) Fees include commissions, contingent fees and referral fees.

(19) Financial statements means the presentation of financial data, including accompanying notes, that is derived from accounting records and intended to communicate an entity's economic resources or obligations or the changes therein, at a specific point in time, and/or the results of operations for a specific period of time, presented in accordance with generally accepted accounting principles or a comprehensive basis of accounting other than generally accepted accounting principles. Financial presentations included in tax returns are not financial statements. Incidental financial data included in management advisory services reports to support recommendations to a client are not financial statements. The method of preparation (for example, manual or computer preparation) is not relevant to the definition of a financial statement.

(20) Firm means a business organization as defined in ORS 673.010 that is engaged in the practice of public accountancy and is required to be registered with the Board.

(21) First time candidate means a candidate for the CPA exam who is sitting for the exam for the first time in Oregon.

(22) Generally Accepted Accounting Principles means accounting principles or standards generally accepted in the United States, including but not limited to Statements of Financial Accounting Standards and interpretations thereof, as published by the Financial Accounting Standards Board, and Statements of Governmental Accounting Standards and interpretations thereof, as published by the Government Accounting Standards Board and the International Financial Reporting Standards (IFRS) as issued by the International Accounting Standards Board (IASB).

(23) Generally Accepted Auditing Standards means the Generally Accepted Auditing Standards including but not limited to those standards adopted by the American Institute of Certified Public Accountants, together with interpretations thereof, as set forth in Statements on Auditing Standards issued by the AICPA, and for federal audits, the Single Audit Act and related U.S. Office of Management and Budget Circulars published by the Government Accountability Office, and International Standards on Auditing (ISAs) issued by International Federation of Accountants (IFAC) through the International Auditing and Assurance Standards Board (IAASB).

(24) Holding out as a CPA or PA means to assume or use by oral or written communication the titles or designations "certified public accountant" or "public accountant" or the abbreviations "CPA" or "PA", or any number or other title, sign, card, device or use of any internet domain or e-mail name, tending to indicate that the person holds a certificate or license

in good standing issued under the authority of ORS 673 as a certified public accountant or a public accountant.

(25) Inactive means a license status granted by the Board to a licensee:

(a) Whose license is not suspended or revoked;

(b) Who is not:

(A) Performing or offering to perform, for a client, services involving the use of accounting or auditing skills, including but not limited to issuance of reports on financial statements, management advisory, financial advisory or consulting services, preparation of tax returns or the furnishing of advice on tax matters; and

(B) Practicing public accountancy in a business organization that is required to be registered in Oregon with the Board under ORS 673.160; or

(c) A sole practitioner.

(d) Licensees who are granted inactive status shall not use the CPA or PA designation unless the word "inactive" is used in conjunction with the designation, such as "CPA Inactive" and is listed in the same size font as the designation.

(26) In good standing means the status of a holder of a license or registration issued by any jurisdiction,that is not suspended, revoked, expired, resigned, retired or lapsed.

(27) Jurisdiction means the licensing authority for the practice of public accountancy in any state, U.S. Territory or foreign country.

(28) Lapsed means a license status that is not renewed within 60-days of the close of a license period.

(a) A person in lapsed status may not:

(A) Practice public accounting in a business organization required to be registered with the Board under ORS 673.160;

(B) Practice as a sole practitioner; or

(C) Perform or offer to perform for a client services involving the use of accounting or auditing skills, including but not limited to issuance of reports on financial statements, management advisory, financial advisory or consulting services, preparation of tax returns or the furnishing of advice on tax matters.

(b) A person in lapsed status must not hold out in any form or manner that they are a CPA or PA.

(c) A lapsed license may be reinstated to active status only prior to becoming expired.

(29) License means:

(a) A certificate, permit or registration, or a license issued under ORS 673.100, enabling the holder thereof to practice public accountancy in this state; or

(b) A certificate, permit, registration or other authorization issued by a jurisdiction outside this state enabling the holder thereof to practice public accountancy in that jurisdiction.

(30) Licensee means the holder of a license as defined in these rules.

(31) Material participation means participation that is regular, continuous and substantial.

(32) Manager means a manager of a limited liability company.

(33) Member means a member of a limited liability company.

(34) NASBA means National Association of State Boards of Accountancy.

(35) Non-licensee owner means a person who does not hold a certificate, license or permit as a certified public accountant or public accountant in Oregon or in any other jurisdiction.

(36) PA or Public Accountant means a person who is the holder of a license issued under ORS 673.100.

(37) Peer Review means a study, appraisal or review of one or more aspects of the public accountancy work of a holder of a license under ORS 673.150 or of a registered business organization that performs attestation services or compilation services that is conducted by a CPA who holds an active license issued by any state or a public accountant licensed under 673.100 who was required to pass the audit section of the Uniform CPA Exam as a requirement for licensing. The peer reviewer must also be independent of the license holder or registered business organization being reviewed.

(38) Permit means a license to practice public accountancy issued under ORS 673.150.

(39) Practice of public accountancy means performance of or any offer to perform one or more services for a client or potential client, including the performance of such services while in the employ of another person by a licensee, professional services of accounting, tax, personal financial planning, litigation support services, and those professional services for which standards are promulgated. These standards include Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC), Statements of Financial Accounting Standards, Statements on Auditing Standards, Statements on Standards for Accounting and Review Services, Statements on Standards for Consulting Services, Statements of Governmental Accounting Standards, International Financial Reporting Standards, International Accounting Standards, International Standards on Auditing, Statements on Standards for Attestation Engagements, and Statements on Standards for Valuation Services.

(40) Principal Place of Business means the office location designated by a person for purposes of substantial equivalency and reciprocity.

(41) Professional means arising out of or related to the specialized knowledge or skills associated with certified public accountants and public accountants.

(42) Professional services means any services performed or offered to be performed by a licensee for a client or potential client in the course of the practice of public accountancy.

(43) Regional Accreditation means the college or university is accredited by one of the six regional accrediting associations or by another accrediting body that is recognized by the Board.

(44) Referral fee means a referral fee that includes, but is not limited to, a rebate, preference, discount or any item of value, whether in the form of money or otherwise, given or received by a certified public accountant, public accountant or firm, to or from any third party, directly or indirectly, in exchange for the purchase of any product or service, unless made in the ordinary course of business.

(45) Registration means the authority issued under ORS 673.160 to a business organization to practice public accountancy in this state.

(46) Report. "Report", when used with reference to attestation services or compilation services means an opinion or other form of language that states or implies assurance as to the reliability of the attested information or the compiled financial statements and that also includes or is accompanied by any statement or implication that the person or firm issuing the report has special knowledge or competence in public accountancy. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the issuer is a public accountancy professional or organization or may arise from the language of the report itself.

(a) The term "report" includes any form of language that:

(A) Disclaims an opinion when the form of language implies any positive assurance as to the reliability of the attested information or the compiled financial statements referred to or of the special knowledge or competence on the part of the person of firm issuing the language;

(B) Implies any positive assurance as to the reliability of the attested information or compiled financial statements referred to or of the special knowledge or competence on the part of the person or firm issuing the language; or

(C) Relates to the affairs of a person and that is conventionally used by licensees in reports or financial statements.

(b) Language Not Constituting a Report: The following statement, signed by a person who does not hold a license issued under ORS 673.150, shall not constitute a report under ORS 673.320 so long as the statement is not accompanied by any wording indicating the person is an accountant or auditor or other language prohibited by ORS 673.020, 673.030, 673.310 or 673.320:

> "The accompanying balance sheet (or . . .) of XYZ Company as of (date) and the related statements of income (or retained earnings or cash flows) for the year then ended have been prepared by me (us). The information presented in these financial statements is the representation of management (owners)."

(47) Retired means a license status conferred by the Board upon a licensee who:

(a) At any age, has held an active license in good standing, to practice public accountancy in Oregon for a combined period of not less than 20 years, or

(b) Has reached 65 years of age

(A) A licensee in retired status may not perform any attest services nor sign any tax returns as a preparer.

(B) A licensee in retired status may not perform public accounting services for direct or indirect compensation.

(C) A licensee in retired status may sign any documents related to non-compensated services as a "CPA Retired" or "PA Retired". The word "Retired" must be in the same size font as the designation.

(c) A licensee in retired status, may be restored to active status at the Boards discretion of showing good cause.

(48) Returning candidate means a person who has received grades for any section of the Uniform CPA exam who applies to sit for any part of the CPA exam in Oregon.

(49) Single Audit Act means the Single Audit Act with the Single Audit Act Amendments of 1996, as published by the United States Government Accountability Office, Office of Management and Budget.

(50) Standards for Accounting and Review Services means the Statements on Standards for Accounting and Review Services published by the AICPA.

(51) Standards for board approved peer review programs means the Standards for Performing and Reporting on Peer Reviews published by the AICPA.

(52) Statements on Standards for Attestation Engagements means the statements by that name issued by the AICPA.

(53) State means any state, territory or insular possession of the United States, and the District of Columbia.

(54) Substantial equivalency means:

(a) An individual holds a valid license as a certified public accountant from another state that requires an individual, as a condition of licensure as a certified public accountant to:

(A) Complete at least 150 semester hours of college education and obtain a baccalaureate or higher degree conferred by a college or university;

(B) Achieve a passing grade on the Uniform Certified Public Accountant Examination; and

(C) Possess at least one year of experience, verified by a licensee, providing any type of service or advice involving the use of accounting, attestation, compilation, management advisory, financial advisory, tax or related consulting skills, obtained through public practice or government, industry or academic work; or

(b) An individual has the qualifications specified in paragraph (a) of this subsection and holds a valid license as a certified public accountant from another state that does not require an individual to have the qualifications specified in paragraph (1) of this subsection as a condition of licensure as a certified public accountant.

(55) Uniform Accountancy Act (UAA) is a model bill and set of regulations designed by the AICPA and NASBA to provide a uniform approach to regulation of the accounting profession, provisions of which may or may not be adopted by state boards of accountancy.

(56)(a) Working papers include but are not limited to all statements, records, schedules, general ledgers, journals, trial balances and depreciation schedules made by the licensee incident to or in the course of rendering services to a client or former client. Working papers are and shall remain the property of the licensee in the absence of an express agreement to the contrary between the licensee and client.

(b) In addition to the requirements specified in paragraph above, attest documentation shall include, but not be limited to, the following:

(A) The objectives, scope and methodology, including any sampling criteria used;

(B) Documentation of the work performed to support significant conclusions and judgments, including descriptions of transactions and records examined that would enable a reviewer with relevant knowledge and experience, having no previous connection with the attest engagement, to examine the same transactions and records; and

(C) Evidence of any supervisory review of the work performed.

(57) Valid means a certified public accountant or a public accountant license, municipal roster authority, firm registration or chartered accountant certificate that is in active status and in good standing with the appropriate licensing authority. A license in active status is one that is not revoked, suspended, subject to probation, lapsed, inactive, retired or expired.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 670.310

Stats. Implemented: ORS 670.310

Hist.: 1AB 2-1982, f. & ef. 10-15-86 AB 1-1989, f. & cert. ef. 1-25-89; AB 2-1990, f. & cert ef. 4-9-90; AB 1-1992, f. & cert. ef. 2-18-92; AB 1-1993, f. 1-14-93, cert. ef. 1-15-93; AB 6-1993(Temp), f. 11-2-93, cert. ef. 11-4-93; AB 1-1994, f. & cert. ef. 1-21-94; AB 4-1994, f. & cert. ef. 9-27-94; AB 5-1994, f. & cert. ef. 11-10-94; AB 2-1995, f. & cert. ef. 3-22-95; AB 3-1995, f. & cert. ef. 5-19-95; AB 4-1995, f. & cert. ef. 8-8-95; AB 1-1996, f. & cert. ef. 1-29-96; AB 2-1996, f. & cert. ef. 9-25-96; AB 2-1997, f. & cert. ef. 3-10-97; BOA 1-1998, f. & cert. ef. 1-26-98; BOA 6-1998, f. & cert. ef. 7-29-98; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 3-2001, f. 12-28-01, cert. ef. 1-1-02; BOA 2-2002, f. 12-27-02, cert. ef. 1-1-03; BOA 3-2003, f. 12-23-03 cert. ef. 1-1-04; BOA 3-2005, f. 2-24-05 cert. ef. 3-1-05; BOA 6-2005, f. 11-22-05, cert. ef. 1-1-06; BOA 5-2006, f. 12-22-06, cert. ef. 1-1-07; BOA 2-2009, f. 12-15-09, cert. ef. 1-1-10; BOA 2-2010, f. 12-15-10, cert. ef. 1-1-11; BOA 2-2011, f. 12-28-11, cert. ef. 1-1-12; BOA 2-2014, f. 12-15-14, cert. ef. 1-8-15; BOA 1-2015, f. 9-30-15, cert. ef. 10-1-15

801-005-0400

Financial Statement Preparation

Preparation of financial statements or reports (as defined herein) is restricted to CPAs and PAs, unless prepared in accordance with ORS 673.010(19)(c).

Stat. Auth.: ORS 670.310 & OL 1999, Ch. 322

Stats. Implemented: OL 1999, Ch. 322

Hist.: BOA 6-1998, f. & cert. ef. 7-29-98; BOA 4-1999, f. & cert. ef. 7-23-99; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 3-2001, f. 12-28-01, cert. ef. 1-1-02; BOA 1-2015, f. 9-30-15, cert. ef. 10-1-15

801-010-0010

Fees, Civil Penalties and Cost Recovery

For the purpose of ORS 673.010 to 673.455 and 297.670 to 297.740, the Board of Accountancy shall charge the following fees:

(1) **Application fees.** All application fees are non- refundable.

(a) CPA Examination:

(A) Initial Examination — $150.

(B) Re-Examination — $50

(b) CPA or PA License — $225.

(c) Municipal Auditor Roster Application — $150.

(d) Reinstatement application fee — $225.

(2) **Initial license and registration fees:**

(a) Initial CPA or PA License — $255.

(b) Municipal Auditor — $150.

(c) Firm Registration — $265.

(3) **Biennial renewal application fees:**

(a) Active CPA or PA License — $255.

(b) Inactive CPA or PA — $50.

(c) Municipal Auditor — $150.

(d) Firm Registration — $265.

(e) Retired License — $50.

(4) **Late renewal penalty fees:**

(a) Active CPA or PA License — $255.

(b) Inactive CPA and PA — $50.

(c) Municipal Auditor Late Fee — $150.

(d) Firm Registration — $265.

(e) Retired License — $50.

(5) **Miscellaneous fees:**

(a) Copies of existing mailing lists may be provided for a fee equal to the amount necessary to prepare each list, including the cost of materials, if any, and the cost of staff time.

(b) Municipal Auditor lists shall be provided at no charge to municipal entities that are subject to audit law.

(c) Copies of records made on a standard office copy machine may be charged.(d) Staff time required to research, locate, produce, summarize or otherwise provide records may be charged.

(6) **Civil Penalties assessed for Specific Violations:**

(a) Failure to provide change of address in 30 day — $100.

(b) Failure to renew firm registration by January 31 — $500.

(c) Failure to respond to Notice of CPE audit and all follow-up in 21 days — $250.

(d) Failure to respond to Notice of Peer Review Audit in 21 days — $1000.

(7) **Cost Recovery:**

(a) The Board may recover costs associated with a contested case hearing in which the Board has prevailed. The following costs may be included in cost recovery:

(A) Attorney General Fees.

(B) Administrative Hearing Costs.

(C) Cost of Investigation.

(D) Expert Witness Fees.

(E) Costs of Appeal.

(8) Form of Payment:

(a) Checks or money orders shall be made payable to "Oregon Board of Accountancy".

(b) Credit card payments may be submitted in person, by mail, online or by fax. Any credit card that is rejected by the bank and requested to be confiscated will be retained and returned to the bank. All payments by credit card that are rejected must be paid in full by a check or money order within ten days from notification of rejection. All payments received after Board deadlines, including, but not limited to payments for renewals, applications and civil penalties, will be considered late and a late penalty will be assessed.

Stat. Auth.: ORS 670.310, 673.040, 673.060, 673.100, 673.150, 673.160, 197.720 & 673.153

Stats. Implemented: ORS 673, 297 & 192.440

Hist.: 1AB 10, f. 2-7-63; 1AB 14, f. 8-15-68; 1AB 20, f. 10-22-71, ef. 11-15-71; 1AB 34, f. 1-29-74, ef. 2-25-74; 1AB 41, f. & ef. 12-2-76; 1AB 44, f. & ef. 3-31-77; 1AB 48, f. & ef. 7-21-77; 1AB 6-1978, f. & ef. 6-22-78; 1AB 7-1981, f. & ef. 7-27-81; 1AB 2-1983, f. & ef. 9-20-83; AB 3-1988, f. & cert. ef. 6-9-88; AB 2-1989, f. & cert. ef. 1-25-89; AB 4-1991, f. & cert. ef. 7-1-91; AB 4-1994, f. & cert. ef. 9-27-94; AB 1-1995, f. & cert. ef. 1-25-95; AB 5-1995, f. & cert. ef. 8-22-95; AB 1-1996, f. & cert. ef. 1-29-96; AB 1-1997, f. & cert. ef. 1-28-97; BOA 5-1998, f. & cert. ef. 7-9-98; BOA 6-1998, f. & cert. ef. 7-29-98; BOA 7-1998(Temp), f. & cert. 7-29-98 thru 1-25-99; BOA 8-1998, f. & cert. ef. 10-22-98; BOA 4-

1999, f. & cert. ef. 7-23-99; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 4-2001, f. 12-28-01, cert. ef. 1-1-02; BOA 3-2002, f. 12-27-02, cert. ef. 1-1-03; BOA 4-2003, f. 12-23-03 cert. ef. 1-1-04; BOA 4-2004, f. 12-30-04, cert. ef. 1-1-05; BOA 2-2006, f. 12-22-06, cert. ef. 1-1-07; BOA 2-2008, f. 12-30-08, cert. ef. 1-1-09; BOA 3-2009, f. 12-15-09, cert. ef. 1-1-10; BOA 3-2010, f. 12-15-10, cert. ef. 1-1-11; BOA 3-2011, f. 12-28-11, cert. ef. 1-1-12; BOA 2-2014, f. 12-15-14, cert. ef. 1-8-15; BOA 1-2015, f. 9-30-15, cert. ef. 10-1-15

801-010-0050
Application for Uniform CPA Examination

(1) **Definitions.**

(a) Authorization to Test (ATT): Issued by the Board of Accountancy to eligible exam candidates to authorize the candidate to test for specified sections of the CPA exam. The ATT may be issued for one or more CPA exam sections. Each ATT authorizes the candidate to take each CPA exam section designated in the ATT one time only. The ATT may become expired as to one exam section named in the ATT, and remain valid as to other specified exam sections. The candidate must submit an application and re-examination fee to the Board of Accountancy for any exam section that is expired under the ATT or to retake any section of the CPA Exam not passed.

(b) Notice to Schedule (NTS): Issued by NASBA and enables the candidate to schedule testing at an examination test center. The NTS must remain open until the candidate schedules testing or until six months have elapsed since the NTS was issued, whichever occurs first.

(c) Testing Center: Board approved computer testing facilities, at which candidates may take the CPA examination, are listed on the Board website.

(d) Testing Opportunity: Each testing window is considered a testing opportunity. There are four testing opportunities per year. A candidate may test for a particular section only once per testing window. A candidate may not retake a failed test section(s) in the same testing window.

(e) Testing Windows: The testing window is comprised of two months in which the examination is available to be taken and one month in which the examination will not be offered so that exam sections can be graded and maintenance may be performed.

(2) **Applications.**

(a) Applications for the CPA exam must be submitted on a form provided by the Board and must be accompanied by the appropriate fee. The act of filing an application for the CPA exam constitutes an agreement by the candidate to observe and comply with the CPA Exam rules adopted by the Board.

(b) An application will not be reviewed until the application fee and all required supporting documents have been received, including proof of identity (as determined by the Board and specified on the application form), official transcripts and/or evaluation of foreign credentials from NASBA International Evaluation Services (NIES) and evidence that the candidate has met eligibility requirements.

(c) All foreign academic credentials submitted as evidence of eligibility for the CPA exam are required to be evaluated by NASBA International Evaluation Services (NIES).;

(d) An application for the CPA examination must be complete in every particular within 3 months from the date it is received at the Board office. If an application is incomplete, the candidate will be found ineligible and the file will be closed. A candidate whose file has been closed as described herein is required to submit a new application, application fee and all required documents.

(e) Candidates shall pay the CPA exam application fee designated in OAR 801-010-0010 to the Board. All other fees associated with the CPA exam are required to be paid to NASBA. All CPA exam fees are non-refundable. If a candidate fails to appear for a scheduled testing at an approved test center, all fees paid will be forfeited for the examinations scheduled on that day.

(f) At the time of application and during the time any ATT issued by the Oregon Board of Accountancy is open, the candidate must not have an open ATT for the same section in any other state or jurisdiction.

(g) The candidate must certify at the time of application that he or she is in compliance with subsection (f) of this rule. Falsifying this certification or including any false, fraudulent, or materially misleading statements on the application for the examination, or including any material omission on the application for the examination is cause for disciplinary action under ORS 673.170.

(h) The Board or its designee will forward authorization to test (ATT) for the computer-based CPA exam to the candidate and to the NASBA National Candidate Database once eligibility is determined.

(i) The Board will offer a candidate the opportunity to voluntarily disclose the candidate's social security number to the Board so that the Board may provide the social security number to NASBA for identification purposes.

(3) **Eligibility under education requirements.** Candidates for admission to the CPA exam applying under the educational requirements of ORS 673.050(1)(a) must demonstrate eligibility as follows:

(a) 150 Hour rule: Satisfactory evidence that the candidate has successfully completed 150 semester hours or 225 quarter hours, including:

(A) A baccalaureate or higher degree from a regionally accredited college or university as described in ORS 673.050(1)(a);

(B) A minimum of 24 semester hours or 36 quarter hours, or the equivalent thereof, in the study of accounting. For candidates applying on or after June 30, 2017, these hours must be upper-division courses. Principles and introductory courses cannot be used to meet this requirement; and

(C) A minimum of 24 semester hours or 36 quarter hours in accounting or related subjects. Related subjects are defined as business, finance, economics, and written and oral communication.

(D) Credit for community college courses. Applicants who have earned a baccalaureate or higher degree from a regionally accredited college or university may obtain additional hours from a community college, if such hours would be transferable to an accredited college or university.

(E) Applicants applying on or after June 30, 2017: Internship courses are limited to a maximum of 4 semester hours or 6 quarter hours.

(b) Evidence of eligibility. Candidates must meet all requirements under this rule at the time of application. Satisfactory evidence of the educational requirement may be provided in the following manner:

(A) Candidates who have completed all course requirements and been awarded a baccalaureate or higher degree must provide an official transcript(s) demonstrating successful completion of all courses required under these rules, and that a degree was awarded.

(B) Candidates who have completed all course requirements at the time of application, but for whom a baccalaureate degree has not yet been awarded must provide an official transcript(s) showing successful completion of all courses required under these rules, together with a letter from the Registrar's Office of the college or university stating that the candidate has met the degree requirements and the date that the degree will be awarded.

(C) Only official transcripts that are forwarded directly to the Board office by the issuing college or university will be accepted.

(D) Colleges or universities, which are accredited by one of the six regional accrediting associations and listed as accredited in the Directory of Post-secondary Institutions, published by the National Center for Education Statistics, are recognized by the Board.

(4) **Eligibility under experience standards.** Candidates for the CPA exam who are applying under the experience requirements of ORS 673.050(2) to be licensed as a Public Accountant must submit satisfactory evidence that:

(a) The candidate graduated from a high school with a four-year program, or the equivalent; and

(b) The candidate completed two years of experience in public accountancy or the equivalent satisfactory to the Board that meets the requirements of OAR 801-010-0100(2) and 801-010-0065(2).

(c) Returning candidates after January 1, 2002 who were eligible to take two sections of the CPA Exam under provisions of ORS 673.100 in effect prior to January 1, 2002, are required to sit for at least one exam section in any two testing windows each year in order to maintain eligibility under those requirements.

(5) **Authorization to Test and Notice to Schedule.**

(a) An ATT authorizes the candidate to test one time for those sections of the CPA exam that are specified in the ATT. An ATT is effective for six months from the date on which the corresponding NTS is issued or until the NTS expires, whichever occurs first; however, the ATT will expire ninety (90) days after it is issued if the candidate has not paid the appropriate fees to NASBA.

(b) Expiration of the ATT. Authorization to take a specified exam section will expire on any of the following events:

(A) When the candidate schedules and takes a designated exam section;

(B) If the candidate schedules a testing date for a designated exam section but fails to appear and take the section at the scheduled time;

(C) If the candidate fails to schedule a designated exam section within the six-month period defined by the NTS; or

(D) If the candidate fails to request an NTS and pay the appropriate fees to NASBA within 90 days of the date the ATT is issued.

(c) Suspension of the ATT. An ATT may be suspended by the Board of Accountancy based on a report from NASBA that a problem related to the candidate is identified on the National Candidate Database, or for other good cause as determined by the Board.

(d) Payment of CPA Exam testing fees. To obtain a Notice to Schedule (NTS), the candidate must remit the CPA exam testing fees required for the CPA exam sections specified in the ATT to NASBA within ninety (90) days from the date the ATT is issued. Failure to remit the required fees and obtain the NTS will cause the ATT to expire, and the candidate must submit a re-examination application to the Board, with the appropriate CPA exam fee, to receive another ATT.

(e) NTS. When the candidate receives an ATT from the Board, the candidate is required to:

(A) Submit to NASBA payment of all fees related to testing of the CPA exam sections authorized by the ATT;

(B) Upon receipt of the NTS, contact an approved test center to schedule the time and place for testing of the exam sections authorized by the NTS. CPA exam sections do not have to be scheduled on the same date.

(C) The NTS remains valid for each exam section until the candidate schedules testing for that specific section, or for six months from the date the NTS was issued, whichever occurs first.

(D) The NTS expires as to each individual exam section when the candidate schedules testing for that section, whether or not the candidate appears at the scheduled testing appointment.

(f) Testing.

(A) A candidate may schedule testing at an approved testing center in Oregon or in another jurisdiction. A list of approved testing centers is on the Board of Accountancy website.

(B) Candidates must comply with the procedures and rules of the test center.

(g) Re-examination. A completed re-examination application and payment of the appropriate fee to the Board of Accountancy is required:

(A) To retake any exam section that the candidate does not pass;

(B) To obtain an NTS for any exam section that the candidate failed to schedule during the six-month period for which a previous NTS was issued;

(C) To obtain an NTS for any exam section for which the candidate failed to obtain an NTS during the ninety (90) day period after the date the ATT was issued.

Stat. Auth.: ORS 670.310, 673.050 & 673.100

Stats. Implemented: ORS 673.050, 673.100 & 673.410

Hist.: 1AB 10, f. 2-7-63; 1AB 14, f. 8-15-68; 1AB 20, f. 10-22-71, ef. 11-15-71; 1AB 34, f. 1-29-74, ef. 2-25-74; 1AB 41, f. & ef. 12-2-76; 1AB 44, f. & ef. 3-31-77; 1AB 48, f. & ef. 7-21-77; 1AB 6-1978, f. & ef. 6-22-78; 1AB 7-1981, f. & ef. 7-27-81; 1AB 2-1983, f. & ef. 9-20-83; AB 3-1988, f. & cert. ef. 6-9-88; AB 2-1989, f. & cert. ef. 1-25-89; AB 4-1991, f. & cert. ef. 7-1-91; AB 4-1994, f. & cert. ef. 9-27-94; AB 1-1995, f. & cert. ef. 1-25-95; AB 5-1995, f. & cert. ef. 8-22-95; AB 1-1996, f. & cert. ef. 1-29-96; AB 1-1997, f. & cert. ef. 1-28-97; BOA 5-1998, f. & cert. ef. 7-9-98; BOA 6-1998, f. & cert. ef. 7-29-98; BOA 7-1998(Temp), f. & cert. 7-29-98 thru 1-25-99; BOA 8-1998, f. & cert. ef. 10-22-98; BOA 4-1999, f. & cert. ef. 7-23-99; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 4-2001, f. 12-28-01, cert. ef. 1-1-02; BOA 3-2002, f. 12-27-02, cert. ef. 1-1-03; BOA 4-2003, f. 12-23-03 cert. ef. 1-1-04; BOA 1-2004(Temp), f. & cert. ef. 3-15-04 thru 7-1-04; BOA 2-2004(Temp), f. & cert. ef. 7-2-04 thru 12-29-04; BOA 4-2004, f. 12-30-04, cert. ef. 1-1-05; BOA 7-2005, f. 11-22-05, cert. ef. 1-1-06; BOA 2-2006, f. 12-22-06, cert. ef. 1-1-07; BOA 2-2008, f. 12-30-08, cert. ef. 1-1-09; BOA 3-2010, f. 12-15-10, cert. ef. 1-1-11; BOA 3-2011, f. 12-28-11, cert. ef. 1-1-12; BOA 1-2014, f. 2-14-14, cert. ef. 3-1-14; BOA 2-2014, f. 12-15-14, cert. ef. 1-8-15; BOA 1-2015, f. 9-30-15, cert. ef. 10-1-15

801-010-0065

Qualifications for Licensure

(1) Requirements. Applicants for the license of Certified Public Accountant must meet the following requirements:

(a) Complete and pass all sections of the CPA exam

(b) Complete and pass an ethics exam that has been adopted by the Board; and

(c) Have a minimum of 12 months of full-time employment or a total of 2,000 hours of part-time employment;

(A) One hundred sixty seven (167) hours of part-time experience is equivalent to one month.

(d) Applicants for the CPA license must obtain the experience competencies as described in sections (2) through (4) of this rule and a minimum of 12 months full-time employment or a total of 2,000 hours of equivalent part-time employment.

(2) Experience Requirements:

(a) "Supervisor licensee" is a person who qualifies under this rule as a supervisor for the purpose of verifying the experience requirement of an applicant for a CPA license under OAR 801-010-0065 or the experience requirement of an applicant for a public accountant license under 801-010-0100.

(b)(A) To qualify as a supervisor licensee the person providing supervision must hold an active CPA license issued by any state or a PA license issued under ORS 673.100 during the period of supervision and for at least five of the past seven years immediately prior to such supervision.

(B) Notwithstanding subset (2)(b) above, a public accountant (PA) may not act as a supervising licensee or verify an applicant's experience relating to attestation services.

(c) A licensee who provides direct supervision over an applicant must act as supervisor licensee and shall certify to the Board whether or not the applicant has gained qualifying experience under this rule.

(d)(A) "Direct supervision" as used in this rule means that there is a regular and meaningful interaction between the supervisor licensee and the person being supervised in terms of planning, coordinating, guiding, inspecting, controlling, and evaluating activities, and having authority over the employee being supervised.

(B) A licensee acting as a consultant or independent contractor to the applicant's employer will not meet the requirement of direct supervision.

(e) The experience required under ORS 673.040 consists of activities generally performed by Oregon licensed CPAs and PAs engaged in public practice. Typical public practice experience includes attestation services, tax return preparation, financial advisory services and/or compliance and internal control evaluation. Experience obtained while performing financial advisory services or tax advisory services must be performed while employed at a public accounting firm.

(3) Experience portfolio. The applicant must develop a portfolio that demonstrates to the satisfaction of the Board that the applicant has achieved each of the following competencies, together with the supervisory licensee verification.

(a) Understanding of the Code of Professional Conduct promulgated and adopted by the Board;

(b) Ability to assess the achievement of a client's objectives by demonstrating knowledge of various business organizations, understanding of the objectives and goals of business entities, ability to develop and analyze performance measures and critical success factors, and understanding of the economic and regulatory trends that affect the environment of a business entity.

(c) Experience in preparing working papers that include sufficient relevant data to support the analysis and conclusions required by the applicant's work.

(d) Understanding transaction streams and information systems, including the ability to understand how individual transactions aggregate at the organizational level, to infer how transactions impact the organization as a whole, and to evaluate the integrity and reliability of various client information systems, including relevant computer aspects.

(e) Skills in risk assessment and verification demonstrated by a sufficient understanding of accounting and other information systems to:

(A) Assess the risk of misstatement in an information system;

(B) Obtain sufficient relevant data based on the risk of misstatement and the nature of the engagement to determine the appropriateness of underlying data in terms of its completeness, existence and occurrence, valuation and allocation, rights and obligations, presentation and disclosures.

(f) Skills in decision making, problem solving, critical analytical thinking including the ability to evaluate and interpret sufficient relevant data in a variety of engagements and settings. For example, the candidate must evaluate a client's cash flow, profitability, liquidity, solvency, operating cycle, achievement of management's plans, accomplishment of service efforts and systems reliability.

(g) Ability to express scope of work, findings and conclusions including the ability to determine the appropriateness of reports on financial statements, system reliability, or reports expressing scope of work, findings and conclusions.

(4) Qualifying experience. An applicant must demonstrate to the satisfaction of the Board that the portfolio of experience submitted is of sufficient quality and diversity to meet the requirements of this rule. Qualifying experience may be obtained in the following categories:

(a) Attest. Experience that demonstrates the competencies prescribed in section (3) of this rule must be obtained while the applicant is:

(A) Employed in public practice on the staff of a certified public accountant or a firm of certified public accountants;

(B) Employed in an organization where employment is equivalent to that described in paragraph (4)(a)(A) of this rule if a peer review is conducted or if such employment is with audit agencies, internal audit departments or other organizations where a peer review is conducted and the audit agency, internal audit department, or other organization is independent of the entity.

(C) Experience under this subsection must include:

(i) Conducting attest-oriented functions where third party reliance is an objective of the report;

(ii) Preparing opinions in accordance with professional standards;

(iii) Preparing financial statements with footnotes to generally accepted accounting principles or other comprehensive bases of accounting; and

(iv) Accounting and review services.

(D) "Third party reliance" as used in this rule means:

(i) Actual third party reliance, such as takes place with respect to the reader of financial statements upon which an audit opinion has been rendered by a public accountant licensed in Oregon or a certified public accountant;

(ii) Audits performed by government agencies, including tax authorities, on organizations which are not subject to management control by the auditing agency; or

(iii) Financial audits performed by independent working groups where the purpose of the audit is reliance by the board of directors on the fairness of the presentation of internally generated financial statements in accordance with generally accepted accounting principles or other comprehensive bases of accounting.

(E) Attest experience will be evaluated on a case-by-case basis to ensure that experience meets the criteria of subsections (3)(a) through (g).

(b) Tax. Experience that demonstrates the competencies prescribed in section (3) of this rule must be obtained while the applicant is:

(A) Employed in public practice on the staff of a public accountant, a certified public accountant or a firm of public accountants or certified public accountants;

(B) Engaged in employment that is equivalent to that described in paragraph (4)(b)(A) of this rule including internal tax departments.

(C) Tax experience related to subsection (3)(a) of this rule will include the practice of tax with integrity, objectivity, independence, professional judgment, due professional care and professional skepticism.

(D) Tax experience related to subsection (3)(b) of this rule will be in the context of federal and state tax law, federal and state tax regulation, judicial precedence and other technical tax sources applied to a variety of taxable and nontaxable business entities, non-business entities, individuals, families, estates and trusts.

(E) Tax experience related to subsection (3)(c) of this rule will be in the context of records that are clearly organized, complete, cross-referenced and with adequate documentation and support for positions taken or proposed within the context of federal and state tax law, federal and state tax regulations, judicial precedence and other technical tax sources.

(F) Tax experience related to subsection (3)(d) of this rule will be in the context of the application of tax law to various types of transactions both individually and in the aggregate and both actual and proposed.

(G) Tax experience related to subsection (3)(e) of this rule will be in the context of the evaluation of the reasonableness of data provided by clients and the sufficiency and adequacy of the data to support reasonable tax positions and conclusions.

(H) Tax experience related to subsection (3)(f) of this rule will be in the context of identifying tax issues, researching technical guidance, choosing appropriate courses of action and proposing solutions.

(I) Tax experience related to subsection (3)(g) of this rule will be in the context of researching and preparing supporting documents for technical tax positions.

(J) Tax experience will be evaluated on a case-by-case basis to ensure that experience meets criteria of subsections (3)(a) through (g).

(c) Industry accountancy. Experience that demonstrates the competencies described in section (3) of this rule may also be obtained while the applicant is employed under the direct supervision of a public accountant or certified public accountant as provided under this rule.

(A) Industry experience related to subsection (3)(a) of this rule, will include the practice of accountancy with integrity, objectivity, independence, professional judgment, due professional care and professional skepticism.

(B) Industry experience related to subsection (3)(b) of this rule, will be in the context of assessing the objectives and goals, performance measures, critical success factors and the economic and regulatory trends affecting the applicant's company and industry.

(C) Industry experience related to subsection (3)(c) will be in the context of documenting an analysis of a financial accountancy issue affecting the applicant's company from the collection and summarization of financial data to the identification of alternative conclusions such that others of equal training and experience can trace information to source data and draw similar conclusions.

(D) Industry experience related to subsection (3)(d) of this rule will be in the context of evaluating an accounting system within the applicant's company, performing internal control and substantive testing (analytical procedures, technical research and conclusion), and providing a written conclusion on the reasonableness of the procedures conducted, specific controls that were missing or ineffective, and the measures taken to corroborate data accuracy and conclusions drawn.

(E) Industry experience related to subsection (3)(e) of this rule will be in the context of evaluating risks of misstated financial data within the applicant's company and performing tests to substantiate data accuracy.

(F) Industry experience related to subsection (3)(f) of this rule will be in the context of identifying significant data trends and the impact of the trends on the applicant's company on both a short and long term basis.

(G) Industry experience related to subsection (3)(g) of this rule will be in the context of both written and oral presentation of financial information and related accounting conventions within the applicant's company that include the significance of the financial information, applicable accounting rules and consideration of alternatives and conclusions drawn.

(d) Experience, other than experience described in subsections (4)(a), (b), and (c) of this rule will be evaluated by the Board on a case-by-case basis to ensure that experience meets the criteria of subsections (3)(a) through (g).

(5) Submitting applications to the Board.

(a) An applicant's file must be complete in every particular within three months of the date of application or the file will be closed and the license fee will be refunded. The application fee is not refundable.

(b) An applicant's file may be included on the agenda of any meeting of the Board if the file is complete in every particular no less than seven days prior to the date of a scheduled Board meeting.

Stat. Auth.: ORS 670.310 & 673.410
Stats. Implemented: ORS 673.040
Hist.: 1AB 3-1984, f. 12-19-84, ef. 1-1-85; AB 2-1988, f. 3-31-88, cert. ef. 3-30-88; AB 7-1989, f. & cert. ef. 9-11-89; AB 1-1991, f. & cert. ef. 1-2-91; AB 4-1991, f. & cert. ef. 7-1-91; AB 2-1993, f. 1-14-93, cert. ef. 1-15-93; AB 4-1994, f. & cert. ef. 9-27-94; AB 1-1995, f. & cert. ef. 1-25-95; AB 5-1995, f. & cert. ef. 8-22-95; AB 3-1997, f. & cert. ef. 6-5-97; BOA 1-1998, f. & cert. ef. 1-26-98; BOA 3-1998, f. & cert. ef 6-16-98; BOA 5-1998, f. & cert. ef. 7-9-98; BOA 9-1998, f. & cert. ef. 11-10-98; BOA 1-1999, f. & cert. ef. 1-20-99; BOA 3-1999, f. & cert. ef. 3-26-99; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 4-2000, f. 8-30-00, cert. ef. 9-1-00; BOA 4-2001, f. 12-28-01, cert. ef. 1-1-02; BOA 3-2002, f. 12-27-02, cert. ef. 1-1-03; BOA 4-2004, f. 12-30-04, cert. ef. 1-1-05; BOA 2-2006, f. 12-22-06, cert. ef. 1-1-07; BOA 3-2010, f. 12-15-10, cert. ef. 1-1-11; BOA 3-2011, f. 12-28-11, cert. ef. 1-1-12; BOA 2-2014, f. 12-15-14, cert. ef. 1-8-15; BOA 1-2015, f. 9-30-15, cert. ef. 10-1-15

801-010-0075
Public Accountants Applying for Certificate of Public Accountancy

A public accountant licensed in Oregon who is applying for a certified public accountant license must:

(1) Hold an active public accountant license issued under ORS 673.100 that is not revoked, suspended, on probation or lapsed;

(2) Present satisfactory evidence that the candidate has successfully completed 150 semester hours or 225 quarter hours, including:

(a) A baccalaureate or higher degree from an accredited college or university as described in ORS 673.050(1)(a)

(b) A minimum of 24 semester hours or 36 quarter hours, or the equivalent thereof, in the study of accounting; and

(c) A minimum of 24 semester hours or 36 quarter hours in accounting and or related subjects. Related subjects are defined as business, finance, economics, and written and oral communication.

(3) Successfully complete all sections of the CPA exam. Credit may be received for sections of the CPA exam previously completed, and not expired, if the requirements of OAR 801-010-0060 are satisfied; and

(4) Satisfy the experience requirements under ORS 673.040 and OAR 801-010-0065.

(5) The experience and examination requirements must be obtained and completed within eight years immediately preceding the date of application

(6) Licensee must surrender the Public Accountant license issued before the CPA license will be issued.

Stat. Auth.: ORS 670.310 & 673.410
Stats. Implemented: ORS 673.040
Hist.: BOA 4-1998, f. & cert. ef. 6-16-98; BOA 2-1999, f. & cert. ef. 2-22-99; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 4-2001, f. 12-28-01, cert. ef. 1-1-02; BOA 3-2002, f. 12-27-02, cert. ef. 1-1-03; BOA 4-2003, f. 12-23-03 cert. ef. 1-1-04; BOA 3-2009, f. 12-15-09, cert. ef. 1-1-10; BOA 3-2010, f. 12-15-10, cert. ef. 1-1-11; BOA 3-2011, f. 12-28-11, cert. ef. 1-1-12; BOA 1-2015, f. 9-30-15, cert. ef. 10-1-15

801-010-0100
Public Accountant Licenses

(1) Application requirements. Applicants for the license of public accountant must meet the following requirements:

(a) Complete and pass the required sections of the CPA exam as described in ORS 673.100 and OAR 801-010-0060;

(b) Complete and pass an ethics exam that has been adopted by the Board; and

(c) Meet the experience requirements stated in ORS 673.100 as follows:

(A) Obtain one year of experience, which means at least 12 months of full-time employment or a total of 2,000 hours of part-time employment.

(d) The experience and examination requirements must be obtained and completed within eight years immediately preceding the date of application for license.

(2) Experience requirements.

(a) Applicants must meet the experience requirements described in OAR 801-010-0065(2).

(b) The experience required under ORS 673.100 consists of activities generally performed by Oregon licensed CPAs and PAs engaged in public practice. Typical public practice experience includes attestation services, tax return preparation, financial advisory services, and reporting on an entity's internal controls. Experience obtained while performing financial advisory services or tax advisory services must be performed while employed at a public accounting firm.

(3) Experience portfolio. The applicant's experience portfolio must meet the requirements stated in OAR 801-010-0065(3).

(4) Public Accountant practice restrictions. Licensed public accountants who qualified for the CPA exam after January 1, 2002 must not perform audits.

Stat. Auth.: ORS 670.310, 673.410 & 673.100
Stats. Implemented: ORS 673.100, 673.150 & 673.103
Hist.: 1AB 9, f. 6-24-60; 1AB 41, f. & ef. 12-2-76; 1AB 4-1982, f. & ef. 5-21-82; 1AB 3-1984, f. 12-19-84, ef. 1-1-85; AB 4-1994, f. & cert. ef. 9-27-94; BOA 1-1998, f. & cert. ef. 1-26-98; BOA 1-1999, f. & cert. ef. 1-20-99; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 4-2001, f. 12-28-01, cert. ef. 1-1-02; BOA 3-2002, f. 12-27-02, cert. ef. 1-1-03; BOA 2-2006, f. 12-22-06, cert. ef. 1-1-07; BOA 3-2009, f. 12-15-09, cert. ef. 1-1-10; BOA 3-2010, f. 12-15-10, cert. ef. 1-1-11; BOA 2-2014, f. 12-15-14, cert. ef. 1-8-15; BOA 1-2015, f. 9-30-15, cert. ef. 10-1-15

801-010-0130
Restoration to Active Status

A person who is granted inactive status under ORS 673.220 and who subsequently applies to renew such permit to active status must submit an application on a form provided by the Board. The applicant must:

(1) Pay the application fee and the license fee for the renewal period in which the application is submitted;

(2) Meet the CPE requirements for reinstatement described in OAR 801-040-0090;

(3) The applicant must not perform any public accountancy services until after the applicant receives an active license.

Stat. Auth.: ORS 670.310 & 673.220
Stat. Implemented: ORS 673.220
Hist.: 1AB 2-1986, f. & ef. 10-15-86; AB 3-1994, f. & cert. ef. 8-10-94; AB 2-1995, f. & cert. ef. 3-22-95; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 4-2001, f. 12-28-01, cert. ef. 1-1-02; BOA 3-2010, f. 12-15-10, cert. ef. 1-1-11; BOA 3-2011, f. 12-28-11, cert. ef. 1-1-12; BOA 2-2014, f. 12-15-14, cert. ef. 1-8-15; BOA 1-2015, f. 9-30-15, cert. ef. 10-1-15

801-010-0340
Non-CPA and Non-PA Ownership of Business Organizations

(1) **Requirements of non-CPA or non-PA ownership.** The ownership of a business organization, defined in ORS 673.010 and registered as a firm under ORS 673.160 and OAR 801-010-0345, that is lawfully engaged in the practice of public accountancy in this state may include owners who are not licensed as certified public accountants or public accountants if the following conditions are met:

(a) Licensed certified public accountants and public accountants shall, in the aggregate, directly or beneficially, hold ownership of more than half of the equity capital and a majority of voting rights;

(b) If the business organization has its principal place of business in this state and performs public accountancy services in this state, licensees under the provisions of ORS 673.150 or 673.100 shall, in the aggregate, directly or beneficially, hold ownership of more than half of the equity capital and a majority of voting rights;

(c) The business organization shall designate in writing a license holder under ORS 673.150 who shall be responsible for the management and registration of the business organization in this state;

(d) A license holder under ORS 673.150 shall have ultimate responsibility for each financial statement attestation service engagement performed in this state;

(e) Non-licensee owners shall be material participants in the business of the firm or an entity affiliated with the firm;

(f) Non-licensee owners may be natural persons or legal entities provided that each ultimate beneficial owner of an equity interest in such entity shall be a natural person who materially participates in the business conducted by the firm.

(g) Non-licensee owners must not hold themselves out as certified public accountants or public accountants and must not have a license in Oregon or any other jurisdiction, that has been suspended or revoked for disciplinary reasons.

(h) Business organizations with non-CPA or non-PA ownership that are registered under OAR 801-010-0345 must comply with the requirements for peer review as provided in ORS 673.455 if such business organization performs attestation services or compilation services.

(i) For purposes of this rule, "material participation" means an activity that is regular, continuous and substantial.

(2) **Registration.** A business organization with non-licensee ownership that is registered in this state under OAR 801-010-0345 must certify at the time of registration and at each renewal that the business organization is in compliance with the provisions of this rule.

(3) **Request for extension.** If the licensee ownership of a registered business organization whose principal place of business is in this state does not meet the requirements of section (1) of this rule because of a death or other unforeseen circumstance, the business organization may request an extension of 180 days, or until the next renewal period, whichever is longer, for the business organization to meet such requirement.

(4) **CPA designation.** A business organization, of which the majority ownership is held by individuals licensed as public accountants under ORS 673.100, must not use the term "CPA firm" or any similar name that would indicate that a majority of the owners of the firm hold CPA certificates issued under ORS 673.040.

Stat. Auth.: ORS 670.310, 673.410 & 673.160
Stats. Implemented: ORS 673.160
Hist.: 1AB 18, f. 11-25-70, ef. 12-25-70; 1AB 29, f. 4-25-73, ef. 5-15-73; 1AB 3-1982, f. & ef. 4-20-82; AB 5-1990, f. & cert. ef. 8-16-90; AB 4-1991, f. & cert. ef. 7-1-91; AB 4-1994, f. & cert. ef. 9-27-94; BOA 1-1998, f. & cert. ef. 1-26-98; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 4-2001, f. 12-28-01, cert. ef. 1-1-02; BOA 3-2002, f. 12-27-02, cert. ef. 1-1-03; BOA 2-2007, f. 12-27-07 cert. ef. 1-1-08; BOA 3-2010, f. 12-15-10, cert. ef. 1-1-11; BOA 3-2011, f. 12-28-11, cert. ef. 1-1-12; BOA 1-2015, f. 9-30-15, cert. ef. 10-1-15

801-010-0345
Registration of Business Organizations

(1) Requirement to register as a firm. A business organization organized for the practice of public accountancy must register with the Board as a firm if the business organization:

(a) Is located in Oregon; and

(A) Uses the terms "certified public accountant", "CPA", "public accountant" or "PA", or any derivation of such terms;

(B) Holds out to clients or to the public that the business organization is in any way engaged in the practice of public accountancy; or

(C) Performs attestation services or compilation services, as defined by these rules.

(b) Is not located in Oregon; and

(A) Uses the terms "certified public accountants", "CPA", "public accountants" or "PA", or any derivation of such terms;

(B) Holds out to clients or to the public that the business organization is in any way engaged in the practice of public accountancy and performs any of the following services:

(i) An audit or other engagement for which performance standards are included in Statements on Auditing Standard (SAS)

(ii) Examination of prospective financial information for which performance standards are included in the Statement on Standards for Attestation Engagements (SSAE)

(iii) Engagements for which performance standards are included in the auditing standards of the Public Company Accounting Oversight Board (PCAOB)

(C) Has a person, who is a license holder under ORS 673.150 or meets the substantial equivalency requirements of ORS 673.153, that is responsible for supervising attestation services and signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the business organization.

(2) Registration of sole proprietors. A business organization organized as a sole proprietorship, a professional corporation or a limited liability company, and comprised of a single license holder under ORS 673.150, is required to register as a firm if the business organization engages in any of the following activities in this state:

(a) Holds out to clients or to the public that it is composed of more than one licensee, or

(b) Performs attestation services or compilation services.

(3) Application requirements.

(a) Firms located in Oregon: Application by a business organization to be registered as a firm to practice as Certified Public Accountant(s) or Public Accountant(s) must be made to the Board in writing on a form pro-

vided by the Board and shall be accompanied by the appropriate fee, stated in OAR 801-010-0010. The application and each renewal application must provide the following information in writing:

(A) Name of the firm;

(B) Identification by name and by certificate or license number of each CPA and PA in this state who is associated with or employed by the business organization;

(C) The physical address of every office and branch office in this state;

(D) Notice of every denial, revocation, lapse or suspension of authority to perform public accountancy services that is or has been issued by any jurisdiction against any licensee associated with the business organization;

(E) Notice of the filing of any lawsuit relating to the professional services of the business organization, if an essential element of such lawsuit involves fraud, dishonesty or misrepresentation; and

(F) Notice of any criminal action filed against the business organization or against any owner or manager and notice of any conviction against any owner or manager of the business organization. Notice of a conviction under this rule includes the initial plea, verdict or finding of guilt, pleas of no contest or pronouncement of sentence by a trial court even though that conviction may not be final and sentence may not be actually imposed until appeals are exhausted. The notice provided shall be signed by the person to whom the conviction or criminal action applies, and shall state the facts that constitute the reportable event and identify the event by the name of the agency or court, the title of the matter, the docket number and the date of occurrence of the event.

(G) Provide a letter showing proof of enrollment in Peer Review or acceptance and/or completion letter and the peer review report of the firm's most recent peer review if the firm intends to perform attestation services or compilation services in this state.

(b) Firms not located in Oregon:

(A) Name of the firm.

(B) Identification by name and by active certificate or license number, indicating the state in which the certificate or license is issued of each CPA who is associated with or employed by the business organization and is authorized to practice in Oregon under substantial equivalency pursuant to ORS 673.153 who will practice public accounting in Oregon.

(C) Provide a letter of acceptance and/or completion and the peer review report of the firm's most recent peer review if the firm intends to perform attestation services or compilation services in this state.

(D) Any out of state firm that is required to register in Oregon and subsequently opens an office in Oregon shall notify the Board of the existence of the new office within 30 days of opening the office.

(4) Application requirements for firms with non-CPA and non-PA ownership. In addition to the information required under section (3) of this rule for firm registrations, business organizations with non-CPA or non-PA owners that are required to register as a firm must provide the following information with the application for initial registration and with each registration renewal.

(a) The name of the firm and a list of the states in which the business organization has applied, or is currently authorized to practice public accountancy;

(b) Evidence to the satisfaction of the Board that the business organization satisfies the requirements of OAR 801-010-0340;

(c) The identities of all owners or managers of the business organization who work regularly in this state;

(d) The physical address of every office maintained in this state;

(e) The identity of every person with management responsibility for each office in this state;

(f) Notice of every denial, revocation, lapse, or suspension of authority to perform accounting services or other services issued against any owner or manager of the business organization in any jurisdiction;

(5) Issuance of firm registration. The Board shall, upon receipt of an application that satisfies all the requirements of these rules and payment of the registration fee, issue a certificate of registration, which shall remain in effect until December 31 of the odd-numbered year following the date of such registration. The business organization shall:

(a) Renew the firm registration on or before December 31 of each odd-numbered year by submitting the renewal form provided by the Board, together with the appropriate registration renewal fee. The Board may waive the renewal fee if an initial firm registration is issued in November or December of the year in which the registration is due for renewal.

(b) Business organizations subject to registration that fail to renew a registration by the end of the month following the close of the renewal period, will be terminated and required to pay the renewal fee plus any applicable penalties and submit a reinstatement form to the Board office;

(c) Notify the Board in writing of any change in the firm name within 30 days of such change;

(d) In addition to the notice that is required upon application and for each renewal of the firm registration under section (3) of this rule, business organizations are required to provide written notice to the Board within 45 days of the filing of any lawsuit, settlement or arbitration relating to the professional services of the business organization if an essential element of such lawsuit involves fraud, dishonesty or misrepresentation;

(e) Display the letter of registration issued by the Board in a conspicuous place at the principal office of the firm.

(6) Form of practice. A licensee may practice public accountancy in a business organization as defined in ORS 673.010 that is organized in accordance with statutory provisions.

(a)(A) Non-CPA or non-PA ownership. A licensee may form a business organization with a non-licensee for the purpose of engaging in the practice of public accountancy in accordance with the provisions of ORS 673.160 and OAR 801-010-0340.

(B) Notwithstanding subsection (6)(a) of this rule, any certified public accountant or public accountant whose license to practice public accountancy has been suspended or revoked for disciplinary reasons in any jurisdiction, may not participate as a non-licensee owner in a business organization required to be registered under ORS 673.160.

(b) Branch offices.

(A) Every branch office located in this state shall be managed by a licensee holding a license issued under ORS 673.150 who shall be in residence at the branch office, on a full-time basis, during the time the branch office is open to the public. A licensee operating a branch office is responsible for managing the office, staff and services rendered to the public.

(B) The Board may, at its discretion, approve the operation of a branch office that does not meet the supervision requirements of paragraph A of this subsection. Licensees seeking approval under this paragraph shall submit in advance a written proposal describing how the licensee will provide adequate supervision of the branch office. The proposal shall specify the minimum number of hours each week that a named licensee will provide physical supervision at the branch office.

(C) Any licensee operating a branch office under approval authorized by paragraph (B) of this subsection shall notify the Board in writing of any deviation from an approved plan within 30 days of the deviation.

(D) The location of each branch office in Oregon shall be reported to the Board at the time of application for registration as a firm and with each renewal application, together with a statement that each branch office meets the requirements of OAR 801-010-0345(6)(b)

(c) Internet Practice. Licensees using the CPA or PA title to perform or solicit services via a website, are required to include information on the website naming the state(s) in which each CPA or PA is licensed to perform public accounting services, or provide a name and contact information for an individual who will respond within seven business days to inquiries regarding individual licensee information. Information required to be posted by this rule must be clearly visible and prominently displayed.

(7) Firm Names.

(a) False and misleading firm names:

(A) A public accounting firm shall not offer or provide public accounting services using a firm name that is misleading as to the legal entity or organization of the firm, as to the owners or employees of the firm, or as to any matter restricted by section (4) of this rule.

(B) A firm name shall not include false or misleading language about the business organization of the firm, the nature of the services provided, and the number of licensees associated with or working for the firm or the identity of individual members of the firm. Except as provided in paragraphs (D) and (E) of this subsection, a firm name shall not include information about or indicate an association with, individuals who are not members of the firm.

(C) A firm name shall include words or abbreviations required by the laws under which the business organization is organized to identify the form of business organization or legal entity being used by the firm.

(D) A firm name may be composed of the names of one or more past partners, shareholders, owners, or members of the business organization or its successor, so long as the past partner, shareholder, owner or member:

(i) Is not actively engaged in the practice of public accountancy as a sole proprietor in the same market area, and

(ii) Approves in writing of the continued use of such name. Approval given by a licensee for the continued use of licensee's name may be with-

drawn by the licensee, in writing and shall allow a reasonable period of time for the firm to withdraw such name.

(E) A partner, shareholder, owner or member surviving the death or withdrawal of all other partners, shareholders, owners or members may continue to practice under the firm name provided that the firm meets the requirements stated in this rule.

(b) Singular firm names. The use by a certified public accountant or public accountant in individual practice of the individual's full legal name in the singular form, followed by the title "Certified Public Accountant," "Public Accountant", "CPA" or "PA" is not misleading.

(c) Plural firm names.

(A) The use by a firm of a plural title or designation, including words like "and company", "associates" and "accountants", is not misleading if, in addition to the names of persons included in the firm name, the firm has at least one additional partner, shareholder, owner or member, or employs at least one staff person (excluding independent contractors), who work a minimum of 20 hours per week, who is licensed to practice public accountancy under ORS 673.150, or who is authorized under 673.153 and whose permit is not revoked, suspended, lapsed or inactive.

(B) A firm using a plural name that ceases to qualify for use of a firm name under (A) shall:

(i) Cease using the plural name and so notify the Board in writing; or

(ii) Notify the Board in writing within 30 days of non-compliance. Such firm shall have 90 days in which to employ a licensed staff person as required under paragraph (A) of this subsection. The firm shall provide written notice to the Board when the firm has employed the required licensed staff person.

(C) A firm may file a written request for an additional 90-day extension to satisfy the requirements of (A).

(d) Assumed business names.

(A) A firm name that does not include the designations "PC", "LLC", "LP", or "LLP" to indicate the form of legal entity through which the practice of public accountancy is being conducted, or that does not include the full legal name of every owner of such business organization, shall be filed as an assumed business name with the Corporations Division of the Office of the Secretary of State. A copy of the registration of the assumed business name shall be provided to the Board with the application for registration as a firm and with every renewal application.

(B) An assumed business name that is registered with the Corporate Division of the Office of the Secretary of State may be composed in whole or in part of initials. Such abbreviated firm name shall not spell a word or form an acronym that may be misleading to the public. Every assumed business name shall meet the requirements of paragraph (6)(a)(B) of this rule.

(e) Notice to Board. A business organization registered as a firm under ORS 673.160 shall provide the following information to the Board:

(A) List of the names and certificate or license numbers of all Oregon licensees employed by the firm at the time of application for registration as a firm and with every renewal application, and

(B) Written notice of any change of firm name, firm address or firm ownership within 30 days of such change.

Stat. Auth.: ORS 670.310, 673.410 & 673.160
Stats. Implemented: ; ORS 673.160
Hist.: AB 6-1993(Temp), f. 11-2-93, cert. ef. 11-4-93; AB 1-1994, f. & cert. ef. 1-21-94; BOA 2-1998, f. & cert. ef. 3-30-98; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 4-2001, f. 12-28-01, cert. ef. 1-1-02; BOA 4-2003, f. 12-23-03 cert. ef. 1-1-04; BOA 2-2006, f. 12-22-06, cert. ef. 1-1-07; BOA 2-2008, f. 12-30-08, cert. ef. 1-1-09; BOA 3-2009, f. 12-15-09, cert. ef. 1-1-10; BOA 3-2010, f. 12-15-10, cert. ef. 1-1-11; BOA 3-2011, f. 12-28-11, cert. ef. 1-1-12; BOA 2-2014, f. 12-15-14, cert. ef. 1-8-15; BOA 1-2015, f. 9-30-15, cert. ef. 10-1-15

801-020-0690
Qualifications for Admission to Municipal Roster

(1) **Eligibility.** The following licensees are eligible to apply for admission to the municipal roster:

(a) Individuals holding an active CPA permit issued under ORS 673.150,

(b) Individuals holding an active PA license issued under ORS 673.100 prior to January 1, 2002,

(c) Individuals holding an active PA license issued under ORS 673.100 who were licensed after January 1, 2002 and who passed the audit section of the CPA Exam as a requirement of licensing, and

(d) Individuals with an active CPA license issued by another jurisdiction that is recognized by the Board and who have authority to practice public accountancy in Oregon under ORS 673.153.

(2) **Application Requirements.** Qualified applicants for admission to the municipal roster must meet the following requirements:

(a) The applicant must be a licensee in good standing with the Board of Accountancy;

(b) Every application shall be on a form provided by the Board and shall be accompanied by a fee prescribed by OAR 801-010-0010; and

(c) The application, signed by the applicant, shall constitute an agreement between the applicant and the Board that the applicant will comply with the provisions of the Municipal Audit Law, ORS 297.405 through 297.555, and OAR chapter 801 division 020.

(3) **Grounds for Denial.** In addition to the specific grounds stated in ORS 673.170(2), the Board may deny admission or reinstatement to the municipal roster if:

(a) The applicant has not complied with the requirements of OAR 801-020-0620;

(b) The applicant has committed any act or engaged in conduct that reflects adversely on the licensee's fitness to practice public accountancy; or

(c)(A) The applicant has committed any act or engaged in conduct that would cause a reasonable person to have substantial doubts about the applicant's honesty, fairness and respect for the rights of others or for any law.

(B) Any act or conduct that resulted in a criminal conviction, other than a crime described in ORS 673.170(2)(h) or (i), will not be used to deny admission to the municipal roster unless such act or conduct is rationally connected to the applicant's fitness to practice public accountancy.

(4) **Initial CPE Requirements.** The applicant shall demonstrate to the satisfaction of the Board that, within the two year period immediately preceding the date of application to the municipal roster, the applicant completed 40 CPE hours of Level 1 (basic) or Level 2 (intermediate) education in the following subjects, including at least 4 hours in each subject:

(a) Audits of state and local governmental units;

(b) Governmental accounting and financial reporting standards;

(c) Generally Accepted Governmental Auditing Standards;

(d) Audits of federal programs including OMB Uniform Guidance and other authoritative sources. (e) Oregon Local Budget Law; and

(f) Minimum standards of audits and reviews of Oregon municipal corporations.

(5) **CPE Credit.** The 40 hours of education required for admission to the municipal roster may be included in the 80 hours of CPE required for renewal of the CPA/PA permit.

(6) **Approval.** When an application to the municipal roster is approved, the Board shall:

(a) Notify the applicant in writing that the application is approved;

(b) Enter the applicant's name on the municipal roster; and

(c) Notify the Secretary of State that the applicant is authorized to conduct municipal audits.

Stat. Auth.: ORS 297.670, 297.680 & 297.740
Stats. Implemented: ORS 297.680
Hist.: AB 8, f. 8-17-54; 1AB 32, f. 9-18-73, ef. 10-1-73; AB 1-1988(Temp), f. 2-17-88, cert. ef. 2-22-88; AB 4-1988, f. & cert. ef. 10-28-88; AB 3-1992, f. & cert. ef. 2-18-92; AB 5-1992, f. & cert. ef. 8-10-92; AB 6-1993(Temp), f. 11-2-93, cert. ef. 11-4-93; AB 1-1994, f. & cert. ef. 1-21-94; AB 4-1994, f. & cert. ef. 9-27-94; AB 1-1996, f. & cert. ef. 1-29-96; AB 2-1997, f. & cert. ef. 3-10-97; BOA 5-1999, f. & cert. ef. 7-23-99; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 5-2000, f. 12-7-00, cert. ef. 1-1-01; BOA 4-2002, f. 12-27-02, cert. ef. 1-1-03; BOA 5-2004, f. 12-30-04, cert. ef. 1-1-05; BOA 6-2006, f. 12-22-06, cert. ef. 1-1-07; BOA 4-2009, f. 12-15-09 cert. ef. 1-1-10; BOA 1-2015, f. 9-30-15, cert. ef. 10-1-15

801-040-0010
Basic Requirements

(1) **Biennial CPE requirement for Active licensees.** Each biennial renewal period, certified public accountants and public accountants must report satisfactory evidence of having completed 80 hours of continuing professional education (CPE) unless such requirement is waived by the Board under ORS 673.165 and OAR 801-040-0150. The 80-hour CPE requirement must be completed as follows:

(a) At least 24 of the required 80 CPE hours must be completed in each year of the renewal period. Hours carried forward from the previous reporting period (carry-forward hours) may not be used to meet the minimum annual requirement.

(b) CPE hours must be completed during the two-year period immediately preceding the renewal date, except for carry-forward hours described in subsection (c) of this rule.

(c) A maximum of 20 CPE hours may be carried forward from one reporting period to the next and may be used in partial fulfillment of the 80 hour requirement.

(2) **Ethics CPE requirement.** CPE hours in professional conduct and ethics are included in the 80 hour requirement for each renewal period.

(a) All active licensees who are applying for the first license renewal in Oregon are required to complete and report at least four hours of CPE in

a professional conduct and ethics program that meets the requirements of section three (3) of this rule.

(b) Licensees who are not renewing for the first time and whose principal place of business is located in another jurisdiction may meet the ethics requirement of this rule by demonstrating compliance with the other jurisdiction's professional conduct and ethics CPE requirement. The number of CPE Ethics hours that meets the Ethics requirement of such other jurisdiction will be accepted in Oregon, so long as the other jurisdiction requires the licensee to complete an ethics program as a condition of renewal.

(c) An active licensee who is not renewing for the first time and whose principal place of business is in another jurisdiction that does not have a professional conduct and ethics CPE requirement must complete the ethics requirement described in subsection (2)(d) of this rule.

(d) All other active licensees are required to complete and report four hours of CPE in professional conduct and ethics with each biennial renewal application, which may be satisfied by any ethics program that meets the general CPE requirements described in OAR 801-040-0030.

(3) **CPE ethics programs.** CPE programs in professional conduct and ethics required by subsection (2)(a) of this rule are eligible for CPE credit if the program is offered by a sponsor registered with the Board and includes information pertaining to each of the following topics:

(a) Oregon Administrative Rules and Oregon Revised Statutes pertaining to the practice of public accountancy;

(b) Examples of issues or situations that require an understanding of statutes, rules and case law relevant to all licensees.

(c) The Code of Professional Conduct adopted by the Board and set forth in OAR chapter 801, division 030; and

(d) Review of recent case law pertaining to ethics and professional responsibilities for the accounting profession.

(4) **Biennial CPE Requirements for Inactive Licensees.** A licensee who is granted inactive status must:

(a) Obtain 32 hours of qualified continuing professional education during a two-year renewal period;

(b) A maximum of 8 hours may be in non-technical subjects;

(c) A maximum of 8 CPE hours may be carried forward from one reporting period to the next and may be used in partial fulfillment of the 32 hour requirement.

(d) Licensees that do not meet the CPE requirements stated above will be assessed an 8 hour CPE penalty.

Stat. Auth.: ORS 670.310, 673.040, 673.050 & 673.410
Stats. Implemented: ORS 673.165
Hist.: AB 1-1985, f. & ef. 3-21-85; AB 5-1991, f. & cert. ef. 7-1-91; AB 1-1994, f. & cert. ef. 1-21-94; AB 4-1994, f. & cert. ef. 9-27-94; BOA 5-1999, f. & cert. ef. 7-23-99; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 5-2000, f. 12-7-00, cert. ef. 1-1-01; BOA 7-2001, f. 12-31-01, cert. ef. 1-1-02; BOA 6-2002, f. 12-27-02, cert. ef. 1-1-03; BOA 6-2004, f. 12-30-04, cert. ef. 1-1-05; BOA 10-2005, f. 11-22-05, cert. ef. 1-1-06; BOA 4-2006, f. 12-22-06, cert. ef. 1-1-07; BOA 4-2008, f. 12-30-08, cert. ef. 1-1-09; BOA 6-2009, f. 12-15-09, cert. ef. 1-1-10; BOA 4-2010, f. 12-15-10, cert. ef. 1-1-11; BOA 4-2011, f. 12-28-11, cert. ef. 1-1-12; BOA 1-2015, f. 9-30-15, cert. ef. 10-1-15

801-040-0030
Programs that Qualify for CPE Credit

(1) **Qualifying programs.** In order to qualify for CPE credit under these rules, a CPE program must be a formal program of learning that contributes directly to the professional competence of the licensee. It is the obligation of each licensee to select a course of study that contributes to the licensee's professional competence in public accountancy. The licensee may take programs in a variety of topics that are relevant to the licensee's practice.

(2) **Program requirements.** CPE programs must meet the following requirements to qualify for CPE credit:

(a) An outline of the program is prepared in advance and preserved;

(b) The program is at least one hour (fifty-minute period) in length;

(c) A record of attendance is maintained by the sponsor; evidence of completion is provided to participating licensees;

(d) The program is conducted by a qualified instructor whose background, training, education or experience qualifies the person to teach or lead a discussion on the subject matter of the particular program.

(3) **Eligible programs.** The following programs will qualify for CPE credit provided they also meet the requirements of section (2) of this rule:

(a) Programs presented by national, state or local accounting organizations;

(b) Programs offered by a firm to licensees;

(c) Programs sponsored by organizations that provide professional educational programs on a regular basis;

(d) Accredited university or college courses are eligible for CPE credit at the rate of 15 CPE hours for each semester hour credit and 10 CPE hours for each quarter hour credit. University or college courses that do not earn college credit are eligible for one CPE hour for each classroom hour of learning;

(e) Distance learning programs offered by a regionally accredited university or college are eligible for CPE credit as described in subsection (3)(d), without meeting the requirement of NASBA National CPE QAS/Registry approval described in section (4) of this rule.

(f) Other programs may qualify for CPE credit if the program meets the requirements of section 2 of this rule.

(4) **Individual study programs.**

(a) Correspondence courses or other individual study programs do not qualify for CPE credit unless both the CPE sponsor and the specific CPE program are approved by the NASBA National CPE QAS/Registry.

(5) **Programs not eligible for CPE credit.** The following programs do not qualify for CPE credit:

(a) Courses taken to fulfill the requirements for licensure as a certified public accountant or public accountant;

(b) Ethics courses that were taken to fulfill the Ethics exam requirement for licensure; and

(c) CPA exam review or study courses.

Stat. Auth.: ORS 670.310, 673.040,673.050 & 673.410
Stats. Implemented: ORS 673.165
Hist.: AB 1-1985, f. & ef. 3-21-85; AB 1-1994, f. & cert. ef. 1-21-94; AB 2-1996, f. & cert. ef. 9-25-96; BOA 1-1999, f. & cert. ef. 1-20-99; BOA 5-1999, f. & cert. ef. 7-23-99; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 5-2000, f. 12-7-00, cert. ef. 1-1-01; BOA 7-2001, f. 12-31-01, cert. ef. 1-1-02; BOA 6-2002, f. 12-27-02, cert. ef. 1-1-03; BOA 6-2004, f. 12-30-04, cert. ef. 1-1-05; BOA 4-2007, f. 12-27-07 cert .ef. 1-1-08; BOA 1-2015, f. 9-30-15, cert. ef. 10-1-15

801-040-0040
Acceptable Subject Matter

(1) Examples listed not all-inclusive. The subjects listed in this rule serve as examples only, and are not all inclusive of technical and non-technical subjects that may qualify for CPE credit.

(2) Technical subjects. Qualified continuing education programs in the following subjects are eligible for CPE credit as technical subjects:

(a) Accounting
(b) Auditing and assurance
(c) Consulting
(d) Specialized knowledge and applications
(e) Management Advisory Services
(f) Taxation
(g) Professional ethics
(h) Finance
(i) Business Law
(j) Business Management & Organization
(k) Economics
(l) Computer Science
(m) Communication

(n) Other subjects may be acceptable if they maintain or improve the licensee's professional competence.

(3) Non-technical subjects. Qualified continuing education programs in subjects other than those listed in section (2) of this rule are non-technical subjects and are eligible for CPE credit if the program directly contributes to the licensee's professional competence.

(a) Credit for programs in non-technical subjects is limited to 16 CPE hours per renewal period.

(b) The following are examples of non-technical subjects:

(A) Interpersonal management skills;
(B) Public relations;
(C) Practice development;
(D) Practice administration.
(E) Marketing
(F) Personnel/HR
(G) Personal Development

Stat. Auth.: ORS 670.310, 673.040, 673.050 & 673.410
Stats. Implemented: ORS 673.165
Hist.: AB 1-1985, f. & ef. 3-12-85; AB 5-1991, f. & cert. ef. 7-1-91; AB 4-1994, f. & cert. ef. 9-27-94; AB 1-1996, f. & cert. ef. 1-29-96; BOA 1-1999, f. & cert. ef. 1-20-99; BOA 2-1999, f. & cert. ef. 2-22-99; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 5-2000, f. 12-7-00, cert. ef. 1-1-01; BOA 7-2001, f. 12-31-01, cert. ef. 1-1-02; BOA 6-2004, f. 12-30-04, cert. ef. 1-1-05; BOA 1-2015, f. 9-30-15, cert. ef. 10-1-15

801-040-0050
Credit Allowed and Evidence of Completion

(1) **Credit hours.** Eligible CPE credit is measured by program length, with one 50 minute period equal to one CPE credit. CPE credit may be issued in half increments (equal to 25 minute program periods) after the first credit has been earned.

(2) **Evidence of completion.** Licensees are required to document all CPE programs claimed for CPE credit and to provide the appropriate proof of completion for the number of qualifying CPE credits claimed for each program. Licensees must retain proof of completion for each CPE program reported for a period of 5 years after completion of the program.

(3) **Group study programs.**

(a) CPE credit is allowed for actual class hours attended.

(b) Evidence of completion includes a written course outline and certificate of completion or attendance record provided by each program sponsor. The evidence of completion must include the sponsor name, course title, date of attendance or date of completion, name of participating licensee, statement that the program and sponsor are QAS approved, if appropriate, and the number of CPE hours earned;

(4) **Individual study programs.**

(a) Individual study programs are eligible for CPE credit only if the program is offered by a NASBA CPE Registry approved sponsor and the program itself is Registry approved;

(b) CPE credit will be awarded in an amount equal to the average completion time determined by the NASBA CPE Registry approved sponsor.

(c) The date for which CPE credit is allowed is the completion date specified on the evidence of completion provided by the sponsor.

(d) Evidence of completion must include the name of the participating licensee, sponsor name, program title, date of completion, Instructor name, if applicable and number of NASBA CPE Registry CPE hours allowed.

(5) **Lecturer, discussion leader or speaker.**

(a) CPE credit for a lecture, training session or speaking engagement at which the licensee was an instructor, discussion leader or speaker is allowed provided that the lecture, training or engagement meets CPE requirements for the participants;

(b) CPE credit for a university or college course where the licensee was the faculty instructor is allowed, provided that the course is considered an upper division (300 or 400 level) or post-graduate course.

(c) One CPE hour is allowed for each 50 minute period completed as an instructor or discussion leader for the first presentation of the subject material if such activity increases the instructor's professional competence. CPE credit may be allowed for additional presentations if the substantive content of the program was substantially changed and the licensee provides evidence that such change required significant additional study or research;

(d) CPE credit for preparation time allowed for an instructor, discussion leader, or a speaker shall be calculated on the basis of two CPE hours of preparation for each hour of teaching;

(e) The maximum CPE credit allowed for preparation and teaching under this section and for published articles described in section (6) of this rule, combined, must not exceed one-half of the total number of CPE hours required for the renewal period;

(f) Evidence of completion includes a copy of the agenda or outline provided for each presentation, lecture or speaking engagement, stating the date of presentation and name of the sponsoring organization. For university courses taught, evidence of completion should include the course syllabus and outline for each class.

(6) **Published articles.**

(a) CPE credit may be allowed for authoring published articles or books, provided the work directly contributes to the professional competence of the licensee;

(b) CPE credit for authoring published articles or books is allowed as of the date of publication and is only allowed for the first publication of such writing. The number of CPE hours is based on the time spent creating the published article,

(c) Authorship of a published article does not contribute to the professional competence of the licensee unless the published article is suitable for a professional audience. Published articles may be reviewed on a case-by-case basis to determine whether such articles contribute to the licensee's professional competence

(d) The maximum credit for published articles and books allowed under this section and for preparation and teaching under section (5) of this rule, combined, is no more than one-half of the total CPE requirement for the renewal period.

(e) A licensee may request additional CPE credit for authoring a published article by submitting an explanation of the circumstances which justify greater credit than is otherwise allowed. The Board shall determine whether additional credit is justified.

(f) Evidence of completion includes a copy of the title page or other pages that show the title, date of publication and a description of the content for each article reported for CPE credit.

(7) **Reviewing peer review reports for Board approved Peer Review Programs.**

(a) Licensees who serve as volunteer members of the Review Acceptance Body or any other committee that reviews peer review reports on behalf of a board approved peer review program are allowed two hours of CPE credit per meeting attended, for a maximum of 16 hours for the renewal period.

(b) Evidence of completion includes proof of attendance, provided by the sponsor of the approved Peer Review Program, for each meeting attended.

(8) **State Legislative Joint Ways and Means Committee members.**

(a) Licensees who serve as members of the Oregon Joint Ways and Means Legislative Committee are allowed up to 16 hours of the total CPE requirement for the renewal period during which the licensee served on the legislative committee.

(b) Evidence of completion shall be a copy of the membership roster published during the legislative session indicating the specific section of the Joint Ways and Means sub-committee on which the licensee served.

(9) **University and college courses.**

(a) CPE credit allowed is described in OAR 801-040-0030.

(b) An official copy of the college transcript is evidence of completion for courses that earn college credit.

(c) An attendance schedule or sign-in sheet demonstrating the licensee's attendance and prepared and maintained by the college will provide evidence of completion for courses that do not earn college credit.

Stat. Auth.: ORS 670.310, 673.040, 673.050 & 673.410
Stats. Implemented: ORS 673.165
Hist.: AB 1-1985, f. & ef. 3-21-85; AB 5-1991, f. & cert. ef. 7-1-91; AB 7-1992, f. & cert. ef. 12-15-92; AB 4-1993, f. & cert. ef. 5-14-93; AB 4-1994, f. & cert. ef. 9-27-94; AB 5-1995, f. & cert. ef. 8-22-95; AB 4-1997, f. & cert. ef. 7-25-97; BOA 1-1998, f. & cert. ef. 1-26-98; BOA 6-1998 f. & cert. ef. 7-29-98; BOA 2-1999, f. & cert. ef. 2-22-99; BOA 5-1999, f. & cert. ef. 7-23-99; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 1-2000, f. 3-22-00, cert. ef. 3-24-00; BOA 5-2000, f. 12-7-00, cert. ef. 1-1-01; BOA 7-2001, f. 12-31-01, cert. ef. 1-1-02; BOA 6-2002, f. 12-27-02, cert. ef. 1-1-03; BOA 6-2004, f. 12-30-04, cert. ef. 1-1-05; BOA 4-2010, f. 12-15-10, cert. ef. 1-1-11; BOA 1-2015, f. 9-30-15, cert. ef. 10-1-15

801-040-0090

Reinstatement Requirements: Lapsed, Suspended or Inactive to Active Status

(1) **Lapsed licenses.** Licenses that are not properly renewed shall lapse. Lapsed licenses may be reinstated to active, inactive or retired status. To reinstate to active status an individual must:

(a) Provide a detailed written description of the business and professional activities of the individual during the period of lapse, and indicate whether the individual was holding out as a CPA or PA during the period of lapse;

(b) Submit an application for reinstatement on a form provided by the Board;

(c) Submit payment of the application fee and the active renewal fee for each renewal period that the license was lapsed, and

(d) Complete and report the appropriate CPE hours described in this rule, plus a penalty of an additional 16 CPE hours.

(e) CPE hours submitted for reinstatement must meet the requirements for CPE credit under these rules.

(2) **Holders of licenses that are lapsed less than two years must:**

(a) Complete and report 80 CPE hours, which shall be completed within the 12 month period immediately preceding the date of application for reinstatement; and

(b) Complete and report four CPE hours in professional conduct and ethics.

(3) **Holders of licenses that are lapsed more than two and less than six years must:**

(a) Complete and report 160 CPE hours which shall be completed within the 12 month period immediately preceding the date of application for reinstatement;

(b) Comply with CPE requirements under these rules for the period following reinstatement until the next renewal date on a pro rata basis, to be calculated at the rate of 3-1/3 hours per month, including the month of reinstatement, from the date of reinstatement to the end of the renewal period in which reinstatement occurs; and

(c) Complete and report four CPE hours in professional conduct and ethics.

(d) In lieu of meeting the CPE requirements described in this section, the holder of a lapsed license may elect to take and pass the CPA exam within the five years immediately preceding the date of application for rein-

statement. A person who elects this option must meet the requirements of OAR 801-010-0060.

(4) **Lapsed more than six years or three renewal periods:**

(a) A license that is lapsed for more than three renewal periods will expire.

(b) An expired license may be restored only upon the Board's determination that there is good cause.

(5) **Inactive licenses.** To reinstate a license from inactive to active status, the holder of such license shall meet the requirements for reinstatement of lapsed licenses described in section (1) of this rule, with the following exceptions: Credit for CPE taken while on inactive status will be given for the two renewal periods immediately preceding the date of reinstatement application only (maximum of 64 hours)

(6) **Suspended licenses.** To reinstate a license that is suspended under ORS 673.170, the holder of such license shall:

(a) Provide evidence of satisfaction or completion of all terms and conditions stated in the Order of Suspension; and

(b) Meet the requirements for reinstatement of a lapsed license as stated in this rule.

(7) **License holders in other jurisdictions.** Licensees who hold an active license to practice public accountancy issued under the laws of another jurisdiction, whose principal place of business is in such other jurisdiction, and who wish to reinstate an Oregon license that has been lapsed for less than six years or inactive for more than two years shall:

(a) Submit evidence that the applicant holds an active license to practice public accountancy, in good standing, issued by another jurisdiction; and

(b) Submit payment of the initial license fee stated in OAR 801-010-0010(2)(a) plus the biennial renewal application fee stated in OAR 801-010-0010(3)(a).

(c) Upon reinstatement, licensee shall complete CPE requirements described in these rules on a pro rata basis, calculated at 3-1/3 hours per month, including the month of reinstatement until the end of the renewal period in which reinstatement occurs.

(8) **24 Hour Minimum annual CPE requirement.** Licensees whose licenses are reinstated under this rule are required to meet the 24 hour minimum annual CPE requirement at the pro-rated calculation of two (2) CPE hours for each month, including the month of reinstatement, until June 30 of the year in which the licensee is reinstated.

Stat. Auth.: ORS 670.310, 673.040, 673.050 & 673.410
Stats. Implemented: ORS 673.165 & 673.210
Hist.: AB 1-1985, f. & ef. 3-21-85; AB 5-1991, f. & cert. ef. 7-1-91; AB 1-1994, f. & cert. ef. 1-21-94; AB 3-1994, f. & cert. ef. 8-10-94; AB 4-1994, f. & cert. ef. 9-27-94; AB 2-1996, f. & cert. ef. 9-25-96; AB 1-1997, f. & cert. ef. 1-28-97; BOA 1-1998, f. & cert. ef. 1-26-98; BOA 2-1999, f. & cert. ef. 2-22-99; BOA 5-1999, f. & cert. ef 7-23-99; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 5-2000, f. 12-7-00, cert. ef. 1-1-01; BOA 7-2001, f. 12-31-01, cert. ef. 1-1-02; BOA 7-2003, f. 12-23-03 cert. ef. 1-1-04; BOA 6-2004, f. 12-30-04, cert. ef. 1-1-05; BOA 10-2005, f. 11-22-05, cert. ef. 1-1-06; BOA 4-2008, f. 12-30-08, cert. ef. 1-1-09; BOA 4-2011, f. 12-28-11, cert. ef. 1-1-12; BOA 1-2015, f. 9-30-15, cert. ef. 10-1-15

801-040-0150
Waivers

(1) CPE waivers. The Board, in its discretion, may waive CPE requirements for:

(a) Reasons of health, certified by a medical doctor, that prevent the licensee from complying with CPE requirements;

(b) A licensee who is on extended active military duty, who does not practice public accountancy during the renewal period, and who provides a copy of orders to active military duty; and

(c) Other good cause, to be determined by the Board on a case-by-case basis.

(2) Requests for waivers. A request for waiver of CPE requirements must be submitted in writing for each renewal period during which the conditions supporting the waiver exist.

Stat. Auth.: ORS 670.310, 673.040, 673.050 & 673.410
Stats. Implemented: ORS 673.165 & 673.170
Hist.: AB 1-1985, f. & ef. 3-21-85; AB 5-1991, f. & cert. ef. 7-1-91; AB 4-1994, f. & cert. ef. 9-27-94; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 5-2000, f. 12-7-00, cert. ef. 1-1-01; BOA 7-2001, f. 12-31-01, cert. ef. 1-1-02; BOA 6-2004, f. 12-30-04, cert. ef. 1-1-05; BOA 1-2015, f. 9-30-15, cert. ef. 10-1-15

801-040-0160
Failure to Comply

(1)(a) 16-hour CPE penalty. Licensees who submit an application for renewal of a license and who have not complied with the CPE requirements described in OAR 801-040-0010 are required to complete and report an additional 16 hours of qualifying CPE.

(b) Inactive licensees will be assessed an 8 hour CPE penalty for non-compliance with CPE rules.

(2) Failure to comply with CPE requirements. Licensees who do not meet the CPE requirements are subject to disciplinary action under ORS 673.170 (L), unless CPE requirements have been waived under OAR 801-040-0150.

Stat. Auth.: ORS 670.310 & 673.410
Stat. Implemented: ORS 673.165 & 673.170
Hist.: AB 1-1985, f. & ef. 3-21-85; AB 5-1991, f. & cert. ef. 7-1-91; AB 4-1994, f. & cert. ef. 9-27-94; BOA 6-1999, f. 12-21-99, cert. ef. 1-1-00; BOA 7-2001, f. 12-31-01, cert. ef. 1-1-02; BOA 7-2003, f. 12-23-03 cert. ef. 1-1-04; BOA 6-2004, f. 12-30-04, cert. ef. 1-1-05; BOA 4-2011, f. 12-28-11, cert. ef. 1-1-12; BOA 1-2015, f. 9-30-15, cert. ef. 10-1-15

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Board of Examiners for Engineering and Land Surveying
Chapter 820

Rule Caption: To amend/adopt rules related to registration, professional conduct, and the seal and signature on documents.
Adm. Order No.: BEELS 7-2015
Filed with Sec. of State: 9-16-2015
Certified to be Effective: 9-16-15
Notice Publication Date: 7-1-2015
Rules Adopted: 820-025-0001, 820-025-0010, 820-030-0080
Rules Amended: 820-010-0505, 820-010-0510, 820-010-0520, 820-010-0635, 820-050-0001, 820-020-0005
Rules Ren. & Amend: 820-010-0620 to 820-025-0005, 820-010-0622 to 820-025-0020, 820-010-0623 to 820-025-0025, 820-010-0621 to 820-025-0015
Subject: To adopt:

OAR 820-025-0001 — The adopted language defines the terms used for a digital signature.

OAR 820-025-0010 — The adopted language relates to a digital seal and signature for electronic documents.

OAR 820-030-0080 — The adopted language clarifies the information to allow only Oregon registration information on survey monument marking.

To amend OAR 820-010-0505, 820-010-0510, 820-010-0520, 820-010-0635, and 820-050-0001 to clarify rules related to the continuing professional development requirements and the request for a grace period.

To amend OAR 820-020-0005 and include language that would allow OSBEELS to discipline non-registrant individuals applying for registration or enrollment with the Board.

To amend and renumber the following rules as they relate to the sealing and signing of final documents:

OAR 820-010-0620 to: 820-025-0005
OAR 820-010-0621 to: 820-025-0015
OAR 820-010-0622 to: 820-025-0020
OAR 820-010-0623 to: 820-025-0025

Rules Coordinator: Jenn Gilbert—(503) 934-2107

820-010-0505
Biennial Renewal of Registration or Certification

(1) Registration as a professional engineer, professional land surveyor, or professional photogrammetrist with the Board is on a biennial renewal schedule. As a condition of registration renewal, registrants must demonstrate compliance with the continuing professional development requirements in OAR 820-010-0635 or request a grace period, if eligible, under OAR 820-015-0026. Verification of completing the required professional development requirements on the CPD Organizational Form or request for a CPD grace period on the Continuing Education Request for a Grace Period Form, and fee must be postmarked or hand delivered by 5:00 p.m. on the day of the expiration date of the registration. The biennial fee to renew a registration is described below:

(a) Professional Engineer — $150.00;

(b) Professional Land Surveyor — $150.00;

(c) Professional Photogrammetrist — $150.00;

(2) Certification as a certified water right examiner is on a biennial renewal schedule. The fee must be postmarked or hand delivered by 5:00 p.m. on the day of the expiration date of the certification. The biennial fee to renew a certification as a water right examiner is $40.00

(3) A delinquent fee of $80.00 will be assessed on the first day following the expiration date of each registration or certification, if for each biennial renewal period in which renewal fee payment or verification of

having timely completed the required continuing professional development hours has not been submitted.

(a) A registration or certification that is delinquent for failure to pay the renewal fee will remain in "delinquent" status until the delinquent fee, in addition to the required renewal fee, is paid.

(b) A registration or certification that is delinquent for failure to submit verification of having timely completed the required continuing professional development hours, when such hours have been completed, will remain in "delinquent" status until the delinquent fee is paid and the verification is submitted.

(c) A registration or certification that is suspended or for which renewal is refused because of failure to complete the required continuing professional development hours cannot be returned to active status or renewed until any delinquent fees and any biennial renewal fees due are paid, in addition to any conditions imposed by the Board for renewal or lifting of the suspension.

(4) Registrations or certificates in the delinquent or retired status for a period of 5 years or more may not be renewed. Delinquent or retired registrants or certificate holders must re-apply and re-take any applicable examination to obtain their certificate of registration or other certificate after a period of 5 years.

Stat. Auth.: ORS 670.310, 672.160, 672.170, & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 1-2011, f. & cert. ef. 1-14-11; BEELS 1-2012(Temp), f.& cert. ef. 3-16-12 thru 5-15-12; BEELS 2-2012, f. & cert. ef. 5-10-12; BEELS 1-2015, f. & cert. ef. 2-3-15; BEELS 2-2015, f. & cert. ef. 5-21-15; BEELS 7-2015, f. & cert. ef. 9-16-15

820-010-0510
Registrants or Certificate Holders Qualified to Practice

Active registrants or certificate holders authorized to engage in the professional practice of engineering, land surveying, photogrammetric mapping, or the professional activities of a certified water right examiner as defined in ORS Chapter 537 and OAR Chapter 690, and who are current with regards to payment of application and biennial renewal fees and continuing Professional Development Hour (PDH) requirements, if applicable, may practice in their respective professions. These registrants maintain an "active status."

Stat. Auth: ORS 672.255(1)(g).
Stats. Implemented: ORS 672.020(1), 672.025(1), 672.028(1), 672.045(1)
Hist.: BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 7-2015, f. & cert. ef. 9-16-15

820-010-0520
Registrants or Certificate Holders Not Qualified to Practice

Registrants or certificate holders who are delinquent, retired, inactive, suspended or revoked by the Board, are not authorized to engage in the professional practice of engineering, land surveying, photogrammetric mapping, or the professional activities of a certified water right examiner as defined in ORS Chapter 537 and OAR chapter 690. Except as provided in section (2), registrants or certificate holders who are delinquent, retired, inactive, suspended or revoked may not hold out as professional engineers, professional land surveyors, professional photogrammetrists, or certified water right examiners.

(1) Delinquent registrants or certificate holders. Registrants or certificate holders become delinquent because they fail, within a period of five years from the renewal date, to renew their certificate of registration or to pay their renewal or delinquent fees, or satisfy the required PDH units. A delinquent registrant or certificate holder, who is not subject to suspension or revocation of registration, or PDH audit may return to active status:

(a) Upon application to the Board;

(b) By paying any delinquent renewal fee required by OAR 820-010-0305(3);

(c) By paying any biennial renewal fee required by OAR 820-010-0505; and

(d) By satisfying and submitting proof of completion on a form approved by the Board of all delinquent PDH units, at a rate of 15 PDH units per year delinquent.

(2) Delinquent registrants who are subject to suspension of registration must comply with all terms of the Final Order of Suspension of Registration issued against them and, if suspension of registration was not related to registration delinquency, must also comply with subsection (1) of this rule, in order to return to active status.

(3) Delinquent registrants who are subject to revocation of registration must reapply for registration and have complied with subsection (1) of this rule, in order for their registration applications to be considered.

(4) Retired registrants or certificate holders. Registrants or certificate holders may retire once they notify the Board that they are not providing engineering, land surveying, photogrammetric mapping services, or professional activities of a certified water right examiner to the public and they request retired status. Registrants or certificate holders who are retired may not use their seal. However, retired registrants may sign documents, listing after their name the designation "PE (Retired)," "SE (Retired)," "PLS (Retired)," "Photogrammetrist (Retired)," or "CWRE (Retired)," as appropriate. A retired registrant or certificate holder may, within a period of 5 years from retirement, return to active status:

(a) Upon application to the Board,

(b) Successfully pass a take at home examination on the laws and rules in Oregon;

(c) By paying the reinstatement fee required by OAR 820-010-0305(3);

(d) By paying the biennial renewal fee required by OAR 820-010-0505; and

(e) By satisfying and submitting proof of completion on a form approved by the Board of 15 PDH units per year for each year (or part of a year) retired, to a maximum of 30 PDH units as stated in OAR 820-010-0635.

(5) Inactive registrants or certificate holders. Registrants or certificate holders may place their license or certification on inactive status if the registrant or certificate holder has suffered a debilitating mental or physical illness, injury or disease that prevents the registrant or certificate holder from engaging in the professional practice. Registrants or certificate holders must request to be placed on inactive status. Registrants or certificate holders making such requests must provide documentation prepared by a licensed physician that the registrant or certificate holder suffers from a specific, named debilitating mental or physical illness, injury or disease that prevents the registrant or certificate holder from engaging in the professional practice, and an estimate of the period of time during when the illness, injury or disease will last or whether it is of an unlimited duration. An inactive registrant or certificate holder may, within a period of 5 years from inactive, return to active status:

(a) Upon application to the Board;

(b) Successfully pass a take at home examination on the laws and rules in Oregon;

(c) By paying the reinstatement fee required by OAR 820-010-0305(3);

(d) By paying the biennial renewal fee required by OAR 820-010-0505; and

(e) By satisfying and submitting proof of completion on a form approved by the Board of 15 PDH units per year for each year (or part of a year) inactive, to a maximum of 30 PDH units as stated in OAR 820-010-0635.

Stat. Auth: ORS 672.255(1)(g)
Stats. Implemented: ORS 672.170(4), 672.180 & 672.255(1)(g)
Hist.: BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 2-2008, f. & cert. ef. 7-9-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 1-2011, f. & cert. ef. 1-14-11; BEELS 2-2012, f. & cert. ef. 5-10-12; BEELS 1-2013, f. & cert. ef. 3-13-13; BEELS 1-2015, f. & cert. ef. 2-3-15; BEELS 7-2015, f. & cert. ef. 9-16-15

820-010-0635
Continuing Professional Development

The purpose of professional development requirements is to demonstrate a continuing level of competency of professional engineers, land surveyors, and photogrammetrists.

(1) Requirements:

(a) Every registrant is required to obtain 30 professional development hour (PDH) units during each biennial registration period and in order to renew for the next biennial registration period.

(b) Registrants who are licensed for part of a registration period of six months or greater shall obtain a prorated amount of required PDH.

(c) Registrants who are licensed for part of a registration period of less than six months, and not under registration discipline, are not required to obtain PDH for that registration period.

(d) Every registrant shall report PDH units on the Continuing Professional Development (CPD) Organizational form provided by the Board and submit it to the Board office with the renewal form and fee. The CPD Organizational form must be completed in its entirety.

(e) Supporting documentation to verify the PDH units recorded on the CPD Organizational form must be submitted to the Board office when requested to participate in an audit. Supporting documentation may include, but is not limited to:

(A) Completion certificate(s);

(B) Paid receipt(s);

(C) Attendance log(s);

(D) Other documents supporting evidence of attendance.

(f) The CPD Organizational form and supporting documentation must be submitted to the Board in English or translated to English.

(g) Records must be retained for five (5) years.

(2) PDH units must be obtained in qualifying activities related to the individual's registration. A qualifying activity is any course or activity with a clear purpose and objective which improves, or expands the skills and knowledge relevant to the registrant's field of practice or practices.

(3) Non-qualifying activities may include, but are not limited to:

(a) Regular employment;

(b) Real estate licensing courses;

(c) Personal, estate, or financial planning;

(d) Personal self improvement;

(e) Service club meetings or activities;

(f) Equipment demonstrations or trade show displays;

(g) Topics not relevant to engineering, land surveying, or photogrammetry professions;

(h) Enrollment without attendance at courses, seminars, etc.

(i) Repetitive attendance at the same course;

(j) Repetitive teaching of the same course;

(k) Attending committee meetings or general business meetings of any organization;

(l) Taking professional or required examinations.

(4) Units — The conversion of other units of credit to PDH units is as follows:

(a) 1 College Semester hour equals 45 PDH;

(b) 1 College Quarter hour equals 30 PDH;

(c) 1 Continuing Education unit equals 10 PDH.

(5) Sources of PDH units — One (1) PDH unit may be obtained for each contact hour of instruction or presentation. Unless otherwise noted, there is no maximum amount of PDH units a registrant may earn per biennial registration period. Sources of PDH units include, but are not limited to the following:

(a) Successful completion of college courses;

(b) Successful completion of short courses, tutorials, correspondence, web based courses, televised and videotaped courses;

(c) Active participation in seminars, in-house courses, workshops, and professional conventions;

(d) Teaching or instructing a course, seminar, or workshop one time only. (This does not apply to full-time faculty teaching college courses);

(e) Authoring or co-authoring published papers, articles or books. Maximum of 10 PDH units per biennial registration period;

(f) Active participation in professional or technical society, committee, or board. Maximum of 8 PDH units per biennial registration period;

(g) Self study. Maximum of 6 PDH units per biennial registration period;

(h) Mentoring of engineering, land surveying, or photogrammetry topics to a nonregistered individual not under your supervision. Each 10 hours spent mentoring equals 1 PDH unit. Maximum of 4 PDH units per biennial registration period;

(i) Non-technical educational activities related to the registrant's employment;

(j) Developing, writing, or scoring an engineering, land surveying, or photogrammetric mapping examination for licensure or certification. Maximum of 15 PDH units per biennial registration period.

(6) Determination of Credit — The Board has final authority with respect to approval of courses, credit, PDH units for courses and other methods of earning credit.

(a) The Board will approve without listing courses which are sponsored by nationally recognized technical societies and those technical societies listed in 820-001-0000(4)(b)(A) through (E) and (4)(c)(A) through (H).

(b) Credit determination for activities is the responsibility of the registrant and is subject to review by the Board.

(7) If a registrant exceeds the requirement in any registration period, a maximum of 15 PDH units in courses/activities may be carried forward into the next registration period.

(8) In the event a registrant holds a license in another state that has a lesser PDH requirement than Oregon or no PDH requirement, the registrant will need to satisfy Oregon's 30 PDH requirement to renew the Oregon license.

(9) Multiple Registrants. The number of PDH units required shall remain a total of 30 PDH per registration period for persons who hold registration as an engineer, land surveyor, and/or photogrammetrist.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.375
Hist.: BEELS 2-2000, f. & cert. ef. 2-17-00; BEELS 5-2000, f. & cert. ef. 10-19-00; BEELS 3-2002, f. & cert. ef. 11-13-02; BEELS 1-2003, f. & cert. ef. 1-28-03; BEELS 6-2005, f. & cert. ef. 12-13-05; BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 2-2007, f. & cert. ef. 4-5-07; BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 1-2009, f. & cert. ef. 5-15-09; BEELS 1-2010, f. & cert. ef. 5-12-10; BEELS 2-2011, f. & cert. ef. 5-12-11; BEELS 1-2013, f. & cert. ef. 3-13-13; BEELS 7-2015, f. & cert. ef. 9-16-15

820-020-0005
Preamble

(1) In order to safeguard life, health and property, to promote the public welfare, and to establish and maintain a high standard of integrity and practice, the following Rules of Professional Conduct shall be binding on:

(a) Any individual holding a certificate of registration or enrolled as an intern.

(b) Any individual submitting an application to the Board for a certificate of registration or for enrollment as an intern.

(2) All persons registered or applying for registration or enrollment under ORS 672.002 to 672.325 are charged with having knowledge of these Rules of Professional Conduct, and are deemed to be familiar with their provisions and to understand them. Such knowledge encompasses the understanding that the practice of engineering, land surveying, and photogrammetric mapping is a privilege and not a right.

(3) In these Rules of Professional Conduct, the word "registrant" means any person holding a license or certificate issued by this Board.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: EE 14, f. 4-26-72, ef. 5-15-72; EE 20, f. & ef. 12-15-77; EE 2-1981, f. 5-19-81, ef. 6-1-81; BEELS 3-2002, f. & cert. ef. 11-13-02; BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 7-2015, f. & cert. ef. 9-16-15

820-025-0001
Definitions

(1) "Digital signature" means a type of electronic signature that transforms a message through the use of an algorithm or series of algorithms that provide a key pair, private and public, for signor verification, document security and authentication.

(2) "Certificate Authority" is the trusted third party that issues and manages digital certificates (private and public keys) for digital signatures.

(3) "Digital certificate" is required to affix a digital signature, for the recipient to verify the identity of the signor, and for the recipient to verify that the contents of the document have not been altered since the signature was affixed.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 7-2015, f. & cert. ef. 9-16-15

820-025-0005
Official Seal

(1) Seals, as referenced by ORS 672.020(2) and 672.025(2), must contain the printed name of the registrant, the date of registration, the number of the registrant's certificate of registration, and the registrant's professional title. The registrant's printed name on the seal will be exactly the same as the name printed on registrant's certificate of registration.

(2) The size, design and content of the seal will be an exact replica, in style, of the examples shown in Exhibit 1 (Official Seals) for the profession or branch of the profession in which the registrant is licensed. (A tolerance of 1/4" is permitted as to the size of the seal). The expiration or renewal date may be made part of the seal. If the expiration or renewal date is not made part of the seal, it must be handwritten, in permanent ink, after the word "Expires" or "Renews." Reduced or enlarged seals are not permitted on final documents. In addition to these requirements, registrants will use the following seals:

(a) Professional engineers holding a structural engineering certificate will use the seal with the designation "Structural" above the words "Registered Professional Engineer," as shown in Exhibit 1-b. Other registered professional engineers will use the seal shown in Exhibit 1-a; [Exhibit not included. See ED. NOTE.]

(b) Registered professional traffic engineer, who may practice only traffic engineering will use the seal shown in Exhibit 1-f; [Exhibit not included. See ED. NOTE.]

(c) Registered professional land surveyors will use the seal shown in Exhibit 1-c; [Exhibit not included. See ED. NOTE.]

(d) Registered professional photogrammetrists will use the seal shown in Exhibit 1-d; [Exhibit not included. See ED. NOTE.]

(e) Registered water rights examiners will use the seal shown in Exhibit 1-e. [Exhibit not included. See ED. NOTE.]

(3) The seal may be applied to a document by rubber stamp or it may be computer-generated onto the document.

(4) The registrant will sign through the middle of the seal or in the place on the seal as indicated for signature, in handwriting, and in permanent ink.

(5) A digital signature, for final documents is acceptable as an alternative to a handwritten signature in permanent ink if the digital signature:

(a) Is unique to the registrant using it;

(b) Is independently verifiable by a Certificate Authority (3rd Party);

(c) Is under the sole control of the registrant using it;

(d) Is linked to the document in such a manner that the digital signature is invalidated if any data in the document is changed; and

(e) Bears the phrase "digital signature" in place of a handwritten signature.

(6) Only individuals registered as professional engineers, professional traffic engineers, professional land surveyors, professional photogrammetrists, or certified water rights examiners may use a seal with a shape, form or wording similar to those shown in Exhibit 1. Using such a seal without registration constitutes falsely representing that the person is authorized to practice the profession.

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

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: EE 13, f. 3-29-72, ef. 4-15-72; EE 16, f. 3-5-74, ef. 3-25-74; EE 20, f. & ef. 12-15-77; EE 2-1986, f. 3-26-86, ef. 3-31-86; EE 4-1987, f. & ef. 12-1-87; EE 1-1992, f. & cert. ef. 2-3-92; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; BEELS 1-1998, f. & cert. ef. 2-10-98; BEELS 1-2000, f. & cert. ef. 1-14-00; BEELS 3-2006(Temp), f. & cert. ef. 12-5-06 thru 6-3-07; Administrative Correction, 6-16-07; BEELS 4-2007, f. & cert. ef. 8-15-07; BEELS 2-2008, f. & cert. ef. 7-9-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 6-2013, f. & cert. ef. 9-11-13; BEELS 7-2013(Temp); f. & cert. ef. 11-12-13 thru 5-9-14; BEELS 10-2013(Temp), f. & cert. ef. 12-5-13 thru 3-14-14; BEELS 2-2014, f. & cert. ef. 2-26-14; Renumbered from 820-010-0620 by BEELS 7-2015, f. & cert. ef. 9-16-15

820-025-0010

Official Seal – Digital Seal and Signature for Electronic Final Documents

(1) A "Digital Seal and Signature" is a signature and electronic authentication process that is attached to an electronic document.

(2) A "Digital Seal and Signature" is not a photocopy, scanned copy, or other facsimile of a signed and sealed hard copy document, nor is it a copy or facsimile of a rubber stamp seal and ink signature, nor is it a copy of a computer-generated image of a seal and ink signature. Seals and signatures described in this subsection (2) of the rule are not allowed on final documents.

(3) For electronic final documents, a "Digital Seal and Signature" ("digital signature") is acceptable as an alternative to a stamped or computer-generated image of a seal with handwritten signature in permanent ink, if:

(a) The digital signature is unique to the registrant using it;

(b) The digital signature is independently verifiable by a Certificate Authority (3rd Party);

(c) The digital signature is under the sole control of the registrant using it;

(d) The digital signature is linked to the document in such a manner that the digital signature is invalidated if any data in the document is changed;

(e) The electronic file that is the final electronic document contains one digital signature that is permanently linked to it;

(f) For final electronic files containing a single page, the registrant affixes a computer–generated image of a stamp that bears the phrase "digitally signed" in lieu of and in the location designated for a hand-written signature on that page. The computer-generated image of the stamp must be of a stamp as described in OAR 820-025-0001(1) and (2), including the size prescribed in OAR 820-025-0001 when the page is printed to full size; and,

(g) For final electronic files containing multiple pages not considered drawings, surveys, or plats, the registrant affixes a computer-generated image of a stamp that bears the phrase "digitally signed" in lieu of and in the location designated for a hand-written signature to the title page, an index page, or a seals page, provided that the stamped page clearly identifies all the other pages comprising the electronic file. The computer-generated image of the stamp must be of a stamp as described in OAR 820-025-0001(1) and (2), including the size prescribed in OAR 820-025-0001 when the page is printed to full size.

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 7-2015, f. & cert. ef. 9-16-15

820-025-0015

Final Documents

(1) In addition to the final documents identified in ORS 672.020(2), 672.025(2), and 672.028(2), final documents include plats, design information, and calculations. All final documents must bear the seal and signature of the registrant under whose supervision and control they were prepared.

(2) Documents that are not final documents must be marked as "preliminary", "not for construction", "review copy", "draft copy, subject to change", or with some similar wording to indicate that the documents are not intended to represent the final work product of the registrant.

Stat. Auth.: ORS 670.310, 672.020, 672.025, 672.028 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 3-2006(Temp), f. & cert. ef. 12-5-06 thru 6-3-07; BEELS 2-2007, f. & cert. ef. 4-5-07; BEELS 2-2012, f. & cert. ef. 5-10-12; BEELS 6-2013, f. & cert. ef. 9-11-13; BEELS 7-2013(Temp); f. & cert. ef. 11-12-13 thru 5-9-14; BEELS 10-2013(Temp), f. & cert. ef. 12-5-13 thru 3-14-14; BEELS 2-2014, f. & cert. ef. 2-26-14; BEELS 2-2015, f. & cert. ef. 5-21-15; Renumbered from 820-010-0621 by BEELS 7-2015, f. & cert. ef. 9-16-15

820-025-0020

Modifying Designs or Documents

(1) Documents prepared and sealed by a Professional Engineer may be modified only when all of the following requirements are met:

(a) Only a Professional Engineer or Registered Architect if within the scope of practice of architecture and if competent by education or experience, can modify designs or documents prepared and sealed by a Professional Engineer.

(b) A Professional Engineer shall only modify another Professional Engineer's design or document if they are competent by education or experience.

(c) The Professional Engineer modifying another Professional Engineer's design or document shall cloud, encircle, or in some other way clearly indicate the portion of the design or document they are revising and refer the viewer to a separate design or document.

(d) The Professional Engineer making the design revisions shall seal and sign the separate design or document.

(e) A Professional Engineer modifying designs or documents not sealed must provide all the engineering services that would have been required had they started the work from its origin.

(2) Professional Engineers modifying designs or documents prepared by an unlicensed person for an exempt structure must do the following:

(a) The Professional Engineer modifying the design or document shall cloud, encircle, or in some other way clearly indicate the portion of the design or document they are revising and refer the viewer to a separate design or document.

(b) The Professional Engineer making the design revision shall seal and sign the separate design or document.

(3) A Professional Engineer may modify a Registered Architect's documents as follows:

(a) The Professional Engineer shall only modify a Registered Architect's documents if within the scope of practice of engineering and if competent by education and experience.

(b) The Professional Engineer modifying a Registered Architect's documents shall make modifications on separate documents that clearly indicate the portion of the Registered Architect's documents being modified.

(c) The Professional Engineer modifying a Registered Architect's documents shall seal and sign the separate documents that provide the modifications.

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 1-2005, f. & cert. ef. 3-16-05; BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 2-2012, f. & cert. ef. 5-10-12; BEELS 3-2012, f. & cert. ef. 7-13-12; BEELS 3-2014, f. & cert. ef. 7-16-14; Renumbered from 820-010-0622 by BEELS 7-2015, f. & cert. ef. 9-16-15

820-025-0025

Dual Stamping Documents

No more than one registrant will seal documents unless it is clearly explained and denoted on the document by all registrants which portion of the work each registrant prepared and for which each registrant is responsible.

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 1-2004, f. & cert. ef. 1-26-04; Renumbered from 820-010-0623 by BEELS 7-2015, f. & cert. ef. 9-16-15

820-030-0080

Survey Monument Marking

A monument set by a registered professional land surveyor to mark or reference a point on a property or land line, or to mark or reference a geodetic control survey point, must be durably and visibly marked or tagged with the registered business name (Oregon only) or the letters "L.S." followed by the registration number (Oregon only) of the surveyor in charge

or, if the monument is set by a public officer, the monument must be marked with the official title of the office.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 7-2015, f. & cert. ef. 9-16-15

820-050-0001
Continuing Professional Development — Certified Water Right Examiner (CWRE)

The purpose of professional development requirements is to demonstrate a continuing level of competency of certified water right examiners (CWRE).

(1) Requirements:

(a) A Registered Geologist that holds certification as a CWRE is required to obtain 10 professional development hour (PDH) units during each biennial certification period.

(b) A Registered Geologist certified for part of a certification period of six months or greater shall obtain a prorated amount of required PDH.

(c) A Registered Geologist certified for part of a certification period of less than six months are not required to obtain PDH for that certification period.

(d) Every CWRE shall report PDH units on the Continuing Professional Development (CPD) Organizational form and submit to the Board office with the renewal form and fee. The CPD Organizational form must be completed in its entirety.

(e) Supporting documentation to verify the PDH units recorded on the CPD Organizational form must be submitted to the Board office when requested to participate in an audit. Supporting documentation may include, but is not limited to:

(A) Completion certificate(s);

(B) Paid receipt(s);

(C) Attendance log;

(D) Other documents supporting evidence of attendance.

(f) The CPD Organizational form and supporting documentation must be submitted to the Board in English or translated to English.

(g) Records must be retained for five (5) years.

(2) PDH units must be obtained in qualifying activities related to the individual's certification. A qualifying activity is any course or activity with a clear purpose and objective which improves, or expands the skills and knowledge relevant to the professional activities of a certified water right examiner as defined in ORS Chapter 537 and OAR Chapter 690.

(3) Non-qualifying activities may include, but are not limited to:

(a) Regular employment;

(b) Personal self improvement;

(c) Equipment demonstrations or trade show displays;

(d) Enrollment without attendance at courses, seminars, etc.

(e) Repetitive attendance at the same course;

(f) Repetitive teaching of the same course;

(g) Attending committee meetings or general business meetings of any organization;

(h) Taking professional or required examinations.

(4) Units — The conversion of other units of credit to PDH units is as follows:

(a) 1 College Semester hour equals 45 PDH;

(b) 1 College Quarter hour equals 30 PDH;

(c) 1 Continuing Education unit equals 10 PDH.

(5) Sources of PDH units — One (1) PDH unit may be obtained for each contact hour of instruction or presentation. Unless otherwise noted, there is no maximum amount of PDH units a CWRE may earn per biennial certification period. Sources of PDH units include, but are not limited to the following:

(a) Successful completion of college courses;

(b) Successful completion of short courses, tutorials, correspondence, web based courses, televised and videotaped courses;

(c) Active participation in seminars, in-house courses, workshops, and professional conventions;

(d) Teaching or instructing a course, seminar, or workshop one time only. (This does not apply to full-time faculty teaching college courses);

(e) Authoring or co-authoring published papers, articles or books. Maximum of 3 PDH units per biennial certification period;

(f) Active participation in professional or technical society, committee, or board. Maximum of 2 PDH units per biennial certification period;

(g) Self study. Maximum of 2 PDH units per biennial certification period;

(h) Non-technical educational activities related to employment.

(6) Determination of Credit — Credit determination for activities is the responsibility of the CWRE and is subject to review by the Board. The Board has final authority with respect to approval of courses, credit, PDH units for courses and other methods of earning credit.

(7) If a CWRE exceeds the requirement in any certification period, a maximum of 5 PDH units in courses/activities may be carried forward into the next certification period.

(8) Delinquent, retired or inactive certificate holders must provide evidence of holding active registration as a professional engineer, professional land surveyor, registered geologist, in addition to completing the PDH requirements as outlined in OAR 820-010-0520 in order to attain active status.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.375
Hist.: BEELS 2-2013(Temp), f. & cert. ef. 3-18-13 thru 7-15-13; BEELS 3-2013, f. & cert. ef. 6-17-13; BEELS 9-2013(Temp), f. & cert. ef. 11-14-13 thru 5-9-14; Administrative correction, 5-21-14; BEELS 7-2015, f. & cert. ef. 9-16-15

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Board of Licensed Professional Counselors and Therapists
Chapter 833

Rule Caption: Increase in fee for licensure application and initial license.
Adm. Order No.: BLPCT 1-2015
Filed with Sec. of State: 10-2-2015
Certified to be Effective: 10-2-15
Notice Publication Date: 8-1-2015
Rules Amended: 833-070-0011
Subject: This amendment increases the fee required to apply for licensure as a professional counselor or a marriage and family therapist from $125 (without background check) to $175, or from $172.25 (with background check) to $222.25. It also increases the fee for an initial license as a professional counselor or a marriage and family therapist from $100 to $125.
Rules Coordinator: LaRee' Felton—(503) 373-1196

833-070-0011
Fees

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

(1) Application for licensure:

(a) Without criminal background check — $175; or

(b) With criminal background check — $222.25.

(2) Initial license — $125.

(3) Annual renewal of license in accordance with OAR 833-120-0011.

(a) Without criminal background check — $125; or

(b) With criminal background check — $172.25.

(4) Restoration fee — $50.

(5) Examination:

(a) For professional counselor license — Candidates will pay exam and exam administration fees to the prescribed examination providers.

(b) For marriage and family therapist license — Candidates will pay exam and exam administration fees to the prescribed examination providers.

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

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

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

(a) Without criminal background check — $80; or

(b) With criminal background check — $127.25.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180
Stats. Implemented: ORS 675.785 - 675.835
Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 2-2010(Temp), f. 1-8-10, cert. ef. 1-11-10 thru 7-9-10; BLPCT 3-2010, f. 4-30-10, cert. ef. 5-3-10; BLPCT 1-2015, f. & cert. ef. 10-2-15

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Rule Caption: LPC and LMFT registered intern title designation.
Adm. Order No.: BLPCT 2-2015
Filed with Sec. of State: 10-2-2015
Certified to be Effective: 10-2-15
Notice Publication Date: 7-1-2015
Rules Amended: 833-050-0021

Subject: This amendment no longer allows registered interns to use "any permutation" of the titles "registered intern," "LPC intern," or "LMFT intern." Interns must use only those specific titles.
Rules Coordinator: LaRee' Felton—(503) 373-1196

833-050-0021
Application for Registration as Intern

(1) An applicant for registration must:

(a) Meet all registration requirements in effect at the time the application is submitted;

(b) Request registration on Board approved forms;

(c) Submit a professional disclosure statement for board approval as part of his or her application;

(d) Submit an application fee as specified in OAR 833-070-0011;

(e) Meet the graduate degree standards for licensure according to OAR 833, division 60;

(f) Agree to complete supervised clinical experience hours to meet the total number of hours required for licensure; and

(g) Abide by the Board's laws and rules.

(2) Applicants for professional counselor and marriage and family therapist must pay a fee for each license.

(3) Applicants approved for registration as an intern will have five years to complete the supervised direct client contact hours necessary for licensure or for examination. The intern may petition the Board to allow extension of registration for up to one year beyond the maximum five years if he/she can show good cause for such extension.

(4) Registered interns must indicate registration or use the title "registered intern", "LPC intern", or "LMFT intern" in connection with a practice that is covered by an approved plan.

(5) Former applicants who re-apply may transfer direct client contact hours accrued under a board-approved plan to their new plan.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180
Stats. Implemented: ORS 675.785 - 675.835
Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 3-2010, f. 4-30-10, cert. ef. 5-3-10; BLPCT 2-2015, f. & cert. ef. 10-2-15

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Rule Caption: Repeals the expired counselor educator application method.
Adm. Order No.: BLPCT 3-2015
Filed with Sec. of State: 10-2-2015
Certified to be Effective: 10-2-15
Notice Publication Date: 9-1-2015
Rules Repealed: 833-020-0075
Subject: This repeals the "counselor educator application method" rule, which allowed graduate level teaching to meet education requirements for licensure as a professional counselor or a marriage therapist through June 30, 2014.
Rules Coordinator: LaRee' Felton—(503) 373-1196

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Board of Nursing
Chapter 851

Rule Caption: Collect surcharge authorized by SB72 and collect fees for new license type authorized by SB547
Adm. Order No.: BN 3-2015
Filed with Sec. of State: 9-22-2015
Certified to be Effective: 10-1-15
Notice Publication Date:
Rules Amended: 851-002-0010, 851-002-0020, 851-002-0030, 851-002-0035, 851-002-0040
Subject: To allow for the collection of new fees as authorized by SB 72 and SB 547. Surcharge authorized by SB 72 for establishment of Nursing Advancement Fund. $9 surcharge authorized by SB 72 for all licenses by examination and renewal for RN and LPN licenses. New Nurse Emeritus License type authorized by SB 547, fee was to be determined by the Board. Fee will be $50 per biennium, effective January 1, 2016. Additional revisions are to clarify language of surcharge for the Prescription Monitoring Fund and the Workforce Data Analysis Fund, to align with other sections of the rule.
Rules Coordinator: Peggy A. Lightfoot—(971) 673-0638

851-002-0010
RN/LPN Schedule of Fees

(1) License Renewal — $145.

(2) Delinquent fee — $100.

(3) Surcharge to Support the Workforce Data Analysis Fund at Renewal — $5.

(4) Surcharge to Support the Oregon Nursing Advancement Fund at Licensure by Examination and Renewal — $9.

(5) License by Endorsement — $195.

(6) Licensure by Examination — $160.

(7) Written Verification of License — $12.

(8) Limited Licenses:

(a) Reentry — $95.

(b) Extension of Reentry — $25.

(9) Limited Licenses for Educational Experience:

(a) International Graduate Nursing Students — $65.

(b) Extension of International Graduate Nursing Students — $25.

(c) International RN in Short-Term Educational Experience — $35.

(d) International Exchange Students — $25.

(e) U.S. RNs in Distance Learning — $15.

(f) Extension of Distance Learning — $15.

(10) Reexamination for Licensure — $25.

(11) Reactivation — $160.

(12) Reinstatement by Reactivation — $160.

(13) Nurse Emeritus — $50 (biennial – Effective January 1, 2016)

Stat. Auth.: ORS 678.150 & 678.410
Stats. Implemented: ORS 678.410
Hist.: NER 26(Temp), f. & ef. 12-11-75; NER 32, f. & ef. 5-4-76; NER 5-1981, f. & ef. 11-24-81; NER 2-1982, f. & ef. 8-25-82; NER 5-1983, f. 12-9-83, ef. 1-1-84; NER 5-1985, f. 7-30-85, ef. 10-1-85; NER 6-1986, f. & ef. 12-3-86; NB 5-1987, f. & ef. 7-1-87; NB 7-1987, f. & ef. 10-5-87; NB 1-1988, f. & cert. ef. 4-18-88; NB 2-1989, f. 6-22-89, cert. ef. 7-1-89; NB 2-1991, f. 6-14-91, cert. ef. 7-1-91; NB 3-1991, f. & cert. ef. 9-25-91; NB 5-1993, f. 6-15-93, cert. ef. 7-1-93; NB 7-1993, f. & cert. ef. 7-1-93; NB 13-1993, f. & cert. ef. 12-20-93; NB 5-1994 f. & cert. ef. 9-15-94; Renumbered from 851-020-0295; NB 8-1994, f. & cert. ef. 12-7-94; NB 7-1995(Temp), f. & cert. ef. 6-23-95; NB 2-1996, f. & cert. ef. 3-12-96; NB 9-1997, f. 7-22-97, cert. ef. 9-1-97; BN 6-1998(Temp), f. & cert. ef. 7-15-98 thru 12-31-98; Administrative correction 8-5-98; BN 10-1998, f. & cert. ef. 8-7-98; BN 11-1998, f. & cert. ef. 9-22-98; BN 4-1999, f. 5-21-99, cert. ef. 7-1-99, Renumbered from 851-031-0200; BN 11-1999, f. & cert. ef. 12-1-99; BN 6-2000, f. & cert. ef. 4-24-00; BN 17-2002, f. & cert. ef. 10-18-02; BN 6-2003, f. & cert. ef. 7-7-03; BN 5-2007, f. 5-4-07, cert. ef. 7-1-07; BN 5-2009, f. & cert. ef. 10-7-09; BN 6-2009, f. 12-17-09, cert. ef. 1-1-10; BN 7-2010, f. & cert. ef. 6-25-10; BN 16-2010, f. & cert. ef. 11-29-10; BN 10-2012, f. 7-6-12, cert. ef. 8-1-12; BN 1-2015, f. 4-21-15, cert. ef. 6-1-15; BN 3-2015, f. 9-22-15, cert. ef. 10-1-15

851-002-0020
Nurse Practitioner Schedule of Fees

(1) Initial Nurse Practitioner Certification — $150.

(2) First Category Renewal (combined with Prescriptive Privilege renewal) — $105.

(3) Surcharge to Support the Prescription Monitoring Fund (Biennial) — $50.

(4) Additional Category Renewal — $50.

(5) Delinquent fee — $100.

(6) Nurse Practitioner Prescriptive Authority Initial Application — $75.

(7) Reentry Limited License — $95.

Stat. Auth.: ORS 678.150 & 678.410
Stats. Implemented: ORS 678.410
Hist.: NER 26(Temp), f. & ef. 12-11-75; NER 32, f. & ef. 5-4-76; NER 5-1981, f. & ef. 11-24-81; NER 2-1982, f. & ef. 8-25-82; NER 5-1983, f. 12-9-83, ef. 1-1-84; NER 5-1985, f. 7-30-85, ef. 10-1-85; NER 6-1986, f. & ef. 12-3-86; NB 5-1987, f. & ef. 7-1-87; NB 7-1987, f. & ef. 10-5-87; NB 1-1988, f. & cert. ef. 4-18-88; NB 2-1989, f. 6-22-89, cert. ef. 7-1-89; NB 2-1991, f. 6-14-91, cert. ef. 7-1-91; NB 3-1991, f. & cert. ef. 9-25-91; NB 5-1993, f. 6-15-93, cert. ef. 7-1-93; NB 7-1993, f. & cert. ef. 7-1-93; NB 13-1993, f. & cert. ef. 12-20-93; NB 5-1994 f. & cert. ef. 9-15-94; Renumbered from 851-020-0295; NB 8-1994, f. & cert. ef. 12-7-94; NB 7-1995(Temp), f. & cert. ef. 6-23-95; NB 2-1996, f. & cert. ef. 3-12-96; NB 9-1997, f. 7-22-97, cert. ef. 9-1-97; BN 6-1998(Temp), f. & cert. ef. 7-15-98 thru 12-31-98; Administrative correction 8-5-98; BN 10-1998, f. & cert. ef. 8-7-98; BN 11-1998, f. & cert. ef. 9-22-98; BN 4-1999, f. 5-21-99, cert. ef. 7-1-99, Renumbered from 851-031-0200; BN 16-2006, f. & cert. ef. 11-29-06; BN 7-2009, f. 12-17-09, cert. ef. 1-1-10; BN 10-2012, f. 7-6-12, cert. ef. 8-1-12; BN 1-2015, f. 4-21-15, cert. ef. 6-1-15; BN 3-2015, f. 9-22-15, cert. ef. 10-1-15

851-002-0030
Certified Registered Nurse Anesthetist Schedule of Fees

(1) Initial Certified Registered Nurse Anesthetist License — $150.

(2) Prescriptive Authority, Initial Application — $75.

(3) Renewal of CRNA License — $55.

(4) Renewal of Prescriptive Authority — $50.

(5) Surcharge to Support the Prescription Monitoring Fund (Biennial) — $50.

(6) Delinquent fee of CRNA License — $100.

(7) Combined Limited and Initial License — $175.

(8) Reentry Limited License — $95.

Stat. Auth.: ORS 678.150 & 678.410
Stats. Implemented: ORS 678.410
Hist.: NER 26(Temp), f. & ef. 12-11-75; NER 32, f. & ef. 5-4-76; NER 5-1981, f. & ef. 11-24-81; NER 2-1982, f. & ef. 8-25-82; NER 5-1983, f. 12-9-83, ef. 1-1-84; NER 5-1985, f. 7-30-85, ef. 10-1-85; NER 6-1986, f. & ef. 12-3-86; NB 5-1987, f. & ef. 7-1-87; NB 7-1987, f. & ef. 10-5-87; NB 1-1988, f. & cert. ef. 4-18-88; NB 2-1989, f. 6-22-89, cert. ef. 7-1-89; NB 2-1991, f. 6-14-91, cert. ef. 7-1-91; NB 3-1991, f. & cert. ef. 9-25-91; NB 5-1993, f. 6-15-93, cert. ef. 7-1-93; NB 7-1993, f. & cert. ef. 7-1-93; NB 13-1993, f. & cert. ef. 12-20-93; NB 5-1994 f. & cert. ef. 9-15-94; Renumbered from 851-020-0295; NB 8-1994, f. & cert. ef. 12-7-94; NB 7-1995(Temp), f. & cert. ef. 6-23-95; NB 2-1996, f. & cert. ef. 3-12-96; NB 9-1997, f. 7-22-97, cert. ef. 9-1-97; BN 6-1998(Temp), f. & cert. ef. 7-15-98 thru 12-31-98; Administrative correction 8-5-98; BN 10-1998, f. & cert. ef. 8-7-98; BN 11-1998, f. & cert. ef. 9-22-98; BN 4-1999, f. 5-21-99, cert. ef. 7-1-99, Renumbered from 851-031-0200; BN 10-2012, f. 7-6-12, cert. ef. 8-1-12; BN 1-2015, f. 4-21-15, cert. ef. 6-1-15; BN 3-2015, f. 9-22-15, cert. ef. 10-1-15

851-002-0035
Clinical Nurse Specialist Schedule of Fees

(1) Initial Clinical Nurse Specialist Certification — $150.
(2) Renewal of Certification without Prescriptive Authority — $75.
(3) Surcharge to Support the Prescription Monitoring Fund (Biennial) — $50.
(4) Renewal of Certification with Prescriptive Authority — $105.
(5) Clinical Nurse Specialist Prescriptive Authority Initial Application — $75.
(6) Delinquent fee — $100.
(7) Reentry Limited License — $95.

Stat. Auth.: ORS 678.150 & 678.410
Stats. Implemented: ORS 678.410
Hist.: BN 4-2001, f. & cert. ef. 2-21-01; BN 16-2006, f. & cert. ef. 11-29-06; BN 7-2009, f. 12-17-09, cert. ef. 1-1-10; BN 10-2012, f. 7-6-12, cert. ef. 8-1-12; BN 1-2015, f. 4-21-15, cert. ef. 6-1-15; BN 3-2015, f. 9-22-15, cert. ef. 10-1-15

851-002-0040
Nursing Assistant Schedule of Fees

(1) Certification by Examination — $106.
(2) Certification by Endorsement — $60.
(3) Reexamination — Manual Skills — $45.
(4) Reexamination — Written — $25.
(5) Oral Administration of Written Examination — $35.
(6) Written Verification of Certification — $10.
(7) CNA Certificate Renewal — $60.
(8) CNA Reactivation Fee — $5.
(9) Surcharge to Support the Workforce Data Analysis Fund at Renewal — $5.
(10) CNA Certification for RN or LPN — $60.
(11) CNA Certification for Student Nurses — $60.
(12) Initial Approval CNA Training Program — $100.
(13) Approval of Revised CNA Training Program — $75.
(14) Reapproval of CNA Training Program — $50.
(15) CNA Primary Instructor Approval — $10.
(16) Initial Approval of CNA Program Director — $25.

Stat. Auth.: ORS 678.150 & 678.410
Stats. Implemented: ORS 678.410
Hist.: NB 9-1989(Temp), f. & cert. ef. 11-24-89; NB 5-1990, f. & cert. ef. 5-7-90; NB 7-1990(Temp), f. & cert. ef. 7-11-90; NB 9-1990, f. & cert. ef. 10-9-90; NB 5-1991(Temp), f. & cert. ef. 10-15-91; NB 3-1992, f. & cert. ef. 2-13-92; NB 12-1992, f. 12-15-92, cert. ef. 1-1-93; NB 2-1993, f. 2-8-93, cert. ef. 2-16-93; NB 15-1993, f. 12-27-93, cert. ef. 6-1-94; NB 9-1997, f. 7-22-97, cert. ef. 9-1-97; BN 4-1999, f. 5-21-99, cert. ef. 7-1-99, Renumbered from 851-060-0300; BN 7-1999, f. 8-10-99, cert. ef. 11-1-99; BN 10-1999, f. & cert. ef. 12-1-99; BN 6-2003, f. & cert. ef. 7-7-03; BN 7-2004, f. & cert. ef. 2-26-04; BN 14-2004, f. & cert. ef. 10-26-04; BN 7-2007, f. 6-29-07, cert. ef. 1-1-08; BN 5-2009, f. & cert. ef. 10-7-09; BN 6-2009, f. 12-17-09, cert. ef. 1-1-10; BN 8-2010, f. & cert. ef. 6-25-10; BN 16-2010, f. & cert. ef. 11-29-10; BN 3-2015, f. 9-22-15, cert. ef. 10-1-15

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Board of Psychologist Examiners
Chapter 858

Rule Caption: Changes the educational requirements for psychologist and psychologist associate licensure.
Adm. Order No.: BPE 3-2015
Filed with Sec. of State: 9-30-2015
Certified to be Effective: 9-30-15
Notice Publication Date: 9-1-2014
Rules Amended: 858-010-0010, 858-010-0015
Subject: This amendment changes the educational requirements for psychologist licensure by modifying the definition of approved doctoral program in psychology. The Board will phase out its acceptance of doctoral degrees in psychology from programs at regionally accredited or provincially/territorially chartered institutions but which are not accredited by the American Psychological Association (APA) or Canadian Psychological Association (CPA). Degrees from programs at regionally accredited institutions will qualify only if 1) the applicant enrolled in his or her program prior to July 22, 2014 and applies by July 22, 2019; or 2) the program submitted an application to the APA or CPA for accreditation prior to the date the applicant's degree was conferred, and has been granted a site visit by the APA or CPA. The amendment adds a requirement of one continuous year in-residence at the master's program as a qualification for licensure as a psychologist associate. There are some clarifying language changes as well. On November 14, 2014 the Board voted to adopt this rule amendment, and on November 17, 2014 the permanent rule was filed with the Secretary of State. ORS 183.715 requires that "a state agency that adopts a rule shall submit a copy to the Legislative Counsel within 10 days after the agency files a certified copy of the rule with the office of the Secretary of State as provided in ORS 183.355(1)." Accordingly, the Board submitted a copy by certified mail on November 25, 2015; however, it was not received by Legislative Counsel until December 1, 2015. To address any issue regarding the validity of the rule filing, the Board is refiling the permanent rulemaking in order to affirm these amendments to the education requirements for psychologist licensure.
Rules Coordinator: LaRee' Felton—(503) 373-1196

858-010-0010
Education Requirements — Psychologist

To meet the education requirement of ORS 675.030(1), applicants for licensure must possess a doctoral degree in psychology from an approved doctoral program in psychology, as set forth below:

(1) A program accredited by the American Psychological Association (APA) or the Canadian Psychological Association (CPA) as of the date the degree was conferred; or

(2) A program at an institution of higher learning that was accredited by a regional accrediting agency as of the date the degree was conferred, if the program submitted an application to the APA or CPA for accreditation prior to the date the degree was conferred and has been granted a site visit by the APA or CPA. The program must not have withdrawn its APA or CPA accreditation application or have been denied accreditation as of the date the licensure applicant enrolled in the program; or

(3) Effective through July 22, 2019: A program at an institution of higher learning that was accredited by a regional accrediting agency as of the date the degree was conferred, if the applicant can verify their enrollment in the program prior to July 22, 2014; or

(4) A foreign program that has been evaluated by a credentialing body recognized by the Board. Submission of foreign degree evaluation and cost of the foreign degree qualification determination are the responsibility of the applicant.

(5) An applicant who possesses a degree under section (3) or (4) must show that his or her doctoral program in psychology meets all of the following requirements:

(a) A minimum of three academic years of full-time graduate study.

(b) A minimum of one continuous year in-residence at the institution from which the degree is granted.

(A) One continuous year means two consecutive semesters or three consecutive quarters.

(B) In-residence means physical presence, in person, at an educational institution or training facility in a manner that facilitates acculturation into the profession, the full participation and integration of the individual in the educational and training experience, and includes faculty and student interaction.

(C) The doctoral program may include distance education, but a minimum of one continuous year of the program shall be in-residence. Programs that use physical presence, including face-to-face contact for durations of less than one continuous year, (e.g., multiple long weekends and/or summer intensive sessions) or that use video teleconferencing or other electronic means as a substitute for physical presence at the institution do not meet the in-residence requirement.

(D) Effective through August 12, 2015, applicants who can verify that they enrolled in their program prior to August 12, 2011 may apply under the "old rule" definition of in-residence. Under this provision, one continuous year means a minimum of 500 hours of student-faculty contact involving face-to-face individual or group educational meetings. Such educational meetings must include both faculty-student and student-student interaction, be conducted by the psychology faculty of the institution at least 90 percent

of the time, be documented by the applicant and the institution, and relate substantially to the program components specified. Items such as receptions, meals, group socials and library tours may not count towards the minimum 500 hours of educational meetings. Applicants applying under this provision shall submit full documentation that they have met this requirement, which must include a detailed description of the content of the 500 hours of educational meetings and be verified by the administration of the doctoral program.

(c) The program, wherever it may be administratively housed, must be clearly identified and labeled as a program in psychology. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists.

(d) The psychology program must stand as a recognizable, coherent organizational entity within the institution.

(e) There must be a clear authority and primary responsibility for the core and specialty areas, whether or not the program cuts across administrative lines.

(f) The program must be an integrated, organized sequence of study.

(g) There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities and a psychologist responsible for the program.

(h) The program must have an identifiable body of students who are matriculated in that program for a degree.

(i) The program must include a coordinated, sequential and supervised practicum appropriate to the practice of psychology as described in OAR 858-010-0012.

(j) The program must include a coordinated, sequential and supervised internship, field or laboratory training appropriate to the practice of psychology as described in OAR 858-010-0013.

(k) The curriculum of the program must:

(A) Encompass a minimum of three academic years of full time graduate study, including a minimum of one continuous year in residence at the educational institution granting the doctoral degree;

(B) Require an original dissertation or equivalent that was psychological in nature that meets the requirement for an approved doctoral program; and

(C) Include at least 30 semester hours or 45 quarter hours of credit in graded (not "pass-no pass") courses.

(l) The core program shall include a minimum of three graduate semester hours or 4.5 or more graduate quarter hours (when an academic term is other than a semester, credit hours will be evaluated on the basis of 15 hours of classroom instruction per semester hour) in each of the following substantive content areas:

(A) Scientific and professional ethics and standards;

(B) Research design and methodology;

(C) Statistics;

(D) Psychometric theory;

(E) Biological bases of behavior such as physiological psychology, comparative psychology, neuropsychology, sensation and perception, physical ergonomics, or psychopharmacology;

(F) Cognitive-affective bases of behavior such as learning, thinking, motivation, emotion, memory, cognitive information processing, or social cognition;

(G) Social bases of behavior such as social psychology, group processes, organizational and systems theory; and

(H) Individual differences in behavior such as personality theory, human development, personnel psychology or abnormal psychology.

(m) All professional education programs in psychology must include course requirements in developed practice areas/specialties.

(n) The program must demonstrate that it provides training relevant to the development of competence to practice in a diverse and multicultural society.

(o) Demonstration of competence in clinical psychology shall be met by a minimum of 18 graduate semester hours or 27 graduate quarter hours in the following areas: personality and intellectual assessment, diagnosis, therapeutic intervention, and evaluating the efficacy of intervention.

(p) If the program does not meet the core and/or clinical coursework requirements of (l) and (o), the applicant for licensure may remedy a deficiency of up to 6 semester hours or 9 quarter hours by completing graduate level coursework in the deficient content area(s) at a regionally accredited institution.

(6) Provide syllabi or other documentation regarding course content upon the Board's request.

Stat. Auth.: ORS 675.030
Stats. Implemented: ORS 675.030(1)(b)(c)
Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 1-1992, f. & cert. ef. 1-16-92; PE 3-1992, f. & cert. ef. 7-14-92; PE 1-1996, f. & cert. ef. 6-25-96; PE 1-1997, f. & cert. ef. 6-17-97; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 1-2011, f. & cert. ef. 1-25-11; BPE 2-2011, f. & cert. ef. 5-31-11; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 1-2012(Temp), f. & cert. ef. 2-15-12 thru 8-12-12; BPE 2-2012, f. & cert. ef. 6-8-12; BPE 3-2012(Temp), f. & cert. ef. 10-15-12 thru 4-13-13; BPE 1-2013, f. & cert. ef. 2-5-13; BPE 2-2013, f. & cert. ef. 7-15-13; BPE 3-2013, f. & cert. ef. 9-30-13; BPE 4-2014, f. & cert. ef. 11-17-14; BPE 3-2015, f. & cert. ef. 9-30-15

858-010-0015
Education Requirements — Psychologist Associate

(1) To meet the education requirement of ORS 675.065(4)(c), an applicant must possess a master's degree in psychology from a program at an institution of higher learning that was accredited by a regional accrediting agency at the graduate level as of the date the degree was awarded, or for Canadian universities, an institution of higher education that was provincially or territorially chartered.

(2) The master's program must include at least 45 quarter hours or 30 semester hours of graduate credit, 30 quarter hours or 20 semester hours of which must be in graded (not "pass–no pass") courses. Hours must be from at least five of the basic areas of psychology including:

(a) Experimental psychology; Learning theory; Physiological psychology; Motivation; Perception; Comparative psychology; Statistical methods; Design of research; Developmental psychology; Individual differences; Social psychology; Organizational psychology; Personality theory; Abnormal psychology; and

(b) A minimum of one graduate level course in ethics; and

(c) A minimum of one graduate level course in psychological tests and measurements.

(3) If the master's program does not meet the coursework requirements of (2), the applicant for licensure may remedy a deficiency of up to one course or 3 semester hours or 4.5 quarter hours by completing graduate level coursework in the deficient content area at a regionally accredited institution.

(4) Effective July 26, 2016: The master's program must have included a minimum of one continuous year in-residence at the institution from which the degree is granted.

(a) One continuous year means two consecutive semesters or three consecutive quarters.

(b) In-residence means physical presence, in person, at an educational institution or training facility in a manner that facilitates acculturation into the profession, the full participation and integration of the individual in the educational and training experience, and includes faculty and student interaction.

(c) The master's program may include distance education, but a minimum of one continuous year of the program shall be in-residence. Programs that use physical presence, including face-to-face contact for durations of less than one continuous year, (e.g., multiple long weekends and/or summer intensive sessions) or that use video teleconferencing or other electronic means as a substitute for physical presence at the institution do not meet the in-residence requirement.

Stat. Auth.: ORS 675.065
Stats. Implemented: ORS 675.065(1)(4)(c)
Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 1-1979, f. & ef. 9-5-79; PE 1-1989(Temp), f. & cert. ef. 2-24-89; PE 2-1989, f. & cert. ef. 5-24-89; PE 3-1989(Temp), f. & cert. ef. 9-7-89; PE 1-1990, f. & cert. ef. 2-16-90; PE 3-1992, f. & cert. ef. 7-14-92; PE 1-1993(Temp), f. & cert. ef. 2-12-93; PE 3-1993, f. & cert. ef. 4-13-93; PE 5-1993, f. & cert. ef. 10-6-93; PE 1-1995, f. & cert. ef. 2-16-95; PE 1-1996, f. & cert. ef. 6-25-96; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 1-2002(Temp), f. 1-28-02, cert. ef. 1-31-02 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 1-2011, f. & cert. ef. 1-25-11; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 2-2012, f. & cert. ef. 6-8-12; BPE 3-2012(Temp), f. & cert. ef. 10-15-12 thru 4-13-13; BPE 1-2013, f. & cert. ef. 2-5-13; BPE 4-2014, f. & cert. ef. 11-17-14; BPE 3-2015, f. & cert. ef. 9-30-15

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Rule Caption: One-time license renewal fee reduction for psychologists and psychologist associates pursuant to ORS 291.055(3).
Adm. Order No.: BPE 4-2015
Filed with Sec. of State: 9-30-2015
Certified to be Effective: 9-30-15
Notice Publication Date: 9-1-2014
Rules Amended: 858-030-0005
Subject: This amendment temporarily reduces license renewal fees for psychologists and psychologist associates. It modifies fees as follows: active status will be reduced from $750 to $255; semi-active status will be reduced from $375 to $127.50; and inactive status will be reduced from $100 to $34. The reduction is effective from January 1, 2015 through December 31, 2016 such that all licensees in a

biennial birth month renewal schedule will receive a one-time reduction. On January 1, 2017, fees will return to the prior level. On November 14, 2014 the Board voted to adopt this rule amendment, and on November 17, 2014 the permanent rule was filed with the Secretary of State. ORS 183.715 requires that "a state agency that adopts a rule shall submit a copy to the Legislative Counsel within 10 days after the agency files a certified copy of the rule with the office of the Secretary of State as provided in ORS 183.355(1)." Accordingly, the Board submitted a copy by certified mail on November 25, 2015; however, it was not received by Legislative Counsel until December 1, 2015. To address any issue regarding the validity of the rule filing, the Board is refiling the permanent rulemaking in order to affirm this temporary renewal fee reduction for licensees.

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

858-030-0005
Application, Examination and Licensing Fees

(1) Application: $300

(2) Jurisprudence Examination: $150

(3) License Fees

(a) The license renewal fee for an active psychologist and psychologist associate shall be calculated on an annual amount of $375 and paid on a biennial amount of $750. Effective for renewals due January 1, 2015 through December 31, 2016, the active license fee shall be temporarily reduced for licensees who renew by the stated due date to an annual amount of $127.50 and paid on a biennial amount of $255.

(b) The license renewal fee for a semi-active psychologist and psychologist associate shall be calculated on an annual amount of $187.50 and paid on a biennial amount of $375. Effective for renewals due January 1, 2015 through December 31, 2016, the semi-active license fee shall be temporarily reduced for licensees who renew by the stated due date to an annual amount of $63.75 and paid on a biennial amount of $127.50.

(c) The license renewal fee for an inactive psychologist and psychologist associate shall be calculated on an annual amount of $50 and paid on a biennial amount of $100. Effective for renewals due January 1, 2015 through December 31, 2016, the inactive license fee shall be temporarily reduced for licensees who renew by the stated due date to an annual amount of $17 and paid on a biennial amount of $34.

(d) Effective for the renewal periods beginning January 1, 2010, the Board will phase in the implementation of a two year license on a birth month renewal schedule.

(e) The Board shall impose a delinquency fee of $200 for licenses renewed within thirty days after the stated due date.

(f) The Board shall have discretion to waive the delinquency fee in hardship cases.

(4) Limited Permit: $100

(5) Miscellaneous Fees. Most materials and information are available through the Board website at www.oregon.gov/obpe or may be purchased in accordance with ORS 192.440(2).

(a) Certified verification of licensure: $5

(b) Certified transfer of application information: $20

(c) Student loan deferment letter: $5

(d) Duplicating request: $2.50 for the first five copies; $.25 for each copy thereafter

(e) Laws and administrative rules: $5

(f) Electronic file of mailing labels: $35

(g) Application packet, including laws and administrative rules: $10

(h) Duplicate wall display certificate of licensure: $12

(i) Certified duplicate license: $10

(j) Cumulative disciplinary report: $7.50

Stat. Auth.: ORS 675.110 & 675.115

Stats. Implemented: ORS 675.110 & 675.115

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 7, f. 10-21-74, ef. 11-11-74; PE 9, f. 2-3-75, ef. 2-25-75; PE 1-1978, f. & ef. 9-5-78; PE 1-1979, f. & ef. 9-5-79; PE 2-1980, f. & ef. 9-23-80; PE 1-1982, f. 4-13-82, ef. 6-1-82; PE 2-1982, f. & ef. 7-23-82; PE 1-1983, f. & ef. 11-1-83; PE 2-1989, f. & cert. ef. 5-24-89; PE 3-1992, f. & cert. ef. 7-14-92; PE 2-1993(Temp), f. & cert. ef. 3-18-93; PE 4-1993, f. & cert. ef. 7-19-93; Renumbered from 858-010-0060; PE 5-1993, f. & cert. ef. 10-6-93; PE 1-1996, f. & cert. ef. 6-25-96; BPE 1-1999(Temp), f. & cert. ef. 3-2-99 thru 7-1-99; BPE 2-1999, f. & cert. ef. 7-6-99; BPE 2-2000, f. 9-7-00, cert. ef. 10-15-00; BPE 2-2001(Temp), f. 8-31-01, cet. ef. 10-12-01 thru 2-27-02; BPE 3-2001(Temp), f. & cert. ef. 10-12-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2009(Temp), f. 9-29-09, cert. ef. 10-1-09 thru 12-31-09; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 3-2013, f. & cert. ef. 9-30-13; BPE 5-2014, f. & cert. ef. 11-17-14; BPE 4-2015, f. & cert. ef. 9-30-15

Rule Caption: Clarifies post-doctoral supervised work experience requirements.

Adm. Order No.: BPE 5-2015

Filed with Sec. of State: 9-30-2015

Certified to be Effective: 9-30-15

Notice Publication Date: 9-1-2014

Rules Amended: 858-010-0036

Subject: This amendment makes clarifications to the post-doctoral supervised work experience requirements for licensure as a psychologist. The change specifies that the 24 month time limit on the psychologist licensure requirement statutory exemption under ORS 675.090(2)(a) does not restart or reset. The amendment also reorganizes some content for clarity and makes other helpful language changes. On November 14, 2014 the Board voted to adopt this rule amendment, and on November 17, 2014 the permanent rule was filed with the Secretary of State. ORS 183.715 requires that "a state agency that adopts a rule shall submit a copy to the Legislative Counsel within 10 days after the agency files a certified copy of the rule with the office of the Secretary of State as provided in ORS 183.355(1)." Accordingly, the Board submitted a copy by certified mail on November 25, 2015; however, it was not received by Legislative Counsel until December 1, 2015. To address any issue regarding the validity of the rule filing, the Board is refiling the permanent rulemaking in order to affirm these amendments to the post-doctoral supervised work experience requirements for psychologist licensure.

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

858-010-0036
Post-Doctoral Supervised Work Experience

(1) Policy. One year of post-doctoral supervised work experience is required for licensure. The required work experience must take place after the doctorate degree is conferred.

(a) One year of supervised work experience is defined as 1,500 hours of psychological services performed over a period not less than twelve months.

(b) Psychological services are defined as direct psychological services to an individual or group; diagnosis and assessment; completing documentation related to services provided; client needs meetings and consultation; psychological testing; research related to client services; report writing; and receiving formal training including workshops and conferences.

(c) For the purposes of licensure, psychological services do not include business development; credentialing activities; marketing; purchasing; creating forms; administrative billing or other business management activities.

(d) A person with a doctoral degree in psychology who is employed at an "exempt site" pursuant to ORS 675.090(f) may practice psychology without a license for no more than 24 months from the time they begin practicing at an exempt site. The 24-month time limit does restart if the person ceases practicing and then begins again, and does not reset if the person begins working at a different exempt site.

(2) The following shall be used by the Board to define supervised work experience.

(a) Unless exempted from ORS 675.010 to 675.150, in order to obtain postdoctoral supervised work experience in Oregon, the candidate for licensure must be in a Board approved Resident Supervision Contract.

(b) Work experience completed in Oregon must be performed under the supervision of an Oregon licensed psychologist who has been licensed for at least two years in Oregon or in a jurisdiction with licensing standards comparable to Oregon.

(c) To receive supervised work experience credit from other jurisdictions, the experience must be a formal arrangement under the supervision of a psychologist who has been licensed for at least two years in a jurisdiction with licensing standards comparable to Oregon.

(d) The supervisor is not required to be working on-site with the resident.

(e) Frequency:

(A) If a resident works 1–20 hours in a week, the resident must at least one hour of individual face-to-face supervision during that week.

(B) If a resident works more than 20 hours in a week, the resident must receive at least two hours of supervision during that week. One hour must be individual and one hour may be group supervision. Group supervision must be:

(i) A formal and on-going group of at least three mental health professionals;

(ii) Facilitated by a licensed psychologist; and

(iii) Approved by the resident's supervisor.

(C) On a non-routine basis, in the absence of the primary supervisor, individual one-on-one supervision hours may be delayed up to 14 days to accommodate vacations, illness, travel or inclement weather.

(D) Non-routine individual supervision may occur by electronic means when geographical distance, weather or emergency prohibit a face-to-face meeting.

(E) If a resident's work in a particular week does not comply with these requirements, then it may not be counted towards the supervised work experience requirement.

(3) Candidates for licensure shall be eligible to enter into a Resident Supervision Contract as described in subsection (2)(a) of this rule.

(a) Resident status shall begin the date the Board approves the Resident Supervision Contract.

(b) Duration. The resident status is a transitional step toward licensure and is not intended as a means to avoid licensure. A Resident Supervision Contract shall be effective for a period not to exceed two years from the date of Board approval. The Board may extend the contract beyond two years for good cause upon a written request from the resident and the supervisor prior to the expiration of the contract. Failure to receive a courtesy reminder notice from the Board shall not relieve the resident of the responsibility to timely request an extension.

(c) Termination of a Resident Supervision Contract will be granted by the Board at the written request of the supervisor or the resident. The termination shall be effective at the time the Board approves the request in writing, or on the date indicated by the supervisor in the final residency evaluation, whichever is later.

(d) If the supervisor is to be paid for supervision payment must be in the form of a per-hour fee.

(e) Supervision of more than three residents concurrently shall require prior approval by the Board.

(4) Resident's Responsibilities. The resident's conduct must conform to the following standards:

(a) Title. The resident must be designated at all times by the title "psychologist resident." All signed materials, letterhead, business cards, telephone directory listings, internet postings, brochures, insurance billing and any other public or private representation must include the individual's title as "psychologist resident" and the supervisor's name and designation "supervisor."

(b) Scope of Practice. The resident will only offer services in those areas that the supervisor is competent.

(c) Nature of Supervision. The resident must obtain frequent and regular supervision meetings throughout the duration of the Resident Supervision Contract. The resident must provide the supervisor with a periodic evaluation of all cases and psychological activities in which the resident is engaged. The resident's practice must comply with Oregon laws and administrative rules.

(d) Confidentiality. The resident must advise all clients orally and in their informed consent policy that the supervisor may have access to all information and material relevant to the client's case.

(e) Promptly communicate to the Board any significant interruption or expected termination of the Resident Supervision Contract.

(f) The resident must discuss with their supervisor the Supervisor Evaluation Report at the conclusion or termination of the Resident Supervision Contract.

(5) The supervisor's responsibilities are:

(a) Review, supervise and evaluate representative and problem cases with attention to diagnostic evaluation, treatment planning, ongoing case management, emergency intervention, recordkeeping and termination;

(b) Countersign all psychological reports and professional correspondence produced by the resident; and ensure that letterhead, business cards, telephone directory listings, internet postings, brochures, insurance billing and any other public or private representation includes the appropriate title of "psychologist resident" or "psychologist associate resident" and the supervisor's name and designation as "supervisor."

(c) Review with the resident, Oregon laws and administrative rules related to the practice of psychology, including the current APA "Ethical Principles of Psychologists and Code of Conduct," professional relationships and referrals, protection of records, billing practices, recordkeeping and report writing;

(d) Assist the psychologist resident in developing a plan to prepare for the national written exam and the Oregon jurisprudence examination;

(e) Promptly communicate to the Board any professional or ethical concerns regarding the resident's conduct or performance;

(f) Notify the Board within fourteen days and explain any significant interruption or expected termination of the Resident Supervision Contract;

(g) Ensure that the resident has access to supervision by telephone to discuss urgent matters, if the supervisor is unavailable during a period not to exceed fourteen days;

(h) Create and maintain for at least three years a record of hours of supervision and notes for each supervision session contemporaneously as supervision occurs, and provide it to the Board within fourteen days of request;

(i) Provide the Board with an interim Resident Evaluation Report upon request; and

(j) Provide the Board with a final Resident Evaluation Report at the conclusion or termination of the Resident Supervision Contract.

(6) Associate Supervisor. Any supervision of the resident by a person other than the primary supervisor must be identified in the Resident Contract and approved by the Board.

(a) The associate supervisor is responsible for providing supervision as described in section (5) of this rule in the event that the primary supervisor is unavailable for any reason; and

(b) The associate supervisor is responsible for reporting professional or ethical concerns regarding the resident's conduct or performance to the primary supervisor and the Board.

Stat. Auth.: ORS 675.030, 675.040, 675.045, 675.050, 675.065 & 675.110
Stats. Implemented: ORS 675.030, 675.040, 675.045, 675.050, 675.065 & 675.110
Hist.: PE 1-1988, f. & cert. ef. 7-25-88; PE 1-1990, f. & cert. ef. 2-16-90; PE 1-1991, f. & cert. ef. 4-3-91; PE 2-1991, f. 8-15-91, cert. ef. 8-16-91; PE 4-1993, f. & cert. ef. 7-19-93; PE 1-1996, f. & cert. ef. 6-25-96; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 4-2002, f. & cert. ef. 10-11-02; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 1-2011, f. & cert. ef. 1-25-11; BPE 2-2011, f. & cert. ef. 5-31-11; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 2-2012, f. & cert. ef. 6-8-12; BPE 3-2013, f. & cert. ef. 9-30-13; BPE 1-2014, f. & cert. ef. 3-24-14; BPE 6-2014, f. & cert. ef. 11-17-14; BPE 5-2015, f. & cert. ef. 9-30-15

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Department of Agriculture
Chapter 603

Rule Caption: Increase pesticide registration fees.
Adm. Order No.: DOA 10-2015
Filed with Sec. of State: 10-7-2015
Certified to be Effective: 10-7-15
Notice Publication Date: 9-1-2015
Rules Amended: 603-057-0006
Subject: This proposal increases the annual Pesticide Registration fee to $320. Currently, the annual registration fee is $160.00. House Bill 3549 (2015) increased the statutory maximum for pesticide registration fees to $400. A legislatively approved increase in staffing as well as other related program costs necessitates this fee increase.
Rules Coordinator: Sue Gooch—(503) 986-4583

603-057-0006
Pesticide Registration Fees

(1) The annual registration fee for each pesticide product for calendar year 2015 shall be $160.

(2) Beginning for 2016 pesticide product registration, the annual registration fee for each pesticide product shall be $320.

Stat. Auth.: ORS 634; HB 3549 (2015); HB 5002 (2015); and SB 5507 (2015)
Stats. Implemented: ORS 634; HB 3549 (2015); HB 5002 (2015); and SB 5507 (2015)
Hist.: AD 855(27-67), f. 10-9-67, ef. 1-1-68; AD 1008(22-73)(Temp), f. & ef. 12-5-73; AD 1014(4-74), f. 1-18-74, ef. 2-11-74; AD 7-1977, f. & ef. 4-5-77; AD 24-1981, f. & ef. 12-1-81; AD 17, f. & cert. ef. 11-15-89; DOA 21-1999, f. 9-30-99, cert. ef. 11-1-99; DOA 26-2001, f. & cert. ef. 11-6-01; DOA 38-2003(Temp), f. 10-15-03 cert. ef. 11-23-03 thru 5-19-04; DOA 40-2003, f. & cert. ef. 10-17-03; DOA 41-2003(Temp), f. 11-14-03, cert. ef. 11-23-03 thru 5-20-04; DOA 42-2003, f. & cert. ef. 12-23-04; DOA 17-2005(Temp), f. 10-14-05, cert. ef. 1-1-06 thru 6-29-06; DOA 3-2006, f. & cert. ef. 3-8-06; DOA 21-2012, f. & cert. ef. 7-10-12; DOA 10-2015, f. & cert. ef. 10-7-15

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

Rule Caption: Clarifies process for disconnect of electrical installation or product.
Adm. Order No.: BCD 6-2015(Temp)
Filed with Sec. of State: 9-16-2015
Certified to be Effective: 9-16-15 thru 3-13-16
Notice Publication Date:

Rules Adopted: 918-271-0100
Subject: This temporary rule clarifies the process by which the division may disconnect or order the disconnection of an electrical installation or product that fails to comply with minimum safety standards, electrical product safety standards, or constitutes an immediate hazard to life or property. Allows property owner to request hearing after electrical disconnection has taken place.
Rules Coordinator: Holly A. Tucker—(503) 378-5331

918-271-0100
Electrical Disconnection

(1) In the case of a disconnection made or ordered under ORS 479.820(2) or (3) and after setting forth in writing the facts supporting the action, the division may disconnect or cause the disconnection or disconnection of service, without hearing, to:

(a) An electrical installation or product that fails to comply with minimum safety standards; or,

(b) An electrical installation or product, the condition of which constitutes an immediate hazard to life or property.

(2) In the case of a disconnection under subsection (1) of this rule, if the installation or property owner requests a hearing within 90 days after the date of disconnection, then a hearing shall be granted and the division may issue an order pursuant to such hearing as required by ORS Chapter 183 confirming, altering or dismissing its earlier order.

(3) Such a hearing need not be held where the disconnection or order of disconnect is accompanied by or is pursuant to a citation for violation which is subject to judicial determination in any court of this state, and the order by its terms will terminate in case of final judgment in favor of the property owner.

Stat. Auth.: ORS 479.820
Stats. Implemented: ORS 479.820
Hist.: BCD 6-2015(Temp), f. & cert. ef. 9-16-15 thru 3-13-16

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Rule Caption: Dwelling Residential Reconstruction and Repair Code
Adm. Order No.: BCD 7-2015(Temp)
Filed with Sec. of State: 9-25-2015
Certified to be Effective: 9-25-15 thru 3-22-16
Notice Publication Date:
Rules Adopted: 918-020-0500
Subject: This temporary rule allows the division to authorize the use of a Dwelling Reconstruction and Repair Code that is different than the Oregon Residential Specialty Code. Allows the division to enter into partnership agreement with a municipality in areas of the state where dwellings or associated accessory buildings or structures were damaged or destroyed by natural disaster.
Rules Coordinator: Holly A. Tucker—(503) 378-5331

918-020-0500
Reconstruction and Repair Code

(1) The division may authorize the use of a Dwelling Reconstruction and Repair Code that is different from the Oregon Residential Specialty Code. For the purpose of this rule, a "Dwelling Reconstruction and Repair Code" is the minimum code for construction, and can be applied only in areas of the state where dwellings or accessory buildings or structures associated with the dwelling were damaged or destroyed by natural disaster.

(2) Authorization by the division is subject to a satisfactory request for assistance and executed partnership agreement between the division and a municipality under ORS 455.185. A municipality may request authorization to use a Dwelling Reconstruction and Repair Code under this rule, notwithstanding OAR 918-020-0370.

(3) To be eligible for a permit under a Dwelling Reconstruction and Repair Code, a homeowner must be included on the Division's list of affected properties within the geographic area established through a partnership agreement under ORS 455.185, during the effective period of the applicable partnership agreement.

Stat. Auth.: ORS 455.015, 455.040, 455.100, 455.185 & 455.200
Stats. Implemented: ORS 455.015, 455.040, 455.100, 455.185 & 455.200
Hist.: BCD 7-2015(Temp), f. & cert. ef. 9-25-15 thru 3-22-16

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Rule Caption: Disqualification from obtaining license, registration, certificate, or certification.
Adm. Order No.: BCD 8-2015
Filed with Sec. of State: 10-1-2015
Certified to be Effective: 10-1-15
Notice Publication Date: 9-1-2015
Rules Adopted: 918-001-0034
Rules Repealed: 918-001-0034(T)
Subject: This rule provides that a disqualification under ORS 455.127(2) shall be for a period of five years. The rule also allows the Director or appropriate advisory board discretion to consider mitigating factors and order a disqualification of fewer than five years.
Rules Coordinator: Holly A. Tucker—(503) 378-5331

918-001-0034
Disqualification from Obtaining License, Registration, Certificate, or Certification

(1) Disqualification under ORS 455.127(2) shall be for a period of five years except as provided in subsection (2) of this rule.

(2) The Director of the Department of Consumer and Business Services or an appropriate advisory board may, in its discretion, order a disqualification fewer than five years. In doing so the Director of the Department of Consumer and Business Services or appropriate advisory board may, but is not required to, consider any mitigating factors.

Stat. Auth.: ORS 455.127 & 455.117
Stat. Implemented: ORS 455.127
Hist: BCD 5-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15; BCD 8-2015, f. & cert. ef. 10-1-15

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

Rule Caption: Amends certification and registration fees for the certified providers and registered master trustees.
Adm. Order No.: FCS 7-2015
Filed with Sec. of State: 10-2-2015
Certified to be Effective: 10-2-15
Notice Publication Date: 9-1-2015
Rules Amended: 441-930-0270
Rules Repealed: 441-930-0270(T)
Subject: In 2011, the Legislature enacted HB 5014, reducing allowable licensing and renewal fees the department could charge endowment care certified providers and master trustees. In response, the department adopted rules to conform to the enrolled bill (Admin. Or. FCS 9-2011). This proposed rule is identical to the rule invalidated by legislative counsel for failure to meet statutory deadlines. This rule is necessary to ensure the department's fees remain consistent with the legislative direction provided by HB 5014 and maintain consistency in registration and certification fees with the previous four year period.
Rules Coordinator: Shelley Greiner—(503) 947-7484

441-930-0270
Fees Assessed to Certified Providers and Registered Master Trustees

The director shall annually assess the following fees for each registered master trustee, certified provider, or applicant:

(1) Certification Fee — $390 per certified provider. Each location is a separate entity for purposed of this fee.

(2) Registration Fee — $390 per master trustee.

(3) Limited Operations Fee — $80.

(4) Exam Fees — $75 per hour for each examiner, plus costs of an examination.

(5) If the books and records are located outside Oregon, the certified provider or master trustee must pay travel and per diem expenses.

Stat. Auth.: ORS 97.926, 97.933 & 97.935
Stats. Implemented: ORS 97.933, 97.935, 2011 OL Ch. 618 §1
Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0270; FCS 3-2004, f. & cert. ef. 9-30-04; FCS 7-2004, f. 12-14-04, cert. ef. 1-1-05; FCS 3-2005, f. & cert. ef. 9-6-05; FCS 2-2006, f. & cert. ef. 2-22-06; FCS 8-2008, f. & cert. ef. 8-28-08; FCS 14-2010, f. 12-30-10, cert. ef. 1-1-11; FCS 6-2011(Temp), f. 6-30-11, cert. ef. 7-1-11 thru 12-28-11; FCS 9-2011, f. & cert. ef. 10-3-11; FCS 3-2015(Temp), f. & cert. ef 5-21-15 thru 11-13-15; FCS 7-2015, f. & cert. ef. 10-2-15

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Rule Caption: Amends fees for mortgage banker, mortgage broker and mortgage loan originator licenses.
Adm. Order No.: FCS 8-2015
Filed with Sec. of State: 10-2-2015
Certified to be Effective: 10-2-15

Notice Publication Date: 9-1-2015
Rules Amended: 441-860-0101, 441-880-0400
Rules Repealed: 441-860-0101(T), 441-880-0400(T)
Subject: In 2011, the Legislature enacted House Bill 5014, which reduced allowable fees the department could charge. In response, the department adopted rules to conform to the enrolled bill (Admin. Or. FCS 8-2011). These proposed rules are identical to rules invalidated by legislative counsel for failure to meet statutory deadlines. These rules are necessary to ensure the department's fees remain consistent with the legislative direction provided by HB 5014 and maintain consistency in registration and certification fees with the previous four year period.
Rules Coordinator: Shelley Greiner—(503) 947-7484

441-860-0101
Fees Payable to the Director

In addition to any fees required to participate in the National Mortgage Licensing System and Registry, a mortgage banker or a mortgage broker shall pay to the director the following fees at the time of application or renewal:

(1) A nonrefundable application fee for a mortgage banker or mortgage broker license of $960 plus a $330 nonrefundable application fee for each branch the mortgage banker or mortgage broker establishes in Oregon.

(2) A nonrefundable renewal application fee for a mortgage banker or mortgage broker license of $480 plus a $165 nonrefundable renewal application fee for each branch the mortgage banker or mortgage broker maintains in Oregon.

Stat. Auth.: ORS 86A.136
Stats. Implemented: ORS 86A.106, 2011 OL Ch. 618 § 1
Hist.: FCS 12-2009, f. 12-2-09, cert. ef. 1-1-10; FCS 5-2011(Temp), f. 6-30-11, cert. ef. 7-1-11 thru 12-28-11; FCS 8-2011, f. & cert. ef. 10-3-11; FCS 4-2015(Temp), f. & cert. ef. 5-21-15 thru 11-13-15; FCS 8-2015, f. & cert. ef. 10-2-15

441-880-0400
Fees Payable to the Director

(1) In addition to any fees required to participate in the National Mortgage Licensing System and Registry, a person applying for a mortgage loan originator license shall pay to the director a nonrefundable fee of $80 for the issuance of a mortgage loan originator license.

(2) In addition to any fees required to participate in the National Mortgage Licensing System and Registry, a person renewing a mortgage loan originator license shall pay to the director a nonrefundable fee of $65 for the renewal of a mortgage loan originator license.

Stat. Auth.: ORS 86A.242
Stats. Implemented: ORS 86A.136, 86A.206, 2011 OL Ch. 816 § 1
Hist.: FCS 12-2009, f. 12-2-09, cert. ef. 1-1-10; FCS 5-2011(Temp), f. 6-30-11, cert. ef. 7-1-11 thru 12-28-11; FCS 8-2011, f. & cert. ef. 10-3-11; FCS 4-2015(Temp), f. & cert. ef. 5-21-15 thru 11-13-15; FCS 8-2015, f. & cert. ef. 10-2-15

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

Rule Caption: Permanent transition of authority over Oregon Health Insurance Marketplace, Senate Bill 1 (2015) implementation
Adm. Order No.: OHIE 3-2015
Filed with Sec. of State: 10-15-2015
Certified to be Effective: 10-15-15
Notice Publication Date: 9-1-2015
Rules Adopted: 945-020-0025
Rules Amended: 945-001-0006, 945-020-0010, 945-020-0020, 945-020-0040, 945-030-0010, 945-030-0020, 945-030-0030, 945-030-0035, 945-030-0040, 945-030-0045, 945-040-0030, 945-040-0040, 945-040-0050
Rules Repealed: 945-001-0001, 945-001-0011, 945-010-0001, 945-010-0006, 945-010-0011, 945-010-0021, 945-010-0031, 945-010-0041, 945-010-0051, 945-010-0061, 945-010-0071, 945-010-0081, 945-010-0091, 945-010-0101, 945-040-0005, 945-040-0060, 945-040-0070, 945-040-0080, 945-040-0090, 945-040-0100, 945-040-0110, 945-040-0120, 945-040-0130, 945-040-0140, 945-040-0150, 945-040-0170, 945-040-0180, 945-050-0005, 945-050-0010, 945-050-0020
Rules Ren. & Amend: 945-040-0010 to 945-001-0002
Subject: Senate Bill 1 of the 2015 legislative session transferred authority over the Health Insurance Marketplace to the Department of Consumer and Business Services (DCBS). This rulemaking will conform OAR chapter 945 to the changes made by SB 1 (2015) effective July 1, 2015. In addition, there are some updates and changes to the insurer assessment and certification process.
Rules Coordinator: Victor Garcia—(971) 283-1878

945-001-0002
Definitions

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

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

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

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

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

(5) "Benefit year" has the meaning given in 45 CFR 155.20.

(6) "Catastrophic plan" means a health plan described in §1302(e) of the Affordable Care Act.

(7) "CHIP" or "Children's Health Insurance Program" means the portion of the Oregon Health Plan established by Title XXI of the Social Security Act and administered by the Oregon Health Authority.

(8) "Cost sharing" has the meaning given in 45 CFR 155.20.

(9) "Cost sharing reductions" has the meaning given in 45 CFR 155.20.

(10) "DCBS" means the Oregon Department of Consumer and Business Services.

(11) "Effectuation" means the activation of QHP or SADP coverage through enrollment and payment of the first month's premium.

(12) "Employee" has the meaning given in section 2791 of the Public Health Services Act.

(13) "Employer" has the meaning given in 45 CFR 155.20.

(14) "Enrollee" has the meaning given in 45 CFR 155.20.

(15) "Essential health benefits" has the meaning given in OAR 836-053-0008.

(16) "Federal poverty level" or "FPL" has the meaning given in 45 CFR 155.300.

(17) "Full-time employee":

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

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

(18) "Health benefit plan" has the meaning given in ORS 741.300.

(19) "Health care service contractor" has the meaning given in ORS 741.300.

(20) "Health insurance" has the meaning given in ORS 741.300.

(21) "Health insurance exchange" or "exchange" has the meaning given in ORS 741.300.

(22) "Health plan" has the meaning given in ORS 741.300.

(23) "Household" has the meaning given in 42 CFR 435.603.

(24) "Household income" has the meaning given in 26 CFR 1.36B and 42 CFR 435.603.

(25) "Individual market" has the meaning given the term in section 1304(a)(2) of the ACA.

(26) "Insurer" has the meaning given in ORS 741.300.

(27) "Insurance affordability program" has the meaning given in 42 CFR 435.4.

(28) "Lawfully present" has the meaning given in 45 CFR 152.2.

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

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

(31) "Minimum contribution requirement in the case of a medical plan" means a small employer must contribute at least 50 percent of the employee-only premium. If a small employer elects to offer more than one medical plan to employees through SHOP, the minimum contribution

requirement will be determined based on a reference plan selected by the employer. In the case of a dental plan, the employer must contribute at least $20 per enrolling employee.

(32) "Minimum essential coverage" has the meaning given in section 5000(A)(f) of the Internal Revenue Code.

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

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

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

(36) "Oregon Insurance Division" means the Insurance Division of DCBS.

(37) "Pediatric dental benefits" has the meaning given in OAR 836-053-0008.

(38) "Plan year" has the meaning given in 45 CFR 155.20.

(39) "Qualified employer" means an employer who meets the requirements to participate in the Small Business Health Options Program.

(40) "Qualified health plan" or "QHP" has the meaning given in ORS 741.300.

(41) "Qualified Individual" has the meaning given in 45 CFR 155.20.

(42) "Resident" means an individual who lives in Oregon with or without a fixed address, or intends to live in Oregon, including an individual who enters Oregon with a job commitment or looking for work. There is no minimum amount of time an individual must live in Oregon to be a resident. An individual continues to be a resident of Oregon during a temporary period of absence if he or she intends to return when the purpose of the absence is completed. An individual is not a resident if the individual is in Oregon solely for a vacation or other leisure activity.

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

(44) "Small Business Health Options Program" or "SHOP" has the meaning given in ORS 741.300.

(45) "Small employer" has the meaning given in ORS 743.730.

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

(47) "State program" has the meaning given in ORS 741.300.

(48) "Tax filer" has the meaning given in 45 CFR 155.300.

Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.500
Hist.: OHIE 6-2013, f. & cert. ef. 9-30-13; OHIE 3-2014, f. & cert. ef. 5-12-14; Renumbered from 945-040-0010 by OHIE 3-2015, f. & cert. ef. 10-15-15

945-001-0006
Notice of Proposed Rulemaking and Adoption of Temporary Rules

(1) Except as provided in ORS 183.335(7) or (12) or 183.341, before permanently adopting, amending, or repealing an administrative rule, the Oregon Health Insurance Marketplace shall give notice of the intended action:

(a) To legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule;

(b) To persons on the interested parties lists described in section (2) of this rule for the pertinent OAR chapter or pertinent subtopics or programs within an OAR chapter at least 28 days before the effective date of the rule;

(c) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days before the effective date of the rule;

(d) To other persons, agencies, or organizations that the Marketplace is required to provide an opportunity to comment pursuant to state statute or federal law or as a requirement of receiving federal funding, at least 28 days before the effective date of the rule; and

(f) In addition to the above, the Marketplace may send notice of intended action to other persons, agencies, or organizations that the Marketplace, in its discretion, believes to have an interest in the subject matter of the proposed rule at least 28 days before the effective date of the rule.

(2) Pursuant to ORS 183.335(8), the Marketplace shall maintain an interested parties list for each OAR chapter of rules for which the Marketplace has administrative responsibility, and an interested parties list for subtopics or programs within those chapters. A person, group, or entity that desires to be placed on the list to receive notices regarding proposed permanent adoption, amendment, or repeal of a rule must make the request in writing or by electronic mail to the rules coordinator for the chapter. The request must include either a mailing address or an electronic mail address to which notices may be sent.

(3) Notices under this rule may be sent by hand delivery, state shuttle, postal mail, electronic mail, or facsimile. The Marketplace recognizes state shuttle as "mail" and may use this means to notify other state agencies.

(a) An email notification under section (1) of this rule may consist of any of the following:

(A) An email that attaches the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact.

(B) An email that includes a link within the body of the email, allowing direct access online to the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact.

(C) An email with specific instructions within the body of the email, usually including an electronic Universal Resource Locator (URL) address, to find the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact.

(b) The Marketplace may use facsimile as an added means of notification, if necessary. Notification by facsimile under section (1) of this rule shall include the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact, or specific instructions to locate these documents online.

(c) The Marketplace shall honor all written requests that notification be sent by postal mail instead of electronically if a mailing address is provided.

(4) If the Marketplace adopts or suspends a temporary rule, the Marketplace shall notify:

(a) Legislators specified in ORS 183.335(15);

(b) Persons on the interested parties list described in section (2) of this rule for the pertinent OAR chapter, subtopics, or programs within an OAR chapter;

(c) Other persons, agencies, or organizations that the Marketplace is required to notify pursuant to state statute or federal law or as a requirement of receiving federal funding; and

(d) In addition to the above, the Marketplace may send notice to other persons, agencies, or organizations that the Marketplace, in its discretion, believes to have an interest in the subject matter of the temporary rulemaking.

(5) In lieu of providing a copy of the rule or rules as proposed with the notice of intended action or notice concerning the adoption of a temporary rule, the Marketplace may state how and where a copy may be obtained on paper, by electronic mail, or from a specified web site.

Stat. Auth: ORS 183.341 & 741.002(3)
Stats. Implemented: ORS 183.330, 183.335 & 183.341
Hist.: OHIE 1-2012, f. & cert. ef. 3-6-12; OHIE 3-2015, f. & cert. ef. 10-15-15

945-020-0010
Purpose; Applicability

(1) The purpose of OAR chapter 945, division 20 is to establish the process for certification of:

(a) Health plans as qualified health plans (QHPs); and

(b) Standalone dental plans (SADPs) as providing pediatric dental benefits.

(2) Except for multistate plans, as defined in 45 CFR 800.20, OAR chapter 945, division 20 applies to:

(a) All QHPs offered through the Marketplace; and

(b) All SADPs marketed through or outside the Marketplace as providing pediatric dental benefits.

Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.310
Hist.: OHIE 3-2012(Temp), f. 9-13-12, cert. ef. 10-1-12 thru 3-13-13; OHIE 4-2012, f. & cert. ef. 12-13-12; OHIE 1-2015(Temp), f. & cert. ef. 3-11-15 thru 9-4-15; Administrative correction, 9-30-15; OHIE 3-2015, f. & cert. ef. 10-15-15

945-020-0020
Certification of QHPs and Marketplace SADPs

(1) Each health benefit plan or dental plan offered through the Oregon Health Insurance Marketplace must have in effect a certification issued by the Marketplace. This certification evidences that the health benefit plan is a QHP and that the dental plan is a SADP providing pediatric dental benefits.

(2) The Marketplace will issue a request for applications. To be considered for participation and plan certification, an insurer must submit a

completed application to the Marketplace in the form and manner, and within the timeframes specified by the Marketplace.

(3) For QHPs, the Marketplace will grant conditional approval to participate in the Marketplace to an insurer whose application demonstrates the insurer:

(a) Has a certificate of authority and is in good standing with the Oregon Insurance Division to offer health benefit plans in Oregon;

(b) Will offer at least one standardized QHP at the bronze, silver, and gold levels of coverage;

(c) Will contract with the Marketplace to offer QHPs and abide by the terms of the contract, including but not limited to the following provisions:

(A) Transparency in coverage standards;

(B) Accreditation requirements;

(C) Network adequacy standards;

(D) Marketplace administrative fees and assessments;

(E) Quality improvement strategies, quality reporting, and enrollee satisfaction surveys;

(F) Tribal requirements;

(G) Premium tax credit and cost sharing reductions;

(H) Performance reporting standards; and

(I) Marketplace processes and procedures, including those related to enrollment, enrollment periods, premium payment, terminations of coverage, customer service, and QHP recertification and decertification.

(4) For SADPs, the Marketplace will grant conditional approval to participate in the Marketplace to an insurer whose application demonstrates the insurer:

(a) Has a certificate of authority and is in good standing with the Oregon Insurance Division to offer dental plans in Oregon;

(b) Agrees to contract with the Marketplace to offer SADPs. Contracts will require insurers to comply with Marketplace standards and requirements, including but not limited to the following:

(A) Transparency in coverage standards;

(B) Network adequacy standards;

(C) Marketplace administrative fees and assessments; and

(D) Marketplace processes and procedures, including those related to enrollment, enrollment periods, premium payment, terminations of coverage, customer service, and SADP recertification and decertification.

(5) An insurer's approval is conditioned on certification of its health benefit or dental plans. An insurer will be approved for a two-year period, subject to a decision by the Marketplace to issue another request for applications before the end of the two-year period. An insurer that did not participate in the request for application the process may not offer coverage through the Marketplace, unless the Marketplace determines that there is a significant loss of statewide coverage.

(6) A loss of statewide coverage may include, but is not limited to:

(A) Plan discontinuance;

(B) Plan withdrawal;

(C) Plan decertification; or

(D) Enrollment closures that result in inadequate coverage choices in one or more geographic areas of the state.

(7) Every QHP or SADP offered through the Marketplace must be filed with the Oregon Insurance Division and determined to meet applicable benefit design standards and all other insurance regulations as required under state and federal law.

(8) Benefit design standards means coverage that includes, but is not limited to, the following:

(a) For QHPs, essential health benefits, or for SADPs, pediatric dental benefits;

(b) For QHPs:

(A) Cost sharing limits as defined in 45 CFR 156.130; and

(B) A bronze, silver, gold, or platinum level of coverage as defined in 45 CFR 156.140, or is a catastrophic plan as described in section 1302(e) of the Affordable Care Act.

(9) Subject to the limitation on the number of QHPs that may be offered through the Marketplace in the insurer's contract with the Marketplace, the Marketplace will recertify health benefit or dental plans that are submitted by approved insurers and with benefit design standards and legal requirements in this rule.

(10) The Marketplace may at any time decertify a QHP or SADP if the Marketplace determines that the insurer or QHP or SADP is no longer in compliance with the Marketplace's certification criteria. An insurer may appeal decertification of a QHP or SADP through the informal process specified in the insurer's contract with the Marketplace. After resolution of the informal appeal, an aggrieved insurer may seek additional review through a contested case hearing as provided under ORS 183.411 to 183.471.

Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.310
Hist.: OHIE 3-2012(Temp), f. 9-13-12, cert. ef. 10-1-12 thru 3-13-13; OHIE 4-2012, f. & cert. ef. 12-13-12; OHIE 1-2015(Temp), f. & cert. ef. 3-11-15 thru 9-4-15; Administrative correction, 9-30-15; OHIE 3-2015, f. & cert. ef. 10-15-15

945-020-0025
Certification of Non-Marketplace Stand-alone Dental Plans

This rule applies only to SADPs offered outside the Marketplace. The Marketplace will, upon satisfaction of the following criteria, certify as providing pediatric dental benefits a stand alone dental plan (SADP) that an insurer offers for sale outside of the Marketplace.

(1) To be considered for SADP certification, a dental plan must have its rates, form, and binder filed with and approved by the Oregon Insurance Division.

(2) For an SADP to be certified, the insurer must demonstrate to the Marketplace that the SADP:

(a) Provides pediatric dental benefits;

(b) Meets an actuarial value of 68% to 72% or 83% to 87%;

(c) For individual SADPs, imposes rates that are effective for the entire policy year;

(d) For small group SADPs, imposes rates that may be subject to increase every calendar quarter but that are effective for a specific group for the entire plan year; and

(e) Has been approved for sale in Oregon by the Oregon Insurance Division.

(3) The Marketplace will recertify an SADP that meets the criteria in paragraph (2) of this rule.

(4)(a) The Marketplace may at any time decertify an SADP if the Marketplace determines that the insurer or SADP no longer meets the Marketplace's certification criteria described in this rule.

(b) The insurer may appeal decertification. Appeal requests must be submitted within 15 days from receipt of the notice from the Marketplace informing the insurer of the decertification. The insurer's appeal request must be made in writing and must provide a thorough explanation of the grounds for appeal along with any supporting information. The Administrator of the Marketplace will rule on a valid and timely appeal request within 14 days of receipt of the request. If an insurer is unsatisfied with the Administrator's ruling, the insurer may seek additional review through a contested case hearing as provided under ORS 183.411 to 183.471.

(c) Upon decertification of an SADP, the Marketplace will provide notice of decertification to the insurer and the Insurance Division, and the insurer shall not terminate coverage before giving notice to enrollees.

Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.310
Hist.: OHIE 3-2015, f. & cert. ef. 10-15-15

945-020-0040
QHP Addendum for Indian Health Care Providers

(1) If a health insurer contracts with a Tribal Health Provider in the state of Oregon for services provided through a Marketplace QHP, the insurer shall:

(a) Use the QHP Addendum for Indian Health Care Providers, Exhibit 1 to this rule, to supplement and amend its existing provider contract, and

(b) Notify the Marketplace in writing of the contractual relationship by emailing the information to info.marketplace@Oregon.gov.

(2) The Marketplace may amend the QHP Addendum for Indian Health Care Providers using the rulemaking process. Contracted carriers and tribes will be required to amend their contracts to reflect any change to the QHP Addendum for Indian Health Care Providers within 90 days of adoption of the change.

Exhibit 1: "QHP Addendum for Indian Health Care Providers"
[ED. NOTE: Addendum referenced is available from the agency.]
Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.310
Hist.: OHIE 4-2013, f. & cert. ef. 7-9-13; OHIE 3-2015, f. & cert. ef. 10-15-15

945-030-0010
Purpose

The purpose of division 30 is to establish a process for the adoption of an administrative charge to be paid by health insurers offering a qualified health plan or stand alone dental plan through the Marketplace to pay the administrative and operational expenses of the Marketplace, including costs of grants to certified navigators.

Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.105

Hist.: OHIE 1-2013, f. & cert. ef. 3-18-13; Suspended by OHIE 3-2013(Temp), f. & cert. ef. 5-28-13 thru 11-22-13; OHIE 3-2015, f. & cert. ef. 10-15-15

945-030-0020
Establishment of Administrative Charge Paid by Insurers

(1) After consulting with the Advisory Committee created by Section 13 of 2015 Senate Bill 1, Marketplace staff will annually provide a Report on Administrative Charges to the Director of the Department of Consumer and Business Services (Director).

(2) The report will be posted on the Marketplace's website for public review and comment.

(3) At a minimum, the report will include

(a) A projection of Marketplace operating expenses (including the Marketplace share of DCBS shared services expenses, and operating expenses borne by the Marketplace and reimbursed by another agency) based on DCBS budgets, assuming for this purpose that the operating expenses in any actual or expected biennial budget are distributed evenly over the biennium;

(b) A projection of Marketplace enrollment for the next calendar year; and

(c) A proposed administrative charge for the next calendar year.

(4) The Department will hold a public hearing on a proposed administrative charge.

(5) No later than the end of the first quarter of a calendar year the Director shall amend or approve an administrative charge for the next calendar year.

(6) Any administrative charge adopted by the Director shall be established in rule.

(7) The administrative charge shall be expressed as a per member per month figure.

(8) The annual administrative charge assessed by the Marketplace shall not exceed the limits set forth in ORS 741.105(2) on the premium or other monthly charge, prior to tax credits and cost sharing reductions, based on the number of enrollees receiving coverage in qualified health plans or stand alone dental plans through the Marketplace during the month of December preceding the report.

(9) The maximum amount permissible under ORS 741.105 will be calculated by comparing the Marketplace's fund balance at the end of each December with the Marketplace's budgeted operating expenses for the following six-month period (calculated as one-fourth of the budgeted operating expenses for the biennium that includes the six-month period). If the fund balance exceeds six months of budgeted operating expenses, the Department of Consumer and Business Services will return excess funds to carriers on a pro-rata basis, computed from the December assessments, in the form of a credit applied against future assessments. The credit will be applied no later than the end of the first quarter of the calendar year.

Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.105
Hist.: OHIE 1-2013, f. & cert. ef. 3-18-13; OHIE 1-2015(Temp), f. & cert. ef. 3-11-15 thru 9-4-15; Administrative correction, 9-30-15; OHIE 3-2015, f. & cert. ef. 10-15-15

945-030-0030
2015 Administrative Charge on Insurers

(1) Effective January 1, 2015, each health insurer offering qualified health plans through the Marketplace shall pay a monthly administrative charge equal to $9.66 times the number of members enrolled through the Marketplace in that month.

(2) Effective January 1, 2015, each health insurer offering stand alone dental plans through the Marketplace shall pay a monthly administrative charge equal to $0.97 times the number of members enrolled through the Marketplace in that month.

Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.105
Hist.: OHIE 1-2013, f. & cert. ef. 3-18-13; OHIE 3-2013(Temp), f. & cert. ef. 5-28-13 thru 11-22-13; OHIE 5-2013, f. & cert. ef. 8-19-13; OHIE 2-2014, f. & cert. ef. 4-15-14; OHIE 1-2015(Temp), f. & cert. ef. 3-11-15 thru 9-4-15; Administrative correction, 9-30-15; OHIE 3-2015, f. & cert. ef. 10-15-15

945-030-0035
2016 Administrative Charge on Insurers

(1) Effective January 1, 2016, each health insurer offering qualified health plans through the Marketplace shall pay a monthly administrative charge equal to $9.66 times the number of members enrolled through the Marketplace in that month.

(2) Effective January 1, 2016, each health insurer offering stand alone dental plans through the Marketplace shall pay a monthly administrative charge equal to $0.97 times the number of members enrolled through the Marketplace in that month.

Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.105
Hist.: OHIE 2-2015, f. 3-17-15, cert. ef. 3-31-15; OHIE 3-2015, f. & cert. ef. 10-15-15

945-030-0040
Assessment and Collection of Administrative Charge on Insurers

(1) By the last Wednesday of each month, an insurer shall report to the Marketplace the insurer's effectuated enrollment as of 11:59 PM on the 15th of the month and the anticipated effectuated enrollment for the following month.

(2) The Marketplace shall assess an insurer an administrative charge on or before the 10th day of each month based on the number of reasonably anticipated effectuated members enrolled in Marketplace coverage in that month.

(3) The Marketplace shall adjust the administrative charge when it reasonably believes an insurer has had changes or has made accurate corrections to enrollment for prior months, as follows:

(a) For report months beginning July of a given year and ending June of the following year, the Marketplace shall adjust the administrative charge for coverage months beginning January of the given year through the report month.

(b) The Marketplace shall not adjust the administrative charge for changes or corrections in enrollment for coverage months preceding the period described in paragraph (a) of this section.

(4) The administrative charge is due in full to the Marketplace on the 10th day of the month following the assessment.

(5) For any month in which the insurer does not make full payment within 5 days following the due date for the administrative charge, the Marketplace may impose a late payment charge of 1 percent of the amount due, to be paid on the next due date for the administrative charge.

(6) If an insurer fails to pay the administrative charge or any late payment charge or both, the Director may:

(a) Impose an annual 9% interest charge on the amount due;

(b) Close that insurer's Marketplace plans to new enrollment until all outstanding charges are paid; and/or

(c) De-certify the insurer's qualified health plans and/or stand-alone dental plans.

(7) The insurer must maintain data that are sufficient:

(a) To support the assessment reported to the director and any adjustments or corrections; and

(b) For the Director to verify the amount reported, adjusted, or corrected.

(8) Upon request and in the form, manner, and time prescribed by the Director, an insurer must provide to the Director the data described in paragraph 7 of this rule.

(9) An insurer may contest the amount of the administrative charge assessed under this section through a contested case hearing under ORS 183.411 to 183.471.

Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.105
Hist.: OHIE 1-2013, f. & cert. ef. 3-18-13; OHIE 3-2013(Temp), f. & cert. ef. 5-28-13 thru 11-22-13; OHIE 5-2013, f. & cert. ef. 8-19-13; OHIE 1-2015(Temp), f. & cert. ef. 3-11-15 thru 9-4-15; Administrative correction, 9-30-15; OHIE 3-2015, f. & cert. ef. 10-15-15

945-030-0045
Administrative Assessment on State Programs

(1) The administrative assessment on state programs shall be established in an Intergovernmental Agreement between the Marketplace and the Oregon Health Authority.

(2) The administrative assessment, expressed as a per member per month figure, shall be based on the number of individuals enrolled in state programs offered through the Marketplace.

(3) The Intergovernmental Agreement shall specify the intervals and manner in which the administrative assessment is to be paid.

(4) Marketplace staff will annually report to the Director on the assessment on state programs.

Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.105
Hist.: OHIE 1-2014, f. & cert. ef. 1-16-14; OHIE 1-2015(Temp), f. & cert. ef. 3-11-15 thru 9-4-15; Administrative correction, 9-30-15; OHIE 3-2015, f. & cert. ef. 10-15-15

945-040-0030
Eligibility for the Small Business Health Options Program (SHOP)

(1) To qualify for the Marketplace's Small Business Health Options Program (SHOP), a small employer must:

(a) Meet the definition of small employer in ORS 743.730;

(b) At a minimum, offer coverage in a qualified health plan to all full-time employees; and

(c) Have a principal business address in Oregon, or offer coverage to all eligible employees whose primary worksite is located in Oregon.

(2) A small employer that meets the minimum participation and contribution requirements for medical plans may apply for SHOP coverage throughout the year. A small employer that does not meet these requirements may apply for SHOP coverage between November 15 and December 15. The minimum participation and contribution requirements for dental plans apply throughout the year for a small employer offering dental plans through SHOP.

(3) Once enrolled, an employer remains eligible for SHOP regardless of the number of additional employees it hires.

(4) An employee is eligible to enroll in a qualified health plan through SHOP if the employee receives an offer of coverage from a qualified employer.

Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.500
Hist.: OHIE 6-2013, f. & cert. ef. 9-30-13; OHIE 3-2015, f. & cert. ef. 10-15-15

945-040-0040
Eligibility for Insurance Affordability Programs

(1) Advance Payments of the Premium Tax Credit. In order to qualify for advance payments of the premium tax credit, a tax filer must have household income greater than or equal to 100 percent, but not more than 400 percent of the Federal Poverty Level for the benefit year; and one or more applicants for whom the tax filer expects to claim a personal exemption deduction on his or her tax return for the benefit year including the tax filer and his or her spouse must:

(A) Be eligible for enrollment in a qualified health plan; and

(B) Not be eligible for minimum essential coverage, with the exception of coverage in the individual market; and

(b) Attest that he or she:

(A) Will file an income tax return for the benefit year;

(B) If married, will file a joint tax return for the benefit year;

(C) Will not be claimed as a tax dependent by another tax filer for the benefit year; and

(D) Will claim a personal exemption deduction on his or her tax return for the applicants identified as members of his or her family including the tax filer and his or her spouse.

(2) An individual is treated as eligible for employer-sponsored minimum essential coverage only if:

(a) The employee's share of the annual premium for self-only coverage does not exceed 9.5 percent of the taxpayer's household income for the taxable year and the insurer's share of the total allowed costs of benefits provided under the plan is at least 60 percent of those costs; or

(b) The individual actually enrolls in coverage, including coverage that does not provide minimum value and exceeds 9.5 percent of the taxpayer's household income for the taxable year.

(3) A qualified individual must enroll through the Marketplace in a qualified health plan that is not a catastrophic plan to receive advance payments of the premium tax credit.

(4) A qualified individual may accept less than the full amount of advance payments of the premium tax credit for which he or she is determined eligible.

(5) A qualified individual who receives advance payments of the premium tax credit and does not file an income tax return and reconcile payments of the tax credit as required by the federal government may not be eligible for advance payments of the premium tax credit for the next benefit year.

(6) Cost Sharing Reductions. In order to qualify for cost sharing reductions, an individual must:

(a) Be eligible for enrollment in a qualified health plan;

(b) Be eligible for advance payments of the premium tax credit;

(c) Have household income that does not exceed 250 percent of the federal poverty level; and

(d) Be enrolled in a silver-level qualified health plan, except as provided in 945-040-0050 for members of federally recognized Indian tribes.

(7) The Marketplace must use the following eligibility categories for cost sharing reductions:

(a) Individuals that have household income less than or equal to 150 percent of the federal poverty level. Individuals in this category will be eligible for cost sharing reductions such that the silver plan covers between 93 and 95 percent of the average expected medical expenses for essential health benefits.

(b) Individuals who have household income greater than 150 percent of the federal poverty level and less than or equal to 200 percent of the federal poverty level. Individuals in this category will be eligible for cost sharing reductions such that the silver plan covers between 86 and 88 percent of the average expected medical expenses for essential health benefits.

(c) Individuals who have household income greater than 200 percent of the federal poverty level and less than or equal to 250 percent of the federal poverty level. Individuals in this category will be eligible for cost sharing reductions such that the silver plan covers between 72 and 74 percent of the average expected medical expenses for essential health benefits.

Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.500
Hist.: OHIE 6-2013, f. & cert. ef. 9-30-13; OHIE 3-2014, f. & cert. ef. 5-12-14; OHIE 3-2015, f. & cert. ef. 10-15-15

945-040-0050
Eligibility Standards for Special Populations

(1) Advance Payments of the Premium Tax Credit for Lawfully Present Noncitizens Ineligible for Medicaid. The Marketplace must determine a tax filer eligible for advance payments of the premium tax credit if he or she:

(a) Meets the requirements of 945-040-0040, except 945-040-0040(1)(a) and (b); and

(b) One or more applicants for whom the tax filer attests that he or she expects to claim a personal exemption deduction on his or her tax return for the benefit year, including the tax filer and his or her spouse, is a noncitizen who is lawfully present and ineligible for Medicaid by reason of immigration status in accordance with section 36B(c)(1)(B) of the Internal Revenue Code.

(2) Cost Sharing Reductions for American Indians/Alaska Natives. To qualify for cost sharing reductions, the applicant must:

(a) Be a member of a federally recognized tribe;

(b) Be eligible for and enroll in a qualified health plan;

(c) Be eligible for advance payments of the premium tax credit; and

(d) Have income that does not exceed 300 percent of the federal poverty level.

(3) An applicant qualified under section (2) of this rule is not required to enroll in a silver-level qualified health plan to receive cost sharing reductions.

(4) For an enrollee qualified under section (2) of this rule, carriers are required to eliminate any cost sharing under any plan chosen by the qualified applicant.

(5) A member of a federally recognized tribe who is enrolled in a qualified health plan is eligible for no cost sharing for services provided directly by the Indian Health Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization, or through referral under contract services.

Stat. Auth.: ORS 741.002
Stats. Implemented: ORS 741.500
Hist.: OHIE 6-2013, f. & cert. ef. 9-30-13; OHIE 3-2015, f. & cert. ef. 10-15-15

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Department of Consumer and Business Services, Insurance Division
Chapter 836

Rule Caption: Relating to guidance for filing expanded transitional health benefit plans.
Adm. Order No.: ID 10-2015(Temp)
Filed with Sec. of State: 9-23-2015
Certified to be Effective: 9-23-15 thru 3-18-16
Notice Publication Date:
Rules Adopted: 836-010-0014
Subject: This rule provides guidance to insurers to follow related to expanded transitional health benefit plans. Expanded transitional health benefit plans are plans that are issued to or renewed by an employer with 51 to 100 employees before January 1, 2016. The rule incorporates Exhibit 1 which contains guidance provided to insurers on the process and procedures related to these plans and for rate filings for these plans.
Rules Coordinator: Jenny Craig—(503) 947-7484

836-010-0014
Notice and Procedural Requirements for Expanded Transitional Health Benefit Plans

(1) As used in this rule, "expanded transitional health benefit plan" means a transitional health benefit plan described in section 2, chapter 515, Oregon Laws 2015.

(2) Under section 2, chapter 515, Oregon Laws 2015, an expanded transitional health benefit plan must be in effect on December 31, 2015.

(3) An insurer shall comply with the guidance provided in Exhibit 1 of this rule if the carrier intends to:

(a) Offered to continue a plan in effect on December 31, 2015 as an expanded transitional health benefit plan; or

(b) Discontinue a health benefit plan that would otherwise meet the requirements of an expanded transitional health benefit plan.

(4) In addition to any applicable requirements of OAR 836-010-0000, 836-010-0011, and 836-010-0021 when submitting a filing in accordance with ORS 743.018 related to a rate change to an expanded transitional health benefit plan, the insurer shall comply with the guidance provided in Exhibit 1 of this rule.

Stat. Auth: ORS 731.244, 743.018
Stats. Implementing: Sect. 2, Ch. 515, OL 2015 (Enrolled HB 2466)
Hist.: ID 10-2015(Temp), f. & cert. ef. 9-23-15 thru 3-18-16

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Rule Caption: Relating to guidance for filing expanded transitional health benefit plans.
Adm. Order No.: ID 11-2015(Temp)
Filed with Sec. of State: 10-12-2015
Certified to be Effective: 10-12-15 thru 3-18-16
Notice Publication Date:
Rules Adopted: 836-010-0014
Subject: This rule provides guidance to insurers to follow related to expanded transitional health benefit plans. Expanded transitional health benefit plans are plans that are issued to or renewed by an employer with 51 to 100 employees before January 1, 2016. The rule incorporates Exhibit 1 which contains guidance provided to insurers on the process and procedures related to these plans and for rate filings for these plans.

This is being refiled due to a filing error. Legislative Counsel did not receive required documentation within 10 days of filing.
Rules Coordinator: Karen Winkel—(503) 947-7694

836-010-0014
Notice and Procedural Requirements for Expanded Transitional Health Benefit Plans

(1) As used in this rule, "expanded transitional health benefit plan" means a transitional health benefit plan described in section 2, chapter 515, Oregon Laws 2015.

(2) Under section 2, chapter 515, Oregon Laws 2015, an expanded transitional health benefit plan must be in effect on December 31, 2015.

(3) An insurer shall comply with the guidance provided in Exhibit 1 of this rule if the carrier intends to:

(a) Offered to continue a plan in effect on December 31, 2015 as an expanded transitional health benefit plan; or

(b) Discontinue a health benefit plan that would otherwise meet the requirements of an expanded transitional health benefit plan.

(4) In addition to any applicable requirements of OAR 836-010-0000, 836-010-0011, and 836-010-0021 when submitting a filing in accordance with ORS 743.018 related to a rate change to an expanded transitional health benefit plan, the insurer shall comply with the guidance provided in Exhibit 1 of this rule.

Stat. Auth: ORS 731.244, 743.018
Stats. Implementing: Sect. 2, Ch. 515, OL 2015 (Enrolled HB 2466)
Hist.: ID 10-2015(Temp), f. & cert. ef. 9-23-15 thru 3-18-16; ID 11-2015(Temp), f. & cert. ef. 10-12-15 thru 3-18-16

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

Rule Caption: Adopt Electric Power Generation, Transmission, Distribution standard for general industry and construction, and related changes.
Adm. Order No.: OSHA 3-2015
Filed with Sec. of State: 10-9-2015
Certified to be Effective: 1-1-16
Notice Publication Date: 8-1-2015
Rules Adopted: 437-002-2300, 437-002-2301, 437-002-2302, 437-002-2303, 437-002-2304, 437-002-2305, 437-002-2306, 437-002-2307, 437-002-2308, 437-002-2309, 437-002-2310, 437-002-2311, 437-002-2312, 437-002-2313, 437-002-2314, 437-002-2315, 437-002-2316, 437-002-2317, 437-002-2318, 437-002-2319, 437-002-2320, 437-002-2321, 437-002-2322, 437-002-2323, 437-002-2324
Rules Amended: 437-002-0120, 437-002-0134, 437-002-0300, 437-002-0320, 437-003-0001, 437-002-0146, 437-002-0301
Rules Repealed: 437-002-0138, 437-002-0317, 437-003-0110, 437-003-0115, 437-003-0120, 437-003-0125, 437-003-0130, 437-003-0135, 437-003-0140, 437-003-0145, 437-003-0150, 437-003-0155, 437-003-0160, 437-003-0165, 437-003-0170, 437-003-0175, 437-003-0180, 437-003-0185, 437-003-0190, 437-003-0195, 437-003-0200, 437-003-0205, 437-003-0210, 437-003-0215, 437-003-0220, 437-003-0225, 437-003-0227, 437-003-0230, 437-003-0235, 437-003-0240, 437-003-0245, 437-003-0250, 437-003-0255, 437-003-0260, 437-003-0265, 437-003-0270, 437-003-0275, 437-003-0280, 437-003-0285, 437-003-0290, 437-003-0295, 437-003-0300, 437-003-0305, 437-003-0310, 437-003-0315, 437-003-0320, 437-003-0325, 437-003-0330, 437-003-0335, 437-003-0340, 437-003-0345, 437-003-0350, 437-003-0355, 437-003-0360, 437-003-0365, 437-003-0370, 437-003-0375, 437-003-0380, 437-003-0385, 437-003-0390, 437-003-0395, 437-003-0400, 437-003-0405, 437-003-0410, 437-003-0415, 437-003-0425, 437-003-0430, 437-003-0435, 437-003-0440, 437-003-0445, 437-003-0450, 437-003-0455, 437-003-0460, 437-033-0465, 437-003-0470, 437-003-0475, 437-003-0480, 437-003-0485, 437-003-0490, 437-003-0495, 437-003-0500, 437-003-0505, 437-003-0510, 437-003-0515, 437-003-0520, 437-003-0525, 437-003-0530, 437-003-0535, 437-003-0540, 437-003-0545, 437-003-0550, 437-003-0555, 437-003-0560, 437-003-0565, 437-003-0570, 437-003-0575, 437-003-0580, 437-003-0585, 437-003-0590, 437-003-0595, 437-003-0600, 437-003-0605, 437-003-0610, 437-003-0615, 437-003-0620, 437-003-0625, 437-003-0630, 437-003-0635, 437-003-0640, 437-003-0645, 437-003-0650, 437-003-0655, 437-003-0707, 437-003-0720, 437-003-0725, 437-003-0770, 437-003-0775, 437-003-0780, 437-003-0785, 437-003-0790, 437-003-0795, 437-003-0800, 437-003-0805, 437-003-0810, 437-003-0815, 437-003-0820, 437-003-0825, 437-003-0830, 437-003-0835, 437-003-0840, 437-003-0845, 437-003-0850, 437-003-0855, 437-003-0860, 437-003-0865, 437-003-0870, 437-003-0875, 437-003-0880, 437-003-0885, 437-003-0890
Subject: In November 2014, Oregon OSHA proposed to adopt Federal OSHA final rules for Electric Power Generation, Transmission, and Distribution, that were published in the April 11, 2014 Federal Register. The proposal included Oregon-initiated changes to the federal rule. Three public hearings were held during November and December of 2014 resulting in several written comments and oral testimony before the comment period closed on December 12, 2014. Most of the comments received concerned the two worker rule exceptions. As a result of the comments received, Oregon OSHA decided not to adopt the rule as proposed in 2014, but to consider an alternative approach.

Two stakeholder meetings were conducted in the first half of 2015 to discuss comments along with potential changes to the 2014 proposal. Oregon OSHA received input and support from stakeholders to combine the Electric Power Generation, Transmission, and Distribution standards in Divisions 2/R and 3/V into one rule. Oregon OSHA merged 1910.269, in Division 2/R General Industry, and Division 3/V in Construction, standards into the new Division 2/RR. Unifying language and Oregon-unique rules for Power Generation, Transmission and Distribution for General Industry and Construction were incorporated into one standard.

In July, 2015 Oregon OSHA reposed rules for Electric Power Generation, Transmission, and Distribution. Three public hearings were held during August and September 2015. Most of the oral and written comments received concerned: the duties of a Safety Watch, the

exception to the two-worker rule, and helicopters. Changes to the final rule include:

Safety Watch: Safety Watch text was added to the final rule 437-002-2311(13).

Operating switches: 437-002-2311(2)(b)(B) was changed to clarify that 437-002-2311(2)(b)(E) must be followed for routine switching of load break elbows.

Helicopters: Paragraphs were removed which were already addressed by, or were in conflict with, other regulatory agencies; or were unnecessarily restrictive based upon accepted industry practices.

On October 5, 2015 Federal OSHA published in the Federal Register, minor language clarifications in rules related to Line Clearance Tree Trimming as well as correcting errors in Table R-6 (Alternative Minimum Approach Distances.) The note for enclosed spaces was removed from Appendix A-3 and placed in Appendix A-5. These corrections have been incorporated in Oregon OSHA's final rules.

Rules Coordinator: Sue C. Joye—(503) 947-7449

437-002-0120

Adoption by Reference

In addition to, and not in lieu of, any other health and safety codes contained in OAR chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1910, in the Federal Register:

(1) 29 CFR 1910.132 General requirements. Repealed with Oregon OSHA Admin. Order 4-2011, filed and effective 12/8/11. In Oregon, OAR 437-002-0134 applies.

(2) 29 CFR 1910.133 Eye and face protection. Repealed with Oregon OSHA Admin. Order 4-2011, filed and effective 12/8/11. In Oregon, OAR 437-002-0134 applies.

(3) 29 CFR 1910.134 Respiratory protection, published 8/7/12, FR vol. 77, no. 152, p. 46948.

(4) 29 CFR 1910.135 Occupational head protection. Repealed with Oregon OSHA Admin. Order 4-2011, filed and effective 12/8/11. In Oregon, OAR 437-002-0134 applies.

(5) 29 CFR 1910.136 Occupational foot protection. Repealed with Oregon OSHA Admin. Order 4-2011, filed and effective 12/8/11. In Oregon, OAR 437-002-0134 applies.

(6) 29 CFR 1910.137 Electrical protective equipment, published 4/11/14, FR vol. 79, no. 70, p. 20316.

(7) 29 CFR 1910.138 Hand Protection. Repealed with Oregon OSHA Admin. Order 4-2011, filed and effective 12/8/11. In Oregon, OAR 437-002-0134 applies.

(8) 29 CFR 1910.139 Respiratory protection for M. tuberculosis. Removed, 12/3/03, FR vol. 68, p. 75776-75780 (OR-OSHA Admin. Order 1-2004, f. 3/26/04, ef. 7/1/04).

(9) Appendices.

Appendix A – References for further information (nonmandatory).

Appendix B – Nonmandatory compliance guidelines for hazard assessment and personal protective equipment selection; amended with OR-OSHA Admin. Order 3-2015, f. 10/9/15, ef. 1/1/16.

These standards are available from the Oregon Occupational Safety and Health Division (OR-OSHA), Department of Consumer and Business Services; and the United States Government Printing Office.

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: OSHA 9-1993, f. 7-29-93, cert. ef. 9-15-93; OSHA 3-1994, f. & cert. ef. 8-1-94; OSHA 3-1997, f. & cert. ef. 3-28-97; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 12-2001, f. & cert. ef. 10-26-01; OSHA 1-2004, f. 3-26-04, cert. ef. 7-1-04; OHSA 5-2004, f. & cert. ef. 11-19-04; OSHA 4-2006, f. & cert. ef. 7-24-06; OSHA 10-2006, f. & cert. ef. 11-30-06; OSHA 5-2008, f. 5-1-08, cert. ef. 5-15-08; OSHA 5-2009, f. & cert. ef. 5-29-09; OSHA 2-2010, f. & cert. ef. 2-25-10; OSHA 4-2011, f. & cert. ef. 12-8-11; OSHA 1-2012, f. & cert .ef. 4-10-12; OSHA 7-2012, f. & cert. ef. 12-14-12; OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-0134

Personal Protective Equipment

Application. This rule applies to personal protective equipment and other protective equipment for the eyes, face, head, extremities and torso to include protective clothing, respiratory devices, and protective shields and barriers, wherever employees encounter hazardous processes or environments, chemical hazards, radiological hazards, or mechanical irritants that are capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact.

NOTE: The assessment for eyes, face, head, hands, and feet are currently in effect. The torso and extremities (e.g. arms and legs) element of the body assessment will not be enforced until July 1, 2012.

(1) Hazard assessment and equipment selection.

(a) The employer must assess the workplace to determine if hazards are present, or are likely to be present, which necessitate the use of personal protective equipment (PPE) or other protective equipment. If such hazards are present, or likely to be present, the employer must:

(A) Select, and have each affected employee use, the types of PPE that will protect the affected employee from the hazards identified in the hazard assessment;

(i) All protective equipment must be of safe design and construction for the work to be performed.

(ii) Protective equipment must be worn and used in a manner which will make full use of its protective properties.

(B) Communicate selection decisions to each affected employee; and,

(C) Select PPE that properly fits each affected employee.

NOTE: Non-mandatory Appendix B contains an example of procedures that would comply with the requirement for a hazard assessment.

(b) The employer must verify that the required workplace hazard assessment has been performed through a written certification that identifies the workplace evaluated; the person certifying that the evaluation has been performed; the date(s) of the hazard assessment; and, which identifies the document as a certification of hazard assessment.

(2) Equipment.

(a) Where employees provide their own protective equipment, the employer is responsible to assure its adequacy, including proper maintenance, and sanitation of such equipment.

(b) All personal protective equipment must be provided, used, and maintained in a sanitary and reliable condition.

(c) Defective or damaged personal protective equipment must not be used

(d) Each employer must maintain a regular system of inspection and maintenance of personal protective equipment furnished to workers.

(3) Training.

(a) The employer must provide training to each employee who is required by this section to use PPE and each employee that is provided training must know at least the following:

(A) When PPE is necessary;

(B) What PPE is necessary;

(C) How to properly don, doff, adjust, and wear PPE;

(D) The limitations of the PPE; and,

(E) The proper care, maintenance, useful life and disposal of the PPE.

(b) Each affected employee must demonstrate an understanding of the training specified in paragraph (3)(a) of this section, and the ability to use PPE properly, before being allowed to perform work requiring the use of PPE.

(c) When the employer has reason to believe that any affected employee who has already been trained does not have the understanding and skill required by paragraph (3)(b) of this section, the employer must retrain each such employee. Circumstances where retraining is required include, but are not limited to situations where:

(A) Changes in the workplace render previous training obsolete; or

(B) Changes in the types of PPE to be used render previous training obsolete; or

(C) Inadequacies in an affected employee's knowledge or use of assigned PPE indicate that the employee has not retained the requisite understanding or skill.

(4) Payment for protective equipment.

(a) Except as provided by paragraphs (4)(b) through (4)(f) of this section, the protective equipment, including personal protective equipment (PPE), used to comply with this part, must be provided by the employer at no cost to employees.

(b) The employer is not required to pay for non-specialty safety-toe protective footwear (including steel-toe shoes or steel-toe boots) and non-specialty prescription safety eyewear, provided that the employer permits such items to be worn off the job-site.

(c) When the employer provides metatarsal guards and allows the employee, at his or her request, to use shoes or boots with built-in metatarsal protection, the employer is not required to reimburse the employee for the shoes or boots.

(d) The employer is not required to pay for:

(A) The logging boots required by OAR 437-007-0330 in division 7.

(B) Everyday clothing, such as long-sleeve shirts, long pants, street shoes, and normal work boots; or

(C) Ordinary clothing, skin creams, or other items, used solely for protection from weather, such as winter coats, jackets, gloves, parkas, rubber boots, hats, raincoats, ordinary sunglasses, and sunscreen.

(e) The employer must pay for replacement PPE, except when the employee has lost or intentionally damaged the PPE.

(f) Where an employee provides adequate protective equipment he or she owns pursuant to paragraph (2)(a) of this section, the employer may allow the employee to use it and is not required to reimburse the employee for that equipment. The employer must not require an employee to provide or pay for his or her own PPE, unless the PPE is excepted by paragraphs (4)(b) through (4)(e) of this section.

(5) Fall Protection.

(a) All employees must be protected from fall hazards when working on unguarded surfaces more than 10 feet above a lower level or at any height above dangerous equipment.

(b) The employer must ensure that fall protection systems are provided, installed, and used according to the criteria in 1926.502(d), and 437-003-0502 in Division 3/M, Construction/Fall Protection.

(6) Work Clothing.

(a) Clothing must be worn which is appropriate to the work performed and conditions encountered.

(b) Appropriate high temperature protective clothing must be worn by workers who are exposed to possible contact with molten metals or other substances that can cause burns.

(c) Loose sleeves, ties, lapels, cuffs, or other loose clothing must not be worn near moving machinery.

(d) Clothing saturated or impregnated with flammable liquids, corrosive or toxic substances, irritants, or oxidizing agents must be removed immediately and not worn again until properly cleaned.

(e) Rings, wristwatches, earrings, bracelets, and other jewelry which might contact power driven machinery or electric circuitry, must not be worn.

(7) High Visibility Garments. Employees exposed to hazards caused by on highway type moving vehicles in construction zones and street/highway traffic must wear highly visible upper body garments. The colors must contrast with other colors in the area sufficiently to make the worker stand out. Colors equivalent to strong red, strong orange, strong yellow, strong yellow-green or fluorescent versions of these colors are acceptable. During hours of darkness, the garments must also have reflective material visible from all sides for 1000 feet.

(8) Eye And Face Protection.

(a) The employer must ensure that each affected employee uses appropriate eye or face protection when exposed to eye or face hazards from flying particles, molten metal, liquid chemicals, acids or caustic liquids, chemical gases or vapors, or potentially injurious light radiation.

(b) The employer must ensure that each affected employee uses eye protection that provides side protection when there is a hazard from flying objects. Detachable side protectors (e.g., clip-on or slide-on side shields) meeting the pertinent requirements of this section are acceptable.

(c) The employer must ensure that each affected employee who wears prescription lenses while engaged in operations that involve eye hazards wears eye protection that incorporates the prescription in its design, or shall wear eye protection that can be worn over the prescription lenses without disturbing the proper position of the prescription lenses or the protective lenses.

(d) Eye and face PPE must be distinctly marked to facilitate identification of the manufacturer.

(e) The employer must ensure that each affected employee uses equipment with filter lenses that have a shade number appropriate for the work being performed for protection from injurious light radiation. The following is a listing of appropriate shade numbers for various operations. [Table not included, see ED. NOTE]

(f) Protective eye and face protection devices must comply with any of the following consensus standards

(A) ANSI Z87.1-2003, American National Standard Practice for Occupational and Educational Eye and Face Protection, which is incorporated by reference in 1910.6;

(B) ANSI Z87.1-1989 (R-1998), American National Standard Practice for Occupational and Educational Eye and Face Protection, which is incorporated by reference in 1910.6; or

(C) ANSI Z87.1-1989, American National Standard Practice for Occupational and Educational Eye and Face Protection, which is incorporated by reference in 1910.6.

(g) Protective eye and face protection devices that the employer demonstrates are at least as effective as protective eye and face protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be incompliance with the requirements of this section.

(h) Employees whose occupation or assignment requires exposure to laser beams shall be furnished laser safety goggles as required by Occupational Health Regulations which will protect for the specific wavelength of the laser and be of optical density adequate for the energy involved.

(9) Head Protection.

(a) The employer must ensure that each affected employee wears a protective helmet when working in areas where there is a potential for injury to the head from falling or flying objects.

(b) The employer must ensure that a protective helmet designed to reduce electrical shock hazard is worn by each such affected employee when near exposed electrical conductors which could contact the head.

(c) Head protection must comply with any of the following consensus standards:

(A) ANSI Z89.1-2009, American National Standard for Industrial Head Protection, which is incorporated by reference in 1910.6;

(B) ANSI Z89.1-2003, American National Standard for Industrial Head Protection, which is incorporated by reference in 1910.6;

(C) ANSI Z89.1-1997, American National Standard for Industrial Head Protection, which is incorporated by reference in 1910.6; or

(d) Head protection devices that the employer demonstrates are at least as effective as head protection devices that are constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

(e) Employees who are exposed to power-driven machinery or to sources of ignition shall wear caps or other head covering which completely covers the hair.

(10) Foot Protection.

(a) The employer must ensure that each affected employee use protective footwear when working in areas where there is a danger of foot injuries due to falling or rolling objects, or objects piercing the sole, and where such employee's feet are exposed to electrical hazards, such as a static-discharge or electric-shock hazard, that remains after the employer takes other necessary protective measures.

(b) Protective footwear must comply with any of the following consensus standards:

(A) ASTM F-2412-2005, Standard Test Methods for Foot Protection, and ASTM F-2413-2005, Standard Specification for Performance Requirements for Protective Footwear, which are incorporated by reference in 1910.6;

(B) ANSI Z41-1999, American National Standard for Personal Protection — Protective Footwear, which is incorporated by reference in 1910.6; or

(C) ANSI Z41-1991, American National Standard for Personal Protection — Protective Footwear, which is incorporated by reference in 1910.6.

(c) Protective footwear that the employer demonstrates is at least as effective as protective footwear that is constructed in accordance with one of the above consensus standards will be deemed to be in compliance with the requirements of this section.

(d) Special types or designs of shoes or foot guards are required where conditions exist that make their use necessary for the safety of workers.

(11) Leg protection

(a) Leggings or high boots of leather, rubber, or other suitable material must be worn by persons exposed to hot substances or dangerous chemical spills.

(b) Employees using chain saws must wear chaps or leg protectors that cover the leg from the upper thigh to mid-calf. The protector must be material designed to resist cuts from the chain saw. Employers must provide this protection at no cost to the employee.

NOTE: To 437-002-0134(11)(b): Employees working in the tree and shrub services industry must follow rules on this subject in Subdivision 2/R instead of the above.

(12) Hand Protection.

(a) Employers must select and require employees to use appropriate hand protection when employees' hands are exposed to hazards such as those from skin absorption of harmful substances; severe cuts or lacerations; severe abrasions; punctures; chemical burns; thermal burns; and harmful temperature extremes.

(b) Employers must base the selection of the appropriate hand protection on an evaluation of the performance characteristics of the hand protection relative to the task(s) to be performed, conditions present, duration of use, and the hazards and potential hazards identified.

(c) Gloves must not be worn by persons whose hands are exposed to moving parts in which they could be caught.

(13) Skin protection. Where the need for their use is necessary, protective covering, ointments, gloves, or other effective protection must be provided for and used by persons exposed to materials which are hazardous to the skin.

[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.: OSHA 4-2011, f. & cert. ef. 12-8-11; OSHA 2-2013, f. 2-15-13, cert. ef. 4-1-13; OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-0146
Confined Spaces

(1) Purpose and application. This rule applies to all activities in confined spaces and provides requirements to protect employees from the hazards of entering and working in confined spaces.

(2) Exceptions. This standard does not apply to the following:

(a) Construction work regulated by Division 3/P Excavations, except for entry into sanitary sewer spaces that are large enough to bodily enter.

(b) Construction work regulated by Division 3/S Underground Construction, Caissons, Cofferdams and Compressed Air, except for sewers.

(c) Enclosed spaces regulated by Division 2/RR Electric Power Generation, Transmission and Distribution, except when that standard requires compliance with this standard.

(d) Reserved.

(e) Manholes and vaults regulated by 1910.268(o) in Division 2/R Telecommunications, unless the space cannot be made safe to enter even after following the requirements of 1910.268(o).

(f) Welding in confined spaces regulated by Division 2/Q Welding, Cutting & Brazing, when the only hazards are related to the welding process.

(g) Grain bins, silos, tanks, and other grain storage structures regulated by 1910.272, Grain Handling Facilities.

(h) Diving operations regulated by Division 2/T, Commercial Diving Operations.

(i) Except for (a) through (h) above, when any other applicable standard addresses work in confined spaces or additional hazards that may be present, you must comply with the provisions of that standard and this standard. Where the requirements of one standard are more restrictive than the other, follow the more stringent requirements.

(3) Definitions.

(a) Acceptable entry conditions: The conditions that must exist in a permit-required confined space to allow safe entry and work.

(b) Alternate entry — An alternative process for entering a permit space under very specific conditions. The space remains a permit space even when entered using alternate entry and even though no entry permit is required in those circumstances.

(c) Atmospheric hazard (see the definition of hazardous atmosphere).

(d) Atmospheric testing — see "Testing."

(e) Attendant — An individual stationed outside one or more permit spaces to monitor the authorized entrants and who performs all attendants duties assigned in the employer's permit space program.

(f) Authorized — Approved by the employer or controlling contractor.

(g) Authorized entrant — An employee who is authorized by the employer to enter a permit space.

(h) Barrier — A physical obstruction that blocks or limits access.

(i) Blanking or blinding — The absolute closure of a pipe, line, or duct by the fastening of a solid plate (such as a spectacle blind or a skillet blind) that completely covers the bore and that is capable of withstanding the maximum pressure of the pipe, line, or duct with no leakage beyond the plate.

(j) Calibration — The checking of a direct-reading instrument against an accurate standard (such as a calibration gas) to determine any deviation and correct for errors.

NOTE: A similar process may also be referred to as a "bump test" in which an instrument is tested with an accurate standard to ensure it is still reading correctly. For the purposes of this rule, a "bump test" performed in accordance with the manufacturer's instructions can be used to verify calibration.

(k) Confined space — A space that meets all of the following:

(A) Large enough and so configured that an employee can fully enter the space and perform work.

(B) Has limited or restricted means for entry and/or exit.

(C) Is not designed for continuous human occupancy.

(l) Continuous system — a confined space that meets all of the following:

(A) Part of, and contiguous with, a larger confined space (for example, storm sewers, sanitary sewers, or steam tunnels)

(B) Subject to a potential release from the larger confined space that can overwhelm control measures and/or personal protective equipment, resulting in a hazard that is immediately dangerous to life and health.

(m) Control or controlling — Authority to regulate, direct or influence.

(n) Controlling contractor — The employer that has overall responsibility for construction at a worksite.

Note: A controlling contractor who owns or manages a property is both a controlling contractor and a host employer.

(o) Double block and bleed — The closure of a line, duct, or pipe by closing and locking or tagging two in-line valves and by opening and locking or tagging a drain or vent valve in the line between the two closed valves.

(p) Emergency — Any occurrence (including any failure of hazard control or monitoring equipment) or event internal or external to the permit space that could endanger entrants.

(q) Engulfment hazard — A physical hazard consisting of a liquid or flowable solid substance that can surround and capture an individual. Engulfment hazards may cause death or serious physical harm if: the individual inhales the engulfing substance into the respiratory system (drowning, for example); the substance exerts excessive force on the individual's body resulting in strangulation, constriction, or crushing; or the substance suffocates the individual.

(r) Entrant (see the definition of authorized entrant).

(s) Entry — The action by which any part of an employee's body breaks the plane of an opening into a confined space. Entry (or entry operations) also refers to the period during which an employee occupies a confined space.

(t) Entry Permit — Written authorization from the employer, controlling contractor, or host employer to enter a permit-required confined space and perform work.

(u) Entry supervisor — The person (such as the employer, foreman, or crew chief, or any other designated employee) responsible for:

(A) Determining if acceptable entry conditions are present at a permit space where entry is planned; and

(B) Authorizing entry and overseeing entry operations; and

(C) Terminating entry as required.

(v) Hazard — For the purpose of this rule, hazard means a physical hazard or hazardous atmosphere.

(w) Hazard control — The action taken to reduce the level of any hazard inside a confined space using engineering methods (for example, by isolation or ventilation), and then using these methods to maintain the reduced hazard level. Hazard control also refers to the engineering methods used for this purpose. Personal protective equipment is not a hazard control.

(x) Hazard elimination — The action taken to remove a hazard from the work environment. For confined spaces, this includes isolation. For a hazard to be eliminated, the conditions that create or cause the hazard no longer exist within the confined space.

(y) Hazardous atmosphere — An existing or potential atmosphere that may expose employees to the risk of death, incapacitation, impairment of ability to escape unaided from a permit space, injury, or acute illness from one or more of the following:

(A) A flammable gas, vapor, or mist in excess of 10 percent of its lower flammable limit.

(B) An airborne combustible dust at a concentration that meets or exceeds its lower explosive limit.

NOTE: This concentration may be approximated as a condition in which the dust obscures vision at a distance of 5 feet (1.52 meters) or less.

(C) An atmospheric oxygen concentration below 19.5 percent (oxygen deficient) or above 23.5 percent (oxygen enriched).

(D) An airborne concentration of a substance that exceeds the dose or exposure limit specified by an Oregon OSHA requirement.

NOTE: An atmospheric concentration of any substance that is not capable of causing death, incapacitation, impairment of ability to escape unaided, injury, or acute illness due to its health effects is not covered by this provision. You must still follow all other applicable Oregon OSHA requirements to protect employee health.

(E) An atmosphere that presents an immediate danger to life or health (IDLH).

(z) Host employer — An employer who owns or manages the property on which confined space work is taking place.

(aa) Immediately dangerous to life or health (IDLH) — Means any condition that poses an immediate or delayed threat to life or that would

cause irreversible adverse health effects or that would interfere with an individual's ability to escape unaided from a permit space.

NOTE: Some materials — hydrogen fluoride gas and cadmium vapor, for example — may produce immediate transient effects that, even if severe, may pass without medical attention, but are followed by sudden, possibly fatal collapse 12–72 hours after exposure. The victim "feels normal" from recovery from transient effects until collapse. Such materials in hazardous quantities are considered to be "immediately" dangerous to life or health.

(bb) Inerting — The displacement of the atmosphere in a permit space by a noncombustible gas (such as nitrogen) to such an extent that the resulting atmosphere is noncombustible.

NOTE: This procedure produces an IDLH oxygen-deficient atmosphere.

(cc) Isolate or isolation — The elimination or removal of a physical or atmospheric hazard by preventing its release into a confined space. Isolation includes, but is not limited to, the following methods:

(A) Blanking or blinding.

(B) Misaligning or removing sections of lines, pipes, or ducts.

(C) A double block-and-bleed system.

(D) Machine guarding;

(E) Blocking or disconnecting all mechanical linkages;

(F) Lockout or tagout of all sources of energy.

NOTE: When using lockout/tagout, you must follow all of the requirements of 1910.147, "The Control of Hazardous Energy".

(dd) Mobile worker — An employee who performs work in multiple locations such as customer sites, company offices, private homes, vendor offices, or construction sites.

(ee) Monitor or monitoring — The process used to identify and evaluate the atmosphere in a permit space after an authorized entrant enters the space. This is a process of checking for changes in the atmospheric conditions within a permit space and is performed in a periodic or continuous manner after the completion of the initial testing of that space. (See also "testing.")

(ff) Non-entry rescue — Retrieval of entrants from a permit space without entering the permit space.

(gg) Permit-required confined space (permit space) — A confined space that has one or more of the following characteristics:

(A) Contains, or has a potential to contain, a hazardous atmosphere.

(B) Contains a material that has the potential to engulf an entrant.

(C) Has an internal configuration such that an entrant could become trapped or asphyxiated by inwardly converging walls or by a floor which slopes downward and tapers to a smaller cross-section.

(D) Contains any other recognized serious safety or health hazard that can inhibit an entrants ability to escape unaided.

(hh) Physical hazard — An existing or potential hazard that can cause death or serious physical harm in or near a confined space, or a hazard that has a reasonable probability of occurring in or near a confined space, and includes, but is not limited to:

(A) Explosives; mechanical, electrical, hydraulic, and pneumatic energy; radiation; temperature extremes; engulfment; noise; and inwardly converging surfaces; and

(B) Chemicals that can cause death or serious physical harm through skin or eye contact (rather than through inhalation).

(ii) Potential hazards — All reasonably anticipated conditions within the space and outside the space that can adversely affect conditions within the space.

(jj) Rescue — Retrieving employees who are unable to remove themselves from a permit space. Rescue can be entry or non-entry, and can be conducted by the employer's employees or a third-party.

(kk) Rescue service — The onsite or offsite personnel who the employer designates to engage in non-entry and/or entry rescue of employees from a permit space.

(ll) Retrieval system — The equipment, including mechanical retrieval devices, used for non-entry rescue of authorized entrants from a permit space.

(mm) Serious physical harm — An impairment in which a body part is made functionally useless or is substantially reduced in efficiency. Such impairment may include loss of consciousness or disorientation, and may be permanent or temporary, or chronic or acute. Injuries involving such impairment would usually require treatment by a physician or other licensed health-care professional while an illness resulting in serious physical harm could shorten life or substantially reduce physical or mental efficiency by impairing a normal bodily function or body part.

(nn) Simulated Permit-Required Confined Space — Is a confined space or a mock-up of a confined space that has similar entrance openings, and is similar in size, configuration, and accessibility to the permit space the authorized entrants enter. A simulated space does not need to contain any physical or atmospheric hazards.

(oo) Testing — The process of identifying and evaluating the atmospheric hazards that entrants may be exposed to in a permit-required confined space. Testing includes specifying the initial tests that are to be performed in the permit space. (See also "monitor or monitoring")

NOTE: Testing enables employers both to devise and implement adequate control measures for the protection of authorized entrants and to determine if acceptable entry conditions are present immediately prior to and during entry.

(pp) Ventilate or ventilation — Controlling an actual or potentially hazardous atmosphere using either powered equipment, such as fans and blowers, or reliable natural air flow, or a combination of the two, to reduce an otherwise hazardous atmosphere below the level that makes it a hazardous atmosphere. Ventilation is a method of hazard control, not hazard elimination.

(qq) You — The employer. Table.

(4) Evaluation.

(a) You must determine if any of your confined spaces are permit-required confined spaces. This evaluation must include:

(A) Any known or anticipated hazard.

NOTE: If the only hazard associated with a confined space is a fall hazard, it is not covered by the Confined Space rule. If the space contains other hazards that make it a permit space, the fall hazard must be addressed on the permit.

(B) The determination from any previous evaluation of that space.

(C) Any precautions and procedures previously implemented for entering the space.

(b) Exceptions:

(A) Employers of mobile workers (for example, contractors, electricians, plumbers) where they are not the property owner or controlling contractor are not required to perform this evaluation for the entire site. Mobile worker employers must evaluate the areas they are responsible for or where their employees will be working and must follow the requirements of (4)(e).

(B) Controlling contractors on sites with existing confined spaces are responsible for performing this determination only for the area under their control.

(C) On sites where confined spaces are being built, the host employer or controlling contractor is responsible for ensuring this determination is accomplished only when:

(i) Any of their employees enter that space.

(ii) An agent of the employer enters that space.

(iii) Employees of an employer accountable to that controlling contractor or host employer enter that space.

(iv) They assume control over that space.

(c) Before employees of another employer enter a confined space at your workplace that is under your control, and you have information related to paragraph (4)(a), you must provide it to that employer.

(d) When a space has hazards that make it a permit space:

(A) Develop and implement a means so employees can identify that space. Signs, labels, or tags are methods that can be used to accomplish this.

(B) Allow employees or their representatives to observe the evaluation or re-evaluation of the space.

(C) When conditions within a confined space or a permit space change, re-evaluate it.

(D) Take all necessary measures to prevent unauthorized employees from entering permit spaces.

(e) Prevent employees from entering any unevaluated confined space until it is fully evaluated.

(f) When your employees are mobile, you must determine if they will be exposed to permit-required confined spaces at their assigned work locations. This determination must include information, if any, from the host employer or controlling contractor.

(A) Identify any physical and atmospheric hazards that make the space a permit-required confined space.

(B) Allow employees or their representatives to observe the evaluation or re-evaluation of the space.

(C) When conditions within a confined space or a permit space change, re-evaluate it.

(D) Take all necessary measures to prevent unauthorized employees from entering permit spaces.

(E) Prevent employees from entering any unevaluated confined space until it is fully evaluated.

(5) Permit-Required Confined Space Entry Program and Permits.

(a) When employees must enter a permit space, develop and implement a written program that describes the means, practices, and procedures to safely identify and enter permit spaces.

(b) Include the following in the program:

(A) Documentation of entry permit procedures.

(B) Measures taken to prohibit unauthorized persons from entering permit spaces.

(C) Designation of employee roles, such as entrants, attendants, entry supervisors, rescuers, or those who test or monitor the atmosphere in a permit space.

(D) Identification of designated employee duties.

(E) Training on the written program and entry permits.

(F) Training employees on their designated roles.

(G) Instructions to identify and evaluate hazards.

(H) Methods to eliminate and/or control hazards.

(I) Instructions on equipment use and maintenance.

(J) Instructions to coordinate entry with another employer.

(K) Procedures necessary for concluding the entry and canceling the permit after entry operations have been completed.

(c) On fixed sites, include the following additional elements:

(A) The location of all permit spaces.

(B) The reason for the classification of each permit space or each type of permit space.

NOTE: Where there are multiple permit spaces of the same type that have the same hazards, such as sewers, water vaults, or valve pits, the exact location of each space does not need to be identified so long as there is enough information so that employees can readily identify each type of space and its hazards at each location.

(C) Exception: The locations of permit spaces at remote unmanned locations do not need to be added to the program until the first time employees go to that location after the effective date of this rule.

(d) Provide employees and their representatives access to the written program.

(e) Provide entrants or their authorized representatives access to the completed permit before entry so they can confirm that pre-entry preparations have been completed.

(f) Review the permit program when there is any reason to believe that employees are not adequately protected, and revise it as necessary.

(A) Situations that require this review include:

(i) Unauthorized entry of a permit space.

(ii) Discovery of a previously unrecognized hazard.

(iii) Existence of a condition prohibited by the permit or permit program.

(iv) An injury or near-miss during entry.

(v) An employee reports of concerns about the effectiveness of the program.

(vi) Any other condition that affects employee safety or health.

(B) When revising the permit program to correct hazard-related deficiencies, do not allow entries into affected permit spaces to be made until the revisions are complete.

(C) Provide employees and their representatives access to the revised permit program.

(g) Review permits within one year of their cancellation to evaluate:

(A) The permit program.

(B) The protection provided to employees entering permit spaces.

(6) Permit Entry.

(a) Develop and implement procedures for issuing permits. Procedures must include how to:

(A) Evaluate the hazards of the space.

(B) Evaluate hazards of the work to be performed.

(C) Identify safe entry conditions.

(b) Entry permits must include the following information:

(A) The space to be entered.

(B) The purpose of the entry.

(C) The date, start, and stop times of the permit.

(D) The hazards of the space.

(E) Acceptable entry conditions.

(F) Results of initial tests and periodic monitoring performed to evaluate and identify the hazards and conditions of the space, or the period for continuous monitoring, accompanied by the names or initials of the testers and by an indication of when the tests were performed.

(G) Appropriate measures used before entry to isolate the space and eliminate or control hazards.

Examples of appropriate measures include the de-energizing and lockout or tagging of equipment, and procedures for purging, inerting, ventilating, and flushing permit spaces.

(H) Names of entrants and current attendants.

(I) The signature of the original supervisor authorizing entry.

(J) The current entry supervisor.

(K) Communication procedures for entrants and attendants to maintain contact during the entry.

(L) Equipment provided for safe entry, such as:

(i) Personal protective equipment (PPE).

(ii) Testing and monitoring equipment.

(iii) Communications equipment.

(iv) Alarm systems.

(v) Rescue equipment.

(M) Rescue services available, and how to contact them.

(N) Other information needed for safety in the particular permit space.

(O) Additional permits issued for work in the space, such as for hot work.

(P) Any problems, if any, encountered during the entry.

(c) Perform initial testing for atmospheric hazards, where necessary, before entry is made.

(d) Provide each entrant or their authorized representative with the results of any initial testing before they enter the space.

(e) Maintain safe entry conditions for the duration of the entry.

(A) When the space is too large to isolate, or is part of a continuous system, such as a sewer, ensure continuous monitoring where entrants are working for the duration of the entry.

(B) When an entrant or their authorized representative has reason to believe that the testing or monitoring was inadequate, re-test the space.

(f) Follow all actions and precautions identified on the permit.

(g) When conditions require the space to be evacuated, do not allow re-entry unless you:

(A) Re-assess the conditions of the space to ensure it is safe for re-entry and ensure the permit reflects the evacuation and subsequent re-assessment; or

(B) Issue a new permit.

(h) Allow entrants or their authorized representatives the opportunity to observe monitoring, testing, and all other actions taken to eliminate or control the hazards of the space.

(7) Equipment.

(a) When employees enter permit spaces, provide the following equipment as necessary:

(A) Testing and monitoring equipment.

(B) Ventilating equipment, when needed, used to obtain and maintain acceptable entry conditions.

(C) Communication equipment, such as a two-way radio, for effective communication between the attendant and all entrants and to initiate rescue when necessary.

(D) Lighting equipment needed to ensure employees can see well enough to work safely and exit the space quickly in the event of an emergency.

(E) Barriers or shields to protect entrants from external hazards, such as pedestrians and vehicles.

(F) Ladders or other equipment to safely enter and exit the space.

(G) Rescue and emergency equipment necessary to safely and effectively rescue entrants.

(H) Any other equipment necessary to safely enter and exit the space.

(I) Personal protective equipment as mandated by any applicable Oregon OSHA standard or as otherwise required by the employer's assessment of the hazards.

(b) Provide all necessary equipment at no cost to employees.

(c) Ensure all equipment is maintained and used in accordance with the instructions from the manufacturer.

(d) Train all employees who use equipment in the use of that equipment.

(8) Personnel.

(a) Before employees enter permit spaces, designate entrants, attendants, and entry supervisors.

NOTE: The entry supervisor can also be either the attendant or entrant.

(b) Entrants must:

(A) Know the hazards that may be faced during entry, including information on the type of hazard, as well as signs, symptoms, and consequences of exposure to those hazards.

(B) Communicate with the attendant as necessary so the attendant can monitor the entrant's status and to enable the attendant to alert entrants of the need to evacuate the space.

(C) Alert the attendant whenever the entrant detects a dangerous or hazardous condition or warning sign or symptom of exposure to a dangerous situation.

(D) Exit from the permit space as quickly as possible whenever:

(i) An order to evacuate is given by the attendant or the entry supervisor, or

(ii) The entrant recognizes any warning sign or symptom of exposure to a dangerous situation, or

(iii) The entrant detects a dangerous or hazardous condition, or

(iv) An evacuation alarm is activated.

(c) Attendants must:

(A) Know the hazards that may be faced during entry, including information on the type of hazard, as well as signs, symptoms, and consequences of exposure to those hazards.

(B) Be aware of possible behavioral effects of hazard exposure in authorized entrants.

(C) Continuously maintain an accurate count of authorized entrants in the permit space and ensure that the means used to identify authorized entrants accurately identifies who is in the permit space.

(D) Remain outside the permit space during entry operations until relieved by another attendant.

(E) Communicate with authorized entrants as necessary to monitor entrant status and to alert entrants of the need to evacuate the space.

(F) Monitor activities inside and outside the space to determine if it is safe for entrants to remain in the space and order the authorized entrants to evacuate the permit space immediately under any of the following conditions:

(i) If the attendant detects a dangerous or hazardous condition;

(ii) If the attendant detects the behavioral effects of hazard exposure in an authorized entrant;

(iii) If the attendant detects a situation outside the space that could endanger the authorized entrants; or

(iv) If the attendant cannot effectively and safely perform all the duties required of the attendant.

(G) Summon rescue and other emergency services as soon as the attendant determines that authorized entrants may need assistance to escape from permit space hazards.

(H) Take the following actions when unauthorized persons approach or enter a permit space while entry is underway:

(i) Warn the unauthorized persons that they must stay away from the permit space;

(ii) Advise the unauthorized persons that they must exit immediately if they have entered the permit space; and

(iii) Inform the authorized entrants and the entry supervisor if unauthorized persons have entered the permit space.

NOTE: The employer can give the attendant the authority to remove unauthorized individuals who enter or who attempt to enter the permit space during entry operations, so long as the attendant does not enter the space.

(I) Perform non-entry rescues as specified by the employer's rescue procedure; and

(J) Perform no duties that might interfere with the attendant's primary duty to monitor and protect any authorized entrant.

NOTE: An attendant may monitor more than one space at a time, but the duties in relation to one space may not interfere with the duties for any other spaces. If an attendants' attention is focused on one space, such as to initiate the rescue procedures, all other spaces that the attendant is monitoring must be evacuated or another attendant must take over those duties first.

(d) Entry supervisors must:

(A) Know the hazards that may be faced during entry, including information on the type of hazard, as well as signs, symptoms, and consequences of exposure to those hazards.

(B) Understand the means and methods to control and/or eliminate the hazards of the permit space.

(C) Verify, by checking that the appropriate entries have been made on the permit, that all tests specified by the permit have been conducted and that all procedures and equipment specified by the permit are in place before endorsing the permit and allowing entry to begin.

(D) Inform entrants and attendants of the hazards and conditions associated with the space and the methods used to eliminate and/or control those hazards.

(E) Terminate the entry and cancel the permit as required by the permit entry program.

(F) Verify that rescue services are available and that the means for summoning them are operable.

(G) Remove unauthorized individuals who enter or who attempt to enter the permit space during entry operations.

(H) Reevaluate the conditions within the space whenever responsibility for a permit space entry operation is transferred and at intervals dictated by the hazards and operations performed within the space.

(9) Rescue.

(a) Before employees enter a permit space, develop and implement procedures to remove entrants in the event of an emergency or when they are unable to evacuate without outside assistance. These procedures must include:

(A) The process for summoning rescue services.

NOTE: At a minimum, if an off-site rescue service is being considered, the employer must contact the service to plan and coordinate the evaluations required by the standard. Merely posting the service's number or planning to rely on the 911 emergency phone number to obtain these services at the time of a permit space emergency would not comply with the rescue requirements of the standard.

(B) The process for summoning emergency medical services or transporting injured entrants to a medical facility.

(C) If an injured entrant is exposed to a substance for which a Safety Data Sheet (SDS) or other similar written information is required to be kept at the worksite, that SDS or written information must be made available to the medical facility treating the exposed entrant.

(b) Ensure rescue personnel can respond to a rescue call in a timely manner. Timeliness is based on the identified hazards of the space. Rescuers must be able to reach potential victims within an appropriate time frame based on the identified hazards of the permit space.

NOTE: When there are multiple entrants in a permit space, the rescue plan needs to address how all entrants will be removed in a timely manner.

(c) Ensure all rescuers, including non-entry, entry, and third-party, are knowledgeable in basic first aid and cardiopulmonary resuscitation (CPR). At least one member must be certified in first aid and CPR.

NOTE: Additional medical training, such as oxygen administration, the use of automated external defibrillators (AEDs), and personnel decontamination should be considered.

(d) Rescuers must practice performing permit space rescues prior to entry and no more than 12 months before an entry.

(A) The practice rescue must include every type of space in which the rescue team may perform rescues.

(B) The practice rescue must include removing persons, dummies, or manikins from the actual permit spaces, or representative spaces (simulated permit-required confined spaces) that have similar opening size, configuration, and accessibility issues as the actual permit spaces where rescue may be performed.

NOTE: Reliance upon "self rescue" does not constitute an acceptable rescue program.

(e) Where feasible, use non-entry retrieval systems or methods whenever an authorized entrant enters a permit space, unless it would increase the overall risk to the entrant or would not contribute to the rescue of the entrant.

(A) Non-entry Rescue. Use a retrieval system that meets the following requirements.

(i) Each authorized entrant must use a chest or full body harness, with a retrieval line attached at the center of the entrant's back near shoulder level, above the entrant's head, or at another point which you can establish presents a profile small enough for the successful removal of the entrant. Wristlets or ankle straps or other equally effective means may be used in lieu of the chest or full body harness if you can demonstrate that the use of a chest or full body harness is infeasible or creates a greater hazard and that the use of other methods are the safest and most effective alternative.

(ii) Attach the other end of the retrieval line to a mechanical device or fixed point outside the permit space so that rescue can begin as soon as the attendant becomes aware that rescue is necessary. Ensure a mechanical device is available to retrieve personnel from vertical type permit spaces more than 5 feet (1.52 m) deep.

(B) Entry Rescue.

(i) Where non-entry rescue is not feasible or would increase the overall risk to the entrant, designate a rescue team before employees enter any permit space.

(ii) Ensure the rescue team:

(I) Can efficiently rescue employees from permit spaces.

(II) Has the appropriate equipment to rescue employees from all permit spaces employees enter.

(iii) Inform each rescue team or service about the hazards they may confront when called to perform rescue.

(iv) Provide the rescue team or service with access to all permit spaces from which rescue may be necessary.

(v) Provide rescue team members with personal protective equipment (PPE) needed for safe entry and any other equipment required to safely conduct rescues.

(vi) Rescue team personnel must have the same training and proficiencies as a permit space entrant, attendant, and/or entry supervisor.

(vii) When a third-party rescue service is used, ensure that the service is:

(I) Aware that they are so designated and agree to it prior to entry.

(II) Capable of performing all required rescue operations.

(III) Knowledgeable in first aid and CPR, and at least one member is certified in first aid and CPR.

(10) Alternate Entry.

(a) Permit spaces may be entered without a permit when:

(A) All hazards have been eliminated; or

(B) All physical hazards, if any, have been eliminated and all atmospheric hazards are controlled with continuous ventilation.

NOTE: For purposes of this rule, tagout alone does not eliminate a hazard.

NOTE: Continuous ventilation does not eliminate atmospheric hazards. It only controls the hazards.

(b) Exception: Alternate entry cannot be used to enter a continuous system unless you can isolate the area to be entered from the rest of the space, can demonstrate that the conditions that caused the hazard or potential hazard no longer exist within the system during the entry, or can demonstrate that engulfment cannot occur and continuous ventilation in the area to be entered is sufficient to control atmospheric hazards.

(c) When employees enter permit spaces under alternate entry, you do not need to comply with the requirements of paragraphs (5), (6), (8), (9), (12), and (13) of this rule for those entries.

(d) Develop and implement procedures for each space that can be entered with alternate entry procedures. These procedures must address:

(A) Who can authorize alternate entry procedure and is responsible for ensuring safe entry conditions.

(B) The hazards of the space.

NOTE: When fall hazards (if any) have been addressed and all other physical hazards, if any, have been eliminated and all atmospheric hazards have been eliminated, or are controlled with continuous ventilation, alternate entry is allowed.

(C) The methods used to eliminate hazards.

(D) The methods used to ensure that the hazards have been eliminated.

(E) The methods used to test the atmosphere within the space, where applicable, for all atmospheric hazards.

(F) The methods used to determine if unsafe conditions arise before or during entry.

(G) The criteria and conditions for evacuating the space during entry.

(H) The methods for training employees in these procedures.

(I) The methods for ensuring employees follow these procedures.

(e) When using ventilation to control atmospheric hazards:

(A) Use only properly calibrated direct-reading meters to test the atmosphere.

(B) Test the atmosphere for all identified atmospheric hazards before entering the space.

(C) Do not allow employees to enter until testing verifies that all identified atmospheric hazards are adequately controlled by the ventilation.

(D) Perform continuous monitoring for all atmospheric hazards during the entry.

(E) Immediately evacuate the space:

(i) When monitoring indicates the return of atmospheric hazards.

(ii) Upon any failure with the direct-reading instrument.

(iii) Upon any failure with the ventilation.

(iv) When a new hazard is introduced or conditions within the space change.

(f) Provide all employees who will conduct the entry or their representatives the opportunity to observe all activities used to comply with this section.

(g) Provide all employees who conduct entry an effective means of communication, such as a two-way radio, cell phone, or voice if other employees are present, to summon help while within the space.

(h) When a space is evacuated, it cannot be re-entered as an alternate entry unless:

(A) The conditions that necessitated the evacuation are corrected; and

(B) The re-entry is treated and documented as a new entry.

(i) Document each entry. This documentation must include:

(A) The location of the space.

(B) The hazards of the space.

(C) The measures taken to eliminate the hazards.

(D) When applicable, the measures used to control the atmospheric hazards.

(E) When applicable, the identity of the direct-reading instruments used to test the atmosphere.

(F) When applicable, the results of the atmospheric testing.

(G) The date of the entry.

(H) The duration of the entry.

(I) When applicable, any and all conditions that required the evacuation of the space.

(J) The name, title, and signature of the person responsible for ensuring the safe entry conditions.

(j) Maintain this documentation for the duration of the entry at the location of the entry.

NOTE: Additional record retention requirements may apply under 1910.1020. "Access to Employee Medical and Exposure Records."

(11) Training.

(a) Train each employee involved in permit space activities so they acquire the understanding, knowledge, and skills necessary to safely perform their duties, according to their assigned responsibilities.

(A) Provide training:

(i) For all new employees.

(ii) Before an employee is assigned permit space duties.

(iii) Before there is a change in an employee's assigned duties.

(iv) When there is a hazard for which the employee hasn't already been trained, or when there is a change in the hazards of an existing confined space.

(v) When there are changes to the permit program.

(vi) When the permit audit shows deficiencies.

(vii) Whenever there is a deviation from the established procedures or employee knowledge of the procedures is inadequate.

(B) Document employee training. Ensure the documentation:

(i) Contains the employee's name, the name and signature of the trainer, and the date of training.

(ii) Contains the responsibilities for which they were trained.

(iii) Is available for inspection by employees and their authorized representative.

(b) Ensure each employee is proficient in their assigned duties.

(c) Awareness training:

(A) Provide all employees whose work operations are or may be in an area where permit spaces are present with a basic overview of:

(i) The permit space program.

(ii) The entry permit system.

(iii) The alternate entry procedures, if used.

NOTE: Awareness training is not required for employees whose exposure is negligible, such as office workers who walk in a parking lot that has a sewer manhole or workers entering a building with a baghouse near it, as long as those employees have no other exposures to permit spaces. Similarly, when all permit spaces cannot be accessed or opened by employees, awareness training is not required.

An example of this are spaces that are locked or require a specialized tool, access to the key or tool is controlled, and access without the key or tool would require extraordinary means (such as a chop saw or cutting torch).

(B) Provide this training:

(i) For all new affected employees.

(ii) For all employees whose duties change to include work in areas with permit spaces.

(iii) When inadequacies in an employee's knowledge indicate that the employee has not retained the requisite understanding.

(iv) When there is a change in the permit program.

(v) When there are new or previously unidentified permit spaces.

(C) Ensure all employees understand how to recognize permit spaces in their work area.

(12) Multi-employer worksites.

(a) Unless you fall within an exemption under paragraph (4)(b), before employees of another employer enter permit spaces under your control, you must:

(A) Inform the employer and their employees:

(i) That the workplace contains permit spaces and can be entered only when the applicable requirements of this rule are met.

(ii) Of the identified hazards and your experience with each permit space they will enter.

(iii) Of any precautions or procedures you require to protect employees in or near spaces where the work will be performed.

(B) Coordinate entry operations with the employer, when employees of different employers will be working in or near the same permit spaces.

(C) Discuss entry operations with the employer after they are complete. This discussion must include:

(i) The program followed during permit space entry, and

(ii) Any hazards confronted or created.

(b) When your employees enter a permit space under the control of another entity, at the conclusion of entry operations, inform the controlling contractor and host employer about the precautions and procedures you followed and any hazards that were present or that developed during entry operations.

(13) Records. Keep cancelled permits for at least one year from the date the permit expires for review (see paragraph (5)(g)).

NOTE: Additional record retention requirements may apply under 1910.1020 "Access to Employee Medical and Exposure Records."

(14) Effective dates. For work covered under Division 3, Construction, these rules are effective as of March 1, 2015.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 6-2012, f. 9-28-12, cert. ef. 4-1-13; OSHA 5-2014, f. 10-20-14, cert. ef. 1-1-15; OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-0300
Adoption by Reference

In addition to and not in lieu of, any other health and safety codes contained in OAR Chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1910, in the Federal Register:

(1) Reserved for 29 CFR 1910.261 Pulp, Paper, and Paperboard Mills

(2) 29 CFR 1910.262 Textiles, published 6/18/98, FR vol. 63, no. 117, p. 33467.

(3) 29 CFR 1910.263 Bakery Equipment, published 3/7/96, FR vol. 61, no. 46, p. 9241.

(4) 29 CFR 1910.264 Laundry Machinery and Operations, published 11/7/78, FR vol. 43, p. 51760.

(5) 29 CFR 1910.265 Sawmills, published 9/13/05, FR vol. 70, no. 176, p. 53925.

(6) Reserved for 29 CFR 1910.266 Pulpwood Logging.

NOTE: In Oregon, Pulpwood Logging rules are Oregon-initiated rules provided in Division 7, Forest Activities.

(7) Reserved for 29 CFR 1910.267 Agricultural Operations

(8) 29 CFR 1910.268 Telecommunications, published 6/18/98, FR vol. 63, no. 117, p. 33467.

(9) 29 CFR 1910.269 Electric power generation, transmission and distribution. Repealed with Oregon OSHA Admin. Order 3-2015, f. 10/9/15, ef. 1/1/16. In Oregon, Division 2/RR applies.

(10) 29 CFR 1910.272 Grain Handling Facilities, and Appendices A, B and C, published 3/7/96, FR vol. 61, no. 46, p. 9242.

(11) 29 CFR 1910.274 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9242.

(12) 29 CFR 1910.275 Removed. Published 3/7/96, Federal Register, vol. 61, no. 46, p. 9242.

NOTE: These standards are available from the Oregon Occupational Safety and Health Division (OR-OSHA), Department of Consumer and Business Services; and the United States Government Printing Office.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: APD 10-1988, f. & ef. 7-7-88; OSHA 23-1990, f. 9-28-90, ef. 12-1-90; OSHA 27-1990, f. 12-12-90, ef. 2-1-91; OSHA 14-1991, f. 10-10-91, cert. ef. 11-1-91; OSHA 7-1993, f. 6-8-93, cert. ef. 8-1-93; OSHA 11-1993, f. 8-4-93, cert. ef. 10-1-93; OSHA 3-1994, f. & cert. ef. 8-1-94; OSHA 6-1995, f. 4-18-95, cert. ef. 6-1-95; OSHA 3-1996, f. & cert. ef. 7-22-96; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 2-1999, f. & cert. ef. 4-30-99; OSHA 3-1999, f. & cert. ef. 4-30-99; OSHA 5-2001, f. & cert. ef. 4-6-01; OSHA 4-2004, f. & cert. ef. 9-15-04; OSHA 4-2005, f. & cert. ef 12-14-05; OSHA 1-2012, f. & cert .ef. 4-10-12; OSHA 6-2012, f. 9-28-12, cert. ef. 4-1-13; OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-0301
Scope and Application

(1) These rules set minimum safety requirements for tree and shrub trimming, pruning, bracing, removal, and surgery. These rules shall apply to all tree and shrub services.

(2) These rules do not apply to agricultural crops or crop services, or to tree trimming operations within 10 feet of any high voltage (600 v) power lines or equipment. Tree trimming operations around power lines are covered under Division 2/RR.

(3) If a specific type of equipment, process or practice is not limited to the tree and shrub service industry, the provisions contained in other divisions of OAR 437, Oregon Occupational Safety and Health Code, shall apply.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 27-1990, f. 12-12-90, cert. ef. 2-1-91; OSHA 3-1994, f. & cert. ef. 8-1-94; OSHA 1-1996, f. & cert. ef. 2-16-96; OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-0320
Adoption by Reference.

In addition to, and not in lieu of, any other health and safety codes contained in OAR chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 29 CFR 1910, in the Federal Register:

(1) 29 CFR 1910.301 Introduction; published 8/7/81, FR vol. 46, p. 40185.

Design Safety Standards for Electrical Systems

(2) 29 CFR 1910.302 Electrical utilization systems; published 2/14/07, FR vol. 72, no. 30, p. 7136.

(3) 29 CFR 1910.303 General requirements; published 10/29/08, FR vol. 73, no. 210, p. 64202.

(4) 29 CFR 1910.304 Wiring design and protection; published 10/29/08, FR vol. 73, no. 210, p. 64202.

(5) 29 CFR 1910.305 Wiring methods, components and equipment for general use; published 2/14/07, FR vol. 72, no. 30, p. 7136.

(6) 29 CFR 1910.306 Specific purpose equipment and installations; published 2/14/07, FR vol. 72, no. 30, p. 7136.

(7) 29 CFR 1910.307 Hazardous (classified) locations; published 2/14/07, FR vol. 72, no. 30, p. 7136.

(8) 29 CFR 1910.308 Special systems; published 2/14/07, FR vol. 72, no. 30, p. 7136.

(9) (Reserved for 1910.309–.330)

(10) 29 CFR 1910.331 Scope; published 4/11/14, FR vol. 79, no. 70, p. 20316; 10/5/15, FR vol. 80, no. 192, p. 60033.

(11) 29 CFR 1910.332 Training; published 8/6/90, Federal Register vol. 55, no. 151, pp. 32016-32020.

(12) 29 CFR 1910.333 Selection and use of work practices; published 1/31/94, FR vol. 59, no. 20, pp. 4475-6; amended with OR-OSHA AO 4-2007, filed and effective 8/15/07.

(13) 29 CFR 1910.334 Use of equipment; published 11/1/90, FR vol. 55, no. 212, pp. 46052-46054.

(14) 29 CFR 1910.335 Safeguards for personnel protection; published 8/6/90, Federal Register vol. 55, no. 151, pp. 32016-32020.

(15) (Reserved for 1910.336–.360)

Safety-Related Maintenance Requirements

(16) (Reserved for 1910.361–.380)

Safety Requirements for Special Equipment

(17) (Reserved for 1910.381–.398)

(18) 29 CFR 1910.399 Definitions Applicable to this Subdivision; published 4/11/14, FR vol. 79, no. 70, p. 20316.

(19) Appendices. Appendix A — Reference Documents. These standards are available at the Oregon Occupational Safety and Health Division (OR-OSHA), Department of Consumer and Business Services; and the United States Government Printing Office.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 2-1991, f. 2-4-91, cert. ef. 4-1-91; OSHA 3-1994, f. & cert. ef. 8-1-94; OSHA 4-2007, f. & cert. ef. 8-15-07; OSHA 3-2009, f. 4-6-09, cert. ef. 4-17-09; OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-2300
General

(1) Application. Division 2/RR covers the operation and maintenance of electric power generation, control, transformation, transmission, and distribution lines and equipment. These provisions apply to:

(a) Power generation, transmission, and distribution installations, including related equipment for the purpose of communication or metering that are accessible only to qualified employees;

Note to paragraph (1)(a): The types of installations covered by this paragraph include the generation, transmission, and distribution installations of electric utilities, as well as equivalent installations of industrial establishments. This includes facilities producing electric energy from other forms of energy, including but not limited to thermal, hydroelectric, photovoltaic, wind-generated, wave energy, and chemical energy from fuel cells and batteries. Division 2/S covers supplementary electric generating equipment that is used to supply a workplace for emergency, standby, or similar purposes only.

(b) Other installations at an electric power generating station, as follows:

(A) Fuel and ash handling and processing installations, such as coal conveyors,

(B) Water and steam installations, such as penstocks, pipelines, and tanks, providing a source of energy for electric generators, and

(C) Chlorine and hydrogen systems;

(c) Test sites where employees perform electrical testing involving temporary measurements associated with electric power generation, transmission, and distribution in laboratories, in the field, in substations, and on lines, as opposed to metering, relaying, and routine line work;

(d) Work on, or directly associated with, the installations covered in paragraphs (1)(a) through (1)(C) of this rule; and

(e) Line-clearance tree-trimming performed for the purpose of clearing space around electric power generation, transmission, or distribution lines or equipment and on behalf of an organization that operates, or that controls the operating procedures for, those lines or equipment, as follows:

(A) Entire Division 2/RR , except paragraph (1) of 437-002-2317, applies to line-clearance tree trimming covered by the introductory text to paragraph (1)(e) of 437-002-2300 when performed by qualified employees (those who are knowledgeable in the construction and operation of the electric power generation, transmission, or distribution equipment involved, along with the associated hazards).

(B) Rules 437-002-2300(2), (3); 437-002-2301, 437-002-2302, 437-002-2306, 437-002-2310, 437-002-2315, and 437-002-2317 of Division 2/RR apply to line-clearance tree trimming covered by the introductory text to paragraph (1)(e) of 437-002-2300 when performed by line-clearance tree trimmers who are not qualified employees.

(f) Notwithstanding paragraph (1)(a) of this rule, Division 2/RR does not apply to electrical installations, electrical safety-related work practices, or electrical maintenance considerations covered by Division 2/S or Division 3/K.

Note 1 to paragraph (1)(f): Oregon OSHA considers work practices conforming to 1910.332 through 1910.335 of Division 2/S as complying with the electrical safety-related work-practice requirements of Division 2/RR identified in Table 1 of Appendix A-2 to Division 2/RR, provided that employers are performing the work on a generation or distribution installation meeting 1910.303 through 1910.308 of Division 2/S. This table also identifies provisions in Division 2/RR that apply to work by qualified persons directly on, or associated with, installations of electric power generation, transmission, and distribution lines or equipment, regardless of compliance with 1910.332 through 1910.335 of Division 2/S.

Note 2 to paragraph (1)(f): Oregon OSHA considers work practices performed by qualified persons and conforming to Division 2/RR as complying with 1910.333(c) and 1910.335 of Division 2/S.

(g) Division 2/RR applies in addition to all other applicable standards contained in Division 2. Employers covered under Division 2/RR are not exempt from complying with other applicable provisions in Division 2 by the operation of 1910.5(c) of Division 2. Specific references in Division 2/RR to other subdivisions are for emphasis only.

(h) Division 2/RR also covers the construction of electric power transmission and distribution lines and equipment. As used in this Subdivision, the term "construction" includes the erection of new electric transmission and distribution lines and equipment, and the alteration, conversion, and improvement of existing electric transmission and distribution lines and equipment. Division 2/RR applies to safety-related work practices for qualified employees.

(i) This rule applies in addition to all other applicable standards contained in Division 3, relating to construction activities. Employers engaged in construction activities covered under Division 2/RR are not exempt from complying with other applicable provisions in Division 3 by the operation of 437-003-0005 Additional Applicability, of Division 3/A. Specific references in Division 2/RR to other subdivisions of Division 3 are provided for emphasis only.

(2) Training.

(a) All employees performing work covered by this rule must be trained as follows:

(A) Each employee must be trained in, and familiar with, the safety-related work practices, safety procedures, and other safety requirements in this rule that pertain to their job assignments.

(B) Each employee must also be trained in and familiar with any other safety practices, including applicable emergency procedures (such as pole-top and manhole rescue), that are not specifically addressed by this rule but that are related to their work and are necessary for their safety.

(C) The degree of training must be determined by the risk to the employee for the hazard involved.

(b) Each qualified employee must also be trained and competent in:

(A) The skills and techniques necessary to distinguish exposed live parts from other parts of electric equipment,

(B) The skills and techniques necessary to determine the nominal voltage of exposed live parts,

(C) The minimum approach distances specified in this rule corresponding to the voltages to which the qualified employee will be exposed and the skills and techniques necessary to maintain those distances,

(D) The proper use of the special precautionary techniques, personal protective equipment, insulating and shielding materials, and insulated tools for working on or near exposed energized parts of electric equipment, and

(E) The recognition of electrical hazards to which the employee may be exposed and the skills and techniques necessary to control or avoid these hazards.

Note to paragraph (2)(b): For the purposes of this rule, a person must have the training required by paragraph (2)(b) of this rule to be considered a qualified employee.

(c) Each line-clearance tree trimmer who is not a qualified employee must also be trained and competent in:

(A) The skills and techniques necessary to distinguish exposed live parts from other parts of electric equipment,

(B) The skills and techniques necessary to determine the nominal voltage of exposed live parts, and

(C) The minimum approach distances specified in this rule corresponding to the voltages to which the employee will be exposed and the skills and techniques necessary to maintain those distances.

(d) The employer must determine, through regular supervision and through inspections conducted on at least an annual basis, that each employee is complying with the safety-related work practices required by this rule.

(e) An employee must receive additional training (or retraining) under any of the following conditions:

(A) If the supervision or annual inspections required by paragraph (2)(d) of this rule indicate that the employee is not complying with the safety-related work practices required by this rule, or

(B) If new technology, new types of equipment, or changes in procedures necessitate the use of safety-related work practices that are different from those which the employee would normally use, or

(C) If they must employ safety-related work practices that are not normally used during their regular job duties.

Note to paragraph (2)(e)(C): Oregon OSHA considers tasks that are performed less often than once per year to necessitate retraining before the performance of the work practices involved.

(f) The training required by paragraph (a)(2) of this rule must be of the classroom or on-the-job type.

(g) The training must establish employee proficiency in the work practices required by this rule and must introduce the procedures necessary for compliance with this rule.

(h) The employer must ensure that each employee has demonstrated proficiency in the work practices involved before that employee is considered as having completed the training required by paragraph (a)(2) of this rule.

Note 1 to paragraph (2)(h): Though they are not required by this paragraph, employment records that indicate that an employee has successfully completed the required training are one way of keeping track of when an employee has demonstrated proficiency.

Note 2 to paragraph (2)(h): For an employee with previous training, an employer may determine that that employee has demonstrated the proficiency required by this paragraph using the following process:

(1) Confirm that the employee has the training required by paragraph (a)(2) of this rule,

(2) Use an examination or interview to make an initial determination that the employee understands the relevant safety-related work practices before they perform any work covered by this rule, and

(3) Supervise the employee closely until that employee has demonstrated proficiency as required by this paragraph.

(3) Information transfer.

(a) Before work begins, the host employer must inform contract employers of:

(A) The characteristics of the host employer's installation that are related to the safety of the work to be performed and are listed in paragraphs (4)(a) through (4)(e) of this rule;

Note to paragraph (3)(a)(A): This paragraph requires the host employer to obtain information listed in paragraphs (4)(a) through (4)(e) of this rule if it does not have this information in existing records.

(B) Conditions that are related to the safety of the work to be performed, that are listed in paragraphs (4)(f) through (4)(h) of this rule, and that are known to the host employer;

Note to paragraph (3)(a)(B): For the purposes of this paragraph, the host employer need only provide information to contract employers that the host employer can obtain from its existing records through the exercise of reasonable diligence. This paragraph does not require the host employer to make inspections of worksite conditions to obtain this information.

(C) Information about the design and operation of the host employer's installation that the contract employer needs to make the assessments required by this rule; and

Note to paragraph (3)(a)(C): This paragraph requires the host employer to obtain information about the design and operation of its installation that contract employers need to make required assessments if it does not have this information in existing records.

(D) Any other information about the design and operation of the host employer's installation that is known by the host employer, that the contract employer requests, and that is related to the protection of the contract employer's employees.

Note to paragraph (3)(a)(D): For the purposes of this paragraph, the host employer need only provide information to contract employers that the host employer can obtain from its existing records through the exercise of reasonable diligence. This paragraph does not require the host employer to make inspections of worksite conditions to obtain this information.

(b) Contract employers must comply with the following requirements:

(A) The contract employer must ensure that each of its employees is instructed in the hazardous conditions relevant to the employee's work that the contract employer is aware of as a result of information communicated to the contract employer by the host employer under paragraph (3)(a) of this rule.

(B) Before work begins, the contract employer must advise the host employer of any unique hazardous conditions presented by the contract employer's work.

(C) The contract employer must advise the host employer of any unanticipated hazardous conditions found during the contract employer's work that the host employer did not mention under paragraph (3)(a) of this rule. The contract employer must provide this information to the host employer within 2 working days after discovering the hazardous condition.

(c) The contract employer and the host employer must coordinate their work rules and procedures so that each employee of the contract employer and the host employer is protected as required by this rule.

(4) Existing characteristics and conditions. Existing characteristics and conditions of electric lines and equipment that are related to the safety of the work to be performed must be determined before work on or near the lines or equipment is started. Such characteristics and conditions include, but are not limited to:

(a) The nominal voltages of lines and equipment,

(b) The maximum switching-transient voltages,

(c) The presence of hazardous induced voltages,

(d) The presence of protective grounds and equipment grounding conductors,

(e) The locations of circuits and equipment, including electric supply lines, communication lines, and fire-protective signaling circuits,

(f) The condition of protective grounds and equipment grounding conductors,

(g) The condition of poles, and

(h) Environmental conditions relating to safety.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-2301
Medical Services and First Aid

When employees are performing General Industry activities, the employer must provide medical services and first aid as required by 437-002-0161. When employees are performing Construction activities, the employer must provide medical services and first aid as required by 1926.50. In addition to the requirements of 437-002-0161 and 1926.50, the following requirements also apply:

(1) First-aid/CPR training. When employees are performing work on, or associated with, exposed lines or equipment energized at 50 volts or more, persons with first-aid/CPR training must be available as follows:

(a) For field work involving two or more employees at a work location, at least two trained persons must be available. However, for line-clearance tree trimming operations performed by line-clearance tree trimmers who are not qualified employees, only one trained person need be available if all new employees are trained in first aid/CPR within 3 months of their hiring dates.

(b) For fixed work locations such as substations, the number of trained persons available must be sufficient to ensure that each employee exposed to electric shock can be reached within 4 minutes by a trained person. However, where the existing number of employees is insufficient to meet this requirement (at a remote substation, for example) each employee at the work location must be a trained employee.

(2) First-aid supplies. First-aid supplies required by 437-002-0161 and 1926.50 must be placed in weatherproof containers if the supplies could be exposed to the weather.

(3) First-aid kits. The employer must maintain each first-aid kit and ensure that it is readily available for use.

(a) For employers involved in general industry activities, the first aid kit must be inspected frequently enough to ensure that expended items are replaced, and at least once per year.

(b) For employers involved in construction activities, the first-aid supplies must be in individual sealed packages for each type of item, must be checked by the employer before being sent out to each job, and at least weekly to ensure expended items are replaced.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-2302
Job Briefing

(1) Before each job.

(a) In assigning an employee or a group of employees to perform a job, the employer must provide the employee in charge of the job with all available information that relates to the determination of existing characteristics and conditions required by paragraph (4) of 437-002-2300.

(b) The employer must ensure that the employee in charge conducts a job briefing that meets paragraphs (2), (3), and (4) of this rule with the employees involved before they start each job.

(2) Subjects to be covered. The briefing must cover at least the following subjects:

(a) Hazards associated with the job

(b) Work procedures involved

(c) Special precautions

(d) Energy-source controls

(e) Personal protective equipment requirements

(3) Number of briefings.

(a) At least one job briefing must be conducted before the start of the first job of each day or shift even if the work or operations to be performed during the work day or shift are repetitive and similar.

(b) Additional job briefings must be held if significant changes, which might affect the safety of the employees, occur during the course of the work.

(4) Extent of briefing.

(a) A brief discussion is satisfactory if the work involved is routine and if the employees, by virtue of training and experience, can reasonably be expected to recognize and avoid the hazards involved in the job.

(b) A more extensive discussion must be conducted:

(A) If the work is complicated or particularly hazardous, or

(B) If the employee cannot be expected to recognize and avoid the hazards involved in the job.

(5) Working alone. An employee working alone need not conduct a job briefing. However, the employer must ensure that the tasks to be performed are planned as if a briefing were required.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-2303
Hazardous Energy Control Procedures

(1) Application. The provisions of this rule apply to the use of hazardous energy control procedures for the control of energy sources in installations for the purpose of electric power generation, including related equipment for communication or metering. Clearance procedures and hazardous energy control procedures for the deenergizing of electric energy sources that are used exclusively for purposes of transmission and distribution, and construction activities, are addressed in 437-002-2312 Deenergizing lines and equipment for employee protection.

NOTE: Installations in electric power generation facilities that are not an integral part of, or inextricably commingled with, power generation processes or equipment are covered under 1910.147 and Division 2/S, Electrical.

(2) General.

(a) The employer must establish a program consisting of energy control procedures, employee training, and periodic inspections to ensure that, before any employee performs any servicing or maintenance on a machine or equipment where the unexpected energizing, start up, or release of stored energy could occur and cause injury, the machine or equipment is isolated from the energy source and rendered inoperative.

(b) The employer's energy control program under paragraph (2) of this rule must meet the following requirements:

(A) If an energy isolating device is not capable of being locked out, the employer's program must use a tagout system.

(B) If an energy isolating device is capable of being locked out, the employer's program must use lockout, unless the employer can demonstrate that the use of a tagout system will provide full employee protection as follows:

(i) When a tagout device is used on an energy isolating device that is capable of being locked out, the tagout device must be attached at the same location that the lockout device would have been attached, and the employer must demonstrate that the tagout program will provide a level of safety equivalent to that obtained by the use of a lockout program.

(ii) In demonstrating that a level of safety is achieved in the tagout program equivalent to the level of safety obtained by the use of a lockout program, the employer must demonstrate full compliance with all tagout-related provisions of this standard together with such additional elements as

are necessary to provide the equivalent safety available from the use of a lockout device. Additional means to be considered as part of the demonstration of full employee protection must include the implementation of additional safety measures such as the removal of an isolating circuit element, blocking of a controlling switch, opening of an extra disconnecting device, or the removal of a valve handle to reduce the likelihood of inadvertent energizing.

(C) After November 1, 1994, whenever replacement or major repair, renovation, or modification of a machine or equipment is performed, and whenever new machines or equipment are installed, energy isolating devices for such machines or equipment must be designed to accept a lockout device.

(c) Procedures must be developed, documented, and used for the control of potentially hazardous energy covered in 437-002-2303.

(d) The procedure must clearly and specifically outline the scope, purpose, responsibility, authorization, rules, and techniques to be applied to the control of hazardous energy, and the measures to enforce compliance including, but not limited to, the following:

(A) A specific statement of the intended use of this procedure;

(B) Specific procedural steps for shutting down, isolating, blocking and securing machines or equipment to control hazardous energy;

(C) Specific procedural steps for the placement, removal, and transfer of lockout devices or tagout devices and the responsibility for them; and

(D) Specific requirements for testing a machine or equipment to determine and verify the effectiveness of lockout devices, tagout devices, and other energy control measures.

(e) The employer must conduct a periodic inspection of the energy control procedure at least annually to ensure that the procedure and the provisions of 437-002-2303 are being followed.

(A) The periodic inspection must be performed by an authorized employee who is not using the energy control procedure being inspected.

(B) The periodic inspection must be designed to identify and correct any deviations or inadequacies.

(C) If lockout is used for energy control, the periodic inspection must include a review, between the inspector and each authorized employee, of that employee's responsibilities under the energy control procedure being inspected.

(D) Where tagout is used for energy control, the periodic inspection must include a review, between the inspector and each authorized and affected employee, of that employee's responsibilities under the energy control procedure being inspected, and the elements set forth in paragraph (2)(g) of this rule.

(E) The employer must certify that the inspections required by paragraph (2)(e) of this rule have been accomplished. The certification must identify the machine or equipment on which the energy control procedure was being used, the date of the inspection, the employees included in the inspection, and the person performing the inspection.

Note to paragraph (2)(e)(E): If normal work schedule and operation records demonstrate adequate inspection activity and contain the required information, no additional certification is required.

(f) The employer must provide training to ensure that the purpose and function of the energy control program are understood by employees and that the knowledge and skills required for the safe application, usage, and removal of energy controls are acquired by employees. The training must include the following:

(A) Each authorized employee must receive training in the recognition of applicable hazardous energy sources, the type and magnitude of energy available in the workplace, and in the methods and means necessary for energy isolation and control.

(B) Each affected employee must be instructed in the purpose and use of the energy control procedure.

(C) All other employees whose work operations are or may be in an area where energy control procedures may be used must be instructed about the procedures and about the prohibition relating to attempts to restart or reenergize machines or equipment that are locked out or tagged out.

(g) When tagout systems are used, employees must also be trained in the following limitations of tags:

(A) Tags are essentially warning devices affixed to energy isolating devices and do not provide the physical restraint on those devices that is provided by a lock.

(B) When a tag is attached to an energy isolating means, it is not to be removed without authorization of the authorized person responsible for it, and it is never to be bypassed, ignored, or otherwise defeated.

(C) Tags must be legible and understandable by all authorized employees, affected employees, and all other employees whose work operations are or may be in the area, in order to be effective.

(D) Tags and their means of attachment must be made of materials which will withstand the environmental conditions encountered in the workplace.

(E) Tags may evoke a false sense of security, and their meaning needs to be understood as part of the overall energy control program.

(F) Tags must be securely attached to energy isolating devices so that they cannot be inadvertently or accidentally detached during use.

(h) Retraining must be provided by the employer as follows:

(A) Retraining must be provided for all authorized and affected employees whenever there is a change in their job assignments, a change in machines, equipment, or processes that present a new hazard or whenever there is a change in the energy control procedures.

(B) Retraining must also be conducted whenever a periodic inspection under paragraph (2)(e) of this rule reveals, or whenever the employer has reason to believe, that there are deviations from or inadequacies in an employee's knowledge or use of the energy control procedures.

(C) The retraining must reestablish employee proficiency and must introduce new or revised control methods and procedures, as necessary.

(i) The employer must certify that employee training has been accomplished and is being kept up to date. The certification must contain each employee's name and dates of training.

(3) Protective materials and hardware.

(a) Locks, tags, chains, wedges, key blocks, adapter pins, self-locking fasteners, or other hardware must be provided by the employer for isolating, securing, or blocking of machines or equipment from energy sources.

(b) Lockout devices and tagout devices must be singularly identified; must be the only devices used for controlling energy; may not be used for other purposes; and must meet the following requirements:

(A) Lockout devices and tagout devices must be capable of withstanding the environment to which they are exposed for the maximum period of time that exposure is expected.

(i) Tagout devices must be constructed and printed so that exposure to weather conditions or wet and damp locations will not cause the tag to deteriorate or the message on the tag to become illegible.

(ii) Tagout devices must be so constructed as not to deteriorate when used in corrosive environments.

(B) Lockout devices and tagout devices must be standardized within the facility in at least one of the following criteria: color, shape, size. Additionally, in the case of tagout devices, print and format must be standardized.

(C) Lockout devices must be substantial enough to prevent removal without the use of excessive force or unusual techniques, such as with the use of bolt cutters or metal cutting tools.

(D) Tagout devices, including their means of attachment, must be substantial enough to prevent inadvertent or accidental removal. Tagout device attachment means must be of a non-reusable type, attachable by hand, self-locking, and nonreleasable with a minimum unlocking strength of no less than 50 pounds and must have the general design and basic characteristics of being at least equivalent to a one-piece, all-environment-tolerant nylon cable tie.

(E) Each lockout device or tagout device must include provisions for the identification of the employee applying the device.

(F) Tagout devices must warn against hazardous conditions if the machine or equipment is energized and must include a legend such as the following: Do Not Start, Do Not Open, Do Not Close, Do Not Energize, Do Not Operate.

Note to paragraph (3)(b)(F): For specific provisions covering accident prevention tags, see 1910.145.

(4) Energy isolation. Lockout and tagout device application and removal may only be performed by the authorized employees who are performing the servicing or maintenance.

(5) Notification. Affected employees must be notified by the employer or authorized employee of the application and removal of lockout or tagout devices. Notification must be given before the controls are applied and after they are removed from the machine or equipment.

Note to paragraph (5): See also paragraph (7) of this rule, which requires that the second notification take place before the machine or equipment is reenergized.

(6) Lockout/tagout application. The established procedures for the application of energy control (the lockout or tagout procedures) must include the following elements and actions, and these procedures must be performed in the following sequence:

(a) Before an authorized or affected employee turns off a machine or equipment, the authorized employee must have knowledge of the type and magnitude of the energy, the hazards of the energy to be controlled, and the method or means to control the energy.

(b) The machine or equipment must be turned off or shut down using the procedures established for the machine or equipment. An orderly shutdown must be used to avoid any additional or increased hazards to employees as a result of the equipment stoppage.

(c) All energy isolating devices that are needed to control the energy to the machine or equipment must be physically located and operated in such a manner as to isolate the machine or equipment from energy sources.

(d) Lockout or tagout devices must be affixed to each energy isolating device by authorized employees.

(A) Lockout devices must be attached in a manner that will hold the energy isolating devices in a "safe" or "off" position.

(B) Tagout devices must be affixed in such a manner as will clearly indicate that the operation or movement of energy isolating devices from the "safe" or "off" position is prohibited.

(i) Where tagout devices are used with energy isolating devices designed with the capability of being locked out, the tag attachment must be fastened at the same point at which the lock would have been attached.

(ii) Where a tag cannot be affixed directly to the energy isolating device, the tag must be located as close as safely possible to the device, in a position that will be immediately obvious to anyone attempting to operate the device.

(e) Following the application of lockout or tagout devices to energy isolating devices, all potentially hazardous stored or residual energy must be relieved, disconnected, restrained, or otherwise rendered safe.

(f) If there is a possibility of reaccumulation of stored energy to a hazardous level, verification of isolation must be continued until the servicing or maintenance is completed or until the possibility of such accumulation no longer exists.

(g) Before starting work on machines or equipment that have been locked out or tagged out, the authorized employee must verify that isolation and deenergizing of the machine or equipment have been accomplished. If normally energized parts will be exposed to contact by an employee while the machine or equipment is deenergized, a test must be performed to ensure that these parts are deenergized.

(7) Release from lockout/tagout. Before lockout or tagout devices are removed and energy is restored to the machine or equipment, procedures must be followed and actions taken by the authorized employees to ensure the following:

(a) The work area must be inspected to ensure that nonessential items have been removed and that machine or equipment components are operationally intact.

(b) The work area must be checked to ensure that all employees have been safely positioned or removed.

(c) After lockout or tagout devices have been removed and before a machine or equipment is started, affected employees must be notified that the lockout or tagout devices have been removed.

(d) Each lockout or tagout device must be removed from each energy isolating device by the authorized employee who applied the lockout or tagout device. However, if that employee is not available to remove it, the device may be removed under the direction of the employer, provided that specific procedures and training for such removal have been developed, documented, and incorporated into the employer's energy control program. The employer must demonstrate that the specific procedure provides a degree of safety equivalent to that provided by the removal of the device by the authorized employee who applied it. The specific procedure must include at least the following elements:

(A) Verification by the employer that the authorized employee who applied the device is not at the facility;

(B) Making all reasonable efforts to contact the authorized employee to inform him or her that his or her lockout or tagout device has been removed; and

(C) Ensuring that the authorized employee has this knowledge before he or she resumes work at that facility.

(8) Additional requirements.

(a) If the lockout or tagout devices must be temporarily removed from energy isolating devices and the machine or equipment must be energized to test or position the machine, equipment, or component thereof, the following sequence of actions must be followed:

(A) Clear the machine or equipment of tools and materials in accordance with paragraph (7)(a) of this rule;

(B) Remove employees from the machine or equipment area in accordance with paragraphs (7)(b) and (7)(c) of this rule;

(C) Remove the lockout or tagout devices as specified in paragraph (7)(d) of this rule;

(D) Energize and proceed with the testing or positioning; and

(E) Deenergize all systems and reapply energy control measures in accordance with paragraph (6) of this rule to continue the servicing or maintenance.

(b) When servicing or maintenance is performed by a crew, craft, department, or other group, they must use a procedure which affords the employees a level of protection equivalent to that provided by the implementation of a personal lockout or tagout device. Group lockout or tagout devices must be used in accordance with the procedures required by paragraphs (2)(c) and (2)(d) of this rule including, but not limited to, the following specific requirements:

(A) Primary responsibility must be vested in an authorized employee for a set number of employees working under the protection of a group lockout or tagout device (such as an operations lock);

(B) Provision must be made for the authorized employee to ascertain the exposure status of all individual group members with regard to the lockout or tagout of the machine or equipment;

(C) When more than one crew, craft, department, or other group is involved, assignment of overall job-associated lockout or tagout control responsibility must be given to an authorized employee designated to coordinate affected work forces and ensure continuity of protection; and

(D) Each authorized employee must affix a personal lockout or tagout device to the group lockout device, group lockbox, or comparable mechanism when he or she begins work and must remove those devices when he or she stops working on the machine or equipment being serviced or maintained.

(c) Procedures must be used during shift or personnel changes to ensure the continuity of lockout or tagout protection, including provision for the orderly transfer of lockout or tagout device protection between offgoing and on-coming employees, to minimize their exposure to hazards from the unexpected energizing or start-up of the machine or equipment or from the release of stored energy.

(d) Whenever outside servicing personnel are to be engaged in activities covered in 437-002-2303, the on-site employer and the outside employer must inform each other of their respective lockout or tagout procedures, and each employer must ensure that his or her personnel understand and comply with restrictions and prohibitions of the energy control procedures being used.

(e) If energy isolating devices are installed in a central location and are under the exclusive control of a system operator, the following requirements apply:

(A) The employer must use a procedure that affords employees a level of protection equivalent to that provided by the implementation of a personal lockout or tagout device.

(B) The system operator must place and remove lockout and tagout devices in place of the authorized employee under paragraphs (4), (6)(d), and (7)(d) of this rule.

(C) Provisions must be made to identify the authorized employee who is responsible for (that is, being protected by) the lockout or tagout device, to transfer responsibility for lockout and tagout devices, and to ensure that an authorized employee requesting removal or transfer of a lockout or tagout device is the one responsible for it before the device is removed or transferred.

Note to 437-002-2303: Lockout and tagging procedures that comply with paragraphs (c) through (f) of 1910.147 will also be deemed to comply with 437-002-2303 if the procedures address the hazards covered by 437-002-2303.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-2304
Enclosed Spaces

This rule covers enclosed spaces that may be entered by employees. It does not apply to vented vaults if the employer makes a determination that the ventilation system is operating to protect employees before they enter the space. This rule applies to routine entry into enclosed spaces in lieu of the confined space entry requirements contained in 437-002-0146 (4) through (11). If, after the employer takes the precautions given in 437-002-2304 and 437-002-2319 of Division 2/RR, the hazards remaining in the enclosed space endanger the life of an entrant or could interfere with an entrant's escape from the space, then entry into the enclosed space must meet the permit-space entry requirements of 437-002-0146 (4) through (11), Confined spaces, in Division 2/J.

(1) Safe work practices. The employer must ensure the use of safe work practices for entry into, and work in, enclosed spaces and for rescue of employees from such spaces.

(2) Training. Each employee who enters an enclosed space or who serves as an attendant must be trained in the hazards of enclosed-space entry, in enclosed-space entry procedures, and in enclosed-space rescue procedures.

(3) Rescue equipment. Employers must provide equipment to ensure the prompt and safe rescue of employees from the enclosed space.

(4) Evaluating potential hazards. Before any entrance cover to an enclosed space is removed, the employer must determine whether it is safe to do so by checking for the presence of any atmospheric pressure or temperature differences and by evaluating whether there might be a hazardous atmosphere in the space. Any conditions making it unsafe to remove the cover must be eliminated before the cover is removed.

Note to paragraph (4): The determination called for in this paragraph may consist of a check of the conditions that might foreseeably be in the enclosed space. For example, the cover could be checked to see if it is hot and, if it is fastened in place, could be loosened gradually to release any residual pressure. An evaluation also needs to be made of whether conditions at the site could cause a hazardous atmosphere, such as an oxygen-deficient or flammable atmosphere, to develop within the space.

(5) Removing covers. When covers are removed from enclosed spaces, the opening must be promptly guarded by a railing, temporary cover, or other barrier designed to prevent an accidental fall through the opening and to protect employees working in the space from objects entering the space.

(6) Hazardous atmosphere. Employees may not enter any enclosed space while it contains a hazardous atmosphere, unless the entry conforms to the confined space standard, 437-002-0146 Confined spaces, in Division 2/J.

(7) Attendants. While work is being performed in the enclosed space, an attendant with first-aid training must be immediately available outside the enclosed space to provide assistance if a hazard exists because of traffic patterns in the area of the opening used for entry. The attendant is not precluded from performing other duties outside the enclosed space if these duties do not distract the attendant from: monitoring employees within the space or ensuring that it is safe for employees to enter and exit the space.

Note to paragraph (7): See 437-002-2319 Underground electrical installations, for additional requirements on attendants for work in manholes and vaults.

(8) Calibration of test instruments. Test instruments used to monitor atmospheres in enclosed spaces must be kept in calibration and must have a minimum accuracy of ±10 percent.

(9) Testing for oxygen deficiency. Before an employee enters an enclosed space, the atmosphere in the enclosed space must be tested for oxygen deficiency with a direct-reading meter or similar instrument, capable of collection and immediate analysis of data samples without the need for offsite evaluation. If continuous forced-air ventilation is provided, testing is not required provided that the procedures used ensure that employees are not exposed to the hazards posed by oxygen deficiency.

(10) Testing for flammable gases and vapors. Before an employee enters an enclosed space, the internal atmosphere must be tested for flammable gases and vapors with a direct-reading meter or similar instrument capable of collection and immediate analysis of data samples without the need for off-site evaluation. This test must be performed after the oxygen testing and ventilation required by paragraph (9) of this rule demonstrate that there is sufficient oxygen to ensure the accuracy of the test for flammability.

(11) Ventilation and monitoring for flammable gases or vapors. If flammable gases or vapors are detected or if an oxygen deficiency is found, forced-air ventilation must be used to maintain oxygen at a safe level and to prevent a hazardous concentration of flammable gases and vapors from accumulating. A continuous monitoring program to ensure that no increase in flammable gas or vapor concentration above safe levels occurs may be followed in lieu of ventilation if flammable gases or vapors are initially detected at safe levels.

Note to paragraph (11): See the definition of "hazardous atmosphere" for guidance in determining whether a specific concentration of a substance is hazardous.

(12) Specific ventilation requirements. If continuous forced-air ventilation is used, it must begin before entry is made and must be maintained long enough for the employer to be able to demonstrate that a safe atmosphere exists before employees are allowed to enter the work area. The forced-air ventilation must be so directed as to ventilate the immediate area where employees are present within the enclosed space and must continue until all employees leave the enclosed space.

(13) Air supply. The air supply for the continuous forced-air ventilation must be from a clean source and may not increase the hazards in the enclosed space.

(14) Open flames. If open flames are used in enclosed spaces, a test for flammable gases and vapors must be made immediately before the open flame device is used and at least once per hour while the device is used in the space. Testing must be conducted more frequently if conditions present in the enclosed space indicate that once per hour is insufficient to detect hazardous accumulations of flammable gases or vapors.

Note to paragraph (14): See the definition of "hazardous atmosphere" for guidance in determining whether a specific concentration of a substance is hazardous.

Note to 437-002-2304 : Entries into enclosed spaces conducted in accordance with the requirements of 437-002-0146 (4) through (11), Confined spaces, are considered as complying with 437-002-2304 of Division 2/RR.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
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437-002-2305
Excavations

Excavation operations must comply with Division 3/P.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-2306
Personal Protective Equipment

(1) General. For employers engaged in general industry activities, personal protective equipment must meet the requirements of 437-002-0134. For employers engaged in construction activities, personal protective equipment must meet the requirements of 437-003-0134.

Note 1: 437-002-0134(4) and 437-003-0134(4) set employer payment obligations for the personal protective equipment required by this rule, including, but not limited to, the fall protection equipment required by paragraph (2) of this rule, the electrical protective equipment required by 437-002-2311(3) of Division 2/RR, and the flame-resistant and arc-rated clothing and other protective equipment required by 437-002-2311(8) of Division 2/RR.

Note 2: For general industry activities, refer to Division 2/I, 1910.137, for Electrical Protective Equipment requirements. For construction activities, refer to Division 3/E, 1926.97, for Electrical Protective Equipment requirements.

(2) Fall protection.

(a) Personal fall arrest systems must meet the requirements of Division 3/M, as required by 437-002-0134(5) of Division 2 and 437-003-0134(5) of Division 3.

(b) Personal fall arrest equipment used by employees who are exposed to hazards from flames or electric arcs, as determined by the employer under 437-002-2311(8)(a) of Division 2/RR, must be capable of passing a drop test equivalent to that required by paragraph (2)(c)(L) of this rule after exposure to an electric arc with a heat energy of 40±5 cal/cm2.

(c) Body belts and positioning straps for work-positioning equipment must meet the following requirements:

(A) Hardware for body belts and positioning straps must meet the following requirements:

(i) Hardware must be made of drop-forged steel, pressed steel, formed steel, or equivalent material.

(ii) Hardware must have a corrosion-resistant finish.

(iii) Hardware surfaces must be smooth and free of sharp edges.

(B) Buckles must be capable of withstanding an 8.9-kilonewton (2,000-pound-force) tension test with a maximum permanent deformation no greater than 0.4 millimeters (0.0156 inches).

(C) D rings must be capable of withstanding a 22-kilonewton (5,000-pound-force) tensile test without cracking or breaking.

(D) Snaphooks must be capable of withstanding a 22-kilonewton (5,000-pound-force) tension test without failure.

Note to paragraph (2)(c)(D) of this rule: Distortion of the snaphook sufficient to release the keeper is considered to be tensile failure of a snaphook.

(E) Top grain leather or leather substitute may be used in the manufacture of body belts and positioning straps; however, leather and leather substitutes may not be used alone as a load-bearing component of the assembly.

(F) Plied fabric used in positioning straps and in load-bearing parts of body belts must be constructed in such a way that no raw edges are exposed and the plies do not separate.

(G) Positioning straps must be capable of withstanding the following tests:

(i) A dielectric test of 819.7 volts, AC, per centimeter (25,000 volts per foot) for 3 minutes without visible deterioration;

(ii) A leakage test of 98.4 volts, AC, per centimeter (3,000 volts per foot) with a leakage current of no more than 1 mA;

Note to paragraphs (2)(c)(G)(i) and (2)(c)(G)(ii): Positioning straps that

pass direct-current tests at equivalent voltages are considered as meeting this requirement.

(iii) Tension tests of 20 kilonewtons (4,500 pounds-force) for sections free of buckle holes and of 15 kilonewtons (3,500 pounds-force) for sections with buckle holes;

(iv) A buckle-tear test with a load of 4.4 kilonewtons (1,000 pounds-force); and

(v) A flammability test in accordance with Table RR-1. Table RR-1.

(H) The cushion part of the body belt must contain no exposed rivets on the inside and must be at least 76 millimeters (3 inches) in width.

(I) Tool loops must be situated on the body of a body belt so that the 100 millimeters (4 inches) of the body belt that is in the center of the back, measuring from D ring to D ring, is free of tool loops and any other attachments.

(J) Copper, steel, or equivalent liners must be used around the bars of D rings to prevent wear between these members and the leather or fabric enclosing them.

(K) Snaphooks must be of the locking type meeting the following requirements:

(i) The locking mechanism must first be released, or a destructive force must be placed on the keeper, before the keeper will open.

(ii) A force in the range of 6.7 N (1.5 lbf) to 17.8 N (4 lbf) must be required to release the locking mechanism.

(iii) With the locking mechanism released and with a force applied on the keeper against the face of the nose, the keeper may not begin to open with a force of 11.2 N (2.5 lbf) or less and must begin to open with a maximum force of 17.8 N (4 lbf).

(L) Body belts and positioning straps must be capable of withstanding a drop test as follows:

(i) The test mass must be rigidly constructed of steel or equivalent material with a mass of 100 kg (220.5 lbm). For work-positioning equipment used by employees weighing more than 140 kg (310 lbm) fully equipped, the test mass must be increased proportionately (that is, the test mass must equal the mass of the equipped worker divided by 1.4).

(ii) For body belts, the body belt must be fitted snugly around the test mass and must be attached to the test structure anchorage point by means of a wire rope.

(iii) For positioning straps, the strap must be adjusted to its shortest length possible to accommodate the test and connected to the test-structure anchorage point at one end and to the test mass on the other end.

(iv) The test mass must be dropped an unobstructed distance of 1 meter (39.4 inches) from a supporting structure that will sustain minimal deflection during the test.

(v) Body belts must successfully arrest the fall of the test mass and must be capable of supporting the mass after the test.

(vi) Positioning straps must successfully arrest the fall of the test mass without breaking, and the arrest force may not exceed 17.8 kilonewtons (4,000 pounds-force). Additionally, snaphooks on positioning straps may not distort to such an extent that the keeper would release.

Note to paragraph (2)(c) of this rule: When used by employees weighing no more than 140 kg (310 lbm) fully equipped, body belts and positioning straps that conform to American Society of Testing and Materials Standard Specifications for Personal Climbing Equipment, ASTM F887-12e1, are deemed to be in compliance with paragraph (2)(c) of this rule.

(d) The following requirements apply to the care and use of personal fall protection equipment.

(A) Body belts and positioning straps must never be stored with sharp or edged tools.

(B) Small tools carried in the belt must be placed so they present the least danger of coming in accidental contact with energized parts. Sharp or pointed tools must not be carried unless in scabbards, or are otherwise effectively safeguarded.

(C) Work-positioning equipment must be inspected before use each day to determine that the equipment is in safe working condition. Work-positioning equipment that is not in safe working condition may not be used.

Note to paragraph (2)(d)(C): Appendix F to Division 2/RR contains guidelines for inspecting work-positioning equipment.

(D) The use of chainsaws is prohibited on all overhead work where workers are supported by a single climbing belt or rope.

(E) Workers must not place positioning straps around the pole above the top crossarm except where adequate protection is taken to prevent it from slipping over the top of the pole. Workers must not allow either end of a strap to hang loose, either in climbing or descending poles or other structures.

(F) Gaffs and Climbers

(i) Gaffs and Climbers must be maintained according to the manufacturer's recommendations.

(ii) Workers must remove climbers before driving any vehicle.

(iii) Climbers must not be worn except when required. Workers must not continue to wear their climbers while working on the ground except for brief periods when a worker is necessarily off the pole.

(iv) While climbers are not being worn, the gaffs must be properly guarded.

(G) Safety lines must be readily available while working aloft to be used for emergency rescue such as lowering a worker to the ground. Such safety lines must be a minimum of one-half-inch diameter and three or four strand first-grade manila or its equivalent in strength (2,650 lb.) and durability.

(H) Personal fall arrest systems must be used in accordance with 1926.502(d).

Note to paragraph (2)(d)(H): Fall protection equipment rigged to arrest falls is considered a fall arrest system and must meet the applicable requirements for the design and use of those systems. Fall protection equipment rigged for work positioning is considered work-positioning equipment and must meet the applicable requirements for the design and use of that equipment.

(I) The employer must ensure that employees use fall protection systems as follows:

(i) Each employee working from an aerial lift must use a fall restraint system or a personal fall arrest system. Paragraph (c)(2)(v) of 1910.67 and paragraph (b)(2)(v) of 1926.453 do not apply.

(ii) Except as provided in paragraph (2)(d)(I)(iii) of this rule, each employee in elevated locations more than 1.2 meters (4 feet) above the ground on poles, towers, or similar structures must use a personal fall arrest system, work-positioning equipment, or fall restraint system, as appropriate, if the employer has not provided other fall protection meeting Division 2/D, Walking-Working Surfaces; or Division 3/M, Fall Protection.

(iii) Each qualified employee climbing or changing location on poles, towers, or similar structures must use fall protection equipment unless the employer can demonstrate that climbing or changing location with fall protection is infeasible or creates a greater hazard than climbing or changing location without it.

Note 1 to paragraphs (2)(d)(I)(ii) and (2)(d)(I)(iii) of this rule: These paragraphs apply to structures that support overhead electric power transmission and distribution lines and equipment. They do not apply to portions of buildings, such as loading docks, or to electric equipment, such as transformers and capacitors. Division 2/D, and Division 3/M contain the duty to provide fall protection associated with walking and working surfaces.

(J) Work-positioning equipment must be rigged so that an employee can free fall no more than 0.6 meters (2 feet).

(K) Anchorages for work-positioning equipment must be capable of supporting at least twice the potential impact load of an employee's fall, or 13.3 kilonewtons (3,000 pounds-force), whichever is greater.

Note to paragraph (2)(d)(K): Wood-pole fall-restriction devices meeting American Society of Testing and Materials Standard Specifications for Personal Climbing Equipment, ASTM F887-12e1, are deemed to meet the anchorage-strength requirement when they are used in accordance with manufacturers' instructions.

(L) Unless the snaphook is a locking type and designed specifically for the following connections, snaphooks on work-positioning equipment may not be engaged:

(i) Directly to webbing, rope, or wire rope;

(ii) To each other;

(iii) To a D ring to which another snaphook or other connector is attached;

(iv) To a horizontal lifeline; or

(v) To any object that is incompatibly shaped or dimensioned in relation to the snaphook such that accidental disengagement could occur should the connected object sufficiently depress the snaphook keeper to allow release of the object.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-2307
Portable Ladders and Platforms

(1) General. For employers involved in general industry activities, requirements for portable ladders contained in Division 2/D apply in addition to the requirements of this rule, except as specifically noted in paragraph (2) of this rule. For employers involved in construction activities, requirements for portable ladders contained in Division 3/X apply in addition to the requirements of this rule, except as specifically noted in paragraph (2) of this rule.

(2) Special ladders and platforms. For general industry activities, portable ladders used on structures or conductors in conjunction with overhead line work need not meet 1910.25(d)(2)(i) and (d)(2)(iii) or 1910.26(c)(3)(iii). For construction activities, portable ladders and platforms used on structures or conductors in conjunction with overhead line work need not meet 1926.1053(b)(5)(i) and (b)(12). Portable ladders and platforms used on structures or conductors in conjunction with overhead line work must meet the following requirements:

(a) In the configurations in which they are used, portable platforms must be capable of supporting without failure at least 2.5 times the maximum intended load.

(b) Portable ladders and platforms may not be loaded in excess of the working loads for which they are designed.

(c) Portable ladders and platforms must be secured to prevent them from becoming dislodged.

(d) Portable ladders and platforms may be used only in applications for which they are designed.

(3) Conductive ladders. Portable metal ladders and other portable conductive ladders may not be used near exposed energized lines or equipment. However, in specialized high-voltage work, conductive ladders must be used when the employer demonstrates that nonconductive ladders would present a greater hazard to employees than conductive ladders.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-2308
Hand and Portable Power Equipment

(1) General. Paragraph (2) of this rule applies to electric equipment connected by cord and plug. Paragraph (3) of this rule applies to portable and vehicle-mounted generators used to supply cord- and plug-connected equipment. Paragraph (4) of this rule applies to hydraulic and pneumatic tools.

(2) Cord- and plug-connected equipment. For general industry activities, cord- and plug-connected equipment not covered by Division 2/S must comply with one of the following instead of 1910.243(a)(5); and for construction activities, cord- and plug-connected equipment not covered by Division 3/K must comply with one of the following instead of 1926.302(a)(1):

(a) The equipment must be equipped with a cord containing an equipment grounding conductor connected to the equipment frame and to a means for grounding the other end of the conductor (however, this option may not be used where the introduction of the ground into the work environment increases the hazard to an employee); or

(b) The equipment must be of the double-insulated type conforming to Division 2/S or Division 3/K; or

(c) The equipment must be connected to the power supply through an isolating transformer with an ungrounded secondary of not more than 50 volts.

(3) Portable and vehicle-mounted generators. Portable and vehicle-mounted generators used to supply cord- and plug-connected equipment covered by paragraph (2) of this section must meet the following requirements:

(a) The generator may only supply equipment located on the generator or the vehicle and cord- and plug-connected equipment through receptacles mounted on the generator or the vehicle.

(b) The non-current-carrying metal parts of equipment and the equipment grounding conductor terminals of the receptacles must be bonded to the generator frame.

(c) For vehicle-mounted generators, the frame of the generator must be bonded to the vehicle frame.

(d) Any neutral conductor must be bonded to the generator frame.

(4) Hydraulic and pneumatic tools.

NOTE: Hydraulic fluid in insulating tools. Paragraph (d)(1) of 1926.302 does not apply to hydraulic fluid used in insulating sections of hydraulic tools.

(a) Safe operating pressures for hydraulic and pneumatic tools, hoses, valves, pipes, filters, and fittings may not be exceeded.

Note to paragraph (4)(a) of this rule: If any hazardous defects are present, no operating pressure is safe, and the hydraulic or pneumatic equipment involved may not be used. In the absence of defects, the maximum rated operating pressure is the maximum safe pressure.

(b) A hydraulic or pneumatic tool used where it may contact exposed energized parts must be designed and maintained for such use.

(c) The hydraulic system supplying a hydraulic tool used where it may contact exposed live parts must provide protection against loss of insulating value, for the voltage involved, due to the formation of a partial vacuum in the hydraulic line.

Note to paragraph (4)(c) of this rule: Use of hydraulic lines that do not have check valves and that have a separation of more than 10.7 meters (35 feet) between the oil reservoir and the upper end of the hydraulic system promotes the formation of a partial vacuum.

(d) A pneumatic tool used on energized electric lines or equipment, or used where it may contact exposed live parts, must provide protection against the accumulation of moisture in the air supply.

(e) Pressure must be released before connections are broken, unless quick acting, self-closing connectors are used.

(f) Employers must ensure that employees do not use any part of their bodies to locate, or attempt to stop, a hydraulic leak.

(g) Hoses may not be kinked.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-2309
Live-line Tools

(1) Live-line tools must be used by employees when doing work on energized lines and equipment in excess of 5,000 volts.

(2) Live-line tools must be used while handling foreign objects that are in contact with high voltage equipment or conductors energized in excess of 5,000 volts.

(3) Only live-line tools that are tested and warranted by the manufacturer at the time of purchase to be adequate for the voltage involved must be used.

(4) Design of tools. Live-line tool rods, tubes, and poles must be designed and constructed to withstand the following minimum tests:

(a) If the tool is made of fiberglass-reinforced plastic (FRP), it must withstand 328,100 volts per meter (100,000 volts per foot) of length for 5 minutes, or

Note to paragraph (4)(a): Live-line tools using rod and tube that meet ASTM F711-02 (2007), Standard Specification for Fiberglass-Reinforced Plastic (FRP) Rod and Tube Used in Live Line Tools, are deemed to comply with paragraph (4) of this rule.

(b) If the tool is made of wood, it must withstand 246,100 volts per meter (75,000 volts per foot) of length for 3 minutes, or

(c) The tool must withstand other tests that the employer can demonstrate are equivalent.

(5) Condition of tools.

(a) Each live-line tool must be wiped clean and visually inspected for defects before use each day.

(b) If any defect or contamination that could adversely affect the insulating qualities or mechanical integrity of the live-line tool is present after wiping, the tool must be removed from service and examined and tested according to paragraph (5)(c) of this rule before being returned to service.

(c) Live-line tools used for primary employee protection must be removed from service every 2 years, and whenever required under paragraph (5)(b) of this rule, for examination, cleaning, repair, and testing as follows:

(A) Each tool must be thoroughly examined for defects.

(B) If a defect or contamination that could adversely affect the insulating qualities or mechanical integrity of the live-line tool is found, the tool must be repaired and refinished or must be permanently removed from service. If no such defect or contamination is found, the tool must be cleaned and waxed.

(C) The tool must be tested in accordance with paragraphs (5)(c)(D) and (5)(c)(E) of this rule under the following conditions:

(i) After the tool has been repaired or refinished; and

(ii) After the examination if repair or refinishing is not performed, unless the tool is made of FRP rod or foam-filled FRP tube and the employer can demonstrate that the tool has no defects that could cause it to fail during use.

(D) The test method used must be designed to verify the tool's integrity along its entire working length and, if the tool is made of fiberglass-reinforced plastic, its integrity under wet conditions.

(E) The voltage applied during the tests must be as follows:

(i) 246,100 volts per meter (75,000 volts per foot) of length for 1 minute if the tool is made of fiberglass, or

(ii) 164,000 volts per meter (50,000 volts per foot) of length for 1 minute if the tool is made of wood, or

(iii) Other tests that the employer can demonstrate are equivalent.

(d) Live-line tools may not be used when rain, fog, or any other factor is sufficient to reduce their insulating qualities so that leakage can be felt.

(e) Live-line tools must be kept in a dry place. When transporting, they must be kept in separate special storage compartments, or be contained in protective bags. They may not be laid directly on the ground.

Note to paragraph (5) of this rule: Guidelines for the examination, cleaning, repairing, and in-service testing of live-line tools are specified in the Institute of Electrical and Electronics Engineers' IEEE Guide for Maintenance Methods on Energized Power Lines, IEEE Std 516-2009.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-2310
Materials Handling and Storage

(1) General. For general industry activities, materials handling and storage must comply with applicable material handling and material storage requirements in Division 2, including those in Division 2/N, except for Helicopters, which must comply with 437-002-2323. For construction activities, materials handling and storage must comply with applicable material handling and material storage requirements in Division 3, including those in Division 3/N and Division 3/CC, except for Helicopters, which must comply with 437-002-2323.

(2) Materials storage near energized lines or equipment.

(a) In areas to which access is not restricted to qualified persons only, materials or equipment may not be stored closer to energized lines or exposed energized parts of equipment than the following distances, plus a distance that provides for the maximum sag and side swing of all conductors and for the height and movement of material-handling equipment:

(A) For lines and equipment energized at 50 kilovolts or less, the distance is 3.05 meters (10 feet).

(B) For lines and equipment energized at more than 50 kilovolts, the distance is 3.05 meters (10 feet) plus 0.10 meter (4 inches) for every 10 kilovolts over 50 kilovolts.

(b) In areas restricted to qualified employees, materials may not be stored within the working space about energized lines or equipment.

Note to paragraph (2)(b): 437-002-2320(1) Substations; and 437-002-2321(3) Power Generation Installations; of Division 2/RR, specify the size of the working space.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-2311
Working On or Near Exposed Energized Parts

This rule applies to work on or near exposed live parts.

(1) General.

(a) Only qualified employees may work on or with exposed energized lines or parts of equipment.

(b) Only qualified employees may work in areas containing unguarded, uninsulated energized lines or parts of equipment operating at 50 volts or more.

(c) Electric lines and equipment must be considered and treated as energized unless they have been deenergized in accordance with 437-002-2303 Hazardous Energy Control, or 437-002-2312, of Division 2/RR.

(2) Two worker rules.

(a) Not fewer than two qualified employees may work on lines or equipment energized at more than 600 volts while performing the following types of work:

(A) Installation, removal, or repair of lines energized at more than 600 volts,

(B) Installation, removal, or repair of deenergized lines if an employee is exposed to contact with other parts energized at more than 600 volts,

(C) Installation, removal, or repair of equipment, such as transformers, capacitors, and regulators, if an employee is exposed to contact with parts energized at more than 600 volts,

(D) Work involving the use of mechanical equipment, other than insulated aerial lifts, near parts energized at more than 600 volts, and

(E) Other work that exposes an employee to electrical hazards greater than, or equal to, the electrical hazards posed by operations listed specifically in paragraphs (2)(a)(A) through (2)(a)(E) of this section.

(b) The following exceptions to the two-worker rule in 437-002-2311(2)(a)(A) through (2)(a)(E) apply:

(A) When re-fusing circuits with a live-line tool.

(B) When operating switches by means of operating handles or live-line tools, excluding installation or removal of load break elbows with live line tools, addressed in paragraph (2)(b)(E) of this rule.

(C) When a qualified apprentice is assigned to work with a journeyman for the purpose of training.

(D) When installing or removing a live-line clamp connection with an approved live-line tool on single phase line or apparatus, providing that the connection or disconnection does not interrupt or pick up a load.

(E) Routine circuit switching, including installation or removal of a load break elbow with a live line tool on a single phase line or apparatus, with only one potential primary source.

(i) Authorized employees must conduct an inspection to determine that conditions on the site allow for safe work. Conditions include the following examples:

(I) Physical condition of the cable, elbows, apparatus, and switching equipment.

(II) Environmental and work conditions, such as limited visibility, bad weather, restricted working space, and poor lighting.

(III) Service life of the elbow, power cable, and apparatus.

(ii) When an employee requests a second worker on site, a second worker must be provided.

(F) Emergency repairs to the extent necessary to safeguard the general public.

(G) Work performed with live-line tools when the position of the employee is such that he or she is neither within reach of, nor otherwise exposed to contact with, energized parts.

(c) Proximity. Workers within reach of each other must not work on different phases of the same circuit, on different circuits, or on one energized phase and a ground conductor at the same time.

(3) Minimum approach distances.

(a) The employer must establish minimum approach distances no less than the distances computed by Table RR-2 for ac systems or Table RR-7 for dc systems.

(b) For voltages over 72.5 kilovolts, the employer must determine the maximum anticipated per-unit transient overvoltage, phase-to-ground, through an engineering analysis or assume a maximum anticipated per-unit transient overvoltage, phase-to-ground, in accordance with Table RR-8. When the employer uses portable protective gaps to control the maximum transient overvoltage, the value of the maximum anticipated per-unit transient overvoltage, phase-to-ground, must provide for five standard deviations between the statistical sparkover voltage of the gap and the statistical withstand voltage corresponding to the electrical component of the minimum approach distance. The employer must make any engineering analysis conducted to determine maximum anticipated per-unit transient overvoltage available upon request to employees and to Oregon OSHA for examination and copying.

Note to paragraph (3)(b): See Appendix B to Division 2/RR for information on how to calculate the maximum anticipated per-unit transient overvoltage, phase-to-ground, when the employer uses portable protective gaps to reduce maximum transient overvoltages.

(c) The employer must ensure that no employee approaches or takes any conductive object closer to exposed energized parts than the employer's established minimum approach distance, unless:

(A) The employee is insulated from the energized part. Rubber insulating gloves or rubber insulating gloves and sleeves worn in accordance with paragraph (4) of this rule constitutes insulation of the employee from the energized part upon which the employee is working provided that the employee has control of the part in a manner sufficient to prevent exposure to uninsulated portions of the employee's body; or

(B) The energized part is insulated from the employee and from any other conductive object at a different potential.

(C) Live-line barehand work is prohibited in Oregon.

(4) Type of insulation: Adequate barriers and clearances.

(a) Protective equipment and devices must be installed or removed with:

(A) Rubber gloves or hot sticks on conductors or equipment energized at 5,000 volts or less.

(B) Live line tools for conductors or equipment energized in excess of 5,000 volts.

(C) Rubber protective equipment may be considered as adequate barriers when used on voltages for which it is rated. Rubber gloves may be used as additional protection from accidental contact only on voltages above 5,000 and not over 15,000 volts phase to ground.

(D) Rubber gloves cannot be used as primary protection on voltages over 5,000 volts.

(E) Fixed protective guards and barriers, when installed and maintained according to the manufacturer's guidelines, may be considered as providing adequate clearance.

(b) When an employee uses rubber insulating gloves as insulation from energized parts (under paragraph (3)(c)(A) of this rule), the employer must ensure that the employee also uses rubber insulating sleeves. However, an employee need not use rubber insulating sleeves if:

(A) Exposed energized parts on which the employee is not working are insulated from the employee; and

(B) When installing insulation for purposes of paragraph (4)(b)(A) of this rule, the employee installs the insulation from a position that does not expose their upper arms to contact with other energized parts.

(c) When an employee uses rubber insulating gloves or rubber insulating gloves and sleeves as insulation from energized parts (under paragraph (3)(c)(A) of this rule), the employer must ensure that the employee:

(A) Puts on the rubber insulating gloves and sleeves in a position where they cannot reach into the minimum approach distance, established by the employer under paragraph (3)(a) of this rule; and

(B) Does not remove the rubber insulating gloves and sleeves until they are in a position where they cannot reach into the minimum approach distance, established by the employer under paragraph (3)(a) of this rule.

(5) Working position.

(a) The employer must ensure that each employee, to the extent that other safety-related conditions at the worksite permit, works in a position from which a slip or shock will not bring the employee's body into contact with exposed, uninsulated parts energized at a potential different from the employee's.

(b) When an employee performs work near exposed parts energized at more than 600 volts, but not more than 72.5 kilovolts, and is not wearing rubber insulating gloves, being protected by insulating equipment covering the energized parts, performing work using live-line tools, the employee must work from a position where he or she cannot reach into the minimum approach distance, established by the employer under paragraph (3)(a) of this rule.

(6) Making connections. The employer must ensure that employees make connections as follows:

(a) In connecting deenergized equipment or lines to an energized circuit by means of a conducting wire or device, an employee must first attach the wire to the deenergized part;

(b) When disconnecting equipment or lines from an energized circuit by means of a conducting wire or device, an employee must remove the source end first; and

(c) When lines or equipment are connected to or disconnected from energized circuits, an employee must keep loose conductors away from exposed energized parts.

(7) Conductive articles. When an employee performs work within reaching distance of exposed energized parts of equipment, the employer must ensure that the employee removes or renders nonconductive all exposed conductive articles, such as keychains or watch chains, rings, or wrist watches or bands, unless such articles do not increase the hazards associated with contact with the energized parts.

(8) Protection from flames and electric arcs.

(a) The employer must assess the workplace to identify employees exposed to hazards from flames or from electric arcs.

(b) For each employee exposed to hazards from electric arcs, the employer must make a reasonable estimate of the incident heat energy to which the employee would be exposed.

Note 1 to paragraph (8)(b): Appendix E to Division 2/RR provides guidance on estimating available heat energy. Oregon OSHA will deem employers following the guidance in Appendix E to Division 2/RR to be in compliance with paragraph (8)(b) of this rule. An employer may choose a method of calculating incident heat energy not included in Appendix E to Division 2/RR if the chosen method reasonably predicts the incident energy to which the employee would be exposed.

Note 2 to paragraph (8)(b): This paragraph does not require the employer to estimate the incident heat energy exposure for every job task performed by each employee. The employer may make broad estimates that cover multiple system areas provided the employer uses reasonable assumptions about the energy-exposure distribution throughout the system and provided the estimates represent the maximum employee exposure for those areas. For example, the employer could estimate the heat energy just outside a substation feeding a radial distribution system and use that estimate for all jobs performed on that radial system.

(c) The employer must ensure that each employee who is exposed to hazards from flames or electric arcs does not wear clothing that could melt onto their skin or that could ignite and continue to burn when exposed to flames or the heat energy estimated under paragraph (8)(b) of this rule.

Note to paragraph (8)(c) of this rule: This paragraph prohibits clothing made from acetate, nylon, polyester, rayon and polypropylene, either alone or in blends, unless the employer demonstrates that the fabric has been treated to withstand the conditions that may be encountered by the employee or that the employee wears the clothing in such a manner as to eliminate the hazard involved.

(d) The employer must ensure that the outer layer of clothing worn by an employee, except for clothing not required to be arc rated under paragraphs (8)(e)(A) through (8)(e)(E) of this rule, is flame resistant under any of the following conditions:

(A) The employee is exposed to contact with energized circuit parts operating at more than 600 volts,

(B) An electric arc could ignite flammable material in the work area that, in turn, could ignite the employee's clothing,

(C) Molten metal or electric arcs from faulted conductors in the work area could ignite the employee's clothing, or

Note to paragraph (8)(d)(C): This paragraph does not apply to conductors that are capable of carrying, without failure, the maximum available fault current for the time the circuit protective devices take to interrupt the fault.

(D) The incident heat energy estimated under paragraph (8)(b) of this rule exceeds 2.0 cal/cm2.

(e) The employer must ensure that each employee exposed to hazards from electric arcs wears protective clothing and other protective equipment with an arc rating greater than or equal to the heat energy estimated under paragraph (8)(b) of this rule whenever that estimate exceeds 2.0 cal/cm2. This protective equipment must cover the employee's entire body, except as follows:

(A) Arc-rated protection is not necessary for the employee's hands when the employee is wearing rubber insulating gloves with protectors or, if the estimated incident energy is no more than 14 cal/cm2, heavy-duty leather work gloves with a weight of at least 407 gm/m2 (12 oz/yd2),

(B) Arc-rated protection is not necessary for the employee's feet when the employee is wearing heavy-duty work shoes or boots,

(C) Arc-rated protection is not necessary for the employee's head when the employee is wearing head protection meeting 437-002-0134(9) and 437-003-0134(9) if the estimated incident energy is less than 9 cal/cm2 for exposures involving single-phase arcs in open air or 5 cal/cm2 for other exposures,

(D) The protection for the employee's head may consist of head protection meeting 437-002-0134(9) and 437-003-0134(9), and a faceshield with a minimum arc rating of 8 cal/cm2 if the estimated incident-energy exposure is less than 13 cal/cm2 for exposures involving single-phase arcs in open air or 9 cal/cm2 for other exposures, and

(E) For exposures involving single phase arcs in open air, the arc rating for the employee's head and face protection may be 4 cal/cm2 less than the estimated incident energy.

Note to paragraph (8): See Appendix E to Division 2/RR for further information on the selection of appropriate protection.

(9) Fuse handling. When an employee must install or remove fuses with one or both terminals energized at more than 300 volts, or with exposed parts energized at more than 50 volts, the employer must ensure that the employee uses tools or gloves rated for the voltage. When an employee installs or removes expulsion-type fuses with one or both terminals energized at more than 300 volts, the employer must ensure that the employee wears eye protection meeting the requirements of Division 2/I and Division 3/E, uses a tool rated for the voltage, and is clear of the exhaust path of the fuse barrel.

(10) Covered (non-insulated) conductors. The requirements of this section that pertain to the hazards of exposed live parts also apply when an employee performs work in proximity to covered (non-insulated) wires.

(11) Non-current-carrying metal parts. Non-current-carrying metal parts of equipment or devices, such as transformer cases and circuit-breaker housings, must be treated as energized at the highest voltage to which these parts are exposed, unless the employer inspects the installation and determines that these parts are grounded before employees begin performing the work.

(12) Opening and closing circuits under load.

(a) The employer must ensure that devices used by employees to open circuits under load conditions are designed to interrupt the current involved.

(b) The employer must ensure that devices used by employees to close circuits under load conditions are designed to safely carry the current involved.

(13) Safety Watch

(a) A qualified safety watch must be provided in areas where inadvertent motions, movements, or tool use would violate Minimum Approach Distances (MAD). The safety watch's sole duty is to keep constant watch over persons working within the MAD, to warn them of danger, and to stop the work when necessary.

(b) The foreman or other worker in charge of the work being performed is responsible for the designation of the safety watch. It is the responsibility of the worker in charge to select a qualified worker who is capable and familiar with the work.

(c) The worker in charge may act as a safety watch providing no other duties interfere. If the worker in charge is distracted or must leave the immediate vicinity, that worker must either designate another qualified person as the safety watch or order the work stopped.

(d) Use of vehicles, gin poles, cranes, and other equipment in restricted or hazardous areas must at all times be monitored by a qualified safety watch other than the equipment operator. Tables RR-2 through RR-8.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-2312
Deenergizing Lines and Equipment for Employee Protection

(1) Application. This rule applies to the deenergizing of transmission and distribution lines and equipment for the purpose of protecting employees. See 437-002-2303 Hazardous Energy Control, Division 2/RR, for requirements on the control of hazardous energy sources used in the generation of electric energy. Conductors and parts of electric equipment that have been deenergized under procedures other than those required by 437-002-2303, as applicable, must be treated as energized.

(2) General.

(a) If a system operator is in charge of the lines or equipment and their means of disconnection, the employer must designate one employee in the crew to be in charge of the clearance and must comply with all of the requirements of paragraph (3) of this rule in the order specified.

(b) If no system operator is in charge of the lines or equipment and their means of disconnection, the employer must designate one employee in the crew to be in charge of the clearance and to perform the functions that the system operator would otherwise perform under this rule. All of the requirements of paragraph (3) of this rule apply, in the order specified, except as provided in paragraph (2)(b) of this rule.

(c) If only one crew will be working on the lines or equipment and if the means of disconnection is accessible and visible to, and under the sole control of, the employee in charge of the clearance, paragraphs (3)(b), (3)(d), and (3)(f) of this rule do not apply. Additionally, the employer does not need to use the tags required by the remaining provisions of paragraph (3) of this rule.

(d) If two or more crews will be working on the same lines or equipment, then:

(A) The crews must coordinate their activities under this rule with a single employee in charge of the clearance for all of the crews and follow the requirements of this rule as if all of the employees formed a single crew, or

(B) Each crew must independently comply with this rule and, if there is no system operator in charge of the lines or equipment, must have separate tags and coordinate deenergizing and reenergizing the lines and equipment with the other crews.

(e) The employer must render any disconnecting means that are accessible to individuals outside the employer's control (for example, the general public) inoperable while the disconnecting means are open for the purpose of protecting employees.

(3) Deenergizing lines and equipment

(a) The employee that the employer designates pursuant to paragraph (2) of this rule as being in charge of the clearance must make a request of the system operator to deenergize the particular section of line or equipment. The designated employee becomes the employee in charge (as this term is used in paragraph (3) of this rule) and is responsible for the clearance.

(b) The circuit or equipment must be considered as energized until notification from the system operator to the contrary is received.

(c) The system operator must obtain the name of the person requesting clearance and be assured that the person is qualified to receive such clearance.

(d) The person requesting the clearance must state exactly what circuit or equipment they want de-energized and the reason.

(e) The system operator must repeat the request for clearance and be certain that the request is fully understood.

(f) The employer must ensure that all switches, disconnectors, jumpers, taps, and other means through which known sources of electric energy may be supplied to the particular lines and equipment to be deenergized are open. The employer must render such means inoperable, unless its design does not so permit, and then ensure that such means are tagged to indicate that employees are at work.

(g) The employer must ensure that automatically and remotely controlled switches that could cause the opened disconnecting means to close are also tagged at the points of control. The employer must render the automatic or remote control feature inoperable, unless its design does not so permit.

(h) The employer need not use the tags mentioned in paragraphs (3)(f) and (3)(g) of this rule on a network protector for work on the primary feeder for the network protector's associated network transformer when the employer can demonstrate all of the following conditions:

(A) Every network protector is maintained so that it will immediately trip open if closed when a primary conductor is deenergized;

(B) Employees cannot manually place any network protector in a closed position without the use of tools, and any manual override position is blocked, locked, or otherwise disabled; and

(C) The employer has procedures for manually overriding any network protector that incorporate provisions for determining, before anyone places a network protector in a closed position, that: The line connected to the network protector is not deenergized for the protection of any employee working on the line; and (if the line connected to the network protector is not deenergized for the protection of any employee working on the line) the primary conductors for the network protector are energized.

(i) Tags must prohibit operation of the disconnecting means and must indicate that employees are at work.

(j) After the applicable requirements in paragraphs (3)(a) through (3)(i) of this section have been followed and the system operator gives a clearance to the employee in charge, the employer must ensure that the lines and equipment are deenergized by testing the lines and equipment to be worked with a device designed to detect voltage.

(k) The employer must ensure the installation of protective grounds as required by 437-002-2313 Grounding for the protection of employees, Division 2/RR.

(l) After the applicable requirements of paragraphs (3)(a) through (3)(k) of this rule have been followed, the lines and equipment involved may be considered deenergized.

(m) To transfer the clearance, the employee in charge (or the employee's supervisor if the employee in charge must leave the worksite due to illness or other emergency) must inform the system operator and employees in the crew; and the new employee in charge must be responsible for the clearance.

(n) To release a clearance, the employee in charge must:

(A) Notify each employee under that clearance of the pending release of the clearance;

(B) Ensure that all employees under that clearance are clear of the lines and equipment;

(C) Ensure that all protective grounds protecting employees under that clearance have been removed; and

(D) Report this information to the system operator and then release the clearance.

(o) Only the employee in charge who requested the clearance may release the clearance, unless the employer transfers responsibility under paragraph (3)(m) of this rule.

(p) No one may remove tags without the release of the associated clearance as specified under paragraphs (3)(n) and (3)(o) of this rule.

(q) The employer must ensure that no one initiates action to reenergize the lines or equipment at a point of disconnection until all protective grounds have been removed, all crews working on the lines or equipment release their clearances, all employees are clear of the lines and equipment, and all protective tags are removed from that point of disconnection.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-2313
Grounding for the Protection of Employees

(1) Application. 437-002-2313 applies to grounding of generation, transmission, and distribution lines and equipment for the purpose of protecting employees. Paragraph (4) of this rule also applies to protective grounding of other equipment as required elsewhere in Division 2/RR.

(2) General. For any employee to work transmission and distribution lines or equipment as deenergized, the employer must ensure that the lines or equipment are deenergized under the provisions of 437-002-2312 and must ensure proper grounding of the lines or equipment as specified in paragraphs (3) through (8) below. However, if the employer can demonstrate that installation of a ground is impracticable or that the conditions resulting from the installation of a ground would present greater hazards to employees than working without grounds, the lines and equipment may be treated as deenergized provided that the employer establishes that all of the following conditions apply:

(a) The employer ensures that the lines and equipment are deenergized under the provisions of 437-002-2312 Deenergizing lines and equipment for employee protection, Division 2/RR.

(b) There is no possibility of contact with another energized source.

(c) The hazard of induced voltage is not present.

(3) Equipotential zone. Temporary protective grounds must be placed at such locations and arranged to will prevent each employee from being exposed to hazardous differences in electric potential.

Note to paragraph (3): Appendix C to Division 2/RR contains guidelines for establishing the equipotential zone required by this paragraph. Oregon OSHA will deem grounding practices meeting these guidelines as complying with paragraph (3) of this rule.

(4) Protective grounding equipment.

(a) Protective grounding equipment must be capable of conducting the maximum fault current that could flow at the point of grounding for the time necessary to clear the fault.

(b) Protective grounding equipment must have an ampacity greater than or equal to that of No. 2 AWG copper.

(c) Protective grounds must have an impedance low enough so that they do not delay the operation of protective devices in case of accidental energizing of the lines or equipment.

(d) While working on circuits deenergized under clearance conditions with multi-phase lines, shorts and grounds must be established at the lowest impedance available. Employees may perform work on one phase of a multi-phase line after establishing an equipotential zone that includes the phase being directly worked on. The phases outside the equipotential zone are to be treated as energized with minimum approach distance observed, unless they become part of the equipotential zone.

Note to paragraph (4): American Society for Testing and Materials Standard Specifications for Temporary Protective Grounds to Be Used on De-Energized Electric Power Lines and Equipment, ASTM F855-09, contains guidelines for protective grounding equipment. The Institute of Electrical Engineers Guide for Protective Grounding of Power Lines, IEEE Std 1048-2003, contains guidelines for selecting and installing protective grounding equipment.

(5) Testing. The employer must ensure that, unless a previously installed ground is present, employees test lines and equipment and verify the absence of nominal voltage before employees install any ground on those lines or that equipment.

(6) Grounding must be verified if an employee requests it.

(7) Connecting and removing grounds.

(a) The employer must ensure that, when an employee attaches a ground to a line or to equipment, the employee attaches the ground-end connection first and then attaches the other end by means of a live-line tool. For lines or equipment operating at 600 volts or less, the employer may permit the employee to use insulating equipment other than a live-line tool if the employer ensures that the line or equipment is not energized at the time the ground is connected or if the employer can demonstrate that each employee is protected from hazards that may develop if the line or equipment is energized.

(b) The employer must ensure that, when an employee removes a ground, the employee removes the grounding device from the line or equipment using a live-line tool before they remove the ground-end connection. For lines or equipment operating at 600 volts or less, the employer may permit the employee to use insulating equipment other than a live-line tool if the employer ensures that the line or equipment is not energized at the time the ground is disconnected or if the employer can demonstrate that each employee is protected from hazards that may develop if the line or equipment is energized.

(8) Additional precautions. The employer must ensure that, when an employee performs work on a cable at a location remote from the cable terminal, the cable is not grounded at the cable terminal if there is a possibility of hazardous transfer of potential should a fault occur.

(9) Removal of grounds for test. The employer may permit employees to remove grounds temporarily during tests. During the test procedure, the employer must ensure that each employee uses insulating equipment, must isolate each employee from any hazards involved, and must implement any additional measures necessary to protect each exposed employee in case the previously grounded lines and equipment become energized.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-2314
Testing and Test Facilities

(1) Application. 437-002-2314 provides for safe work practices for high-voltage and high-power testing performed in laboratories, shops, and substations, and in the field and on electric transmission and distribution lines and equipment. It applies only to testing involving interim measurements using high voltage, high power, or combinations of high voltage and high power, and not to testing involving continuous measurements as in routine metering, relaying, and normal line work.

Note to paragraph (1): Oregon OSHA considers routine inspection and maintenance measurements made by qualified employees to be routine line work not included in the scope of 437-002-2314, provided that the hazards related to the use of intrinsic high-voltage or high-power sources require only the normal precautions associated with routine work specified in the other paragraphs of this rule. Two typical examples of such excluded test work procedures are "phasing-out" testing and testing for a "no-voltage" condition.

(2) General requirements.

(a) The employer must establish and enforce work practices for the protection of each worker from the hazards of high-voltage or high-power testing at all test areas, temporary and permanent. Such work practices must include, as a minimum, test area safeguarding, grounding, the safe use of measuring and control circuits, and a means providing for periodic safety checks of field test areas.

(b) The employer must ensure that each employee, upon initial assignment to the test area, receives training in safe work practices, with retraining provided as required by 437-002-2300(2).

(3) Safeguarding of test areas.

(a)The employer must provide safeguarding within test areas to control access to test equipment or to apparatus under test that could become energized as part of the testing by either direct or inductive coupling and to prevent accidental employee contact with energized parts.

(b) The employer must guard permanent test areas with walls, fences, or other barriers designed to keep employees out of the test areas.

(c) In field testing, or at a temporary test site not guarded by permanent fences and gates, the employer must ensure the use of one of the following means to prevent employees without authorization from entering:

(A) Distinctively colored safety tape supported approximately waist high with safety signs attached to it,

(B) A barrier or barricade that limits access to the test area to a degree equivalent, physically and visually, to the barricade specified in paragraph (3)(c)(A) of this rule, or

(C) One or more test observers stationed so that they can monitor the entire area.

(d) The employer must ensure the removal of the safeguards required by paragraph (3)(c) of this rule when employees no longer need the protection afforded by the safeguards.

(4) Grounding practices.

(a) The employer must establish and implement safe grounding practices for the test facility.

(A) The employer must maintain at ground potential all conductive parts accessible to the test operator while the equipment is operating at high voltage.

(B) Wherever ungrounded terminals of test equipment or apparatus under test may be present, they must be treated as energized until tests demonstrate that they are deenergized.

(b) The employer must ensure either that visible grounds are applied automatically, or that employees using properly insulated tools manually apply visible grounds, to the high-voltage circuits after they are deenergized and before any employee performs work on the circuit or on the item or apparatus under test. Common ground connections must be solidly connected to the test equipment and the apparatus under test.

(c) In high-power testing, the employer must provide an isolated ground-return conductor system designed to prevent the intentional passage of current, with its attendant voltage rise, from occurring in the ground grid or in the earth. However, the employer need not provide an isolated ground-return conductor if the employer can demonstrate that both of the following conditions exist:

(A) The employer cannot provide an isolated ground-return conductor due to the distance of the test site from the electric energy source, and

(B) The employer protects employees from any hazardous step and touch potentials that may develop during the test.

Note to paragraph (4)(c)(B): See Appendix C to Division 2/RR for information on measures that employers can take to protect employees from hazardous step and touch potentials.

(d) For tests in which using the equipment grounding conductor in the equipment power cord to ground the test equipment would result in greater hazards to test personnel or prevent the taking of satisfactory measurements, the employer may use a ground clearly indicated in the test set-up if the employer can demonstrate that this ground affords protection for employees equivalent to the protection afforded by an equipment grounding conductor in the power supply cord.

(e) The employer must ensure that, when any employee enters the test area after equipment is deenergized, a ground is placed on the high-voltage terminal and any other exposed terminals.

(A) Before any employee applies a direct ground, the employer must discharge high capacitance equipment through a resistor rated for the available energy.

(B) A direct ground must be applied to the exposed terminals after the stored energy drops to a level at which it is safe to do so.

(f) If the employer uses a test trailer or test vehicle in field testing, its chassis must be grounded. The employer must protect each employee against hazardous touch potentials with respect to the vehicle, instrument panels, and other conductive parts accessible to employees with bonding, insulation, or isolation.

(5) Control and measuring circuits.

(a) The employer may not run control wiring, meter connections, test leads, or cables from a test area unless contained in a grounded metallic sheath and terminated in a grounded metallic enclosure or unless the employer takes other precautions that it can demonstrate will provide employees with equivalent safety.

(b) The employer must isolate meters and other instruments with accessible terminals or parts from test personnel to protect against hazards that could arise should such terminals and parts become energized during testing. If the employer provides this isolation by locating test equipment in metal compartments with viewing windows, the employer must provide interlocks to interrupt the power supply when someone opens the compartment cover.

(c) The employer must protect temporary wiring and its connections against damage, accidental interruptions, and other hazards. To the maximum extent possible, the employer must keep signal, control, ground, and power cables separate from each other.

(d) If any employee will be present in the test area during testing, a test observer must be present. The test observer must be capable of implementing the immediate deenergizing of test circuits for safety purposes.

(6) Safety check.

(a) Safety practices governing employee work at temporary or field test areas must provide, at the beginning of each series of tests, for a routine safety check of such test areas.

(b) The test operator in charge must conduct these routine safety checks before each series of tests and must verify at least the following conditions:

(A) Barriers and safeguards are in workable condition and placed properly to isolate hazardous areas;

(B) System test status signals, if used, are in operable condition;

(C) Clearly marked test-power disconnects are readily available in an emergency;

(D) Ground connections are clearly identifiable;

(E) Personal protective equipment is provided and used as required by Division 2/I, Division 3/E, and Division 2/RR; and

(F) Proper separation between signal, ground, and power cables.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-2315
Mechanical Equipment

(1) General requirements.

Note to 437-002-2315: For employers engaged in construction activities, mechanical equipment must be operated in accordance with applicable requirements in Division 3, including subdivisions N, O, and CC of Division 3, except that 1926.600(a)(6) does not apply to operations performed by qualified employees.

(a) The critical safety components of mechanical elevating and rotating equipment must receive a thorough visual inspection before use on each shift.

Note to paragraph (1)(a): Critical safety components of mechanical elevating and rotating equipment are components for which failure would result in free fall or free rotation of the boom.

(b) No motor vehicle or earthmoving or compacting equipment having an obstructed view to the rear may be operated on off-highway jobsites where any employee is exposed to the hazards created by the moving vehicle, unless:

(A) The vehicle has a reverse signal alarm audible above the surrounding noise level, or

(B) The vehicle is backed up only when a designated employee signals that it is safe to do so.

(c) Rubber-tired self-propelled scrapers, rubber-tired front-end loaders, rubber-tired dozers, wheel-type agricultural and industrial tractors, crawler-type tractors, crawler-type loaders, and motor graders, with or without attachments, must have rollover protective structures that meet the requirements of Division 3/W.

(d) The operator of an electric line truck may not leave their position at the controls while a load is suspended, unless the employer can demonstrate that no employee (including the operator) is endangered.

(2) Outriggers.

(a) Mobile equipment, if provided with outriggers, must be operated with the outriggers extended and firmly set, except as provided in paragraph (2)(c) of this rule.

(b) Outriggers may not be extended or retracted outside of the clear view of the operator unless all employees are outside the range of possible equipment motion.

(c) If the work area or the terrain precludes the use of outriggers, the equipment may be operated only within its maximum load ratings specified by the equipment manufacturer for the particular configuration of the equipment without outriggers.

(3) Applied loads. Mechanical equipment used to lift or move lines or other material must be used within its maximum load rating and other design limitations for the conditions under which the mechanical equipment is being used.

(4) Operations near energized lines or equipment.

(a) Mechanical equipment must be operated so that the minimum approach distances from exposed energized lines and equipment, established by the employer under paragraph (3)(a) of 437-002-2311, are maintained. However, the insulated portion of an aerial lift operated by a qualified employee in the lift is exempt from this requirement if the applicable minimum approach distance is maintained between the uninsulated portions of the aerial lift and exposed objects having a different electrical potential.

(b) A designated employee other than the equipment operator must observe the approach distance to exposed lines and equipment and provide timely warnings before the minimum approach distance required by paragraph (4)(a) of this rule is reached, unless the employer can demonstrate that the operator can accurately maintain the minimum approach distance.

(c) Aerial lifts must have dual controls (lower and upper) as follows:

(A) The upper controls must be within easy reach of the employee in the bucket. On a two-bucket-type lift, access to the controls must be within easy reach of both buckets.

(B) The lower set of controls must be near the base of the boom and must be designed so that they can override operation of the equipment at any time.

(C) Controls must be placed and guarded so that the equipment cannot be activated by inadvertent contact by the operator, tools, equipment, lines, or foreign objects.

(d) If, during operation of the mechanical equipment, that equipment could become energized, the operation also must comply with at least one of paragraphs (4)(d)(A) through (4)(d)(C) of this rule.

(A) The energized lines or equipment exposed to contact must be covered with insulating protective material that will withstand the type of contact that could be made during the operation.

(B) The mechanical equipment must be insulated for the voltage involved. The mechanical equipment must be positioned so that its uninsulated portions cannot approach the energized lines or equipment any closer than the minimum approach distances, established by the employer under paragraph (3)(a) of 437-002-2311.

(C) Each employee must be protected from hazards that could arise from mechanical equipment contact with energized lines or equipment. The measures used must ensure that employees will not be exposed to hazardous differences in electric potential. Unless the employer can demonstrate that the methods in use protect each employee from the hazards that could arise if the mechanical equipment contacts the energized line or equipment, the measures used must include all of the following techniques:

(i) Using the best available ground to minimize the time the lines or electric equipment remain energized,

(ii) Bonding mechanical equipment together to minimize potential differences,

(iii) Providing ground mats to extend areas of equipotential, and

(iv) Employing insulating protective equipment or barricades to guard against any remaining hazardous electrical potential differences.

Note to paragraph (4)(d)(C): Appendix C to Division 2/RR contains information on hazardous step and touch potentials and on methods of protecting employees from hazards resulting from such potentials.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
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437-002-2316
Overhead Lines

(1) General. This paragraph provides additional requirements for work performed on or near overhead lines and equipment.

(a) The employer must determine if elevated structures such as poles or towers are capable of withstanding the additional or unbalanced stresses of climbing or equipment. If the pole or other structure cannot withstand the

expected loads, the employer must brace or otherwise support the pole or structure to prevent failure.

Note to paragraph (1)(a): Appendix D to Division 2/RR contains test methods that employers can use to determine whether a wood pole is capable of sustaining the forces imposed by an employee climbing the pole. This paragraph also requires the employer to determine that the pole can sustain all other forces imposed by the work employees will perform.

(b) When a pole is set, moved, or removed near an exposed energized overhead conductor, the pole may not contact the conductor.

(c) Raising poles, towers, or fixtures close to high voltage conductors must be done under the supervision of a worker qualified for this work.

(d) Conductive rigging (wire rope) may not be used to raise poles, transformers, and other equipment except when such rigging is below, protected, or at a sufficient distance from energized high voltage conductors to prevent hazardous contact.

(e) When a pole is set, moved, or removed near an exposed energized overhead conductor, the employer must ensure that each employee wears electrical protective equipment or uses insulated devices when handling the pole and that no employee contacts the pole with uninsulated parts of their body.

(f) To protect employees from falling into holes used for placing poles, the employer must physically guard the holes, or ensure that employees attend the holes, whenever anyone is working nearby.

(g) Suitable guards and barriers must be erected so that workers or tools and equipment will not fall into or accidentally contact energized conductors or equipment.

(h) Materials and tools other than belt tools for which the body belt is designed:

(A) Must be raised or lowered by means of a suitable container or handline.

(B) May not be thrown to or from employees working on poles or structures. When field conditions prevent the use of a handline or alternative method from being done safely, a designated drop zone must be established. Clear communication must occur to prevent employees from entering the zone while material is being dropped in a controlled manner.

(2) Installing and removing overhead lines. The following provisions apply to the installation and removal of overhead conductors or cable (overhead lines).

(a) When lines that employees are installing or removing can contact energized parts, the employer must use the tension-stringing method, barriers, or other equivalent measures to minimize the possibility that conductors and cables the employees are installing or removing will contact energized power lines or equipment.

(b) For conductors, cables, and pulling and tensioning equipment, the employer must provide the protective measures required by 437-002-2315 (4)(d) when employees are installing or removing a conductor or cable close enough to energized conductors that any of the following failures could energize the pulling or tensioning equipment or the conductor or cable being installed or removed:

(A) Failure of the pulling or tensioning equipment,

(B) Failure of the conductor or cable being pulled, or

(C) Failure of the previously installed lines or equipment.

(c) If the conductors that employees are installing or removing cross over energized conductors in excess of 600 volts and if the design of the circuit interrupting devices protecting the lines so permits, the employer must render inoperable the automatic-reclosing feature of these devices.

(d) Before employees install lines parallel to existing energized lines, the employer must make a determination of the approximate voltage to be induced in the new lines, or work must proceed on the assumption that the induced voltage is hazardous. Unless the employer can demonstrate that the lines that employees are installing are not subject to the induction of a hazardous voltage or unless the lines are treated as energized, temporary protective grounds must be placed at such locations and arranged in such a manner that the employer can demonstrate will prevent exposure of each employee to hazardous differences in electric potential.

Note 1 to paragraph (2)(d): If the employer takes no precautions to protect employees from hazards associated with involuntary reactions from electric shock, a hazard exists if the induced voltage is sufficient to pass a current of 1 milliampere through a 500-ohm resistor. If the employer protects employees from injury due to involuntary reactions from electric shock, a hazard exists if the resultant current would be more than 6 milliamperes.

Note 2 to paragraph (2)(d): Appendix C to Division 2/RR rule contains guidelines for protecting employees from hazardous differences in electric potential as required by this paragraph.

(e) Conductors being strung must not be allowed to slack enough to be in reach of traffic or pedestrians, unless guarded by flaggers or other suitable safeguards.

(f) Reel-handling equipment, including pulling and tensioning devices, must be in safe operating condition and must be leveled and aligned.

(g) When stringing or removing conductors under tension, sleeves must not be pulled through the bull wheel or the puller on the tension machine unless appropriate safeguards are taken.

(h) A qualified employee, or an experienced person under the supervision of a qualified employee, must be placed in charge of the reels as the reel tender.

(i) Reel handling equipment, including pulling, braking, and sagging equipment must be firmly anchored or secured during operations.

(j) The employer must ensure that employees do not exceed load ratings of stringing lines, pulling lines, conductor grips, load-bearing hardware and accessories, rigging, and hoists.

(k) When replacing a conductor with a new or larger conductor, the conductor being removed may not be used to pull in the new one unless the one being removed has been carefully inspected for its entire length and then adjudged to have adequate strength.

(l) The employer must repair or replace defective pulling lines and accessories.

(m) Each pull must be snubbed or dead ended at both ends before subsequent pulls.

(n) The employer must ensure that employees do not use conductor grips on wire rope unless the manufacturer specifically designed the grip for this application.

(o) The employer must ensure that employees maintain reliable communications, through two-way radios or other equivalent means, between the reel tender and the pulling rig operator.

(p) Employees may operate the pulling rig only when it is safe to do so.

Note to paragraph (2)(p): Examples of unsafe conditions include: employees in locations prohibited by paragraph (2)(q) of this rule, conductor and pulling line hang-ups, and slipping of the conductor grip.

(q) While a power-driven device is pulling the conductor or pulling line and the conductor or pulling line is in motion, the employer must ensure that employees are not directly under overhead operations or on the cross arm, except as necessary for the employees to guide the stringing sock or board over or through the stringing sheave.

(3) Live-line bare-hand work is prohibited.

(4) Towers and structures. The following requirements apply to work performed on towers or other structures that support overhead lines.

(a) The employer must ensure that no employee is under a tower or structure while work is in progress, except when the employer can demonstrate that such a working position is necessary to assist employees working above.

(b) The employer must ensure that employees use tag lines or other similar devices to maintain control of tower rules being raised or positioned, unless the employer can demonstrate that the use of such devices would create a greater hazard to employees.

(c) The employer must ensure that employees do not detach the load-line from a member or rule until they safely secure the load.

(d) The employer must ensure that, except during emergency restoration procedures, employees discontinue work when adverse weather conditions would make the work hazardous in spite of the work practices required by this rule.

Note to paragraph (4)(d): Thunderstorms in the vicinity, high winds, snow storms, and ice storms are examples of adverse weather conditions that make this work too hazardous to perform even after the employer implements the work practices required by this rule.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
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437-002-2317
Line-clearance Tree Trimming

This rule provides additional requirements for line-clearance tree trimming and for equipment used in this type of work.

(1) Electrical hazards. This paragraph does not apply to qualified employees.

(a) Before an employee climbs, enters, or works around any tree, a determination must be made of the nominal voltage of electric power lines posing a hazard to employees. However, a determination of the maximum nominal voltage to which an employee will be exposed may be made instead, if all lines are considered as energized at this maximum voltage.

(b) There must be a second line-clearance tree trimmer within normal, unassisted voice communication under any of the following conditions:

(A) If a line-clearance tree trimmer is to approach more closely than 3.05 meters (10 feet) to any conductor or electric apparatus energized at more than 600 volts or

(B) If branches or limbs being removed are closer to lines energized at more than 600 volts than the distances listed in Table RR-4, Table RR-5, Table RR-6, and Table RR-7 or

(C) If roping is necessary to remove branches or limbs from such conductors or apparatus.

(c) Line-clearance tree trimmers must maintain the minimum approach distances from energized conductors given in Table RR-4, Table RR-5, Table RR-6, and Table RR-7.

(d) Branches that are contacting exposed energized conductors or equipment, or that are within the distances specified in Table RR-4 Table RR-5, Table RR-6, and Table RR-7 may be removed only through the use of insulating equipment.

Note to paragraph (1)(d): A tool constructed of a material that the employer can demonstrate has insulating qualities meeting paragraph (3) of 437-002-2309 is considered as insulated under paragraph (1)(d) of this rule if the tool is clean and dry.

(e) Ladders, platforms, and aerial devices may not be brought closer to an energized part than the distances listed in Table RR-4, Table RR-5, Table RR-6, and Table RR-7.

(f) Line-clearance tree trimming may not be performed when adverse weather conditions make the work hazardous in spite of the work practices required by this rule. Each employee performing line-clearance tree trimming in the aftermath of a storm or under similar emergency conditions must be trained in the special hazards related to this type of work.

Note to paragraph (1)(f): Thunderstorms in the immediate vicinity, high winds, snow storms, and ice storms are examples of adverse weather conditions that are presumed to make line-clearance tree trimming too hazardous to perform safely.

(2) Brush chippers.

(a) Brush chippers must be equipped with a locking device in the ignition system.

(b) Access panels for maintenance and adjustment of the chipper blades and associated drive train must be in place and secure during operation of the equipment.

(c) Brush chippers not equipped with a mechanical infeed system must be equipped with an infeed hopper of length sufficient to prevent employees from contacting the blades or knives of the machine during operation.

(d) Trailer chippers detached from trucks must be chocked or otherwise secured.

(e) Each employee in the immediate area of an operating chipper feed table must wear personal protective equipment as required Division 2/I.

(3) Sprayers and related equipment.

(a) Walking and working surfaces of sprayers and related equipment must be covered with slip-resistant material. If slipping hazards cannot be eliminated, slip-resistant footwear or handrails and stair rails meeting the requirements of Division 2/D may be used instead of slip-resistant material.

(b) Equipment on which employees stand to spray while the vehicle is in motion must be equipped with guardrails around the working area. The guardrail must be constructed in accordance with Division 2/D.

(4) Stump cutters.

(a) Stump cutters must be equipped with enclosures or guards to protect employees.

(b) Each employee in the immediate area of stump grinding operations including the stump cutter operator) must wear personal protective equipment as required by Division 2/I.

(5) Gas powered saws. Gas powered saw operations must meet the requirements of 437-007-0405 Chain Saws, Division 7; and the following:

(a) Each power saw weighing more than 6.8 kilograms (15 pounds, service weight) that is used in trees must be supported by a separate line, except when work is performed from an aerial lift and except during topping or removing operations where no supporting limb will be available.

(b) Each power saw must be equipped with a control that will return the saw to idling speed when released.

(c) Each power saw must be equipped with a clutch and must be so adjusted that the clutch will not engage the chain drive at idling speed.

(d) A power saw must be started on the ground or where it is otherwise firmly supported. Drop starting of saws over 6.8 kilograms (15 pounds), other than chain saws, is permitted outside of the bucket of an aerial lift only if the area below the lift is clear of personnel. Drop starting chain saws is prohibited.

(e) A power saw engine may be started and operated only when all employees other than the operator are clear of the saw.

(f) A power saw may not be running when the saw is being carried up into a tree by an employee.

(g) Power saw engines must be stopped for all cleaning, refueling, adjustments, and repairs to the saw or motor, except as the manufacturer's servicing procedures require otherwise.

(6) Backpack power units for use in pruning and clearing.

(a) While a backpack power unit is running, no one other than the operator may be within 3.05 meters (10 feet) of the cutting head of a brush saw.

(b) A backpack power unit must be equipped with a quick shutoff switch readily accessible to the operator.

(c) Backpack power unit engines must be stopped for all cleaning, refueling, adjustments, and repairs to the saw or motor, except as the manufacturer's servicing procedures require otherwise.

(7) Rope.

(a) Climbing ropes must be used by employees working aloft in trees. These ropes must have a minimum diameter of 12 millimeters (0.5 inch) with a minimum breaking strength of 10.2 kilonewtons (2,300 pounds). Synthetic rope must have elasticity of not more than 7 percent.

(b) Rope must be inspected before each use and, if unsafe (for example, because of damage or defect), may not be used.

(c) Rope must be stored away from cutting edges and sharp tools. Rope contact with corrosive chemicals, gas, and oil must be avoided.

(d) When stored, rope must be coiled and piled, or must be suspended, so that air can circulate through the coils.

(e) Rope ends must be secured to prevent their unraveling.

(f) Climbing rope may not be repaired by splicing.

(g) A rope that is wet, that is contaminated to the extent that its insulating capacity is impaired, or that is otherwise not considered to be insulated for the voltage involved may not be used near exposed energized lines.

(8) Fall protection. Each employee must be tied in with a climbing rope and safety saddle when the employee is working above the ground in a tree, except when ascending into or descending from the tree.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-2318
Communication Facilities

(1) Microwave transmission.

(a) The employer must ensure that no employee looks into an open waveguide or antenna connected to an energized microwave source.

(b) If the electromagnetic-radiation level within an accessible area associated with microwave communications systems exceeds the radiation-protection guide specified by 1910.97(a)(2), the employer must post the area with warning signs containing the warning symbol described in 1910.97(a)(3). The lower half of the warning symbol must include the following statements, or ones that the employer can demonstrate are equivalent: "Radiation in this area may exceed hazard limitations and special precautions are required. Obtain specific instruction before entering."

(c) When an employee works in an area where the electromagnetic radiation could exceed the radiation protection guide, the employer must institute measures that ensure that the employee's exposure is not greater than that permitted by that guide. Such measures may include administrative and engineering controls and personal protective equipment.

(2) Power-line carrier. The employer must ensure that employees perform power-line carrier work, including work on equipment used for coupling carrier current to power line conductors, in accordance with the requirements of Division 2/RR pertaining to work on energized lines.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-2319
Underground Electrical Installations

This rule provides additional requirements for work on underground electrical installations.

(1) Access. The employer must ensure that employees use a ladder or other climbing device to enter and exit a manhole or subsurface vault exceeding 1.22 meters (4 feet) in depth. No employee may climb into or out of a manhole or vault by stepping on cables or hangers.

(2) Lowering equipment into manholes.

(a) Equipment used to lower materials and tools into manholes or vaults must be capable of supporting the weight to be lowered and must be checked for defects before use.

(b) Before anyone lowers tools or material into the opening for a manhole or vault, each employee working in the manhole or vault must be clear of the area directly under the opening.

(3) Attendants for manholes and vaults.

(a) While work is being performed in a manhole or vault containing energized electric equipment, an employee with first-aid and cardiopulmonary resuscitation training must be available on the surface in the immediate vicinity of the manhole or vault entrance to render emergency assistance.

(b) Occasionally, the employee on the surface may briefly enter a manhole or vault to provide nonemergency assistance.

Note 1 to paragraph (3)(b): 437-002-2304(7) of Division 2/RR may also require an attendant and does not permit this attendant to enter the manhole or vault.

Note 2 to paragraph (3)(b): 437-002-2311(1)(b) of Division 2/RR requires employees entering manholes or vaults containing unguarded, uninsulated energized lines or parts of electric equipment operating at 50 volts or more to be qualified.

(c) For the purpose of inspection, housekeeping, taking readings, or similar work, an employee working alone may enter, for brief periods of time, a manhole or vault where energized cables or equipment are in service if the employer can demonstrate that the employee will be protected from all electrical hazards.

(d) The employer must ensure that employees maintain reliable communications, through two-way radios or other equivalent means, among all employees involved in the job.

(4) Duct rods. The employer must ensure that, if employees use duct rods, the employees install the duct rods in the direction presenting the least hazard to employees. The employer must station an employee at the far end of the duct line being rodded to ensure that the employees maintain the required minimum approach distances.

(5) All primary cables must be permanently and plainly identified by tags or other methods at both ends.

(6) Multiple cables. When multiple cables are present in a work area, the employer must identify the cable to be worked by electrical means, unless its identity is obvious by reason of distinctive appearance or location or by other readily apparent means of identification. The employer must protect cables other than the one being worked from damage.

(7) Moving cables. Except when paragraph (8)(b) of this rule permits employees to perform work that could cause a fault in an energized cable in a manhole or vault, the employer must ensure that employees inspect energized cables to be moved for abnormalities.

(8) Protection against faults.

(a) Where a cable in a manhole or vault has one or more abnormalities that could lead to a fault or be an indication of an impending fault, the employer must deenergize the cable with the abnormality before any employee may work in the manhole or vault, except when service-load conditions and a lack of feasible alternatives require that the cable remain energized. In that case, employees may enter the manhole or vault provided the employer protects them from the possible effects of a failure using shields or other devices that are capable of containing the adverse effects of a fault. The employer must treat the following abnormalities as indications of impending faults unless the employer can demonstrate that the conditions could not lead to a fault: Oil or compound leaking from cable or joints, broken cable sheaths or joint sleeves, hot localized surface temperatures of cables or joints, or joints swollen beyond normal tolerance.

(b) If the work employees will perform in a manhole or vault could cause a fault in a cable, the employer must deenergize that cable before any employee works in the manhole or vault, except when service-load conditions and a lack of feasible alternatives require that the cable remain energized. In that case, employees may enter the manhole or vault provided the employer protects them from the possible effects of a failure using shields or other devices that are capable of containing the adverse effects of a fault.

(9) Sheath continuity. When employees perform work on buried cable or on cable in a manhole or vault, the employer must maintain metallic-sheath continuity, or the cable sheath must be treated as energized.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-2320
Substations

This paragraph provides additional requirements for substations and for work performed in them.

(1) Access and working space. The employer must provide and maintain sufficient access and working space around electric equipment to permit ready and safe operation and maintenance of such equipment by employees.

Note to paragraph (1): American National Standard: National Electrical Safety Code, ANSI/IEEE C2-2012 contains guidelines for the dimensions of access and working space about electric equipment in substations. Installations meeting the ANSI provisions comply with paragraph (u)(1) of this rule. Oregon OSHA will determine whether an installation that does not conform to this ANSI standard complies with paragraph (1) of this rule based on the following criteria:
Whether the installation conforms to the edition of ANSI C2 that was in effect when the installation was made.
Whether the configuration of the installation enables employees to maintain the minimum approach distances, established by the employer under paragraph (3)(a) of 437-002-2311, while the employees are working on exposed, energized parts, and
Whether the precautions taken when employees perform work on the installation provide protection equivalent to the protection provided by access and working space meeting ANSI/IEEE C2-2012.

(2) Draw-out-type circuit breakers. The employer must ensure that, when employees remove or insert draw-out-type circuit breakers, the breaker is in the open position. The employer must also render the control circuit inoperable if the design of the equipment permits.

(3) Substation fences. Conductive fences around substations must be grounded. When a substation fence is expanded or a section is removed, fence sections must be isolated, grounded, or bonded as necessary to protect employees from hazardous differences in electric potential.

Note to paragraph (3): IEEE Std 80-2000, IEEE Guide for Safety in AC Substation Grounding, contains guidelines for protection against hazardous differences in electric potential.

(4) Guarding of rooms and other spaces containing electric supply equipment.

(a) Rooms and other spaces in which electric supply lines or equipment are installed must meet the requirements of paragraphs (4)(a) through (4)(e) of this rule under the following conditions:

(A) If exposed live parts operating at 50 to 150 volts to ground are within 2.4 meters (8 feet) of the ground or other working surface inside the room or other space,

(B) If live parts operating at 151 to 600 volts to ground and located within 2.4 meters (8 feet) of the ground or other working surface inside the room or other space are guarded only by location, as permitted under paragraph (5)(a) of this rule, or

(C) If live parts operating at more than 600 volts to ground are within the room or other space, unless:

(i) The live parts are enclosed within grounded, metal-enclosed equipment whose only openings are designed so that foreign objects inserted in these openings will be deflected from energized parts, or

(ii) The live parts are installed at a height, above ground and any other working surface, that provides protection at the voltage on the live parts corresponding to the protection provided by a 2.4-meter (8-foot) height at 50 volts.

(b) Fences, screens, partitions, or walls must enclose the rooms and other spaces so as to minimize the possibility that unqualified persons will enter.

(c) Unqualified persons may not enter the rooms or other spaces while the electric supply lines or equipment are energized.

(d) The employer must display signs at entrances to the rooms and other spaces warning unqualified persons to keep out.

(e) The employer must keep each entrance to a room or other space locked, unless the entrance is under the observation of a person who is attending the room or other space for the purpose of preventing unqualified employees from entering.

(5) Guarding of energized parts.

(a) The employer must provide guards around all live parts operating at more than 150 volts to ground without an insulating covering unless the location of the live parts gives sufficient clearance (horizontal, vertical, or both) to minimize the possibility of accidental employee contact.

Note to paragraph (5)(a): American National Standard: National Electrical Safety Code, ANSI/IEEE C2-2002 contains guidelines for the dimensions of clearance distances about electric equipment in substations. Installations meeting the ANSI provisions comply with paragraph (5)(a) of this rule. Oregon OSHA will determine whether an installation that does not conform to this ANSI standard complies with paragraph (5)(a) of this rule based on the following criteria:
Whether the installation conforms to the edition of ANSI C2 that was in effect when the installation was made,
Whether each employee is isolated from energized parts at the point of closest approach; and
Whether the precautions taken when employees perform work on the installation provide protection equivalent to the protection provided by horizontal and vertical clearances meeting ANSI/IEEE C2-2002.

(b) Except for fuse replacement and other necessary access by qualified persons, the employer must maintain guarding of energized parts within a compartment during operation and maintenance functions to prevent accidental contact with energized parts and to prevent dropped tools or other equipment from contacting energized parts.

(c) Before guards are removed from energized equipment, the employer must install barriers around the work area to prevent employees who are not working on the equipment, but who are in the area, from contacting the exposed live parts.

(d) Proper identification and warning signs must be posted at all entrances to battery rooms or compartments.

(6) Substation entry.

(a) Upon entering an attended substation, each employee, other than employees regularly working in the station, must report their presence to the employee in charge of substation activities to receive information on special system conditions affecting employee safety.

(b) The job briefing required by 437-002-2302 Job Briefing, Division 2/RR; must cover information on special system conditions affecting employee safety, including the location of energized equipment in or adjacent to the work area and the limits of any deenergized work area. Job briefings apply equally to unattended and attended substations and to employees already working in a substation and employees who enter a substation.

(c) A qualified safety watch must be provided for all other work being performed in any energized substation yard except when the work is separated from all energized equipment by a barrier.

(d) Qualified nonelectrical workers will be allowed to work in substations without barriers and without a safety watch if all the following conditions are observed:

(A) Permission to enter must be obtained from the substation operator or other authorized person.

(B) Each qualified nonelectrical worker must be trained and competent as required by 437-002-2300(2)(b) Training, of Division 2/RR, and must have demonstrated proficiencies in the work practices involved as required by 437-002-2300 (2)(h) Training, Division 2/RR.

Note: Employees who have not demonstrated proficiency in the work practices involved are considered to be undergoing on-the-job training and must be under the direct supervision of a qualified employee.

(C) The worker must not work off the ground without the specific approval of the person responsible for control of entry except to operate such equipment as light motor vehicles, which have no equipment or loads that can project above the cab.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-2321
Power Generation Installations

This rule provides additional requirements and related work practices for power generating plants.

(1) Interlocks and other safety devices.

(a) Interlocks and other safety devices must be maintained in a safe, operable condition.

(b) No interlock or other safety device may be modified to defeat its function, except for test, repair, or adjustment of the device.

(2) Changing brushes. Before exciter or generator brushes are changed while the generator is in service, the exciter or generator field must be checked to determine whether a ground condition exists. The brushes may not be changed while the generator is energized if a ground condition exists.

(3) Access and working space. The employer must provide and maintain sufficient access and working space around electric equipment to permit ready and safe operation and maintenance.

Note to paragraph (3) of this rule: American National Standard: National Electrical Safety Code, ANSI/IEEE C2-2012 contains guidelines for the dimensions of access and working space about electric equipment in substations. Installations meeting the ANSI provisions comply with paragraph (3) of this rule. Oregon OSHA will determine whether an installation that does not conform to this ANSI standard complies with paragraph (3) of this rule based on the following criteria:
Whether the installation conforms to the edition of ANSI C2 that was in effect when the installation was made;
Whether the configuration of the installation enables employees to maintain the minimum approach distances, established by the employer under paragraph (3)(a) of this section, while the employees are working on exposed, energized parts, and;
Whether the precautions taken when employees perform work on the installation provide protection equivalent to the protection provided by access and working space meeting ANSI/IEEE C2-2012.

(4) Guarding of rooms and other spaces containing electric supply equipment.

(a) Rooms and other spaces in which electric supply lines or equipment are installed must meet the requirements of paragraphs (4)(b) through (4)(e) of this rule under the following conditions:

(A) If exposed live parts operating at 50 to 150 volts to ground are within 2.4 meters (8 feet) of the ground or other working surface inside the room or other space,

(B) If live parts operating at 151 to 600 volts to ground and located within 2.4 meters (8 feet) of the ground or other working surface inside the room or other space are guarded only by location, as permitted under paragraph (5)(a) of this rule, or

(C) If live parts operating at more than 600 volts to ground are within the room or other space, unless:

(i) The live parts are enclosed within grounded, metal-enclosed equipment whose only openings are designed so that foreign objects inserted in these openings will be deflected from energized parts, or

(ii) The live parts are installed at a height, above ground and any other working surface, that provides protection at the voltage on the live parts corresponding to the protection provided by a 2.4-meter (8-foot) height at 50 volts.

(b) Fences, screens, partitions, or walls must enclose the rooms and other spaces so as to minimize the possibility that unqualified persons will enter.

(c) Unqualified persons may not enter the rooms or other spaces while the electric supply lines or equipment are energized.

(d) The employer must display signs at entrances to the rooms and other spaces warning unqualified persons to keep out.

(e) The employer must keep each entrance to a room or other space locked, unless the entrance is under the observation of a person who is attending the room or other space for the purpose of preventing unqualified employees from entering.

(5) Guarding of energized parts.

(a) The employer must provide guards around all live parts operating at more than 150 volts to ground without an insulating covering unless the location of the live parts gives sufficient clearance (horizontal, vertical, or both) to minimize the possibility of accidental employee contact.

Note to paragraph (5)(a): American National Standard: National Electrical Safety Code, ANSI/IEEE C2-2002 contains guidelines for the dimensions of clearance distances about electric equipment in substations. Installations meeting the ANSI provisions comply with paragraph (5)(a) of this rule. Oregon OSHA will determine whether an installation that does not conform to this ANSI standard complies with paragraph (5)(a) of this rule based on the following criteria:
Whether the installation conforms to the edition of ANSI C2 that was in effect when the installation was made;
Whether each employee is isolated from energized parts at the point of closest approach; and
Whether the precautions taken when employees perform work on the installation provide protection equivalent to the protection provided by horizontal and vertical clearances meeting ANSI/IEEE C2-2002.

(b) Except for fuse replacement and other necessary access by qualified persons, the employer must maintain guarding of energized parts within a compartment during operation and maintenance functions to prevent accidental contact with energized parts and to prevent dropped tools or other equipment from contacting energized parts.

(c) Before guards are removed from energized equipment, the employer must install barriers around the work area to prevent employees who are not working on the equipment, but who are in the area, from contacting the exposed live parts.

(6) Water or steam spaces. The following requirements apply to work in water and steam spaces associated with boilers:

(a) A designated employee must inspect conditions before work is permitted and after its completion. Eye protection, or full face protection if necessary, must be worn at all times when condenser, heater, or boiler tubes are being cleaned.

(b) Where it is necessary for employees to work near tube ends during cleaning, shielding must be installed at the tube ends.

(7) Chemical cleaning of boilers and pressure vessels. The following requirements apply to chemical cleaning of boilers and pressure vessels:

(a) Areas where chemical cleaning is in progress must be cordoned off to restrict access during cleaning. If flammable liquids, gases, or vapors or combustible materials will be used or might be produced during the cleaning process, the following requirements also apply:

(A) The area must be posted with signs restricting entry and warning of the hazards of fire and explosion; and

(B) Smoking, welding, and other possible ignition sources are prohibited in these restricted areas.

(b) The number of personnel in the restricted area must be limited to those necessary to accomplish the task safely.

(c) There must be ready access to water or showers for emergency use.

Note to paragraph (7)(c): See 1910.141 and 437-002-0141 for requirements that apply to the water supply and to washing facilities.

(d) Employees in restricted areas must wear protective equipment meeting the requirements of Division 2/I and including, but not limited to, protective clothing, boots, goggles, and gloves.

(8) Chlorine systems.

(a) Chlorine system enclosures must be posted with signs restricting entry and warning of the hazard to health and the hazards of fire and explosion.

Note to paragraph (8)(a): See Division 2/Z for requirements necessary to protect the health of employees from the effects of chlorine.

(b) Only designated employees may enter the restricted area. Additionally, the number of personnel must be limited to those necessary to accomplish the task safely.

(c) Emergency repair kits must be available near the shelter or enclosure to allow for the prompt repair of leaks in chlorine lines, equipment, or containers.

(d) Before repair procedures are started, chlorine tanks, pipes, and equipment must be purged with dry air and isolated from other sources of chlorine.

(e) The employer must ensure that chlorine is not mixed with materials that would react with the chlorine in a dangerously exothermic or other hazardous manner.

(9) Boilers.

(a) Before internal furnace or ash hopper repair work is started, overhead areas must be inspected for possible falling objects. If the hazard of falling objects exists, overhead protection such as planking or nets must be provided.

(b) When opening an operating boiler door, employees must stand clear of the opening of the door to avoid the heat blast and gases which may escape from the boiler.

(10) Turbine generators.

(a) Smoking and other ignition sources are prohibited near hydrogen or hydrogen sealing systems, and signs warning of the danger of explosion and fire must be posted.

(b) Excessive hydrogen makeup or abnormal loss of pressure must be considered as an emergency and must be corrected immediately.

(c) A sufficient quantity of inert gas must be available to purge the hydrogen from the largest generator.

(11) Coal and ash handling.

(a) Only designated persons may operate railroad equipment.

(b) Before a locomotive or locomotive crane is moved, a warning must be given to employees in the area.

(c) Employees engaged in switching or dumping cars may not use their feet to line up drawheads.

(d) Drawheads and knuckles may not be shifted while locomotives or cars are in motion.

(e) When a railroad car is stopped for unloading, the car must be secured from displacement that could endanger employees.

(f) An emergency means of stopping dump operations must be provided at railcar dumps.

(g) The employer must ensure that employees who work in coal- or ash-handling conveyor areas are trained and knowledgeable in conveyor operation and in the requirements of paragraphs (11)(h) through (11)(l) of this rule.

(h) Employees may not ride a coal or ash-handling conveyor belt at any time. Employees may not cross over the conveyor belt, except at walkways, unless the conveyor's energy source has been deenergized and has been locked out or tagged in accordance with paragraph (d) of this rule.

(i) A conveyor that could cause injury when started may not be started until personnel in the area are alerted by a signal or by a designated person that the conveyor is about to start.

(j) If a conveyor that could cause injury when started is automatically controlled or is controlled from a remote location, an audible device must be provided that sounds an alarm that will be recognized by each employee as a warning that the conveyor will start and that can be clearly heard at all points along the conveyor where personnel may be present. The warning device must be actuated by the device starting the conveyor and must continue for a period of time before the conveyor starts that is long enough to allow employees to move clear of the conveyor system. A visual warning may be used in place of the audible device if the employer can demonstrate that it will provide an equally effective warning in the particular circumstances involved. However if the employer can demonstrate that the system's function would be seriously hindered by the required time delay, warning signs may be provided in place of the audible warning device. If the system was installed before January 31, 1995, warning signs may be provided in place of the audible warning device until such time as the conveyor or its control system is rebuilt or rewired. These warning signs must be clear, concise, and legible and must indicate that conveyors and allied equipment may be started at any time, that danger exists, and that personnel must keep clear. These warning signs must be provided along the conveyor at areas not guarded by position or location.

(k) Remotely and automatically controlled conveyors, and conveyors that have operating stations which are not manned or which are beyond voice and visual contact from drive areas, loading areas, transfer points, and other locations on the conveyor path not guarded by location, position, or guards must be furnished with emergency stop buttons, pull cords, limit switches, or similar emergency stop devices. However, if the employer can demonstrate that the design, function, and operation of the conveyor do not expose an employee to hazards, an emergency stop device is not required.

(A) Emergency stop devices must be easily identifiable in the immediate vicinity of such locations.

(B) An emergency stop device must act directly on the control of the conveyor involved and may not depend on the stopping of any other equipment.

(C) Emergency stop devices must be installed so that they cannot be overridden from other locations.

(l) Where coal-handling operations may produce a combustible atmosphere from fuel sources or from flammable gases or dust, sources of ignition must be eliminated or safely controlled to prevent ignition of the combustible atmosphere.

Note to paragraph (11)(l): Locations that are hazardous because of the presence of combustible dust are classified as Class II hazardous locations. See 1910.307.

(m) An employee may not work on or beneath overhanging coal in coal bunkers, coal silos, or coal storage areas, unless the employee is protected from all hazards posed by shifting coal.

(n) An employee entering a bunker or silo to dislodge the contents must wear a body harness with lifeline attached. The lifeline must be secured to a fixed support outside the bunker and must be attended at all times by an employee located outside the bunker or facility.

(12) Hydroplants and equipment. Employees working on or close to water gates, valves, intakes, forebays, flumes, or other locations where increased or decreased water flow or levels may pose a significant hazard must be warned and must vacate such dangerous areas before water flow changes are made.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-2322
Special Conditions

(1) Capacitors. The following additional requirements apply to work on capacitors and on lines connected to capacitors.

Note to paragraph (1): See 437-002-2312 Deenergizing Lines and Equipment for Employee Protection; and 437-002-2313 Grounding for the Protection of Employees, of Division 2/RR, for requirements pertaining to the deenergizing and grounding of capacitor installations.

(a) Before employees work on capacitors, the employer must disconnect the capacitors from energized sources and short circuit the capacitors. The employer must ensure that the employee short circuiting the capacitors waits at least 5 minutes from the time of disconnection before applying the short circuit.

(b) Before employees handle the units, the employer must short circuit each unit in series-parallel capacitor banks between all terminals and the capacitor case or its rack. If the cases of capacitors are on ungrounded substation racks, the employer must bond the racks to ground.

(c) The employer must short circuit any line connected to capacitors before the line is treated as deenergized.

(2) Current transformer secondaries. The employer must ensure that employees do not open the secondary of a current transformer while the transformer is energized. If the employer cannot deenergize the primary of the current transformer before employees perform work on an instrument, a relay, or other section of a current transformer secondary circuit, the employer must bridge the circuit so that the current transformer secondary does not experience an open-circuit condition.

(3) Series streetlighting.

(a) If the open-circuit voltage exceeds 600 volts, the employer must ensure that employees work on series streetlighting circuits in accordance with 437-002-2316 Overhead Lines; and 437-002-2319 Underground Electrical Installations, of Division 2/RR, as appropriate.

(b) Before any employee opens a series loop, the employer must deenergize the streetlighting transformer and isolate it from the source of supply or must bridge the loop to avoid an open-circuit condition.

(4) Illumination. The employer must provide sufficient illumination to enable the employee to perform the work safely.

(5) Protection against drowning.

(a) Whenever an employee may be pulled or pushed, or might fall, into water where the danger of drowning exists, the employer must provide the employee with, and must ensure that the employee uses, a U.S. Coast Guard approved personal flotation device.

(b) The employer must maintain each personal flotation device in safe condition and must inspect each personal flotation device frequently enough to ensure that it does not have rot, mildew, water saturation, or any other condition that could render the device unsuitable for use.

(c) An employee may cross streams or other bodies of water only if a safe means of passage, such as a bridge, is available.

(6) Employee protection in public work areas.

(a) Traffic-control signs and traffic-control devices used for the protection of employees must meet 437-003-0424 Traffic Control, of Division 3.

(b) Before employees begin work in the vicinity of vehicular or pedestrian traffic that may endanger them, the employer must place warning signs or flags and other traffic-control devices in conspicuous locations to alert and channel approaching traffic.

(c) The employer must use barricades where additional employee protection is necessary.

(d) The employer must protect excavated areas with barricades.

(e) The employer must display warning lights prominently at night.

(7) Backfeed. When there is a possibility of voltage backfeed from sources of cogeneration or from the secondary system (for example, backfeed from more than one energized phase feeding a common load), the requirements of 437-002-2311 Working On or Near Exposed Energized Parts, of Division 2/RR, apply if employees will work the lines or equipment as energized; and the requirements of 437-002-2312 Deenergizing Lines and Equipment for Employee Protection, and 437-002-2313 Grounding for the Protection of Employees, of Division 2/RR, apply if employees will work the lines or equipment as deenergized.

(8) Lasers. The employer must install, adjust, and operate laser equipment in accordance with 1926.54 Nonionizing Radiation, of Division 3.

(9) Hydraulic fluids. Hydraulic fluids used for the insulated sections of equipment must provide insulation for the voltage involved.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-2323
Helicopters

(1) Definitions:

(a) Designated employees. Those employees selected or designated by the employer to work under or near helicopters who have first been instructed in hooking, unhooking, guiding and securing the load, including the signal person, all of whom have been instructed in the hazards of helicopter work and who know the provisions of this section.

(b) Pilot in Command or Pilot means the person who:

(A) Has the final authority and responsibility for the operation and safety of the flight;

(B) Has been designated as pilot in command before or during the flight; and

(C) Holds the appropriate category, class, and type rating for the conduct of the flight if applicable.

(c) Helicopter Service Operator. Entity that holds the appropriate Federal Aviation Administration (FAA) operating certification and provides helicopter support services.

(d) Downwash. A down and outward air column from the main rotor system.

(e) Ground personnel or crew. Employees who work on or near the equipment and are familiar with the hazards of helicopter use in power distribution and transmission line work and who know these rules and the methods of operation.

(f) Helicopter, helicopter crane, and rotorcraft. A heavier-than-air aircraft that depends principally for its support in flight on the lift generated by one or more rotors. The use of the word helicopter in these rules also means helicopter crane, rotorcraft, or similar aircraft.

(g) Hooking and unhooking. The process by which an external load is either attached to or detached from the helicopter hook or sling line.

(h) Positive guide system. A system or method of installing a load into position so that the load is capable of being released from the helicopter without being otherwise secured, and the load will remain in position permanently or until otherwise secured by physical means.

(i) Rotors. A system of blades that rotates or revolves to supply lift or direction to the rotorcraft.

(j) Signal person. A member of the ground crew that is designated by an employer to direct, signal and otherwise communicate with the pilot of the helicopter.

(k) Sling. A strap, chain, rope or similar implement used to securely hold something being lifted, lowered, carried or otherwise suspended.

(l) Static charge. An imbalance of electric potential within or on the surface of a material.

(m) Tagline. A rope or similar device used to guide or control the direction or movement of a load.

(2) Helicopter regulations. Helicopter cranes must comply with any applicable regulations of the Federal Aviation Administration (FAA).

(3) Hazard Analysis and Job Briefing.

(a) Before the commencement of any construction, maintenance, or lifting activity using a helicopter, a Job Hazard Analysis (JHA) must be conducted, which, at a minimum, must:

(A) Define the core tasks.

(B) Identify specific hazards.

(C) Identify mission specific tasks.

(D) Describe procedures or controls used to safely manage or mitigate the hazards.

(E) Describe the communication procedure to be used with the crew.

(F) Discuss fatigue, and methods to eliminate or mitigate it.

(G) Specify Minimum Approach Distances (MAD).

(H) Describe a site specific emergency action plan.

(b) A site specific job briefing must be held each day construction, maintenance, or lifting activities using a helicopter are performed. The daily job briefing at a minimum must:

(A) Summarize or recap the content of the JHA as applicable to the day's duties.

(B) Communicate any site specific hazards not identified in the JHA and provide mitigation for those hazards.

(C) Identify or establish roles for each person who will be interfacing with the aircraft or its loads.

(D) Describe the communication procedure to be used with the crew.

(E) Specify Minimum Approach Distances (MAD) from energized electrical lines and equipment in the work area.

(F) Describe the applicable sections of the site specific emergency action plan, such as the locations of first aid equipment and rescue gear.

(c) An additional job briefing must be held immediately if working conditions change during the course of a job. Working conditions would include weather, wind, and visibility. During the job briefing all affected employees and others, including signal persons, ground workers, pilots, must be advised of the hazards including a change of operation if needed.

(4) Sling and rigging.

(a) The pilot is responsible for the integrity of the rigging for any external load and must ensure safe delivery of the cargo by inspecting and monitoring the security of the rigging throughout the operation. Prior to operations, the pilot must check the condition and application of all rigging gear to ensure serviceability. Prior to commencing operations, determine the complete rigging requirements including slings and taglines.

(b) All personnel involved with rigging activities must receive appropriate rigging training and show proficiency, specific to helicopter operations and the work or task/s being performed.

(c) The slings used for the external load must be inspected each day before use. Slings must be inspected by an employee designated, trained and qualified as a rigger.

(d) No sling can be used unless it has a properly marked minimum tensile strength of five times the load which will be carried or is being carried.

(A) No sling can be used unless upon inspection it is determined to be in good condition and capable of the work which is to be performed, and is properly marked.

(B) Loads must be properly slung so that there will be no slippage or shifting of the load and so that the load will not accidentally be dislodged from the helicopter.

(C) Slings must be the appropriate weight, strength and length to prevent the sling from being lifted and entangled into the aircraft rotor system.

(D) Pressed sleeves, wedged eyes, or equivalent means must be used for all suspended loads using wire rope.

(5) Personal protective equipment when working on, under or in the near vicinity of helicopters:

(a) Personal protective equipment for employees must consist of complete eye protection and hard hats secured by chinstraps.

(b) Loose-fitting clothing likely to flap in the downwash must not be worn.

(6) Loose gear and objects. Every practical precaution must be taken to provide for the protection of the employees from flying objects in the rotor downwash. All loose gear within 100 feet of the place of lifting the load, depositing the load, and all other areas susceptible to rotor downwash must be secured or removed.

(7) Landing Zones.

(a) When establishing the landing zone, the following items must be considered: size and type of helicopter, suitability of the planned activity, physical barriers or obstructions, helicopter touchdown area and congestion in the area.

(b) All helicopter landing, loading and unloading areas must be maintained to reduce the likelihood of flying materials, tripping, or other hazards attendant to the work being performed.

(8) Pilot's responsibility.

(a) The helicopter pilot is responsible for the size, weight and manner in which loads are connected to the helicopter.

(b) No load can be made if the helicopter pilot believes the lift cannot safely be performed. The employer must make certain that the pilot of the helicopter is able to freely exercise their prerogative and judgment as to safe operation of the helicopter itself concerning size, weight and manner by which loads are connected.

(c) The pilot must possess the appropriate ratings for the aircraft and must be competent to safely conduct the assigned tasks. The pilot has the final authority and is solely responsible for the safe operation of the helicopter loads at all times.

(9) Hooking and unhooking loads.

(a) Work performed at an elevated position and directly under hovering helicopters may be performed only by qualified employees.

(A) Work must be limited to the minimum time necessary to guide, secure, hook or unhook the loads.

(B) When an employee is working from the ground under hovering helicopters, the employee must have a safe means of ingress and egress at all times, including readily available escape route or routes in the event of an emergency.

(b) Positive guide systems must be used for the placement of large segments of a primary tower structure and must enable the heavy lift helicopter to temporarily secure and release the load.

(10) Static charge. All loads must be grounded or bonded with a device capable of discharging either the actual or potential static charge before ground personnel either touch or come close enough to touch the suspended load.

(11) Line Stringing.

(a) Weight of the external load must not exceed the manufacturer's load limit.

(b) Each helicopter operator engaged in line stringing must be authorized by the Federal Aviation Administration (FAA) for Part 133 Class C operations.

(c) All line stringing operations must be conducted according to the following requirements:

(A) Stringing tension method must enable a consistent positive control of the cable, rope, or similar lines at all times during pulling operations.

(B) During all pulling operations, the helicopter pilot must maintain an aircraft orientation that allows the pilot to maintain constant visibility in both directions on line.

(C) When pulling from the aircraft belly hook attachment point, a ballast weight of a minimum of 300 pounds must be used. At no time during the pulling operation can the load line that is attached to the helicopter's belly hook attachment point exceed a 30 degree angle from vertical. This does not apply when pulling from the helicopter's approved side pull attachment point.

(12) Visibility. Employees must keep clear of and outside the downwash of the helicopter except as necessary to perform a permitted activity.

(13) Communication.

(a) Communication must be maintained between the air crew and ground personnel at all times by a designated and qualified signal person. There must be a constant, open line of communication, using radios or head and hand signals.

(b) Signal systems must be understood by the air crew and the ground crew, including signal persons, prior to the hoisting of any load.

(c) Signaling and maintaining communications with the pilot are the sole and exclusive function of the signal person during periods of loading and unloading. The signal person must be distinguishable from other members of the ground crew by the pilot of the aircraft. This may be by way of orange-colored gloves, vest, or other apparel.

(d) The lead worker and one top person must also have an operating transmitter and receiver.

(e) Authorized and qualified employees may come within 50 feet of the helicopter when the rotor blades are turning, but no closer, other than to enter the craft or to hook or unhook the load or do other essential functions. Other employees may not come closer than 100 feet of the aircraft when it is operating.

(f) The signals between the signal person and the operator of the helicopter must be those submitted to the Federal Aviation Administration for the particular procedure or job. In the event no signals have been submitted to the Federal Aviation Administration, a system of signaling must be used that has been documented and that is capable of being clearly understood by all employees and others involved in the job. When head signals are to be used, the qualified worker must use a visually enhanced hard hat or helmet with clear markings to indicate the desired movement. Any signals other than up/down or in/out will require the use of hand signals.

(g) Should a change occur in the hazards, method of performing the job, signals to be used, or other operating conditions during the course of any particular job, a conference must immediately be held at which time all affected employees and others, including signal persons, ground personnel, and pilots, will be advised of such hazards or change of operation. No employee is permitted to work unless such employee and others fully understand the changes that have taken place.

(14) Helicopter Operation.

(a) Whenever approaching or leaving a helicopter with blades rotating, all employees must remain in full view of the pilot and remain in a crouched position while within 50 feet of the helicopter. No employee can approach the rear of the helicopter unless directly authorized and directed by the pilot of such craft. All employees when operating or working within 50 feet of the helicopter with blades turning are subject to the direction of the helicopter pilot.

(b) All materials and equipment loaded in the aircraft must be properly secured for flight.

(c) Long objects, such as shovels and live-line tools, must be carried horizontally and below the waist to avoid contact with the aircraft rotor blades.

(d) The pilot must ensure that all loads are safely secured to the helicopter, or in cargo baskets, and properly loaded with regard to weight and balance.

(e) Never throw anything while loading and unloading the helicopter. Thrown items may come in contact with the aircraft rotor blade, causing damage to the aircraft and possible injury to ground personnel.

(f) While in the helicopter, safety belts must remain fastened at all times except when pilot instructs otherwise or while entering or leaving the helicopter.

(g) Smoking in the helicopter is prohibited at all times.

(15) Helicopter Work Tasks.

(a) Human External Cargo (HEC)

(A) The sling or vertical suspension system for HEC is a vertical system suspended from the helicopter cargo hook. The sling system must comply with FAA regulation 14 CFR Part 133 Class B or D – External Load.

(B) Helicopter operations involving HEC must incorporate the use of a secondary safety device, in addition to the helicopter's primary attachment means, to prevent the inadvertent release of the load. This device must remain able to be jettisoned in accordance with class B load requirements.

(i) HEC lines must be not less than 10:1 safety ratio between the rated breaking strength and the working load.

(ii) All harnesses used for helicopter short-haul operations must meet the ANSI Z359.1-2007 standards for class III (full body) harnesses and must be equipped with both dorsal and sternal D rings.

(iii) All suspension harnesses used for HEC must be adjusted to the user, and the harness must be equipped with an orthostatic shock relief device. Such devices must be used on flights lasting over five minutes.

(b) Hover Transfer.

(A) The qualified line worker must be attached to the helicopter at all times when traveling between the ground and the aerial transfer point or worksite. There must be an FAA approved attachment point on the helicopter for the lineman's safety harness lanyard.

(B) If a platform system is used to transport crews, or if a crewmember performs work from a platform system, the platform system and all aircraft attachment points must comply with applicable FAA regulations and requirements.

(C) All platform operations must be conducted in accordance with the 14 CFR Part 133 Class A - External Load.

(D) Flight and hovering capabilities of the helicopter must not be adversely affected by the design of the platform.

(E) The platform may not adversely affect the auto rotation and emergency capabilities of the helicopter.

(F) The platform and loads may affect the lateral & longitudinal center of gravity weight and balance of the helicopter in flight, therefore an engineered counter-balance system which will ensure stability must be used if the platform exceeds the lateral center of gravity limits of the manufactures specifications for the helicopter.

(16) Fires. Open fires are not permitted in any area where fires will be affected by the downwash of the rotors, nor can any employee smoke in an area subject to the downdraft of the rotor.

(17) Refueling operations.

(a) Refueling any helicopter with either aviation gasoline or Jet B (Turbine) type fuel is prohibited while the engines are running.

(b) Fueling of helicopters using Jet A (Turbine-Kerosene) type fuel is allowed with engines running.

(c) All helicopter fueling must comply with the following:

(A) No unauthorized people are allowed within fifty feet of the refueling operation or fueling equipment.

(B) Fire extinguishers must be available and must be in compliance with FAA regulations.

(C) All fueling personnel must be thoroughly trained in the refueling operation and in the use of the available fire extinguishing equipment they may be expected to use.

(D) There must be no smoking, open flames, exposed flame heaters, flare pots, or open flame lights within fifty feet of the refueling area or fueling equipment. The refueling area or the fuel truck must be posted with "no smoking" signs.

(E) Prior to making any fueling connection to the aircraft, the fueling equipment must be bonded to the aircraft by use of a cable, thus providing a conductive path to equalize the potential between the fueling equipment and the aircraft. The bond must be maintained until fueling connections have been removed, thus allowing separated charges that could be generated during the fueling operation to reunite. Grounding during aircraft fueling is not permitted

(F) To control spills, fuel must be pumped either by hand or power. Pouring or gravity flow is not permitted. Self-closing nozzles or deadman controls must be used and may not be blocked open. Nozzles may not be dragged along the ground.

(G) In case of a spill, the fueling operation must be immediately stopped until such time as the person in charge determines that it is safe to resume the refueling operation.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-002-2324
Definitions

(1) Affected employee. An employee whose job requires him or her to operate or use a machine or equipment on which servicing or maintenance is being performed under lockout or tagout, or whose job requires him or her to work in an area in which such servicing or maintenance is being performed.

(2) Attendant. An employee assigned to remain immediately outside the entrance to an enclosed or other space to render assistance as needed to employees inside the space.

(3) Authorized employee. An employee who locks out or tags out machines or equipment in order to perform servicing or maintenance on that machine or equipment. An affected employee becomes an authorized employee when that employee's duties include performing servicing or maintenance covered under Division 2/RR.

(4) Automatic circuit recloser. A self-controlled device for automatically interrupting and reclosing an alternating-current circuit, with a predetermined sequence of opening and reclosing followed by resetting, hold closed, or lockout.

(5) Barricade. A physical obstruction such as tapes, cones, or A-frame type wood or metal structures that provides a warning about, and limits access to, a hazardous area.

(6) Barrier. A physical obstruction that prevents contact with energized lines or equipment or prevents unauthorized access to a work area.

(7) Bond. The electrical interconnection of conductive parts designed to maintain a common electric potential.

(8) Bus. A conductor or a group of conductors that serve as a common connection for two or more circuits.

(9) Bushing. An insulating structure that includes a through conductor or that provides a passageway for such a conductor, and that, when mounted on a barrier, insulates the conductor from the barrier for the purpose of conducting current from one side of the barrier to the other.

(10) Cable. A conductor with insulation, or a stranded conductor with or without insulation and other coverings (singleconductor cable), or a combination of conductors insulated from one another (multiple-conductor cable).

(11) Cable sheath. A conductive protective covering applied to cables.

Note to the definition of "cable sheath": A cable sheath may consist of multiple layers one or more of which is conductive.

(12) Circuit. A conductor or system of conductors through which an electric current is intended to flow.

(13) Clearance (between objects). The clear distance between two objects measured surface to surface.

(14) Clearance (for work). Authorization to perform specified work or permission to enter a restricted area.

(15) Clearance (electrical). Notification from an authorized person that all necessary actions have been taken to de-energize a circuit, line, or equipment and the line or equipment is safe to be worked, so that workers may be authorized to proceed with intended operations.

(16) Communication lines. (See Lines; (a) Communication lines.)

(17) Conductor. A material, usually in the form of a wire, cable, or bus bar, used for carrying an electric current.

(18) Contract employer. An employer, other than a host employer, that performs work covered by this section under contract.

(19) Covered conductor. A conductor covered with a dielectric having no rated insulating strength or having a rated insulating strength less than the voltage of the circuit in which the conductor is used.

(20) Current-carrying part. A conducting part intended to be connected in an electric circuit to a source of voltage. Non-current-carrying parts are those not intended to be so connected.

(21) Deenergized. Free from any electrical connection to a source of potential difference and from electric charge; not having a potential that is different from the potential of the earth.

Note to the definition of "deenergized": The term applies only to current-carrying parts, which are sometimes energized (alive).

(22) Designated employee (designated person). An employee (or person) who is assigned by the employer to perform specific duties under the terms of this section and who has sufficient knowledge of the construction and operation of the equipment, and the hazards involved, to perform his or her duties safely.

(23) Drop start (Chain saws): The process of starting a chain saw by simultaneously pushing it away from the body with one hand and pulling the starter cord handle with the other.

(24) Electric line truck. A truck used to transport personnel, tools, and material for electric supply line work.

(25) Electric supply equipment. Equipment that produces, modifies, regulates, controls, or safeguards a supply of electric energy.

(26) Electric supply lines. (See Lines; (b) Electric supply lines.)

(27) Electric utility. An organization responsible for the installation, operation, or maintenance of an electric supply system.

(28) Enclosed space. A working space, such as a manhole, vault, tunnel, or shaft, that has a limited means of egress or entry, that is designed for periodic employee entry under normal operating conditions, and that, under normal conditions, does not contain a hazardous atmosphere, but may contain a hazardous atmosphere under abnormal conditions.

Note to the definition of "enclosed space": Oregon OSHA does not consider spaces that are enclosed but not designed for employee entry under normal operating conditions to be enclosed spaces for the purposes of this section. Similarly, Oregon OSHA does not consider spaces that are enclosed and that are expected to contain a hazardous atmosphere to be enclosed spaces for the purposes of this Subdivision. Such spaces meet the definition of permit spaces in 1910.146, and entry into them must conform to that standard.

(29) Energized (alive, live). Electrically connected to a source of potential difference, or electrically charged so as to have a potential significantly different from that of earth in the vicinity.

(30) Energy isolating device. A physical device that prevents the transmission or release of energy, including, but not limited to, the following: a manually operated electric circuit breaker, a disconnect switch, a manually operated switch, a slide gate, a slip blind, a line valve, blocks, and any similar device with a visible indication of the position of the device. (Push buttons, selector switches, and other control-circuit-type devices are not energy isolating devices.)

(31) Energy source. Any electrical, mechanical, hydraulic, pneumatic, chemical, nuclear, thermal, or other energy source that could cause injury to employees.

(32) Entry (as used in 437-002-2304 Enclosed spaces, of Division 2/RR). The action by which a person passes through an opening into an enclosed space. Entry includes ensuing work activities in that space and is considered to have occurred as soon as any part of the entrant's body breaks the plane of an opening into the space.

(33) Equipment (electric). A general term including material, fittings, devices, appliances, fixtures, apparatus, and the like used as part of or in connection with an electrical installation.

(34) Exposed, Exposed to contact (as applied to energized parts). Not isolated or guarded.

(35) Fall restraint system. A fall protection system that prevents the user from falling any distance.

(36) First-aid training. Training in the initial care, including cardiopulmonary resuscitation (which includes chest compressions, rescue breathing, and, as appropriate, other heart and lung resuscitation techniques), performed by a person who is not a medical practitioner, of a sick or injured person until definitive medical treatment can be administered.

(37) Ground. A conducting connection, whether planned or unplanned, between an electric circuit or equipment and the earth, or to some conducting body that serves in place of the earth.

(38) Grounded. Connected to earth or to some conducting body that serves in place of the earth.

(39) Guarded. Covered, fenced, enclosed, or otherwise protected, by means of suitable covers or casings, barrier rails or screens, mats, or platforms, designed to minimize the possibility, under normal conditions, of dangerous approach or inadvertent contact by persons or objects.

Note to the definition of "guarded": Wires that are insulated, but not otherwise protected, are not guarded.

(40) Hazardous atmosphere. An atmosphere that may expose employees to the risk of death, incapacitation, impairment of ability to self-rescue (that is, escape unaided from an enclosed space), injury, or acute illness from one or more of the following causes:

(a) Flammable gas, vapor, or mist in excess of 10 percent of its lower flammable limit (LFL);

(b) Airborne combustible dust at a concentration that meets or exceeds its LFL;

Note to the definition of "hazardous atmosphere" (2): This concentration may be approximated as a condition in which the dust obscures vision at a distance of 1.52 meters (5 feet) or less.

(c) Atmospheric oxygen concentration below 19.5 percent or above 23.5 percent;

(d) Atmospheric concentration of any substance for which a dose or a permissible exposure limit is in Division 2/G, Occupational Health and Environmental Control; Division 3/D, Occupational Health and Environmental Controls; or in subdivisions Z, Toxic and Hazardous Substances, of Division 2 and Division 3; and which could result in employee exposure in excess of its dose or permissible exposure limit;

Note to the definition of "hazardous atmosphere" (4): An atmospheric concentration of any substance that is not capable of causing death, incapacitation, impairment of ability to self-rescue, injury, or acute illness due to its health effects is not covered by this provision.

(e) Any other atmospheric condition that is immediately dangerous to life or health.

Note to the definition of "hazardous atmosphere" (5): For air contaminants for which Oregon OSHA has not determined a dose or permissible exposure limit, other sources of information, such as Safety Data Sheets that comply with the Hazard Communication Standard, 1910.1200 of Division 2, and 1926.1200 of Division 3, published information, and internal documents can provide guidance in establishing acceptable atmospheric conditions.

(41) High-power tests. Tests in which the employer uses fault currents, load currents, magnetizing currents, and line-dropping currents to test equipment, either at the equipment's rated voltage or at lower voltages.

(42) High-voltage tests. Tests in which the employer uses voltages of approximately 1,000 volts as a practical minimum and in which the voltage source has sufficient energy to cause injury.

(43) High wind. A wind of such velocity that one or more of the following hazards would be present:

(a) The wind could blow an employee from an elevated location,

(b) The wind could cause an employee or equipment handling material to lose control of the material, or

(c) The wind would expose an employee to other hazards not controlled by the standard involved.

Note to the definition of "high wind": Oregon OSHA normally considers winds exceeding 64.4 kilometers per hour (40 miles per hour), or 48.3 kilometers per hour (30 miles per hour) if the work involves material handling, as meeting this criteria, unless the employer takes precautions to protect employees from the hazardous effects of the wind.

(44) Host employer. An employer that operates, or that controls the operating procedures for, an electric power generation, transmission, or distribution installation on which a contract employer is performing work covered by this section.

Note to the definition of "host employer": Oregon OSHA will treat the electric utility or the owner of the installation as the host employer if it operates or controls operating procedures for the installation. If the electric utility or installation owner neither operates nor controls operating procedures for the installation, Oregon OSHA will treat the employer that the utility or owner has contracted with to operate or control the operating procedures for the installation as the host employer. In no case will there be more than one host employer.

(45) Immediately dangerous to life or health (IDLH). Any condition that poses an immediate or delayed threat to life or that would cause irreversible adverse health effects or that would interfere with an individual's ability to escape unaided from a permit space.

Note to the definition of "immediately dangerous to life or health": Some materials-hydrogen fluoride gas and cadmium vapor, for example-may produce immediate transient effects that, even if severe, may pass without medical attention, but are followed by sudden, possibly fatal collapse 12-72 hours after exposure. The victim "feels normal" from recovery from transient effects until collapse. Such materials in hazardous quantities are considered to be "immediately" dangerous to life or health.

(46) Insulated. Separated from other conducting surfaces by a dielectric (including air space) offering a high resistance to the passage of current.

Note to the definition of "insulated": When any object is said to be insulated, it is understood to be insulated for the conditions to which it normally is subjected. Otherwise, it is, for the purpose of this section, uninsulated.

(47) Insulation (cable). Material relied upon to insulate the conductor from other conductors or conducting parts or from ground.

(48) Isolated. Not readily accessible to persons unless special means for access are used.

(49) Line-clearance tree trimmer. An employee who, through related training or on-the-job experience or both, is familiar with the special techniques and hazards involved in line-clearance tree trimming.

Note 1 to the definition of "line-clearance tree trimmer": An employee who is regularly assigned to a line-clearance tree-trimming crew and who is undergoing on-the-job training and who, in the course of such training, has demonstrated an ability to perform duties safely at his or her level of training and who is under the direct supervision of a line-clearance tree trimmer is considered to be a line-clearance tree trimmer for the performance of those duties.

Note 2 to the definition of "line-clearance tree trimmer": A line-clearance tree trimmer is not considered to be a "qualified employee" under Subdivision RR unless he or she has the training required for a qualified employee under 437-002-2300(2)(b), General: Training, of Subdivision RR. However, under the electrical safety-related work practices standard in Division 2/S, a line-clearance tree trimmer is considered to be a "qualified employee". Tree trimming performed by such "qualified employees" is not subject to the electrical safety-related work practice requirements contained in 1910.331 through 1910.335 of Division 2/S when it is directly associated with electric power generation, transmission, or distribution lines or equipment. (See 1910.331 for requirements on the applicability of the electrical safety-related work practice requirements contained in 1910.331 through 1910.335 to line-clearance tree trimming performed by such "qualified employees," and see the note following 1910.332(b)(3) of Division 2/S for information regarding the training an employee must have to be considered a qualified employee under 1910.331 through 1910.335 of Division 2/S.)

(50) Line-clearance tree trimming. The pruning, trimming, repairing, maintaining, removing, or clearing of trees, or the cutting of brush, that is within the following distance of electric supply lines and equipment:

(a) For voltages to ground of 50 kilovolts or less-3.05 meters (10 feet);

(b) For voltages to ground of more than 50 kilovolts-3.05 meters (10 feet) plus 0.10 meters (4 inches) for every 10 kilovolts over 50 kilovolts.

Note to the definition of "line-clearance tree trimming": This section applies only to line-clearance tree trimming performed for the purpose of clearing space around electric power generation, transmission, or distribution lines or equipment and on behalf of an organization that operates, or that controls the operating procedures for, those lines or equipment. See paragraph (1) of 437-002-2300. Tree trimming performed on behalf of a homeowner or commercial entity other than an organization that operates, or that controls the operating procedures for, electric power generation, transmission, or distribution lines or equipment is not directly associated with an electric power generation, transmission, or distribution installation and is outside the scope of this section. In addition, tree trimming that is not for the purpose of clearing space around electric power generation, transmission, or distribution lines or equipment is not directly associated with an electric power generation, transmission, or distribution installation and is outside the scope of this section. Such tree trimming may be covered by other applicable standards. See, for example, 437-002-0268 and 1910.331 through 1910.335 of Division 2.

(51) Lines.

(a) Communication lines. The conductors and their supporting or containing structures which are used for public or private signal or communication service, and which operate at potentials not exceeding 400 volts to ground or 750 volts between any two points of the circuit, and the transmitted power of which does not exceed 150 watts. If the lines are operating at less than 150 volts, no limit is placed on the transmitted power of the sys-

tem. Under certain conditions, communication cables may include communication circuits exceeding these limitations where such circuits are also used to supply power solely to communication equipment.

Note to the definition of "communication lines": Telephone, telegraph, railroad signal, data, clock, fire, police alarm, cable television, and other systems conforming to this definition are included. Lines used for signaling purposes, but not included under this definition, are considered as electric supply lines of the same voltage.

(b) Electric supply lines. Conductors used to transmit electric energy and their necessary supporting or containing structures. Signal lines of more than 400 volts are always supply lines within this section, and those of less than 400 volts are considered as supply lines, if so run and operated throughout.

(52) Manhole. A subsurface enclosure that personnel may enter and that is used for installing, operating, and maintaining submersible equipment or cable.

(53) Minimum approach distance. The closest distance an employee may approach an energized or a grounded object.

Note to the definition of "minimum approach distance": 437-002-2311 (3)(a), Working on or near exposed energized parts, requires employers to establish minimum approach distances.

(54) Personal fall arrest system. A system used to arrest an employee in a fall from a working level.

(55) Power-line Carrier (PLC). An electric power transmission and distribution conductor that simultaneously carries data, such as internet broadband. Also known as power-line networking (PLN) or power-line communication.

(56) Qualified employee (qualified person). An employee (person) knowledgeable in the construction and operation of the electric power generation, transmission, and distribution equipment involved, along with the associated hazards.

Note 1 to the definition of "qualified employee (qualified person)": An employee must have the training required by 437-002-2300(2)(b) General, Training; to be a qualified employee.

Note 2 to the definition of "qualified employee (qualified person)": an employee who is undergoing on-the-job training and who has demonstrated, in the course of such training, an ability to perform duties safely at his or her level of training and who is under the direct supervision of a qualified person is a qualified person for the performance of those duties.

(57) Statistical sparkover voltage. A transient overvoltage level that produces a 97.72-percent probability of sparkover (that is, two standard deviations above the voltage at which there is a 50-percent probability of sparkover).

(58) Statistical withstand voltage. A transient overvoltage level that produces a 0.14-percent probability of sparkover (that is, three standard deviations below the voltage at which there is a 50-percent probability of sparkover).

(59) Switch. A device for opening and closing or for changing the connection of a circuit. In this section, a switch is manually operable, unless otherwise stated.

(60) System operator. A qualified person who has been designated by the employer to have authority over switching, clearances, and operation of the system and its parts.

(61) Vault. An enclosure, above or below ground, that personnel may enter and that is used for installing, operating, or maintaining equipment or cable.

(62) Vented vault. A vault that has provision for air changes using exhaust flue stacks and low-level air intakes operating on pressure and temperature differentials that provide for airflow that precludes a hazardous atmosphere from developing.

(63) Voltage. The effective (root mean square, or rms) potential difference between any two conductors or between a conductor and ground. This section expresses voltages in nominal values, unless otherwise indicated. The nominal voltage of a system or circuit is the value assigned to a system or circuit of a given voltage class for the purpose of convenient designation. The operating voltage of the system may vary above or below this value.

(64) Voltage (low). Voltage of 600 volts or less.

(65) Voltage (high). Voltage greater than 600 volts.

(66) Work-positioning equipment. A body belt or body harness system rigged to allow an employee to be supported on an elevated vertical surface, such as a utility pole or tower leg, and work with both hands free while leaning.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

437-003-0001
Adoption by Reference

In addition to, and not in lieu of, any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, in the Federal Register:

(1) Subdivision A — GENERAL:

(a) 29 CFR 1926.1 Purpose and Scope, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.2 Variances from safety and health standards, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.3 Inspections – right of entry, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.4 Rules of practice for administrative adjudications for enforcement of safety and health standards, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.6 Incorporation by reference, published 4/11/14, FR vol. 79, no. 70, p. 20316.

(2) Subdivision B — GENERAL INTERPRETATIONS:

(a) 29 CFR 1926.10 Scope of subpart, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.11 Coverage under section 103 of the act distinguished, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.12 Reorganization plan No. 14 of 1950, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.13 Interpretation of statutory terms, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.14 Federal contracts for 'mixed' types of performance, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.15 Relationship to the service contract act; Walsh-Healey Public Contracts Act, published 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.16 Rules of construction, published 4/6/79, FR vol. 44, p. 20940.

(3) Subdivision C — GENERAL SAFETY AND HEALTH PROVISIONS:

(a) 29 CFR 1926.20 General safety and health provisions, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

(b) 29 CFR 1926.21 Safety training and education, published 4/6/79, FR vol. 44, p. 20940; amended with Oregon OSHA AO 6-2012, repealed (b)(6), f. 9/28/12, ef. 4/1/13.

(c) 29 CFR 1926.22 Recording and reporting of injuries (Reserved)

(d) 29 CFR 1926.23 First aid and medical attention, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.24 Fire protection and prevention, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.25 Housekeeping, published 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.26 Illumination, published 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.27 Sanitation, published 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.28 Personal protective equipment. REPEALED with Oregon OSHA Admin. Order 2-2013, filed 2/15/13, effective 4/1/13. In Oregon, OAR 437-003-0134 applies.

(j) 29 CFR 1926.29 Acceptable certifications, published 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.30 Shipbuilding and ship repairing, published 3/7/96, FR vol. 61, no. 46, p. 9249.

(l) 29 CFR 1926.31 (Reserved).

(m) 29 CFR 1926.32 Definitions, published 6/30/93, FR vol. 58, no. 124, p. 35078.

(n) 29 CFR 1926.33 Access to employee exposure and medical records, published 6/20/96, FR vol. 61, no. 46, p. 31427.

(o) 29 CFR 1926.34 Means of egress, published 6/30/93, Federal Register, vol. 58, no. 124, p. 35083.

(4) Subdivision D — OCCUPATIONAL HEALTH AND ENVIRONMENTAL CONTROLS:

(a) 29 CFR 1926.50 Medical services and first aid, published 6/18/98, FR vol. 63, no. 117, p. 33469.

(b) 29 CFR 1926.51 Sanitation, published 6/30/93, FR vol. 58, no. 124, p. 35084.

(c) 29 CFR 1926.52 Occupational noise exposure, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.53 Ionizing radiation, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.54 Nonionizing radiation, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.55 Gases, vapors, fumes, dusts, and mists, published 1/10/97, FR vol. 62, no. 7, p. 1619.

(g) 29 CFR 1926.56 Illumination, published 4/6/79, FR vol. 44, p. 20940.

(h) 29 CFR 1926.57 Ventilation, published 1/8/98, FR vol. 63, no. 5, p. 1295.

(i) 29 CFR 1926.58 Reserved, §1926.58, Asbestos, tremolite, anthophyllite and actinolite is redesignated as §1926.1101, Asbestos, and §1926.58 is reserved (8/10/94, FR vol. 59, no. 153, pp. 41131-62).

(j) 29 CFR 1926.59 Hazard Communication, published 6/20/96, FR vol. 61, p. 31427.

(k) 29 CFR 1926.60 Methylenedianiline (MDA), published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

(l) 29 CFR 1926.61 Retention of DOT markings, placards and labels, published 6/20/96, FR vol. 61, p. 31427.

(m) 29 CFR 1926.62 Lead, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

NOTE: Cadmium has been redesignated as §1926.1127.

(n) 29 CFR 1926.65 Hazardous Waste Operations and Emergency Response

NOTE: Division 2/H, 1910.120, Hazardous Waste Operations and Emergency Response, applies to Construction.

(5) Subdivision E — PERSONAL PROTECTIVE AND LIFE SAVING EQUIPMENT:

(a) 29 CFR 1926.95 Criteria for personal protective equipment. REPEALED with Oregon OSHA Admin. Order 2-2013, filed 2/15/13, effective 4/1/13. In Oregon, OAR 437-003-0134 applies.

(b) 29 CFR 1926.97 Electrical protective equipment, published 4/11/14, FR vol. 79, no. 70, p. 20316.

(c) 29 CFR 1926.100 Head protection. REPEALED with Oregon OSHA Admin. Order 2-2013, filed 2/15/13, effective 4/1/13. In Oregon, OAR 437-003-0134 applies.

(d) 29 CFR 1926.101 Hearing protection. REPEALED with Oregon OSHA Admin. Order 2-2013, filed 2/15/13, effective 4/1/13. In Oregon, OAR 437-003-0134 applies.

(e) 29 CFR 1926.102 Eye and face protection. REPEALED with Oregon OSHA Admin. Order 2-2013, filed 2/15/13, effective 4/1/13. In Oregon, OAR 437-003-0134 applies.

(f) 29 CFR 1926.103 Respiratory protection, published 1/8/98, FR vol. 63, no. 5, p. 1297.

NOTE: 29 CFR 1926.104 Removed, 8/9/94, FR vol. 59, no. 152, p. 40729.

(g) 29 CFR 1926.105 Reserved, 8/9/94, FR vol. 59, no. 152, p. 40729.

(h) 29 CFR 1926.106 Working over or near water, published 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.107 Definitions applicable to this subpart, published 8/9/94, FR vol. 59, no. 152, p. 40729.

(6) Subdivision F — FIRE PROTECTION AND PREVENTION:

(a) 29 CFR 1926.150 Fire protection, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.151 Fire prevention, published 7/11/86, FR vol. 51, p. 25318.

(c) 29 CFR 1926.152 Flammable and combustible liquids, published 6/30/93, FR vol. 58, no. 124, p. 35162.

(d) 29 CFR 1926.153 Liquefied petroleum gas (LP-Gas), published 6/30/93, FR vol. 58, no. 124, p. 35170.

(e) 29 CFR 1926.154 Temporary heating devices, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.155 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.

(7) Subdivision G — SIGNS, SIGNALS, AND BARRICADES:

(a) 29 CFR 1926.200 Accident prevention signs and tags, published 6/13/13, FR vol. 78, no. 114, p. 35559; 11/6/13, FR vol. 78, no. 215, p. 66641.

(b) 29 CFR 1926.201 Signaling, REPEALED with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.

(c) 29 CFR 1926.202 Barricades, REPEALED with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.

(d) 29 CFR 1926.203 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940; amended with OR-OSHA Admin. Order 2-2003, f. 1/30/03, ef. 1/30/03.

(8) Subdivision H — MATERIALS HANDLING, STORAGE, USE AND DISPOSAL:

(a) 29 CFR 1926.250 General requirements for storage, published 6/30/93, FR vol. 58, no. 124, p. 35173.

(b) 29 CFR 1926.251 Rigging equipment for material handling, published 6/30/93, FR vol. 58, no. 124, p. 35173.

(c) 29 CFR 1926.252 Disposal of waste materials, published 4/6/79, FR vol. 44, p. 20940.

(9) Subdivision I — TOOLS — HAND AND POWER:

(a) 29 CFR 1926.300 General requirements, published 3/7/96, FR vol. 61, no. 46, p. 9250.

(b) 29 CFR 1926.301 Hand tools, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.302 Power operated hand tools, published 6/30/93, FR vol. 58, no. 124, p. 35175.

(d) 29 CFR 1926.303 Abrasive wheels and tools, published 6/30/93, FR vol. 58, no. 124, p. 35175.

(e) 29 CFR 1926.304 Woodworking tools, published 3/7/96, FR vol. 61, no. 46, p. 9251.

(f) 29 CFR 1926.305 Jacks - lever and ratchet, screw, and hydraulic, published Federal Register vol. 58, no. 124, p. 35176.

(10) Subdivision J — WELDING AND CUTTING:

(a) 29 CFR 1926.350 Gas welding and cutting. Repealed. Oregon OSHA Admin. Order 6-2014, f. 10/28/14, ef. 5/1/15. In Oregon, OAR 437-002-2253 applies.

(b) 29 CFR 1926.351 Arc welding and cutting, published 7/11/86, FR vol. 51, p. 25318.

(c) 29 CFR 1926.352 Fire prevention, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.353 Ventilation and protection in welding, cutting, and heating, published 6/30/93, FR vol. 58, no. 124, p. 35179.

(e) 29 CFR 1926.354 Welding, cutting, and heating in way of preservative coatings, published 4/6/79, FR vol. 44, p. 20940.

(11) Subdivision K — ELECTRICAL:

(a) 29 CFR 1926.400 Introduction, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(b) 29 CFR 1926.401 (Reserved)

(c) 29 CFR 1926.402 Applicability, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(d) 29 CFR 1926.403 General requirements, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(e) 29 CFR 1926.404 Wiring design and protection, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335; amended with AO 5-2002, repeal (b)(1), f. 6/28/02, ef. 10/1/03.

(f) 29 CFR 1926.405 Wiring methods, components, and equipment for general use, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(g) 29 CFR 1926.406 Specific purpose equipment and installations, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(h) 29 CFR 1926.407 Hazardous (classified) locations, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(i) 29 CFR 1926.408 Special systems, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(j) 29 CFR 1926.409 (Reserved)

(k) 29 CFR 1926.415 (Reserved)

(l) 29 CFR 1926.416 General requirements, published 8/12/96, FR vol. 61, no. 156, p. 41738.

(m) 29 CFR 1926.417 Lockout and tagging of circuits, published 8/12/96, FR vol. 61, no. 156, p. 41739.

(n) 29 CFR 1926.418 (Reserved)

(o) 29 CFR 1926.430 (Reserved)

(p) 29 CFR 1926.431 Maintenance of equipment, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(q) 29 CFR 1926.432 Environmental deterioration of equipment, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(r) 29 CFR 1926.433 - 29 CFR 1926.440 (Reserved).

(s) 29 CFR 1926.441 Battery locations and battery charging, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(t) 29 CFR 1926.442 - 29 CFR 1926.448 (Reserved).

(u) 29 CFR 1926.449 Definitions applicable to this subpart, published 7/11/86, FR vol. 51, no. 133, pp. 25294-25335.

(12) Subdivision L — SCAFFOLDING:

(a) 29 CFR 1926.450 Scope, application and definitions applicable to this subpart, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(b) 29 CFR 1926.451 General requirements, published 11/25/96, FR vol. 61, no. 228, p. 59831.

(c) 29 CFR 1926.452 Additional requirements applicable to specific types of scaffolds, published 8/30/96, FR vol. 61, no. 170, p. 46113.

(d) 29 CFR 1926.453 Aerial lifts, published 11/25/96, FR vol. 61, no. 228, p. 59832.

(e) 29 CFR 1926.454 Training, published 8/30/96, FR vol. 61, no. 170, p. 46117.

(f) Appendix A to Subpart L Scaffold Specifications, published 8/30/96, FR vol. 61, no. 170, p. 46117.

(g) Appendix B to Subpart L Criteria for determining the feasibility of providing safe access and fall protection for scaffold erectors and dismantlers (Reserved), published 8/30/96, FR vol. 61, no. 170, p. 46122.

(h) Appendix C to Subpart L List of National Consensus Standards, published 8/30/96, FR vol. 61, no. 170, p. 46122.

(i) Appendix D to Subpart L List of training topics for scaffold erectors and dismantlers, published 8/30/96, FR vol. 61, no. 170, p. 46122.

(j) Appendix E to Subpart L Drawing and illustrations, published 11/25/96, FR vol. 61, no. 228, p. 59832.

(13) Subdivision M — FALL PROTECTION:

(a) 29 CFR 1926.500 Scope, application, and definitions applicable to this subpart, published 4/11/14, FR vol. 79, no. 70, p. 20316.

(b) 29 CFR 1926.501 Duty to have fall protection, published 8/9/94, FR vol. 59, no. 152, p. 40732-40733; amended with AO 6-2002, f. and ef. 7/19/02.

(c) 29 CFR 1926.502 Fall protection systems criteria and practices, published 8/9/94, FR vol. 59, no. 152, p. 40733-40738; amended with AO 6-2002, f. and ef. 7/19/02.

(d) 29 CFR 1926.503 Training requirements. REPEALED with AO 6-2002, f. and ef. 7/19/02, replaced with OI.

(e) Appendix A to Subpart M Determining Roof Widths, published 8/9/94, FR vol. 59, no. 152, p. 40738-40742.

(f) Appendix B to Subpart M Guardrail Systems, published 8/9/94, FR vol. 59, no. 152, p. 40743.

(g) Appendix C to Subpart M Personal Fall Arrest Systems, published 8/9/94, FR vol. 59, no. 152, p. 40743-40746.

(h) Appendix D to Subpart M Positioning Device Systems, published 8/9/94, FR vol. 59, no. 152, p. 40746.

(14) Subdivision N — HELICOPTERS, HOISTS, ELEVATORS, AND CONVEYORS:

(a) 29 CFR 1926.550 (Reserved).

(b) 29 CFR 1926.551 Helicopters, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.552 Material hoists, personnel hoists, and elevators, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.553 Base-mounted drum hoist, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(e) 29 CFR 1926.554 Overhead hoists, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.555 Conveyors, published 4/6/79, FR vol. 44, p. 20940.

(15) Subdivision O — MOTOR VEHICLES, MECHANIZED EQUIPMENT, AND MARINE OPERATIONS:

(a) 29 CFR 1926.600 Equipment, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(b) 29 CFR 1926.601 Motor vehicles, REPEALED by OR-OSHA Admin. Order 6-2007, f. 9/26/07, ef. 9/26/07.

(c) 29 CFR 1926.602 Material handling equipment, published 12/1/98, FR vol. 63, no. 230, p. 66274; amended by AO 7-2003, f. 12/5/03, ef. 12/5/03.

(d) 29 CFR 1926.603 Pile driving equipment, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.604 Site clearing, published 7/22/77, FR vol. 42, p. 37674.

(f) 29 CFR 1926.605 Marine operations and equipment, published 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.606 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.

(16) Subdivision P — EXCAVATIONS:

(a) 29 CFR 1926.650 Scope, application, and definitions applicable to this subdivision, published 10/31/89, FR vol. 54, no. 209, pp. 45959-45961.

(b) 29 CFR 1926.651 General requirements, published 8/9/94, FR vol. 59, no. 152, p. 40730.

(c) 29 CFR 1926.652 Requirements for protective systems, published 10/31/89, FR vol. 54, no. 209, pp. 45961-45962.

(d) Appendices A–F to Subdivision P, Excavations, published 10/31/89, FR vol. 54, no. 209, pp. 45962-45991.

(17) Subdivision Q — CONCRETE AND MASONRY CONSTRUCTION:

(a) 29 CFR 1926.700 Scope, application and definitions applicable to this subpart, published 10/18/90, FR vol. 55, no. 202, p. 42326.

(b) 29 CFR 1926.701 General requirements, published 8/9/94, FR vol. 59, no. 152, p. 40730.

(c) 29 CFR 1926.702 Requirements for equipment and tools, published 6/16/88, FR vol. 53, p. 22612.

(d) 29 CFR 1926.703 Requirements for cast-in-place concrete, published 6/16/88, FR vol. 53, p. 22612.

(e) 29 CFR 1926.704 Requirements for precast concrete, published 10/5/89, FR vol. 54, no. 192, p. 41088.

(f) 29 CFR 1926.705 Requirements for lift-slab construction operations, published 10/18/90, FR vol. 55, no. 202, p. 42326.

(g) Appendix A to 1926.705 Lift-slab operations, published 10/18/90, FR vol. 55, no. 202, p. 42326.

(h) 29 CFR 1926.706 Requirements for masonry construction, published 6/16/88, FR vol. 53, p. 22612; amended with OR-OSHA Admin. Order 1-2003, f. 1/30/03, ef. 4/30/03.

(18) Subdivision R — STEEL ERECTION:

(a) 29 CFR 1926.750 Scope, published 7/17/01, FR vol. 66, no. 137, p. 37137.

(b) 29 CFR 1926.751 Definitions, published 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.

(c) 29 CFR 1926.752 Site layout, site-specific erection plan and construction sequence, published 7/17/01, FR vol. 66, no. 137, p. 37137.

(d) 29 CFR 1926.753 Hoisting and rigging, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(e) 29 CFR 1926.754 Structural steel assembly, published 4/3/06, FR vol. 71, no. 63, p. 16669.

(f) 29 CFR 1926.755 Column anchorage, published 7/17/01, FR vol. 66, no. 137, p. 37137.

(g) 29 CFR 1926.756 Beams and columns, published 7/17/01, FR vol. 66, no. 137, p. 37137.

(h) 29 CFR 1926.757 Open web steel joists, published 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.

(i) 29 CFR 1926.758 Systems-engineered metal buildings, published 7/17/01, FR vol. 66, no. 137, p. 37137.

(j) 29 CFR 1926.759 Falling object protection, published 7/17/01, FR vol. 66, no. 137, p. 37137.

(k) 29 CFR 1926.760 Fall protection, published 7/17/01, FR vol. 66, no. 137, p. 37137; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.

(l) 29 CFR 1926.761 Training, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

(m) Appendix A to Subpart R Guidelines for establishing the components of a site-specific erection plan: Nonmandatory Guidelines for Complying with §1926.752(e), published 7/17/01, FR vol. 66, no. 137, p. 37137.

(n) Appendix B to Subpart R Reserved.

(o) Appendix C to Subpart R Illustrations of bridging terminus points: Nonmandatory Guidelines for Complying with §1926.757(a)(10) and §1926.757(c)(5), published 7/17/01, FR vol. 66, no. 137, p. 37137.

(p) Appendix D to Subpart R Illustration of the use of control lines to demarcate controlled decking zones (CDZs): Nonmandatory Guidelines for Complying with §1926.760(c)(3), REPEALED with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.

(q) Appendix E to Subpart R Training: Nonmandatory Guidelines for Complying with §1926.761, published 7/17/01, FR vol. 66, no. 137, p. 37137.

(r) Appendix F to Subpart R Perimeter columns: Nonmandatory Guidelines for Complying with §1926.756(e) to Protect the Unprotected Side or Edge of a Walking/Working Surface, published 7/17/01, FR vol. 66, no. 137, p. 37137.

(s) Appendix G to Subpart R Fall protection systems criteria and practices from §1926.502: Nonmandatory Guidelines for Complying with Complying with §1926.760(d), REPEALED with AO 6-2002, f. and ef. 7/19/02; amended with AO 8-2003, f. 12/30/03, ef. 1/1/04.

(t) Appendix H to Subpart R Double connections: Illustration of a clipped end connection and a staggered connection: Non-Mandatory Guidelines for Complying with Complying with §1926.756(c)(1), published 7/17/01, FR vol. 66, no. 137, p. 37137.

(19) Subdivision S — UNDERGROUND CONSTRUCTION, CAISSONS, COFFERDAMS, AND COMPRESSED AIR:

(a) 29 CFR 1926.800 Underground construction, published 4/23/13, FR vol. 78, no. 78, p. 23837.

(b) 29 CFR 1926.801 Caissons, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.802 Cofferdams, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.803 Compressed air, published 7/11/86, FR vol. 51, p. 25318.

(e) 29 CFR 1926.804 Definitions applicable to this subpart, published 4/6/79, FR vol. 44, p. 20940.

(f) Appendix A to Subpart S Decompression Tables, published 4/6/79, FR vol. 44, p. 20940.

(20) Subdivision T — DEMOLITION:

(a) 29 CFR 1926.850 Preparatory operations, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.851 Stairs, passageways, and ladders, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.852 Chutes, published 4/6/79, FR vol. 44, p. 20940.

(d) 29 CFR 1926.853 Removal of materials through floor openings, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.854 Removal of walls, masonry sections, and chimneys, published 4/6/79, FR vol. 44, p. 20940.

(f) 29 CFR 1926.855 Manual removal of floors, published 4/6/79, FR vol. 44, p. 20940.

(g) 29 CFR 1926.856 Removal of walls, floors, and materials with equipment, published 4/23/13, FR vol. 78, no. 78, p. 23837.

(h) 29 CFR 1926.857 Storage, published 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.858 Removal of steel construction, published 4/23/13, FR vol. 78, no. 78, p. 23837.

(j) 29 CFR 1926.859 Mechanical demolition, published 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.860 Selective demolition by explosives, published 4/6/79, FR vol. 44, p. 20940.

(21) Subdivision U — BLASTING AND USE OF EXPLOSIVES:

(a) 29 CFR 1926.900 General provisions, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.901 Blaster qualifications, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.902 Surface transportation of explosives, published 6/30/93, FR vol. 58, no. 124, p. 35311.

(d) 29 CFR 1926.903 Underground transportation of explosives, published 4/6/79, FR vol. 44, p. 20940.

(e) 29 CFR 1926.904 Storage of explosives and blasting agents, published 6/30/93, FR vol. 58, no. 124, p. 35311.

(f) 29 CFR 1926.905 Loading of explosives or blasting agents, published 6/30/93, FR vol. 58, no. 124, p. 35184.

(g) 29 CFR 1926.906 Initiation of explosive charges — electric blasting, published 6/18/98, FR vol. 63, no. 117, p. 33469.

(h) 29 CFR 1926.907 Use of safety fuse, published 4/6/79, FR vol. 44, p. 20940.

(i) 29 CFR 1926.908 Use of detonating cord, published 4/6/79, FR vol. 44, p. 20940.

(j) 29 CFR 1926.909 Firing the blast, published 4/6/79, FR vol. 44, p. 20940.

(k) 29 CFR 1926.910 Inspection after blasting, published 4/6/79, FR vol. 44, p. 20940.

(l) 29 CFR 1926.911 Misfires, published 4/6/79, FR vol. 44, p. 20940.

(m) 29 CFR 1926.912 Underwater blasting, published 4/6/79, FR vol. 44, p. 20940.

(n) 29 CFR 1926.913 Blasting in excavation work under compressed air, published 4/6/79, FR vol. 44, p. 20940.

(o) 29 CFR 1926.914 Definitions applicable to this subpart, published 6/30/93, FR vol. 58, no. 124, p. 35184, 35311.

(22) Subdivision V — POWER TRANSMISSION AND DISTRIBUTION:

29 CFR 1926.950 through 1926.960 are repealed with Oregon OSHA Admin. Order 3-2015, f. 10/9/15, ef. 1/1/16. In Oregon, Division 2/RR applies.

(23) Subdivision W — ROLLOVER PROTECTIVE STRUCTURES: OVERHEAD PROTECTION:

(a) 29 CFR 1926.1000 Rollover protective structures (ROPS) for material handling equipment, published 4/6/79, FR vol. 44, p. 20940.

(b) 29 CFR 1926.1001 Minimum performance criteria for rollover protective structure for designated scrapers, loaders, dozers, graders, and crawler tractors, published 4/6/79, FR vol. 44, p. 20940.

(c) 29 CFR 1926.1002 Protective frame (ROPS) test procedures and performance requirements for wheel-type agricultural and industrial tractors used in construction, published 7/20/06, FR vol. 71, no. 139, p. 41127..

(d) 29 CFR 1926.1003 Overhead protection for operators of agricultural and industrial tractors, published 2/28/06, FR vol. 71, no. 39, p. 9909.

(24) Subdivision X — STAIRWAYS AND LADDERS:

(a) 29 CFR 1926.1050 Scope, application and definitions applicable to this Subdivision, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(b) 29 CFR 1926.1051 General requirements, published 11/14/90, FR vol. 55, no. 220, p. 47688.

(c) 29 CFR 1926.1052 Stairways, published 8/23/91, FR vol. 56, no. 164, pp. 41793-41794.

(d) 29 CFR 1926.1053 Ladders, published 4/11/14, FR vol. 79, no. 70, p. 20316.

(e) 29 CFR 1926.1054 (Reserved).

(f) 29 CFR 1926.1055 (Reserved).

(g) 29 CFR 1926.1056 (Reserved).

(h) 29 CFR 1926.1057 (Reserved).

(i) 29 CFR 1926.1058 (Reserved).

(j) 29 CFR 1926.1059 (Reserved).

(k) 29 CFR 1926.1060 Training requirements, published 11/14/90, FR vol. 55, no. 220, p. 47691.

(25) Subdivision Z — TOXIC AND HAZARDOUS SUBSTANCES:

(a) 29 CFR 1926.1101 Asbestos, published 2/8/13, FR vol. 78, no. 27, p. 9311.

(b) 29 CFR 1926.1126 Chromium (VI), published; 3/17/10, FR vol. 75, no. 51, pp. 12681-12686.

(c) 29 CFR 1926.1127 Cadmium, published 12/12/08, FR vol. 73, no. 240, pp. 75568-75589.

(d) 29 CFR 1926.1152 Methylene Chloride, published 12/18/97, FR vol. 62, no. 243, p. 66275.

(26) Subdivision AA — (Reserved).

(27) Subdivision BB — (Reserved).

(28) Subdivision CC — Cranes and Derricks in Construction.

(a) 29 CFR 1926.1400 Scope, published 4/11/14, FR vol. 79, no. 70, p. 20316.

(b) 29 CFR 1926.1401 Definitions, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(c) 29 CFR 1926.1402 Ground conditions, published 8/9/10, FR vol. 75, no. 152. Pp. 47906-48177.

(d) 29 CFR 1926.1403 Assembly/Disassembly — selection of manufacturer or employer procedures, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(e) 29 CFR 1926.1404 Assembly/Disassembly — general requirements (applies to all assembly and disassembly operations), published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(f) 29 CFR 1926.1405 Disassembly — additional requirements for dismantling of booms and jibs (applies to both the use of manufacturer procedures and employer procedures), published 8/9/10, FR vol. 75, no. 152. Pp. 47906-48177.

(g) 29 CFR 1926.1406 Assembly/Disassembly — employer procedures — general requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(h) 29 CFR 1926.1407 Power line safety (up to 350 kV) — assembly and disassembly, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(i) 29 CFR 1926.1408 Power line safety (up to 350 kV) — equipment operations, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(j) 29 CFR 1926.1409 Power line safety (over 35 kV), published 8/9/10, FR vol. 75, vol. 152, pp. 47906-48177.

(k) 29 CFR 1926.1410 Power line safety (all voltages) — equipment operations closer than the Table A zone, published 4/11/14, FR vol. 79, no. 70, p. 20316.

(l) 29 CFR 1926.1411 Power line safety — while traveling, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(m) 29 CFR 1926.1412 Inspections, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(n) 29 CFR 1926.1413 Wire rope — inspection, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(o) 29 CFR 1926.1414 Wire rope — selection and installation criteria, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(p) 29 CFR 1926.1415 Safety devices, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(q) 29 CFR 1926.1416 Operational aids, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(r) 29 CFR 1926.1417 Operation, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(s) 29 CFR 1926.1418 Authority to stop operation, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(t) 29 CFR 1926.1419 Signals — general requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(u) 29 CFR 1926.1420 Signals — radio, telephone or other electronic transmission of signals, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(v) 29 CFR 1926.1421 Signals — voice signals — additional requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(w) 29 CFR 1926.1422 Signals — hand signal chart, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(x) 29 CFR 1926.1423 Fall protection, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(y) 29 CFR 1926.1424 Work area control, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(z) 29 CFR 1926.1425 Keeping clear of the load, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(aa) 29 CFR 1926.1426 Free fall and controlled load lowering, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(bb) 29 CFR 1926.1427 Operator qualification and certification, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(cc) 29 CFR 1926.1428 Signal person qualifications, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(dd) 29 CFR 1926.1429 Qualifications of maintenance & repair employees, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(ee) 29 CFR 1926.1430 Training, published 8/9/10, FR vol. 75, no. 152, pp.47906-48177.

(ff) 29 CFR 1926.1431 Hoisting personnel, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(gg) 29 CFR 1926.1432 Multiple-crane/derrick lifts — supplemental requirements, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(hh) 29 CFR 1926.1433 Design, construction and testing, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(ii) 29 CFR 1926.1434 Equipment modifications, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(jj) 29 CFR 1926.1435 Tower cranes, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(kk) 29 CFR 1926.1436 Derricks, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(ll) 29 CFR 1926.1437 Floating cranes/derricks and land cranes/derricks on barges, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(mm) 29 CFR 1926.1438 Overhead & gantry cranes, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(nn) 29 CFR 1926.1439 Dedicated pile drivers, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(oo) 29 CFR 1926.1440 Sideboom cranes, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(pp) 29 CFR 1926.1441 Equipment with a rated hoisting/lifting capacity of 2,000 pounds of less, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(qq) 29 CFR 1926.1442 Severability, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(rr) Appendix A to Subdivision CC of 1926 – Standard Hand Signals, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(ss) Appendix B to Subdivision CC of 1926 — Assembly/Disassembly — Sample Procedures for Minimizing the Risk of Unintended Dangerous Boom Movement, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

(tt) Appendix C to Subdivision CC of 1926 — Operator Certification — Written Examination — Technical Knowledge Criteria, published 8/9/10, FR vol. 75, no. 152, pp. 47906-48177.

These standards are available at the Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the United States Government Printing Office.

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: APD 5-1989(Temp), f. 3-31-89, ef. 5-1-89; APD 8-1989, f. & ef. 7-7-89; APD 14-1989(Temp), f. 7-20-89, ef. 8-1-89; APD 15-1989, f. & ef. 9-13-89; OSHA 3-1990(Temp), f. & cert. ef. 1-19-90; OSHA 7-1990, f. & cert. ef. 3-2-90; OSHA 8-1990, f. & cert. ef. 3-30-90; OSHA 13-1990(Temp), f. 6-28-90, ef. 8-1-90; OSHA 19-1990, f. & cert. ef. 8-31-90; OSHA 27-1990, f. 12-12-90, cert. ef. 2-1-91; OSHA 6-1991, f. 3-18-91, cert. ef. 4-15-91; OSHA 7-1991, f. & cert. ef. 4-25-91; OSHA 15-1991, f. & cert. ef. 12-13-91; OSHA 16-1991, f. 12-16-91, cert. ef. 1-1-92; OSHA 6-1992, f. & cert. ef. 5-18-92; OSHA 11-1992, f. & cert. ef. 10-9-92; OSHA 1-1993, f. & cert. ef. 1-22-93; OSHA 16-1993, f. & cert. ef. 11-1-93; OSHA 4-1994, f. & cert. ef. 8-4-94; OSHA 1-1995, f. & cert. ef. 1-19-95; OSHA 3-1995, f. & cert. ef. 2-22-95; OSHA 4-1995, f. & cert. ef. 3-29-95; OSHA 5-1995, f. & cert. ef. 4-6-95; OSHA 6-1995, f. & cert. ef. 4-18-95; OSHA 8-1995, f. & cert. ef. 8-25-95; OSHA 5-1996, f. & cert. ef. 11-29-96; OSHA 6-1996, f. & cert. ef. 11-29-96; OSHA 2-1997, f. & cert. ef. 3-12-97; OSHA 4-1997, f. & cert. ef. 4-2-97; OSHA 6-1997, f. & cert. ef. 5-2-97; OSHA 7-1997, f. & cert. ef. 9-15-97; OSHA 3-1998, f. & cert. ef. 7-7-98; OSHA 6-1998, f. & cert. ef. 10-15-98; OSHA 7-1998, f. & cert. ef. 12-18-98; OSHA 2-1999, f. & cert. ef. 4-30-99; OSHA 6-1999, f. & cert. ef. 5-26-99; OSHA 3-2000, f. & cert. ef. 2-8-00; OSHA 3-2001, f. & cert. ef. 2-5-01; OSHA 3-2002, f. 4-15-02, cert. ef. 4-18-02; OSHA 5-2002, f. 6-28-02 cert. ef. 10-1-03; OSHA 6-2002, f. & cert. ef. 7-19-02; OSHA 1-2003, f. 1-30-03 cert. ef. 4-30-03; OSHA 2-2003, f. & cert. ef. 1-30-03; OSHA 7-2003, f. & cert. ef. 12-5-03; OSHA 8-2003, f. 12-30-03 cert. ef. 1-1-04; OSHA 1-2005, f. & cert. ef. 4-12-05; OSHA 2-2006, f. & cert. ef. 4-28-06; OSHA 4-2006, f. & cert. ef. 7-24-06; OSHA 5-2006, f. 8-7-06, cert. ef. 1-1-07; OSHA 6-2006, f. & cert. ef. 8-30-06; OSHA 10-2006, f. & cert. ef. 11-30-06; OSHA 6-2007, f. & cert. ef. 9-26-07; OSHA 5-2008, f. 5-1-08, cert. ef. 5-15-08; OSHA 5-2009, f. & cert. ef. 5-29-09; OSHA 3-2010, f. 6-10-10, cert. ef. 6-15-10; OSHA 1-2011, f. & cert. ef. 2-9-11; OSHA 4-2011, f. & cert. ef. 12-8-11; OSHA 5-2011, f. 12-8-11, cert. ef. 7-1-12; OSHA 1-2012, f. & cert. ef. 4-10-12; OSHA 3-2012, f. & cert. e.f 8-20-12; OSHA 5-2012, f. & cert. ef. 9-25-12; OSHA 6-2012, f. 9-28-12, cert. ef. 4-1-13; OSHA 7-2012, f. & cert. ef. 12-14-12; OSHA 1-2013, f. & cert. ef. 2-14-13; OSHA 2-2013, f. 2-15-13, cert. ef. 4-1-13; OSHA 4-2013, f. & cert. ef. 7-19-13; OSHA 5-2013, f. & cert. ef. 9-13-13; OSHA 6-2013, f. & cert. ef. 10-9-13; OSHA 7-2013, f. & cert. ef. 12-12-13; OSHA 6-2014, f. 10-28-14, cert. ef. 5-1-15, OSHA 3-2015, f. 10-9-15, cert. ef. 1-1-16

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

Rule Caption: Claim closure and reconsideration; implementation of Senate Bill 371
Adm. Order No.: WCD 6-2015
Filed with Sec. of State: 10-12-2015
Certified to be Effective: 11-17-15
Notice Publication Date: 9-1-2015
Rules Amended: 436-030-0005, 436-030-0015, 436-030-0020, 436-030-0023, 436-030-0115, 436-030-0125, 436-030-0135, 436-030-0145, 436-030-0165
Subject: In general, these rules:

- Adopt May 21, 2015, temporary rules permanently;
- Implement Enrolled Senate Bill 371 regarding the right of a worker's beneficiary to request reconsideration of a Notice of Closure;
- Modify rules to be consistent with Sather v. SAIF, 357 Or 122 (2015), regarding the worker's estate's right to request reconsideration and Liberty Northwest Ins. Corp. v. Olvera-Chavez, 267 Or App 55 (2014), regarding claim closure after training; and
- Make minor housekeeping changes.

Specifically, these rules:

- Redefine "Notice of Closure" from a "notice to the worker" to a "notice to the worker, estate, or beneficiary";
- Modify the information that must be included in the Updated Notice of Acceptance at Closure consistent with statutory language;
- Modify the requirements for the Updated Notice of Acceptance and Closure issued in an instant fatality to (1) remove the requirement to include names of all known beneficiaries and instead require a statement that beneficiaries may be entitled to benefits, and (2) include in required language the right of a beneficiary to request reconsideration of the Notice of Closure;
- Modify and clarify the requirements for claim closure after an authorized training program following the Court of Appeals opinion in Liberty Northwest Ins. Corp. v. Olvera-Chavez, 267 Or App 55 (2014);
- Provide that a Notice of Closure is effective the date it is mailed to the worker or the worker's estate if the worker is deceased;
- Require the Notice of Closure to include appeal rights of beneficiaries;
- Provide to whom and how the Notice of Closure should be mailed if the worker is deceased;
- Provide for the possibility that a request for reconsideration may be filed by the worker, the worker's estate, or a beneficiary of the worker, and require the request to include the identity and name of the requester and the requester's attorney, if any, and contact information;
- Require insurers and self-insured employers to pay costs for necessary interpreter services to prepare a deposition that is submitted to the reconsideration record;
- Require the insurer to distribute a copy of the record to be used for the reconsideration proceeding to the beneficiary or the beneficiary's attorney, or the estate or the estate's attorney, if the request for reconsideration was filed by the beneficiary or estate;

- Specify that a request for reconsideration must be mailed by a beneficiary within 60 days of the mailing date of the Notice of Closure if the Notice was mailed to the beneficiary, or within one year of the date the Notice of Closure was mailed to the estate of the worker if the Notice of Closure was not mailed to the beneficiary; and

- Update cross-references to the rules that apply to billing and payment of costs related to arbiter exams.

Rules Coordinator: Fred Bruyns—(503) 947-7717

436-030-0005
Definitions

Except where the context requires otherwise, the construction of these rules is governed by the definitions given in the Workers' Compensation Law and as follows:

(1) "Authorized Nurse Practitioner" means a nurse practitioner authorized to provide compensable medical services under ORS 656.245 and OAR 436-010.

(2) "Day" means calendar day unless otherwise specified (e.g., "working day").

(3) "Direct medical sequela" means a condition that is clearly established medically and originates or stems from an accepted condition. For example: The accepted condition is low back strain with herniated disc at L4-5. The worker develops permanent weakness in the leg and foot due to the accepted condition. The weakness is considered a "direct medical sequela."

(4) "Director" means the director of the Department of Consumer and Business Services, or the director's delegate for the matter.

(5) "Division" means the Workers' Compensation Division of the Department of Consumer and Business Services.

(6) "Instant Fatality" means a compensable claim for death benefits where the worker dies within 24 hours of the injury.

(7) "Insurer" means the State Accident Insurance Fund, an insurer authorized under ORS Chapter 731 to transact workers' compensation insurance in Oregon, a self-insured employer, or a self-insured employer group.

(8) "Mailed or Mailing Date," for the purposes of determining timeliness under these rules, means the date a document is postmarked. Requests submitted by electronic transmission (by facsimile or "fax") will be considered mailed as of the date printed on the banner automatically produced by the transmitting fax machine. Hand-delivered requests will be considered mailed as of the date stamped or punched in by the Workers' Compensation Division. Phone or in-person requests, where allowed under these rules, will be considered mailed as of the date of the request.

(9) "Notice of Closure" means a notice to the worker, estate, or beneficiary issued by the insurer to:

(a) Close an accepted disabling claim, including fatal claims;

(b) Correct, rescind, or rescind and reissue a Notice of Closure previously issued; or

(c) Reduce permanent total disability to permanent partial disability.

(10) "Reconsideration" means review by the director of an insurer's Notice of Closure.

(11) "Statutory closure date" means the date the claim satisfies the criteria for closure under ORS 656.268(1)(b) and (c).

(12) "Statutory appeal period" means the time frame for appealing a Notice of Closure or Order on Reconsideration.

(13) "Work disability," for purposes of determining permanent disability, means the separate factoring of impairment as modified by age, education, and adaptability to perform the job at which the worker was injured.

(14) "Worksheet" means a summary of facts used to derive the awards stated in the Notice of Closure.

Stat. Auth.: ORS 656.268, 656.726
Stats. Implemented: ORS 656.005, 656.268 (2015 OL Ch. 144), 656.726
Hist.: WCD 8-1978(Admin), f. 6-30-78, ef. 7-10-78; WCD 4-1980(Admin), f. 3-20-80, ef. 4-1-80; WCD 5-1981(Admin), 12-30-81, ef. 1-1-82; Renumbered from 436-065-0004, 5-1-85; WCD 13-1987, f. 12-18-87, ef. 1-1-88; WCD 5-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 31-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 12-1994, f. 11-18-94, cert. ef. 1-1-95; WCD 8-1996, f. 2-14-96, cert. ef. 2-17-96; WCD 17-1997, f. 12-22-97, cert. ef. 1-15-98; WCD 9-2000, f. 11-13-00, cert. ef. 1-1-01; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-03; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 1-2015, f. 1-29-15, cert. ef. 3-1-15; WCD 4-2015(Temp), f. & cert. ef. 5-21-15 thru 11-16-15; WCD 6-2015, f. 10-12-15, cert. ef. 11-17-15

436-030-0015
Insurer Responsibility

(1) When an insurer issues a Notice of Closure (Form 1644, 1644c, 1644r), the insurer is responsible for:

(a) Providing the director, the parties, and the worker's attorney if the worker is represented, a copy of the Notice of Closure, a copy of the worksheet (Form 2807) upon which the Notice is based, a completed "Insurer Notice of Closure Summary" (Form 1503) and an Updated Notice of Acceptance at Closure that specifies which conditions are compensable, as prescribed in OAR 436-030-0020;

(b) Maintaining a copy of the worksheet and records upon which the Notice of Closure is based in its claim file for audit purposes under OAR 436-050; and

(c) Issuing the Updated Notice of Acceptance at Closure on the same date as the Notice of Closure.

(A) The Updated Notice of Acceptance at Closure must contain the following title, information, and language:

(i) Title: "Updated Notice of Acceptance at Closure";

(ii) Information: A list of all compensable conditions, even if a condition was denied, ordered accepted by litigation, and is under appeal. Any conditions under appeal and those which were the basis for this claim opening must be specifically identified;

(iii) Language, in bold print:

"Notice to Worker: This notice restates and includes all prior acceptances. The conditions that were the basis of this claim opening were the only conditions considered at the time of claim closure. The insurer or self-insured employer is not required to pay any disability compensation for any condition specifically identified as under appeal, unless and until the condition is found to be compensable after all litigation is complete. Appeal of any denied conditions or objections to this notice will not delay claim closure. Any condition found compensable after the Notice of Closure is issued will require the insurer to reopen the claim for processing of that condition. If you believe a condition has been incorrectly omitted from this notice, or this notice is otherwise deficient, you must communicate the specific objection to the insurer in writing."

(B) In the case of an instant fatality, the Updated Notice of Acceptance may be combined with the Notice of Closure if the following is included:

(i) Title: "Updated Notice of Acceptance and Closure";

(ii) Information: A statement that beneficiaries may be entitled to death benefits under ORS 656.204 and 656.208, and the medically stationary date.

(iii) Language, in bold print:

"Notice to Worker's Beneficiary or Estate: This notice restates any prior acceptances. The insurer is required to determine the appropriate benefits to be paid to any beneficiaries and begin those payments within 30 days of the mailing date of this notice.

If you disagree with the notice of acceptance, you may appeal the decision to the Workers' Compensation Board, (insert current address for Workers' Compensation Board) within 30 days of the mailing date.

A beneficiary who was mailed this notice may request reconsideration of the notice by the Workers' Compensation Division, Appellate Review Unit, (insert current address for Workers' Compensation Division) within 60 days of the mailing date of this notice.

Beneficiaries who were not mailed a copy of this notice may request reconsideration of this notice within one year of the date this notice was mailed to the estate of the worker.

If you have questions about this notice, you may contact the Ombudsman for Injured Workers, the Workers' Compensation Division, or consult with an attorney."

(C) If the "Initial Notice of Acceptance" is issued at the same time as the "Updated Notice of Acceptance at Closure," both titles must appear near the top of the document.

(D) When an omission or error requires a corrected Updated Notice of Acceptance at Closure, the word "CORRECTED" must appear in capital letters adjacent to the word "Updated".

(2) The insurer or self-insured employer is not required to pay any disability compensation for any condition under appeal and specifically identified as such, unless and until the condition is found to be compensable after all litigation is complete.

(3) Copies of Notices of Refusal to Close must be mailed to the director and the parties, and to the worker's attorney, if the worker is represented.

(4) In claims with a date of injury on or after January 1, 2005, where the worker has not returned to regular work and ORS 656.726(4)(f) does not apply, or in claims with a date of injury on or after January 1, 2006, when the worker has not been released to regular work and ORS 656.726(4)(f) does not apply, the insurer must consider:

(a) The worker's age at the time the notice is issued;

(b) Adaptability to return to employment;

(c) The worker's level of education; and

(d) The worker's work history, including an accurate description of the physical requirements of the worker's job held at the time of injury, for the period from five years before the date of injury to the mailing date of the notice of closure with dates or period of time spent at each position, tasks performed or level of specific vocational preparation (SVP), and physical requirements. If the insurer cannot obtain five years of work his-

tory despite all reasonable efforts, the insurer must document its efforts and provide as much work history as it can obtain.

(5) In claims where the date of injury is before January 1, 2005, the worker has not returned or been released to regular work, ORS 656.726(4)(f) does not apply, and the claim involves injury to, or disease of, unscheduled body parts, areas, or systems, the insurer must consider:

(a) The worker's age at time the notice is issued;

(b) Adaptability to return to employment:

(c) The worker's level of education; and

(d) The worker's work history, including an accurate description of the physical requirements of the worker's job held at the time of injury, for the period from five years before the date of injury to the mailing date of the notice of closure with dates or period of time spent at each position, tasks performed or level of specific vocational preparation (SVP), and physical requirements.

(6) The insurer must consider any other records or information pertinent to claim determination prior to issuing a notice of closure.

(7) The insurer must notify the worker and the worker's attorney, if the worker is represented, in writing, when the insurer receives information that the worker's claim qualifies for closure under these rules.

(a) The insurer must send the written notice within three working days from the date the insurer receives the information, unless the claim has already been closed.

(b) The notice must advise the worker of his or her impending claim closure and that any time loss disability payments will end soon.

(8) The insurer must, within 14 days of closing the claim, provide the worker's attorney the same documents relied upon for claim closure.

(9) The insurer must not issue a Notice of Closure on an accepted nondisabling claim. Notices of Closure issued by the insurer in violation of this rule are void and without legal effect. Medically stationary status in nondisabling claims may be documented by the attending physician's statement of medically stationary status.

(10) When a condition is accepted after a closure and the claim has been reopened under ORS 656.262, the insurer must issue a Notice of Closure, considering only the newly accepted condition.

(11) Denials issued under ORS 656.262(7)(b), must clearly identify the phrase "major contributing cause" in the text of the denial.

(12) When a claim is closed where a designation of paying agent order (ORS 656.307) has been issued and the responsibility issue is not final by operation of law, the insurer processing the claim at the time of closure must send copies of the closure notice to the worker, the worker's attorney if the worker is represented, the director, and all parties involved in the responsibility issue.

Stat. Auth.: ORS 656.268, 656.726

Stats. Implemented: ORS 656.268 (2015 OL Ch. 144), 656.331, 656.726

Hist.: WCD 12-1994, f. 11-18-94, cert. ef. 1-1-95; WCD 8-1996, f. 2-14-96, cert. ef. 2-17-96; WCD 17-1997, f. 12-22-97, cert. ef. 1-15-98; WCD 9-2000, f. 11-13-00, cert. ef. 1-1-01; WCD 10-2001, f. 11-16-01, cert. ef. 1-1-02; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 4-2015(Temp), f. & cert. ef. 5-21-15 thru 11-16-15; WCD 6-2015, f. 10-12-15, cert. ef. 11-17-15

436-030-0020

Requirements for Claim Closure

(1) Issuance of a Notice of Closure. Unless the worker is enrolled and actively engaged in training, the insurer must issue a Notice of Closure on an accepted disabling claim within 14 days when:

(a) Medical information establishes that there is sufficient information to determine the extent of permanent disability and indicates that the worker is medically stationary;

(b) The compensable injury is no longer the major contributing cause of the worker's combined or consequential condition(s), a major contributing cause denial has been issued, and there is sufficient information to determine the extent of permanent disability;

(c) The worker fails to seek medical treatment for 30 days for reasons within the worker's control and the worker has been notified of pending actions in accordance with these rules;

(d) The worker fails to attend a mandatory closing examination for reasons within the worker's control and the worker has been notified of pending actions in accordance with these rules; or

(e) A worker receiving permanent total disability benefits has materially improved and is capable of regularly performing work at a gainful and suitable occupation.

(2) Sufficient Information. For purposes of determining the extent of permanent disability, except as provided in section (14) of this rule for closure after training, "sufficient information" requires: a qualifying statement of no permanent disability under subsection (a) of this section or a qualifying closing report under subsection (b) of this section. Additional documentation is required under subsection (c) of this section unless there is clear and convincing evidence that an attending physician or authorized nurse practitioner has released the worker to the job held at the time of injury or that the worker has returned to the job held at the time of injury.

(a) Qualifying statements of no permanent disability. A statement indicating that there is no permanent disability is sufficient if it meets all of the following requirements:

(A) Qualified providers. An authorized nurse practitioner or attending physician must provide or concur with the statement.

(B) Support by the medical record. The statement must be supported by the medical record. If the medical record reveals otherwise, a closing examination and report specified under subsection (b) of this section are required.

(C) In initial injury claims. In an initial injury claim, the statement must clearly indicate the following:

(i) There is no reasonable expectation of any permanent impairment caused in any part by an accepted condition, a direct medical sequela of an accepted condition, or a condition directly resulting from the work injury; and

(ii) There is no reasonable expectation of any permanent work restriction that:

(I) Prevents the worker from returning to the job held at the time of injury; and

(II) Is caused in any part by an accepted condition, a direct medical sequela of an accepted condition, or a condition directly resulting from the work injury.

(D) In new or omitted condition claims. In a new or omitted condition claim, the statement must clearly indicate the following:

(i) There is no reasonable expectation of any permanent impairment caused in any part by an accepted new or omitted condition or a direct medical sequela of an accepted new or omitted condition; and

(ii) There is no reasonable expectation of any permanent work restriction that:

(I) Prevents the worker from returning to the job held at the time of injury; and

(II) Is caused in any part by an accepted new or omitted condition or a direct medical sequela of an accepted new or omitted condition.

(E) In aggravation claims. In an aggravation claim, the statement must clearly indicate the following:

(i) There is no reasonable expectation of any permanent impairment caused in any part by an accepted worsened condition or a direct medical sequela of an accepted worsened condition; and

(ii) There is no reasonable expectation of any permanent work restriction that:

(I) Prevents the worker from returning to the job held at the time of injury; and

(II) Is caused in any part by an accepted worsened condition or a direct medical sequela of an accepted worsened condition.

(F) In occupational disease claims. In an occupational disease claim, the statement must clearly indicate the following:

(i) There is no reasonable expectation of any permanent impairment caused in any part by an accepted occupational disease or a direct medical sequela of an accepted occupational disease; and

(ii) There is no reasonable expectation of any permanent work restriction that:

(I) Prevents the worker from returning to the job held at the time of injury; and

(II) Is caused in any part by an accepted occupational disease or a direct medical sequela of an accepted occupational disease.

(b) Qualifying closing reports. A closing medical examination and report are required if there is a reasonable expectation of permanent disability. A closing report is sufficient if it meets all of the following requirements:

(A) Qualified providers. A type A attending physician or a chiropractic physician serving as the attending physician must provide or concur with the closing report.

(B) Release to regular work. If the worker has no permanent work restriction, the closing report must include a statement indicating that:

(i) The worker has no permanent work restriction; or

(ii) The worker is released, without restriction, to the job held at the time of injury.

(C) In initial injury claims. In an initial injury claim, the closing report must include detailed documentation of all measurements, findings, and limitations regarding:

(i) Any permanent impairment caused in any part by an accepted condition, a direct medical sequela of an accepted condition, or a condition directly resulting from the work injury; and

(ii) Any permanent work restriction that:

(I) Prevents the worker from returning to the job held at the time of injury; and

(II) Is caused in any part by an accepted condition, a direct medical sequela of an accepted condition, or a condition directly resulting from the work injury.

(D) In new or omitted condition claims. In a new or omitted condition claim, the closing report must include detailed documentation of all measurements, findings, and limitations regarding:

(i) Any permanent impairment caused in any part by an accepted new or omitted condition or a direct medical sequela of an accepted new or omitted condition; and

(ii) Any permanent work restriction that:

(I) Prevents the worker from returning to the job held at the time of injury; and

(II) Is caused in any part by an accepted new or omitted condition or a direct medical sequela of an accepted new or omitted condition.

(E) In aggravation claims. In an aggravation claim, the closing report must include detailed documentation of all measurements, findings, and limitations regarding:

(i) Any permanent impairment caused in any part by an accepted worsened condition or a direct medical sequela of an accepted worsened condition; and

(ii) Any permanent work restriction that:

(I) Prevents the worker from returning to the job held at the time of injury; and

(II) Is caused in any part by an accepted worsened condition or a direct medical sequela of an accepted worsened condition.

(F) In occupational disease claims. In an occupational disease claim, the closing report must include detailed documentation of all measurements, findings, and limitations regarding:

(i) Any permanent impairment caused in any part by an accepted occupational disease or a direct medical sequela of an accepted occupational disease; and

(ii) Any permanent work restriction that:

(I) Prevents the worker from returning to the job held at the time of injury; and

(II) Is caused in any part by an accepted occupational disease or a direct medical sequela of an accepted occupational disease.

(c) Additional documentation. Unless there is clear and convincing evidence that an attending physician or authorized nurse practitioner has released the worker to the job held at the time of injury (for dates of injury on or after January 1, 2006) or that the worker has returned to the job held at the time of injury, all of the following is required:

(A) An accurate description of the physical requirements of the worker's job held at the time of injury, which has been provided by certified mail to the worker and the worker's legal representative, if any, either before closing the claim or at the time the claim is closed;

(B) The worker's wage established consistent with OAR 436-060;

(C) The worker's date of birth;

(D) Except as provided in OAR 436-030-0015(4)(d), the worker's work history for the period beginning five years before the date of injury to the mailing date of the Notice of Closure, including tasks performed or level of SVP, and physical demands; and

(E) The worker's level of formal education.

(3) When determining disability and issuing the Notice of Closure, the insurer must apply all statutes and rules consistent with their provisions, particularly as they relate to major contributing cause denials, worker's failure to seek treatment, worker's failure to attend a mandatory examination, medically stationary status, temporary disability, permanent partial and total disability, review of permanent partial and total disability.

(4) When issuing a Notice of Closure, the insurer must prepare and attach a summary worksheet, "Notice of Closure Worksheet," Form 2807, as described by bulletin of the director.

(5) The "Notice of Closure," Form 1644, is effective the date it is mailed to the worker and to the worker's attorney if the worker is represented, or to the worker's estate if the worker is deceased, regardless of the date on the Notice itself.

(6) The notice must be in the form and format prescribed by the director in these rules and include only the following:

(a) The worker's name, address, and claim identification information;

(b) The appropriate dollar value of any individual scheduled or unscheduled permanent disability based on the value per degree for injuries occurring before January 1, 2005 or, for injuries occurring on or after January 1, 2005, the appropriate dollar value of any "whole person" permanent disability, including impairment and work disability as determined appropriate under OAR 436-035;

(c) The body part(s) awarded disability, coded to the table of body part codes as prescribed by the director;

(d) The percentage of loss of the specific body part(s), including either the number of degrees that loss represents as appropriate for injuries occurring before January 1, 2005, or the percentage of the whole person the worker's loss represents as appropriate for injuries occurring on or after January 1, 2005;

(e) If there is no permanent disability award for this Notice of Closure, a statement to that effect;

(f) The duration of temporary total and temporary partial disability compensation;

(g) The date the Notice of Closure was mailed;

(h) The medically stationary date or the date the claim statutorily qualifies for closure under OAR 436-030-0035 or 436-030-0034;

(i) The date the worker's aggravation rights end;

(j) The appeal rights of the worker and any beneficiaries;

(k) A statement that the worker has the right to consult with the Ombudsman for Injured Workers;

(l) For claims with dates of injury before January 1, 2005, the rate in dollars per degree at which permanent disability, if any, will be paid based on date of injury as identified in Bulletin 111;

(m) For claims with dates of injury on or after January 1, 2005, the state's average weekly wage applicable to the worker's date of injury;

(n) The worker's return to work status;

(o) A general statement that the insurer has the authority to recover an overpayment;

(p) A statement that the worker has the right to be represented by an attorney; and

(q) A statement that the worker has the right to request a vocational eligibility evaluation under ORS 656.340.

(7) The Notice of Closure (Form 1644) must be accompanied by the following:

(a) The brochure "Understanding Claim Closure and Your Rights";

(b) A copy of summary worksheet Form 2807 containing information and findings which result in the data appearing on the Notice of Closure;

(c) An accurate description of the physical requirements of the worker's job held at the time of injury unless it is not required under section (2)(a) of this rule or it was previously provided under section (2)(b)(A) of this rule;

(d) The Updated Notice of Acceptance at Closure which clearly identifies all accepted conditions in the claim and specifies those which have been denied and are on appeal or which were the basis for this opening of the claim; and

(e) A cover letter that:

(A) Specifically explains why the claim has been closed (e.g., expiration of a period of suspension without the worker resolving the problems identified, an attending physician stating the worker is medically stationary, worker failure to treat without attending physician authorization or establishing good cause for not treating, etc.);

(B) Lists and describes enclosed documents; and

(C) Notifies the worker about the end of temporary disability benefits, if any, and the anticipated start of permanent disability benefits, if any.

(8) A copy of the Notice of Closure must be mailed to each of the following persons at the same time, with each copy clearly identifying the intended recipient:

(a) The worker;

(b) The employer;

(c) The director; and

(d) The worker's attorney, if the worker is represented.

(9) If the worker is deceased at the time the Notice of Closure is issued:

(a) The worker's copy of the notice must be addressed to the estate of the worker and mailed to the worker's last known address.

(b) Copies of the notice may be mailed to any known or potential beneficiaries to the worker's estate. If a copy of the notice is mailed to a beneficiary, it must be mailed by both regular mail and certified mail return receipt requested.

(10) The worker's copy of the Notice of Closure must be mailed by both regular mail and certified mail return receipt requested.

(11) An insurer may use electronically produced Notice of Closure forms if consistent with the form and format prescribed by the director.

(12) Insurers may allow adjustments of benefits awarded to the worker under the documentation requirements of OAR 436-060-0170 for the following purposes:

(a) To recover payments for permanent disability which were made prematurely;

(b) To recover overpayments for temporary disability; and

(c) To recover overpayments for other than temporary disability such as prepaid travel expenses where travel was not completed, prescription reimbursements, or other benefits payable under ORS 656.001 to 656.794.

(13) The insurer may allow overpayments made on a claim with the same insurer to be deducted from compensation to which the worker is entitled but has not yet been paid.

(14) Under ORS 656.268(10), if, after claim closure, the worker becomes enrolled and actively engaged in an approved training program under OAR 436-120, the insurer must again close the claim consistent with the following:

(a) The claim must be closed when the worker ceases to be enrolled and actively engaged in the training and:

(A) The worker is medically stationary;

(B) The worker's accepted injury is no longer the major contributing cause of the worker's combined or consequential condition or conditions; or

(C) The claim otherwise qualifies for closure under OAR 436-030-0034.

(b) If the worker is medically stationary, there must be a current (within three months before closure) determination of medically stationary status.

(c) For claims with dates of injury on or after January 1, 2005, permanent disability must be redetermined for work disability only. For claims with dates of injury before January 1, 2005, permanent disability must be redetermined for unscheduled disability only.

(d) Except for claims closed under ORS 656.268(1)(c), the insurer must have sufficient information to redetermine work disability or unscheduled disability. The requirements in section (2) of this rule regarding sufficient information apply only as necessary for the redetermination, as follows:

(A) For claims with dates of injury on or after January 1, 2005, the insurer must have sufficient information to determine work disability under OAR 436-035-0012. An evaluation of the adaptability factor of work disability under OAR 436-035-0012(7) through (13) must be based on a current (within three months before closure) medical determination of the worker's residual functional capacity.

(B) For claims with dates of injury before January 1, 2005, the insurer must have sufficient information to determine unscheduled disability under OAR 436-035-0008(2). An evaluation of unscheduled disability must be based on a current (within three months before closure) medical determination.

(15) When, after a claim is closed, the insurer changes or is ordered to change the worker's weekly wage upon which calculation of the work disability portion of a permanent disability award may be based, the insurer must notify the parties and the division of the change and the effect of the change on any permanent disability award. For purposes of this rule, the insurer must complete Form 1502 consistent with the instructions of the director and distribute it within 14 days of the change.

Stat. Auth.: ORS 656.268, 656.726

Stats. Implemented: ORS 656.210, 656.212, 656.214, 656.268 (2015 OL Ch. 144), 656.726, 656.745

Hist.: WCD 4-1980(Admin), f. 3-20-80, ef. 4-1-80; WCD 5-1981(Admin), f. 12-30-81, ef. 1-1-82; Renumbered from 436-065-0006, 5-1-85; WCD 13-1987, f. 12-18-87, ef. 1-1-88; WCD 5-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 31-1990, f. 12-10-90, cert. ef. 12-26-90; WCD 5-1992, f. 1-17-92, cert. ef. 2-20-92; WCD 12-1994, f. 11-18-94, cert. ef. 1-1-95; WCD 8-1996, f. 2-14-96, cert. ef. 2-17-96; WCD 17-1997, f. 12-22-97, cert. ef. 1-15-98; WCD 9-2000, f. 11-13-00, cert. ef. 1-1-01; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 11-2007, f. 11-1-07, cert. ef. 1-2-08; WCD 3-2009, f. 12-1-09, cert. ef. 1-1-100; WCD 1-2015, f. 1-29-15, cert. ef. 3-1-15; WCD 4-2015(Temp), f. & cert. ef. 5-21-15 thru 11-16-15; WCD 6-2015, f. 10-12-15, cert. ef. 11-17-15

436-030-0023

Correcting and Rescinding Notices of Closure

(1) An insurer may rescind or correct its Notice of Closure prior to the expiration of the appeal period for that Notice and prior to or on the same day that the director receives a request for reconsideration of the Notice of Closure.

(2) The form, format, and completion of the Correcting and Rescinding Notices of Closure are the same as those of the Notice of Closure except that, to correct a Notice of Closure, a Form 1644c must be used and, to rescind a Notice of Closure, a Form 1644r must be used. An insurer may rescind and reissue a Notice of Closure by using a Form 1644 when such actions can be accomplished at the same time, the claim remains closed, and other provisions of these rules are met.

(3) The "Date of closure (mailing date)" on the Correcting or Rescinding Notice of Closure must be the date the correction or rescission is mailed. The mailing date of the Notice of Closure being rescinded or corrected must be identified within the body of the Correcting or Rescinding Notice of Closure.

(4) The worker's copy of the Correcting and Rescinding Notices of Closure must be mailed by both regular mail and certified mail return receipt requested, consistent with OAR 436-030-0020(8) and (10).

(5) Rescinding Notices of Closure, Form 1644r, are used to rescind the Notice of Closure and return the claim to open status. Examples of appropriate uses of Rescinding Notices of Closure include, but are not limited to:

(a) The worker was not medically stationary at the time the Notice of Closure was issued;

(b) The closure was otherwise premature;

(c) To grant PPD when the Notice of Closure being rescinded granted TTD only.

(6) The Rescinding Notice of Closure must:

(a) Advise the worker that the claim remains open and no aggravation rights end date has been established, if it is rescinding the first closure of the claim;

(b) Initiate an appeal period as provided in OAR 436-030-0145(1) during which any request for reconsideration must be received by the director;

(c) Explain the reason for the action being taken; and

(d) Be distributed and mailed to the parties consistent with these rules.

(7) When a Notice of Closure granting only time loss has been issued, if the insurer determines the worker's medically stationary status is unchanged and the worker is entitled to an award of permanent disability, the insurer must use a Notice of Closure, Form 1644, to rescind and reissue the closure. In such cases, the Notice of Closure must:

(a) Contain all required information consistent with these rules;

(b) Bear the heading "Rescind and Reissue;

(c) Explain the reason the action is being taken;

(d) Identify the permanent disability award being granted consistent with OAR 436-030 and 436-035;

(e) Establish a new appeal period as provided in OAR 436-030-0145(1);

(f) Set a new aggravation rights end date if the Notice of Closure being rescinded is the first closure of the claim; and

(g) Be distributed and mailed to the parties consistent with these rules.

(8) Correcting Notices of Closure, Form 1644c, are used to correct errors or omissions and do not change the closure status or the action taken by the Notice of Closure being corrected. Correcting Notices of Closure must not be used to grant permanent disability in claims where the Notice of Closure being corrected did not include an award of permanent disability. Examples of appropriate uses of Correcting Notices of Closure include, but are not limited to:

(a) Permanent disability award computation errors (dollars, degrees, percentages);

(b) An incorrect "mailing date";

(c) Return-to-work status errors or omissions;

(d) Incorrect or incomplete statement of temporary disability.

(9) A Correcting Notice of Closure must:

(a) Be issued when the director has instructed the insurer to do so because the Notice of Closure did not contain the information required by OAR 436-030-0020(4);

(b) Not be used to add a new condition to the claim closure, rate a new condition not considered in the Notice of Closure being corrected, or rescind a Notice of Closure;

(c) State in the body of the correcting notice only the information being corrected on the Notice of Closure and the basis for the correction;

(d) Not change the appeal period for the Notice of Closure being corrected; and

(e) Initiate a new appeal period as provided in OAR 436-030-0145(1) during which any request for reconsideration must be received, but only for those items being corrected.

[Forms: Forms referenced are available from the agency.]

Stat. Auth.: ORS 656.268, ORS 656.726

Stats. Implemented: ORS 656.210, 656.212, 656.214, 656.268 (2015 OL Ch. 144), 656.270, 656.726, 656.745

Hist.: WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 4-2015(Temp), f. & cert. ef. 5-21-15 thru 11-16-15; WCD 6-2015, f. 10-12-15, cert. ef. 11-17-15

436-030-0115
Reconsideration of Notices of Closure

(1) A worker, insurer, or beneficiary may request reconsideration of a Notice of Closure as provided in ORS 656.268.

(2) Under ORS 656.218(4), a worker's estate may request reconsideration of a Notice of Closure if the worker dies before filing a request and there are no persons entitled to receive death benefits under ORS 656.204.

(3) A request for reconsideration may be made by mailing, phoning, or delivering the request to the director within the statutory appeal period as defined in OAR 436-030-0005 and 436-030-0145(1). The reconsideration proceeding begins as described in OAR 436-030-0145(2).

(4) For the purpose of these rules, "reconsideration proceeding" means the procedure established to reconsider a Notice of Closure and does not include personal appearances by any of the parties to the claim or their representatives, unless requested by the director. All information to correct or clarify the record and any medical evidence regarding the worker's condition as of the time of claim closure that should have been but was not submitted by the attending physician or authorized nurse practitioner at the time of claim closure and all supporting documentation must be presented during the reconsideration proceeding. When the reconsideration proceeding is postponed because the worker's condition is not medically stationary under OAR 436-030-0165(10), medical evidence submitted may address the worker's condition after claim closure as long as the evidence satisfies the conditions of OAR 436-030-0145(3).

(5) All parties have an opportunity to submit documents to the record regarding the worker's status at the time of claim closure. Other factual information and written argument may be submitted for incorporation into the record under ORS 656.268(6) within the time frames outlined in OAR 436-030-0145. Such information may include, but is not limited to, responses to the documentation and written arguments, written statements, and sworn affidavits from the parties.

(6) The worker may submit a deposition to the reconsideration record subject to ORS 656.268(6) and the following:

(a) The deposition must be limited to the testimony and cross-examination of a worker about the worker's condition at the time of claim closure.

(b) The deposition must be arranged by the worker and held during the reconsideration proceeding time frame unless a good cause reason is established. If a good cause reason is established, the time frame for holding the deposition may be extended but must not extend beyond 30 days from the date of the Order on Reconsideration. The deposition must be held at a time and place that permits the insurer or self-insured employer the opportunity to cross-examine the worker.

(c) The insurer or self-insured employer must, within 30 days of receiving a bill for the deposition, pay the fee of the court reporter, the costs for the original transcript and one copy for each party, and the cost of necessary interpreter services. An original transcript of the deposition must be sent to the department and each party must be sent a copy of the transcript.

(d) If the transcript is not completed and presented to the department prior to the deadline for issuing an Order on Reconsideration, the Order on Reconsideration may not be postponed to receive a deposition under this rule and the order will be issued based on the evidence in the record. However, the transcript may be received as evidence at a hearing for an appeal of the Order on Reconsideration.

(7) Only one reconsideration proceeding may be completed on each Notice of Closure and the director will review those issues raised by the parties and the requirements under ORS 656.268(1). Once the reconsideration proceeding is initiated, issues must be raised and further evidence submitted within the time frames allowed for processing the reconsideration request. When the director requires additional information to complete the record, the reconsideration proceeding may be postponed under ORS 656.268(6).

Stat. Auth.: ORS 656.726
Stats. Implemented: ORS 656.268 (2015 OL Ch. 144)
Hist.: WCD 12-1994, f. 11-18-94, cert. ef. 1-1-95; WCD 11-1995(Temp), f. & cert. ef. 8-23-95; WCD 8-1996, f. 2-14-96, cert. ef. 2-17-96; WCD 17-1997, f. 12-22-97, cert. ef. 1-15-98; WCD 9-2000, f. 11-13-00, cert. ef. 1-1-01; WCD 10-2001, f. 11-16-01, cert. ef. 1-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-03; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 11-2007, f. 11-1-07, cert. ef. 1-2-08; WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 4-2015(Temp), f. & cert. ef. 5-21-15 thru 11-16-15; WCD 6-2015, f. 10-12-15, cert. ef. 11-17-15

436-030-0125
Reconsideration Form and Format

A request for reconsideration may be in the form and format the director provides by bulletin. A reconsideration request should include at least the following:

(1) Worker's name;

(2) Date of injury;

(3) Date of the closure being appealed;

(4) Any specific issues regarding the Notice of Closure;

(5) The name of the worker's attorney;

(6) The name of the insurer's attorney;

(7) If the request is made by a beneficiary of the worker or the worker's estate, the identity and name of the requester, the name of the requester's attorney, if any, and contact information;

(8) Any special language needs;

(9) Whether there is disagreement with the specific impairment findings used to determine permanent disability at the time of claim closure;

(10) Any information and documentation deemed necessary to correct or clarify any part of the claim record believed to be erroneous; and

(11) Any medical evidence that should have been but was not submitted at the time of the claim closure including clarification or correction of the medical record based on the examination(s) at, before, or pertaining to claim closure.

Stat. Auth.: ORS 656.726
Stats. Implemented: ORS 656.268 (2015 OL Ch. 144)
Hist.: WCD 12-1994, f. 11-18-94, cert. ef. 1-1-95; WCD 8-1996, f. 2-14-96, cert. ef. 2-17-96; WCD 17-1997, f. 12-22-97, cert. ef. 1-15-98; WCD 9-2000, f. 11-13-00, cert. ef. 1-1-01; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-03; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 4-2015(Temp), f. & cert. ef. 5-21-15 thru 11-16-15; WCD 6-2015, f. 10-12-15, cert. ef. 11-17-15

436-030-0135
Reconsideration Procedure

(1) Within 14 days from the date of the director's notice of the start of the reconsideration proceeding, the insurer must provide, in chronological order by document date, all documents pertaining to the claim including, but not limited to, the complete medical record and all official action and notices on the claim, to:

(a) The director;

(b) The worker or the worker's attorney;

(c) The beneficiary or beneficiary's attorney, if the request was made by the beneficiary; and

(d) The estate or estate's attorney, if the request was made by the worker's estate.

(2) The request for reconsideration and all other information submitted to the director by any party during the reconsideration process must be copied to all interested parties. Failure to comply with this requirement may result in the information not being included as part of the record on reconsideration.

(3) The director may issue an order rescinding a Notice of Closure if any of the following apply:

(a) The claim was not closed as prescribed by rule.

(b) In a claim closed under ORS 656.268(1)(a), the worker was not medically stationary at the time of claim closure.

(c) In a claim closed under ORS 656.268(1)(a) or 656.268(1)(b), the claim was closed without sufficient information to determine the extent of permanent disability under OAR 436-030-0020(2).

(d) In a claim closed under ORS 656.268(1)(c), the claim was not closed in strict compliance with OAR 436-030-0034.

(4) When a worker has requested and cashed a lump sum payment, under ORS 656.230, of an award granted by a Notice of Closure, the director will not consider the adequacy of that award in a reconsideration proceeding.

(5) When a new condition is accepted after a prior claim closure, and the newly accepted condition is subsequently closed, the director and the parties may mutually agree to consolidate requests for review of the closures into one reconsideration proceeding, provided the director has jurisdiction and neither of the closures have become final by operation of law.

(6) The reconsideration order may affirm, reduce, or increase the compensation awarded by the Notice of Closure.

(7) After the reconsideration order has been issued and before the end of the 30-day appeal period for the order on reconsideration, if a party discovers that additional documents were not provided by the opposing party in accordance with this rule, the Order on Reconsideration may be abated and withdrawn to give the party an opportunity to respond to the new information.

Stat. Auth.: ORS 656.726
Stats. Implemented: ORS 656.268 (2015 OL Ch. 144)

Hist.: WCD 12-1994, f. 11-18-94, cert. ef. 1-1-95; WCD 8-1996, f. 2-14-96, cert. ef. 2-17-96; WCD 17-1997, f. 12-22-97, cert. ef. 1-15-98; WCD 9-2000, f. 11-13-00, cert. ef. 1-1-01; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-03; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-03; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 11-2007, f. 11-1-07, cert. ef. 1-2-08; WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 1-2015, f. 1-29-15, cert. ef. 3-1-15; WCD 4-2015(Temp), f. & cert. ef. 5-21-15 thru 11-16-15; WCD 6-2015, f. 10-12-15, cert. ef. 11-17-15

436-030-0145
Reconsideration Time Frames and Postponements

(1) When appealing a Notice of Closure for claims that are medically stationary or that statutorily qualified for closure on or after June 7, 1995, a request for reconsideration must be mailed within:

(a) Sixty (60) days of the mailing date of the Notice of Closure for a worker's request.

(b) Seven (7) days of the mailing date of the Notice of Closure for an insurer's request. An insurer's request for reconsideration is limited to the findings used to rate impairment.

(c) Sixty (60) days of the mailing date of the Notice of Closure for a beneficiary's request if the Notice of Closure was mailed to the beneficiary under ORS 656.268(5)(b).

(d) One year of the date the Notice of Closure was mailed to the estate of the worker if the Notice of Closure was not mailed to the beneficiary under ORS 656.268(5)(b).

(2) The reconsideration proceeding begins upon:

(a) The director's receipt of the worker's, estate's, or beneficiary's request for reconsideration, if the insurer has not previously requested reconsideration consistent with subsection (1)(b) of this rule; or

(b) The 61st day after the closure of the claim, if the insurer has requested reconsideration consistent with subsection (1)(b) of this rule, unless the director receives, within the appeal time frames in section (1) of this rule, a request for reconsideration or a statement by the worker, estate, beneficiary, or representative instructing the director to start the reconsideration proceeding.

(3) Fourteen days from the date of the director's notice of the start of the reconsideration proceeding, the reconsideration request and all other appropriate information submitted by the parties will become part of the record used in the reconsideration proceeding. Requests for a medical arbiter panel must be submitted within this time frame.

(a) Evidence received or issues raised subsequent to the 14-day deadline will be considered in the reconsideration proceeding to the extent practicable.

(b) Upon review of the record the director may request, under ORS 656.268(6), any additional information deemed necessary for the reconsideration and set appropriate time frames for response.

(c) Except as provided in sections (4), (5), and (6) of this rule, the director will either mail an Order on Reconsideration within 18 working days from the date the reconsideration proceeding begins or notify the parties that the reconsideration proceeding is postponed for not more than 60 additional days as provided under ORS 656.268(6).

(4) The director may delay the reconsideration proceeding and toll the reconsideration timeline for up to 45 days when both parties provide written notice to the director requesting the delay for settlement negotiations. The notice is only effective if the director receives it before the 18th working day after the reconsideration proceeding begins.

(a) This delay of the reconsideration proceeding expires:

(A) When the director receives a written request from either party to resume the reconsideration proceeding;

(B) When the director receives a copy of the approved settlement resolving some or all of the issues raised at the reconsideration proceeding; or

(C) On the next calendar day following the authorized delay period.

(b) The director may authorize only one delay period for each reconsideration proceeding.

(5) When the director provides notice the worker failed to attend the medical arbiter examination without good cause or failed to cooperate with the arbiter examination and suspends benefits under ORS 656.268(8), the reconsideration proceeding will be postponed for up to 60 additional days from the date the director determines and provides notice, to allow completion of the arbiter process.

(6) The reconsideration proceeding may be stayed for one of the following reasons:

(a) The parties consent to deferring the reconsideration proceeding, under ORS 656.268(8)(i)(B), when the medical arbiter examination is not medically appropriate because the worker's medical condition is not stationary; or

(b) When a claim disposition agreement (CDA) is filed, the reconsideration proceeding is stayed until the CDA is either approved or set aside.

(7) If the director fails to mail an Order on Reconsideration or a Notice of Postponement under the time frames specified in ORS 656.268, the reconsideration request is automatically deemed denied. The parties may immediately thereafter proceed as though the director had issued an Order on Reconsideration affirming the Notice of Closure.

(8) Notwithstanding any other provision regarding the reconsideration proceeding, the director may extend nonstatutory time frames to allow the parties sufficient time to present evidence and address their issues and concerns.

Stat. Auth.: ORS 656.726
Stats. Implemented: ORS 656.268 (2015 OL Ch. 144)
Hist.: WCD 12-1994, f. 11-18-94, cert. ef. 1-1-95; WCD 8-1996, f. 2-14-96, cert. ef. 2-17-96; WCD 17-1997, f. 12-22-97, cert. ef. 1-15-98; WCD 9-2000, f. 11-13-00, cert. ef. 1-1-01; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-03; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 11-2007, f. 11-1-07, cert. ef. 1-2-08; WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 5-2011, f. 11-18-11, cert. ef. 1-1-12; WCD 4-2015(Temp), f. & cert. ef. 5-21-15 thru 11-16-15; WCD 6-2015, f. 10-12-15, cert. ef. 11-17-15

436-030-0165
Medical Arbiter Examination Process

(1) The director will select a medical arbiter physician or a panel of physicians in accordance with ORS 656.268(8)(d).

(a) Any party that objects to a physician on the basis that the physician is not qualified under ORS 656.005(12)(b) must notify the director of the specific objection before the examination. If the director determines that the physician is not qualified to be a medical arbiter on the specific case, an examination will be scheduled with a different physician.

(b) When the worker resides outside the state of Oregon, a medical arbiter examination may be scheduled out-of-state with a physician who is licensed within that state to provide medical services in the same manner as required by ORS 656.268(8).

(c) Arbiters or panel members will not include any health care provider whose examination or treatment is the subject of the review.

(d) The insurer must pay all costs related to the completion of the medical arbiter process in this rule.

(2) If the director determines there are enough appropriate physicians available to create a list of possible arbiters and it is practicable, each party will be given the opportunity to agree on a physician and to remove one physician from the list through the process described below:

(a) The director will send the list to the parties electronically or by overnight mail.

(b) If the parties agree on a physician, every party must send a signed, written notice of that choice to the director.

(c) A party can remove a physician from the list, even when the parties have agreed on a physician to conduct the exam, by submitting a signed, written notice of that choice to the director.

(d) To be effective, the written notice of agreement on or rejection of a physician must be received by the director within three working days of the date the director sent the list.

(3) The worker's disability benefits will be suspended when the director determines the worker failed to attend or cooperate with the medical arbiter examination, unless the worker establishes a "good cause" reason for missing the examination or for not cooperating with the arbiter. The worker must call the director within 24 hours of the missed examination to provide any "good cause" reason.

(a) Notice of the examination will be considered adequate notice if the appointment letter is mailed to the last known address of the worker and to the worker's attorney, if the worker is represented.

(b) For the purposes of this rule, non-cooperation includes, but is not limited to, refusal to complete any reasonable action necessary to evaluate the worker's impairment. However, it does not include circumstances such as a worker's inability to carry out any part of the examination due to excessive pain or when the physician reports the findings as medically invalid.

(c) Failure of the worker to respond within the time frames outlined in statute for completion of the reconsideration proceeding may be considered a failure to establish "good cause."

(4) If a worker misses the medical arbiter examination, the director will determine whether or not there was a "good cause" reason for missing the examination.

(5) Upon determination that there was not a "good cause" reason for missing the examination, or that the worker failed to cooperate with the arbiter, the worker's disability benefits will be suspended and the reconsideration proceeding postponed for up to an additional 60 days.

(6) The suspension will be lifted if any of the following occur during the additional 60-day postponement period:

(a) The worker establishes a "good cause" reason for missing or failing to cooperate with the examination;

(b) The worker withdraws the request for reconsideration; or

(c) The worker attends and cooperates with a rescheduled arbiter examination.

(7) If none of the events that end the suspension under section (6) of this rule occur before the expiration of the 60-day additional postponement, the suspension of benefits will remain in effect.

(8) The medical arbiter or panel of medical arbiters must perform a record review or examine the worker as requested by the director and perform such tests as may be reasonable and necessary to establish the worker's impairment.

(a) The parties must submit to the director any issues they wish the medical arbiter or panel of medical arbiters to address within 14 days of the date of the director's notice of the start of the reconsideration proceeding. The parties must not submit issues directly to the medical arbiter or panel of medical arbiters. The medical arbiter or panel of medical arbiters will only consider issues appropriate to the reconsideration proceeding.

(b) The report of the medical arbiter or panel of medical arbiters must address all questions raised by the director.

(c) The medical arbiter will provide copies of the arbiter report to the director, the worker or the worker's attorney, and the insurer within five working days after completion of the arbiter review. The cost of providing copies of such additional reports must be reimbursed according to OAR 436-009-0060 and must be paid by the insurer.

(9) When a worker's medical condition prevents the worker from fully participating in a medical arbiter examination that must be conducted to determine findings of impairment, the director may send a letter to the parties requesting consent to defer the reconsideration proceeding. The medical condition that prevents the worker from participating in the medical arbiter examination does not need to be related to the work injury.

(a) If the parties agree to the deferral, the reconsideration proceeding will be deferred until the medical record reflects the worker's condition has stabilized sufficiently to allow for examination to obtain the impairment findings. The parties must notify the director when it is appropriate to schedule the medical arbiter examination and provide the necessary medical records when requested. Interim medical information that may be helpful to the director and the medical arbiter in assessing and describing the worker's impairment may be submitted at the time the parties notify the director that the medical arbiter examination can be scheduled. The director will determine whether the interim medical information is consistent with the provisions of ORS 656.268(6) and (8).

(b) If deferral is not appropriate, at the director's discretion either a medical arbiter examination or a medical arbiter record review may be obtained, or the director may issue an Order on Reconsideration based on the record available at claim closure and other evidence submitted in accordance with ORS 656.268(6).

(10) All costs related to record review, examinations, tests, and reports of the medical arbiter must be billed and paid under OAR 436-009-0010, 436-009-0030, 436-009-0040, and 436-009-0060.

(11) When requested by the Hearings Division, the director may schedule a medical arbiter examination for a worker who has appealed a Notice of Closure rescinding permanent total disability benefits under ORS 656.206.

Stat. Auth.: ORS 656.726
Stats. Implemented: ORS 656.268
Hist.: WCD 12-1994, f. 11-18-94, cert. ef. 1-1-95; WCD 11-1995(Temp), f. & cert. ef. 8-23-95; WCD 8-1996, f. 2-14-96, cert. ef. 2-17-96; WCD 17-1997, f. 12-22-97, cert. ef. 1-15-98; WCD 9-2000, f. 11-13-00, cert. ef. 1-1-01; WCD 10-2001, f. 11-16-01, cert. ef. 1-1-02; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-03; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 11-2007, f. 11-1-07, cert. ef. 1-2-08; WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 5-2011, f. 11-18-11, cert. ef. 1-1-12; WCD 1-2015, f. 1-29-15, cert. ef. 3-1-15; WCD 6-2015, f. 10-12-15, cert. ef. 11-17-15

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Rule Caption: Implementation of legislation affecting timely payment of benefits, penalties, and gender-neutral wording
Adm. Order No.: WCD 7-2015
Filed with Sec. of State: 10-12-2015
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Subject: Amendments to OAR 436-060, "Claims Administration":

- Implement Enrolled Senate Bill 371 by describing how to distribute a Notice of Closure issued after the death of a worker;
- Implement Enrolled House Bill 2211 by describing the director's authority to assess civil penalties against service companies, and by replacing references to "third-party administrator" with "service company";
- Implement Enrolled House Bill 2764 by addressing penalties and attorney fees related to untimely payment of attorney fees or costs;
- Implement Enrolled House Bill 2797 by specifying that the insurer or self-insured employer must pay temporary disability benefits within 14 days of the employer's knowledge of the claim and the worker's disability; and
- Make plain language changes to improve readability.

Amendments to OAR 436-075, "Retroactive Program":

- Implement Enrolled House Bill 2478 by amending the definition of "Spouse" to refer to the "spouse" of a worker rather than to the "husband or wife" of a worker;
- Update other definitions;
- Require that insurers verify, at least once every two years, that beneficiaries receiving permanent total disability or death benefits are alive and remain eligible for those benefits for which the insurer may request reimbursement from the Retroactive Program; and
- Make plain language changes to improve readability.

Amendments to OAR 436-100, "Workers' Compensation Benefits Offset":

- Implement Enrolled House Bill 2478 by amending the definition of "Beneficiary" to refer to the "spouse" of a worker rather than to the "husband" or "wife" of a worker;
- Update other definitions; and
- Make plain language changes to improve readability.

Rules Coordinator: Fred Bruyns—(503) 947-7717

436-060-0005
Definitions

For the purpose of these rules unless the context requires otherwise:

(1) "Aggravation" means an actual worsening of the compensable condition(s) after the last award or arrangement of compensation, that is established by medical evidence supported by objective findings, and otherwise satisfies the statutory requirements of ORS 656.273.

(2) "Authorized nurse practitioner" means a nurse practitioner authorized to provide compensable medical services under ORS 656.245 and OAR 436-010.

(3) "Designated Paying Agent" means the insurer temporarily ordered responsible to pay compensation for a compensable injury under ORS 656.307.

(4) "Director" means the Director of the Department of Consumer and Business Services or the director's designee, unless the context requires otherwise.

(5) "Disposition" or "claim disposition" means the written agreement under ORS 656.236 in which a claimant agrees to release rights, or agrees to release an insurer or self-insured employer from obligations, under ORS 656.001 to 656.794, except for medical services, in an accepted claim. The term "compromise and release" has the same meaning.

(6) "Division" means the Workers' Compensation Division of the Department of Consumer and Business Services.

(7) "Employer" means a subject employer under ORS 656.023.

(8) "Employment on call" means sporadic, unscheduled employment at the call of an employer without recourse if the worker is unavailable.

(9) "Health insurance," under ORS 731.162, means all insurance against bodily injury, illness or disability, and the resultant expenses, except for workers' compensation coverage.

(10) "Inpatient" means an injured worker who is admitted to a hospital before and extending past midnight for treatment and lodging.

(11) "Insurer" means the State Accident Insurance Fund Corporation; an insurer authorized under ORS Chapter 731 to transact workers' compensation insurance in Oregon; or, an employer or employer group certified

under ORS 656.430 that it meets the qualifications of a self-insured employer under ORS 656.407.

(12) "Lump sum" means the payment of all or any part of a permanent partial disability award in one payment.

(13) "Physical rehabilitation program" means any services provided to an injured worker to prevent the injury from causing continuing disability.

(14) "Service company" means the contracted agent for an insurer authorized to process claims and make payment of compensation on behalf of the insurer.

(15) "Suspension of compensation" means:

(a) No temporary disability, permanent total disability, or medical and related service benefits will accrue or be payable during the period of suspension; and

(b) Vocational assistance and payment of permanent partial disability benefits will be stayed during the period of suspension.

(16) "Written" and its variations mean that which is expressed in writing, including electronic transmission.

Stat. Auth.: ORS 656.704 & 656.726(4)
Stats. Implemented: ORS 656.704 & 656.726(4)
Hist.: WCD 6-1978(Admin), f. & ef. 4-27-78; WCD 1-1980(Admin), f. & ef. 1-11-80; WCD 6-1981(Admin), f. 12-23-81, ef. 1-1-82; WCD 8-1983(Admin), f. 12-29-83, ef. 1-1-84; Renumbered from 436-054-0005, 5-1-85; WCD 8-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 4-1987, f. 12-18-87, ef. 1-1-88; WCD 6-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 9-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 29-1990, f. 11-30-90, cert. ef. 12-26-90; WCD 1-1992, f. 1-3-92, cert. ef. 2-1-922; WCD 7-1994, f. 8-11-94, cert. ef. 8-28-94; WCD 5-1996, f. 2-6-96, cert. ef. 2-12-96; WCD 11-2001, f. 11-30-01, cert. ef. 1-1-02; WCD 10-2002, f. 10-2-02 cert. ef. 11-1-02; WCD 13-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 2-28-04; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 5-2008, f. 12-15-08, cert. ef. 1-1-09; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-060-0009
Access to Department of Consumer and Business Services Workers' Compensation Claim File Records

(1) Under ORS 192.430 and OAR 440-005-0015(1) the director, as custodian of public records, promulgates this rule to protect the integrity of claim file records and prevent interference with the regular discharge of the department's duties.

(2) The department rules on Access of Public Records, Fees for Record Search and Copies of Public Records are found in OAR 440-005. Payment of fees for access to records must be made in advance unless the director determines otherwise. Workers and insurers of record, their legal representatives and service companies shall receive a first copy of any document free. Additional copies shall be provided at the rates set forth in OAR 440-005.

(3) Any person has a right to inspect nonexempt public records. The statutory right to "inspect" encompasses a right to examine original records. It does not include a right to request blind searches for records not known to exist. The director will retain or destroy records according to retention schedules published by the Secretary of State, Archives Division.

(4) Under ORS 192.502(20) workers' compensation claims records are exempt from public disclosure. Access to workers' compensation claims records will be granted at the sole discretion of the director in accordance with this rule, under the following circumstances:

(a) When necessary for insurers, self-insured employers and service companies and their legal representatives for the sole purpose of processing workers' compensation claims. The division will accept a request by telephone or facsimile transmission, but such request must include the claimant's social security number and insurer claim number in addition to the information required in section (7).

(b) When necessary for the director, other governmental agencies of this state or the United States to carry out their duties, functions or powers.

(c) When the disclosure is made in such a manner that the disclosed information cannot be used to identify any worker who is the subject of a claim. Such circumstances include when workers' compensation claims file information is required by a public or private research organization in order to contact injured workers in order to conduct its research. The director may enter into such agreements with such institutions or persons as are necessary to secure the confidentiality of the disclosed records.

(d) When a worker or the worker's representative requests review of the workers' claim record.

(5) The director may release workers' compensation claims records to persons other than those described in section (4) when the director determines such release is in the public interest.

(a) For the purpose of these rules, a "public interest" exists when the conditions set forth in ORS 192.502(20) and subsections (4)(a) through (d) of this rule have been met. The determination whether the request to release workers' compensation claims records meets those conditions shall be at the sole discretion of the director.

(b) The director may enter into written agreements as necessary to ensure that the recipient of workers' compensation claims records under this section uses or provides the information to others only in accordance with these rules and the agreement with the director. The director may terminate such agreements at any time the director determines that one or more of the conditions of the agreement have been violated.

(6) The director may deny or revoke access to workers' compensation claims records at any time the director determines such access is no longer in the public interest or is being used in a manner which violates these rules or any law of the State of Oregon or the United States.

(7) Requests to inspect or obtain copies of workers' compensation claim records must be made in writing or in person and must include:

(a) The name, address and telephone number of the requester;

(b) The reason for requesting the records;

(c) A specific identification of the public record(s) required and the format in which they are required;

(d) The number of copies required;

(e) The account number of the requester, when applicable.

(8) Except as prescribed in subsections (4)(a) through (d), a person must submit to the division an attorney retainer agreement or release signed by the claimant in order to inspect or obtain copies of workers' compensation claims records. The director may refuse to honor any release that the director determines is likely to result in disclosed records being used in a manner contrary to these rules. Upon request, the director will review proposed release forms to determine whether the proposed release is consistent with the law and this rule.

Stat. Auth.: ORS 192.502, 656.704 & 656.726(4)
Stats. Implemented: ORS 656.704 & 656.726(4)
Hist.: WCD 6-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 7-1994, f. 8-11-94, cert. ef. 8-28-94; WCD 5-1996, f. 2-6-96, cert. ef. 2-12-96; WCD 11-2001, f. 11-30-01, cert. ef. 1-1-02; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 5-2008, f. 12-15-08, cert. ef. 1-1-09; WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-060-0010
Reporting Requirements

(1) A subject employer must accept notice of a claim for workers' compensation benefits from an injured worker or the worker's representative. The employer must provide a copy of the "Report of Job Injury or Illness," Form 801, to the worker immediately upon request; the form must be readily available for workers to report their injuries. Proper use of this form satisfies ORS 656.265.

(2) A "Worker's and Health Care Provider's Report for Workers' Compensation Claims," Form 827, signed by the worker, is written notice of an accident, that may involve a compensable injury under ORS 656.265. The signed Form 827 shall start the claim process, but shall not relieve the worker or employer of the responsibility of filing a Form 801. If a worker reports a claim electronically the insurer may require the worker to sign a medical release form, so the insurer can obtain medical records under OAR 436-010-0240, necessary to process the claim.

(3) Employers, except self-insured employers, must report the claim to their insurers no later than five days after notice or knowledge of any claim or accident, that may result in a compensable injury. The employer's knowledge date is the earliest of the date the employer (any supervisor or manager) first knew of a claim, or of when the employer has enough facts to reasonably conclude that workers' compensation liability is a possibility. The report must provide the information requested on the Form 801, and include, but not be limited to, the worker's name, address, and Social Security number, the employer's legal name and address, and the data specified by ORS 656.262 and 656.265.

(4) For the purpose of this section, "first aid" means any treatment provided by a person who does not require a license in order to provide the service. If an injured worker requires only first aid, no notice need be given the insurer, unless the worker chooses to file a claim. If a worker signs a Form 801, the claim must be reported to the insurer. If the person must be licensed to legally provide the treatment or if a bill for the service will result, notice must be given to the insurer. When the worker requires only first aid and chooses not to file a claim, the employer must maintain records showing the name of the worker, the date, nature of the injury and first aid provided, for five years. These records shall be open to inspection by the director, or any party or its representative. If an employer subsequently learns that such an injury has resulted in medical services, disability or death, the date of that knowledge will be considered as the date on which the employer received notice or knowledge of the claim for the purposes of processing under ORS 656.262.

(5) The director may assess a civil penalty against an employer delinquent in reporting claims to its insurer in excess of ten percent of the employer's total claims during any quarter.

(6) An employer intentionally or repeatedly paying compensation in lieu of reporting to its insurer claims or accidents that may result in a compensable injury claim may be assessed a civil penalty by the director.

(7) The insurer must process and file claims and reports required by the director in compliance with ORS chapter 656, WCD administrative rules, and WCD bulletins. Such filings shall not be made by computer-printed forms, facsimile transmission (FAX), electronic data interchange (EDI), or other electronic means, unless specifically authorized by the director.

(8) When an insurer receives a claim and the insurer does not provide insurance coverage for the worker's employer on the date of injury, the insurer may check for other coverage or forward it to the director. The insurer must do one or the other within three days of determining they did not provide coverage on the date of injury. If the insurer finds that another insurer provides coverage, the insurer must send the claim to the correct insurer within the same three day period. If the insurer cannot find coverage, the insurer must forward the claim to the director within the same three-day period.

(9) The insurer or self-insured employer and service company, if any, must be identified on all insurer generated workers' compensation forms, including insurer name, service company name (if applicable), and the mailing address and phone number of the location responsible for processing the claim.

(10) The insurer must file all disabling claims with the director within 14 days of the insurer's initial decision either to accept or deny the claim. To meet this filing requirement, the Insurer's Report, Form 1502, accompanied by the Form 801, or its electronic equivalent, is to be submitted to the director. However, when the Form 801 is not available within a time frame that would allow a timely filing, a Form 1502, accompanied by a signed Form 827 when available, will satisfy the initial reporting requirement. If the Form 801 is not submitted at the time of the initial filing of the claim, the Form 801 must be submitted within 30 days from the filing of the Form 1502. A Form 801 prepared by the insurer in place of obtaining the form from the employer/worker does not satisfy the requirement to file the Form 801, unless the employer/worker cannot be located, or the form cannot be obtained from the employer/worker due to lack of cooperation, or the form is computer-printed based upon information obtained from the employer and worker. The insurer must submit copies of all acceptance or denial notices not previously submitted to the director with the Form 1502. Form 1502 is used to report claim status and activity to the director.

(11) When submitting a Form 1502 the minimum data elements an insurer must provide are the worker's legal name, Social Security number, insurer's claim number, date of injury, and the employer's legal name.

(12) When submitting an initial compensability decision Form 1502, the insurer must report:

(a) The status of the claim;

(b) Reason for filing;

(c) Whether first payment of compensation was timely, if applicable;

(d) Whether the claim was accepted or denied timely; and

(e) Any Managed Care Organization (MCO) enrollment, and the date of enrollment, if applicable.

(13) The insurer must file an additional Form 1502 with the director within 14 days of:

(a) The date of any reopening of the claim;

(b) Changes in the acceptance or disability status;

(c) Any litigation order or insurer's decision that causes reopening of the claim or changes the acceptance or disability status;

(d) MCO enrollment that occurs after the initial Form 1502 has been filed;

(e) The insurer's knowledge that a previous Form 1502 contained erroneous information;

(f) The date of any denial; or

(g) The date the first payment of temporary disability was issued.

(14) A nondisabling claim must be reported to the director only if it is denied, in part or whole. It must be reported to the director within 14 days of the date of denial. A nondisabling claim that becomes disabling must be reported to the director within 14 days of the date of the status change.

(15) If the insurer voluntarily reopens a qualified claim under ORS 656.278, it must file a Form 3501 with the director within 14 days of the date the insurer reopens the claim.

(16) The insurer must report a new medical condition reopening on the Form 1502 if the claim cannot be closed within 14 days of the first to occur: acceptance of the new condition, or the insurer's knowledge that interim temporary disability compensation is due and payable.

(17) New condition claims that are ready to be closed within 14 days must be reported on the "Insurer Notice of Closure Summary," Form 1503, at the time the insurer closes the claim. The "Modified Notice of Acceptance" and "Updated Notice of Acceptance at Closure" letter must accompany the Form 1503.

(18) If, after receiving a claim from a worker or from someone other than the worker on the worker's behalf, the insurer receives written communication from the worker stating the worker never intended to file a claim and wants the claim "withdrawn," the insurer must submit a Form 1502 with a copy of the worker's communication to the director, if the claim had previously been reported.

(19) The director may issue a civil penalty against any insurer delinquent in reporting or in submitting Forms 801, 1502, 1503 or 1644 with a late or error ratio in excess of twenty percent during any quarter. For the purposes of this section, a claim or form shall be deemed to have been reported or submitted timely according to the provisions of ORS 656.726(4).

(20) Insurers must make an annual report to the director reporting attorney fees, attorney salaries, and all other costs of legal services paid under ORS chapter 656. The report must be submitted on forms furnished by the director for that purpose. Reports for each calendar year must be filed not later than March 1 of the following year.

(21) If an insurer elects to process and pay supplemental disability benefits, under ORS 656.210(5)(a), the insurer does not need to inform the director of their election. The insurer must request reimbursement, under OAR 436-060-0500, by filing Form 3504 "Supplemental Disability Benefits Quarterly Reimbursement Request" with the director for any quarter during which they processed and paid supplemental disability benefits. If an insurer elects not to process and pay supplemental disability benefits, the insurer must submit Form 3530, "Supplemental Disability Election Notification," to the director. The election remains in effect for all supplemental disability claims the insurer receives until the insurer changes its election. The election is made by the insurer and applies to all service companies an insurer may use for processing claims.

(22) An insurer may change its election made under section (21):

(a) Annually and

(b) Once after the division completes its first audit of supplemental disability payments made by the insurer.

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

Stat. Auth.: ORS 656.262, 656.264, 656.265(6), 656.704, 656.726(4), 656.745

Stats. Implemented: ORS 656.210, 656.262, 656.264, 656.265, 656.704, 656.726(4)

Hist.: WCD 1-1980(Admin), f. & ef. 1-11-80; WCD 6-1981(Admin), f. 12-23-81, ef. 1-1-82; WCD 8-1983(Admin), f. 12-29-83, ef. 1-1-84; Renumbered from 436-054-0100, 5-1-85; WCD 8-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 4-1987, f. 12-18-87, ef. 1-1-88; WCD 6-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 9-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 29-1990, f. 11-30-90, cert. ef. 12-26-90; WCD 1-1992, f. 1-3-92, cert. ef. 2-1-92; WCD 7-1994, f. 8-11-94, cert. ef. 8-28-94; WCD 5-1996, f. 2-6-96, cert. ef. 2-12-96; WCD 11-2001, f. 11-30-01, cert. ef. 1-1-02; WCD 10-2002, f. 10-2-02 cert. ef. 11-1-02; WCD 9-2003(Temp), f. 8-29-03, cert. ef. 9-2-03 thru 2-28-04; WCD 11-2003(Temp), f. & cert. ef. 9-22-03 thru 2-28-03; WCD 13-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 2-28-04; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 5-2008, f. 12-15-08, cert. ef. 1-1-09; WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-060-0012

Notices and Correspondence Following the Death of a Worker

(1) If a worker is deceased, regardless of the cause of death, an insurer must:

(a) Address all future notices and correspondence to the worker's estate or qualified beneficiaries;

(b) Provide a written notice of acceptance or denial of a claim to the estate of the worker; and

(c) Issue a Notice of Closure, when applicable, to the estate of the worker. The insurer must mail the worker's copy of the Notice of Closure to the worker's last known address. The insurer may mail copies of the Notice of Closure to any known or potential beneficiaries.

(2) Other notices required under this chapter intended for the worker are not required when the worker is deceased.

Stat. Auth: ORS 656.726(4)

Stats. Implemented: ORS 656.262, 656.264, 656.268

Hist.: WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-060-0015

Required Notice and Information

(1) When an injured worker's attorney has given written notice of representation, prior or simultaneous written notice must be given to the worker's attorney under ORS 656.331 when:

(a) The director or insurer requests the worker to submit to a medical examination;

(b) The insurer contacts the worker regarding any matter which may result in denial, reduction or termination of the worker's benefits; or

(c) The insurer contacts the worker regarding any matter relating to disposition of a claim under ORS 656.236.

(2) The director shall assess a civil penalty against an insurer who intentionally or repeatedly fails to give notice as required under section (1) of this rule.

(3) The insurer or the service company must provide the pamphlet, "What Happens if I'm Hurt on the Job?," Form 1138, to every injured worker who has a disabling claim with the first time-loss check or earliest written correspondence. For nondisabling claims, the information page, "A Guide for Workers Hurt on the Job," Form 3283, may be provided in lieu of Form 1138, unless the worker specifically requests Form 1138.

(4) The insurer must provide Form 3283 to their insured employers. The employer must provide the Form 3283 to the worker at the time a worker files a claim for workers' compensation benefits. The Form 3283 may be printed on the back of the Form 801.

(5) The insurer must provide the "Notice to Worker," Form 3058, or its equivalent to the worker with the initial notice of acceptance on the claim under OAR 436-060-0140(7). For the purpose of this rule, an equivalent to the Form 3058 must include all of the statutory and rule requirements.

(6) Additional notices the insurer must send to a worker are contained in OAR 436-060-0018, 436-060-0030, 436-060-0035, 436-060-0095, 436-060-0105, 436-060-0135, 436-060-0140, and 436-060-0180.

(7) When an insurer changes claims processing locations, service companies, or self-administration, the insurer must provide at least 10 days prior notice to workers with open or active claims, their attorneys, and attending physicians. The notice must provide the name of a contact person, telephone number, and mailing address of the new claim processor.

(8) The insurer must provide the worker an explanation of any change in the wage used that differs from what was initially reported in writing to the insurer. Prior to claim closure on a disabling claim, the insurer must send the worker a notice documenting the wage upon which benefits were based. Work disability, if applicable, will be determined when the claim is closed. The notice must also explain how the worker can appeal the insurer's wage calculation if the worker disagrees with the wage.

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

Stat. Auth.: ORS 656.331, 656.704, 656.726(4) & 656.745

Stats. Implemented: ORS 656.331, 656.704 & 656.726(4)

Hist.: WCD 8-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 6-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 9-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 29-1990, f. 11-30-90, cert. ef. 12-26-90; WCD 7-1994, f. 8-11-94, cert. ef. 8-28-94; WCD 5-1996, f. 2-6-96, cert. ef. 2-12-96; WCD 11-2001, f. 11-30-01, cert. ef. 1-1-02; WCD 10-2002, f. 10-2-02 cert. ef. 11-1-02; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 5-2008, f. 12-15-08, cert. ef. 1-1-09; WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-060-0017
Release of Claim Document

(1) For the purpose of this rule:

(a) "Documents" include, but are not limited to, medical records, vocational records, written and automated payment ledgers for both time loss and medical services, payroll records, recorded statements, insurer generated records (insurer generated records exclude a claim examiner's generated file notes, such as documentation or justification concerning setting or adjusting reserves, claims management strategy, or any privileged communications), all forms required to be filed with the director, notices of closure, electronic transmissions, and correspondence between the insurer, service providers, claimant, the division or the Workers' Compensation Board.

(b) "Possession" means documents making up, or relating to, the insurer's claim record on the date of mailing the documents to the claimant, claimant's attorney or claimant's beneficiary. Any documents that have been received by the insurer five or more working days prior to the date of mailing shall be considered as part of the insurer's claim record even though the documents may not have yet reached the insurer's claim file.

(2) The insurer must date stamp each document upon receipt with the date it is received. The date stamp must include the month, day, year of receipt, and name of the company, unless the document already contains the date information and name of recipient company, as in faxes, e-mail and other electronically transmitted communications.

(3) A request for copies of claim documents must be submitted to the insurer, self-insured employer, or their respective service company, and copied simultaneously to defense counsel, if known.

(4) The insurer must furnish, without cost, legible copies of documents in its possession relating to a claim, upon request of the claimant, claimant's attorney or claimant's beneficiary, at times other than those provided for under ORS 656.268 and OAR chapter 438, as provided in this rule. Except as provided in OAR 436-060-0180, an initial request by anyone other than the claimant or claimant's beneficiary must be accompanied by a worker signed attorney retention agreement or a medical release signed by the worker. The signed medical release must be in a form or format as the director may provide by bulletin. Information not otherwise available through this release, but relevant to the claim, may only be obtained in compliance with applicable state or federal laws. Upon the request of the claimant's attorney, a request for documents shall be considered an ongoing request for future documents received and generated by the insurer for 180 days after the initial mailing date under section (7) or until a hearing is requested before the Workers' Compensation Board. The insurer must provide such new documents to claimant's attorney every 30 days, unless specific documents are requested sooner by the attorney. Such documents must be provided within the time frame of section (7).

(5) Once a hearing is requested before the Workers' Compensation Board, the release of documents is controlled by OAR chapter 438. This rule applies subsequently if the hearing request is withdrawn or when the hearing record is closed, provided a request for documents is renewed.

(6) Upon request, the entire health information record in the possession of the insurer will be provided to the worker or the worker's representative. This includes records from all healthcare providers, except that the following may be withheld:

(a) Information that was obtained from someone other than a healthcare provider under a promise of confidentiality and access to the information would likely reveal the source of the information,

(b) Psychotherapy notes,

(c) Information compiled for use in a civil, criminal, or administration action or proceeding; and

(d) Other reasons specified by federal regulation.

(7) The insurer must furnish copies of documents within the following time frames:

(a) The documents of open and closed files, or microfilmed files must be mailed within 14 days of receipt of a request, and copies of documents of archived files within 30 days of receipt of a request.

(b) If a claim is lost or has been destroyed, the insurer must so notify the requester in writing within 14 days of receiving the request for claim documents. The insurer must reconstruct and mail the file within 30 days from the date of the lost or destroyed file notice.

(c) If no documents are in the insurer's possession at the time the request is received, the 14 days within which to provide copies of documents starts when the insurer does receive some documentation on the claim if that occurs within 90 days of receipt of the request.

(d) Documents are deemed mailed when addressed to the last known address of the claimant, claimant's beneficiary, or claimant's attorney and deposited in the U.S. Mail.

(8) The documents must be mailed directly to the claimant's or beneficiary's attorney, when the claimant or beneficiary is represented. If the documents have been requested by the claimant or beneficiary, the insurer must inform the claimant or beneficiary of the mailing of the documents to the attorney. The insurer is not required to furnish copies to both the claimant or beneficiary and the attorney. However, if a claimant or beneficiary changes attorneys, the insurer must furnish the new attorney copies upon request.

(9) The director may assess a civil penalty against an insurer who fails to furnish documents as required under this rule. The matrix attached to these rules in Appendix "A" will be used in assessing penalties.

(10) Rule violation complaints about release of requested claims documents must be in writing, mailed or delivered to the division within 180 days of the request for documents, and must include a copy of the request submitted under section (3). When notified by the director that a complaint has been filed, the insurer must respond in writing to the division. The response must be mailed or delivered to the director within 14 days of the mailing date of the division's inquiry letter. A copy of the response, including any attachments, must be sent simultaneously to the requester of claim documents. If the division does not receive a timely response or the insurer provides an inadequate response (e.g. failing to answer specific questions or provide requested documents), a civil penalty may be assessed under OAR 436-060-0200 against the insurer. Assessment of a penalty does not relieve the insurer of the obligation to provide a response.

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

Stat. Auth.: ORS 656.360, 656.362, 656.704, 656.726(4) & 656.745

Stats. Implemented: ORS 656.704 & 656.726(4)

Hist.: WCD 3-1991, f. 4-18-91, cert. ef. 6-1-91; WCD 1-1992, f. 1-3-92, cert. ef. 2-1-92; WCD 7-1994, f. 8-11-94, cert. ef. 8-28-94; WCD 5-1996, f. 2-6-96, cert. ef. 2-12-96; WCD 11-2001, f. 11-30-01, cert. ef. 1-1-02; WCD 10-2002, f. 10-2-02 cert. ef. 11-1-02; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 5-2008, f. 12-15-08, cert. ef. 1-1-09; ;WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-060-0035
Supplemental Disability for Workers with Multiple Jobs at the Time of Injury

(1) For the purpose of this rule:

(a) "Assigned processing administrator" is the company or business that the director has selected and authorized to process and pay supplemental disability benefits on behalf of the director, when the insurer has elected not to process and pay these benefits.

(b) "Primary job" means the job at which the injury occurred.

(c) "Secondary job" means any other job(s) held by the worker in Oregon subject employment at the time of injury.

(d) "Temporary disability" means wage loss replacement for the primary job.

(e) "Supplemental disability" means wage loss replacement for the secondary job(s) that exceeds the temporary disability, up to, but not exceeding, the maximum established by ORS 656.210.

(f) "Verifiable documentation" means information that provides:

(A) Identification of the Oregon subject employer(s) and the time period that establishes the worker held the secondary job, in addition to the primary job, at the time of injury; and

(B) Adequate information to calculate the average weekly wage in accordance with OAR 436-060-0025.

(g) "Insurer" includes service company.

(2) The insurer shall establish the temporary disability rate by multiplying the weekly wage, determined under OAR 436-060-0025, from the primary employer by 66 2/3% (.6667). If the result meets or exceeds the maximum temporary disability rate, the worker is not eligible for supplemental disability benefits.

(3) Within five business days of receiving notice or knowledge of employment in addition to the primary job on a claim on which the temporary disability rate for the primary job does not meet or exceed the maximum rate, the insurer must:

(a) Send the worker an initial notice informing the worker what type of information the insurer or the assigned processing administrator must receive to determine the worker's eligibility for supplemental disability.

(b) Clearly advise the worker, in the initial notice, that the insurer must receive verifiable documentation within 60 days of the mailing date of the notice or the worker shall be found ineligible for supplemental disability.

(c) Copy the assigned processing administrator, if the insurer has elected not to process and pay supplemental disability benefits. The notice must contain the name, address, and telephone number of the assigned processing administrator, and must clearly advise the worker that the verifiable documentation must be sent to the assigned processing administrator.

(4) The initial notice in section (3) must inform the worker that if the verifiable documentation is not received, the insurer will determine the worker's temporary disability rate based only on the job at which the injury occurred. Any delay in the payment of a higher disability rate because of the worker's failure to provide verifiable documentation under this paragraph will not result in a penalty under ORS 656.262(11).

(5) Within 14 days of receiving the worker's verifiable documentation, the insurer or the assigned processing administrator must determine the worker's eligibility for supplemental disability and must communicate the decision to the worker and the worker's representative, if any, in writing. The letter must also advise the worker why he/she is not eligible when that is the decision and how to appeal the decision, if the worker disagrees with the decision.

(6) A worker is eligible if:

(a) The worker was employed at the secondary job by an Oregon subject employer at the time of the injury,

(b) The worker provides notification of a secondary job to the insurer within 30 days of the insurer's receipt of the initial claim, and

(c) The worker's temporary disability rate from wages at the primary job does not meet or exceed the maximum rate under section (2) of this rule.

(7) The insurer or the assigned processing administrator must calculate supplemental disability for an eligible worker by adding all earnings the worker received from all subject employment, except the assumed wage from secondary employment for Oregon subject volunteers, under ORS 656.210(2)(a)(B). In no case shall an eligible worker receive less compensation than would be paid if based solely on wages from the primary employer.

(8) If the temporary disability rate from the primary employer does not meet or exceed the maximum rate, the insurer or the assigned processing administrator must combine the weekly wages, determined under OAR 436-060-0025, for each employer and multiply by 66 2/3% (.6667) to establish the combined disability rate up to the maximum rate. This is the base amount on which the worker's combined benefits will be calculated.

(9) No three-day waiting period applies to supplemental disability benefits.

(10) The worker's scheduled days off for the job at which the injury occurred shall be used to calculate and pay supplemental disability.

(11) To establish the combined partial disability benefits when the worker has post injury wages from either job, the insurer or the assigned processing administrator must use all post injury wages from both primary and all secondary employers. The insurer or the assigned processing administrator must calculate the amount due the worker based on the combined wages at injury and combined post injury wages using the temporary partial disability calculation in OAR 436-060-0030. The insurer or the assigned processing administrator must then calculate the amount due from the primary job based only on the primary wages at injury and the primary post injury wages. That amount shall be subtracted from the amount due the worker; the remainder is the supplemental disability amount.

(12) If the worker receives post injury wages from the secondary job equal to or greater than the secondary wages at the time of injury, no supplemental disability is due.

(13) If the worker returns to a job not held at the time of the injury, the insurer or the assigned processing administrator must process supplemental disability under the same terms, conditions and limitations as OAR 436-060-0030.

(14) Supplemental disability may be due on a nondisabling claim even if temporary disability is not due from the primary job. The nondisabling claim will not change to disabling status due to payment of supplemental disability. When supplemental disability payments cease on a nondisabling claim, the insurer or the assigned processing administrator must send the worker written notice advising the worker that their supplemental disability payments have stopped and of the worker's right to appeal that action to the Workers' Compensation Board within 60 days of the notice, if the worker disagrees.

(15) If the insurer has elected to process and pay supplemental disability under ORS 656.210(5)(a), the insurer must determine the worker's on-going entitlement to supplemental disability and must pay the worker supplemental disability simultaneously with any temporary disability due. Reimbursement for supplemental disability paid will be made under OAR 436-060-0500.

(16) If the insurer has elected not to process and pay supplemental disability, the assigned processing administrator must determine the worker's on-going entitlement to supplemental disability and must pay the worker supplemental disability due once each 14 days.

(17) A worker who is eligible for supplemental disability under section (5) of this rule has an on-going responsibility to provide information and documentation to the insurer or the assigned processing administrator, even if temporary disability is not due from the primary job.

(18) If the insurer has elected not to process and pay supplemental disability, the insurer must cooperate and communicate with the assigned processing administrator and both must retain documentation of shared information, as necessary, to coordinate benefits due.

(19) Supplemental disability applies to occupational disease claims in the same manner as to injury claims. Supplemental disability benefits for an occupational disease shall be based on the worker's combined primary and secondary wages at the time there is medical verification the worker is unable to work because of the disability.

(20) When an insurer elects to pay supplemental disability under ORS 656.210(5)(a) and OAR 436-060-0010(20) and receive reimbursement under OAR 436-060-0500, the insurer must maintain a record of supplemental disability paid to the worker, separate from temporary disability paid as a result of the job at injury.

(21) If a worker disagrees with the insurer's or the assigned processing administrator's decision about the worker's eligibility for supplemental disability or the rate of supplemental disability, the worker may request a hearing before the Hearings Division of the Workers' Compensation Board. If the worker chooses to request a hearing on the insurer's decision concerning the worker's eligibility for supplemental disability, the worker must submit an appeal of the insurer's or the assigned processing administrator's decision within 60 days of the notice in section (5) of this rule. However,

the insurer for the primary job is not required to contact the secondary job employer. The worker is responsible to provide any necessary documentation.

(22) An insurer who elects not to process and pay supplemental disability benefits may be sanctioned upon a worker's complaint if the insurer delays sending necessary information to the assigned processing administrator and that delay causes a delay in the worker receiving supplemental disability benefits.

(23) In the event of a third party recovery, previously reimbursed supplemental disability benefits are a portion of the paying agency's lien.

(24) Remittance on recovered benefits shall be made to the department in the quarter following the recovery in amounts determined in accordance with ORS 656.591 and ORS 656.593.

Stat. Auth.: ORS 656.210, 656.704 & 656.726(4)

Stats. Implemented: ORS 656.210, 656.325(5), 656.704, 656.726(4)

Hist.: WCD 11-2001, f. 11-30-01, cert. ef. 1-1-02; WCD 6-2002(Temp), f. 4-22-02, cert. ef. 5-10-02 thru 11-5-02; WCD 10-2002, f. 10-2-02 cert. ef. 11-1-02; WCD 9-2003(Temp), f. 8-29-03, cert. ef. 9-2-03 thru 2-28-04; WCD 11-2003(Temp), f. & cert. ef. 9-22-03 thru 2-28-03; WCD 13-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 2-28-04; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 5-2006, f. 6-15-06, cert. ef. 7-1-06; WCD 5-2008, f. 12-15-08, cert. ef. 1-1-09; WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-060-0150

Timely Payment of Compensation

(1) Benefits are deemed paid when addressed to the last known address of the worker or beneficiary and deposited in the U.S. Mail or when funds are transferred to a financial institution for deposit in the worker's or beneficiary's account by approved electronic equivalent. Payments due on a weekend or legal holiday under ORS 187.010 and 187.020 may be paid on the last working day before or the first working day after the weekend or legal holiday. Subsequent payments may revert back to the payment schedule before the weekend or legal holiday.

(2) For the purpose of this rule, legal holidays in the State of Oregon are:

(a) Each Sunday;

(b) New Year's Day on January 1;

(c) Martin Luther King, Jr.'s Birthday on the third Monday in January;

(d) Presidents Day, for the purpose of commemorating Presidents Washington and Lincoln, on the third Monday in February;

(e) Memorial Day on the last Monday in May;

(f) Independence Day on July 4;

(g) Labor Day on the first Monday in September;

(h) Veterans Day on November 11;

(i) Thanksgiving Day on the fourth Thursday in November; and

(j) Christmas Day on December 25.

(k) Each time a holiday, other than Sunday, falls on Sunday, the succeeding Monday is a legal holiday. Each time a holiday falls on Saturday, the preceding Friday is a legal holiday.

(l) Additional legal holidays include every day appointed by the Governor as a legal holiday and every day appointed by the President of the United States as a day of mourning, rejoicing or other special observance only when the Governor also appoints that day as a holiday.

(3) First payment of time loss must be timely. An insurer's performance is in compliance when 90 percent of payments are timely. The director may assess a penalty against an insurer falling below these norms during any quarter.

(4) Compensation withheld under ORS 656.268(13) and (14), and 656.596(2), will not be deemed untimely if the insurer notifies the worker in writing why benefits are being withheld and the amount that must be offset before any further benefits are payable.

(5) Timely payment of temporary disability benefits means the insurer has made payment no later than the 14th day after:

(a) The date of the employer's notice or knowledge of the claim and of the worker's disability, if the attending physician or authorized nurse practitioner has authorized temporary disability. Temporary disability accrued before the date of the employer's notice or knowledge of the claim will be due within 14 days of claim acceptance;

(b) The date the attending physician or authorized nurse practitioner authorizes temporary disability, if the authorization is more than 14 days after the date of the employer's notice or knowledge of the claim and of the worker's disability;

(c) The start of authorized vocational training under ORS 656.268(10), if the insurer has previously closed the claim;

(d) The date the insurer receives medical evidence supported by objective findings that shows the worker is unable to work due to a worsening of the compensable condition under ORS 656.273;

(e) The date of any division order, including, but not limited to, a reconsideration order, that orders payment of temporary disability. If the insurer has appealed a reconsideration order, the appeal stays payment of temporary disability benefits except those that accrue from the date of the order, under ORS 656.313;

(f) The date of a notice of claim closure issued by the insurer that finds the worker entitled to temporary disability;

(g) The date a notice of closure is set aside by a reconsideration order;

(h) The date any litigation authorizing retroactive temporary disability becomes final. Temporary disability accruing from the date of the order must begin no later than the 14th day after the date the order is filed. For the purpose of this rule, the "date the order is filed" for litigation from the Workers' Compensation Board is the signature date, and from the courts, it is the date of the appellate judgment;

(i) The date the division refers a claim to the insurer for processing under ORS 656.029;

(j) The date the division refers a noncomplying employer claim to an assigned claims agent under ORS 656.054; or

(k) The date a claim disposition is disapproved by the Board or Administrative Law Judge, if temporary disability benefits are otherwise due;

(l) The date the division designates a paying agent under ORS 656.307;

(m) The date a claim is reclassified from nondisabling to disabling, if temporary disability is due and payable; and

(n) The date an insurer voluntarily rescinds a denial of a disabling claim.

(6) Temporary disability must be paid to within seven days of the date of payment at least once each 14 days. When making payments under OAR 436-060-0020(1), the employer may make subsequent payments of temporary disability concurrently with the payroll schedule of the employer, rather than at 14-day intervals.

(7) Permanent disability must be paid no later than the 30th day after:

(a) The date of a notice of claim closure issued by the insurer;

(b) The date of any litigation order that orders payment of permanent total disability. Permanent total benefits accruing from the date of the order must begin no later than the 30th day after the date the order is filed. For the purpose of this rule, the "date the order is filed" for litigation from the Workers' Compensation Board is the mailing date, and from the courts, it is the date of the appellate judgment;

(c) The date of any division order, including, but not limited to, a reconsideration order, that orders payment of compensation for permanent disability;

(d) The date any litigation authorizing permanent partial disability becomes final;

(e) The date a claim disposition is disapproved by the Board or Administrative Law Judge, if permanent disability benefits are otherwise due; or

(f) The date authorized training ends if the worker is medically stationary and any previous award remains unpaid, under ORS 656.268(10) and OAR 436-060-0040(2).

(8) Fatal benefits must be paid no later than the 30th day after:

(a) The date of a notice of acceptance issued by the insurer; or

(b) The date of any litigation order which orders fatal benefits. Fatal benefits accruing from the date of the order must begin no later than the 30th day after the date the order is filed. For the purpose of this rule, the "date the order is filed" for litigation from the Workers' Compensation Board is the mailing date, and from the courts, it is the date of the appellate judgment.

(9) The insurer must make subsequent payments of permanent disability and fatal benefits in monthly sequence. The insurer may adjust monthly payment dates, but must inform the beneficiary before making the adjustment. No payment period may exceed one month without the division's prior approval.

(10)(a) When paying temporary disability benefits the insurer must notify the worker or beneficiary in writing of the specific purpose of the payment and the time period that the payment covers.

(b) When issuing the initial payment of permanent disability or fatal benefits the insurer must notify the worker or beneficiary in writing of the specific purpose of the payment, the schedule of future payments, and the time period each payment will cover. The insurer is not required to provide an explanation in writing with each subsequent permanent disability or fatal benefit payment.

(c) The insurer must provide an explanation in writing to the worker or beneficiary when the benefit amount, time period covered, or payment schedule changes.

(11) The insurer must maintain records of compensation paid for each claim where benefits are due and payable.

(12) If the worker submits a request for reimbursement of multiple items and full reimbursement is not made, the insurer must provide specific reasons for non-payment or reduction of each item.

(13) Payment of a Claim Disposition Agreement must be made no later than the 14th day after the Board or Administrative Law Judge mails notice of its approval of the agreement to the parties, unless otherwise stated in the agreement.

(14) Under ORS 656.126(6), when Oregon compensation is more than the compensation under another law for the same injury or occupational disease, or compensation paid the worker under another law is recovered from the worker for the same injury or occupational disease, the insurer must pay any unpaid compensation to the worker up to the amount required by the claim under Oregon law within 14 days of receipt of written documentation supporting the underpayment of Oregon compensation.

Stat. Auth.: ORS 656.704 & 656.726(4)

Stats. Implemented: ORS 656.262(4), 656.268(10), 656.273, 656.278, 656.289, 656.307, 656.313, 656.704, 656.726(4)

Hist.: WCB 9-1966, f. & ef. 11-14-66; WCD 1-1980(Admin), f. & ef. 1-11-80; WCD 6-1981(Admin), f. 12-23-81, ef. 1-1-82; WCD 8-1983(Admin), f. 12-29-83, ef. 1-1-84; Renumbered from 436-054-0310, 5-1-85; WCD 8-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 4-1987, f. 12-18-87, ef. 1-1-88; WCD 6-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 9-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 29-1990, f. 11-30-90, cert. ef. 12-26-90; WCD 1-1992, f. 1-3-92, cert. ef. 2-1-92; WCD 7-1994, f. 8-11-94, cert. ef. 8-28-94; WCD 5-1996, f. 2-6-96, cert. ef. 2-12-96; WCD 11-2001, f. 11-30-01, cert. ef. 1-1-02; WCD 10-2002, f. 10-2-02 cert. ef. 11-1-02; WCD 13-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 2-28-04; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 10-2007, f. 11-1-07, cert. ef. 1-1-08; WCD 5-2008, f. 12-15-08, cert. ef. 1-1-09; WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-060-0155
Penalty to Worker for Untimely Processing

(1) Under ORS 656.262(11), the director may require the insurer to pay an additional amount to the worker as a penalty and an attorney fee to the worker's attorney when the insurer unreasonably delays or unreasonably refuses to pay compensation, attorney fees or costs, or unreasonably delays acceptance or denial of a claim.

(2) Requests for penalties and attorney fees under this section must be in writing, stating what benefits, attorney fees or costs have been delayed or remain unpaid, and mailed or delivered to the division within 180 days of the alleged violation. Attorney fees will be awarded under OAR 436-001-0400 to 436-001-0440.

(3) For the purpose of this section, "violation" is either:

(a) A late payment or the nonpayment of any single payment due, in which case a request for penalty must be mailed or delivered to the director within 180 days of the date payment was due; or

(b) A continuous nonpayment or underpayment such as with yearly cost of living increases for temporary disability compensation. In these instances, a request for penalty must be mailed or delivered to the director within 180 days of the date of the last underpayment. All prior underpayments will be considered as one violation, regardless of when the first underpayment occurred.

(4) When notified by the director that additional amounts may be due the worker as a penalty under this rule, the insurer must respond in writing to the division. The response must be mailed or delivered to the division within 21 days of the mailing date of the division's inquiry letter, with copies of the response, including any attachments, sent simultaneously to the worker and the worker's attorney (if represented). If an insurer fails to respond or provides an inadequate response (e.g. failing to answer specific questions or provide requested documents), the director may assess a civil penalty under OAR 436-060-0200. In addition, the director may assess a $50.00 civil penalty under OAR 436-060-0200 if the insurer does not provide copies of the response to the worker or attorney timely.

(5) When no written reason for delay is provided by the insurer as required in section (4) and no reason for the delay is evident from the worker's or division's records, the director will consider the delay unreasonable, unless the worker has provided insufficient information to assess a penalty. In such cases, the director may assess a civil penalty under OAR 436-060-0200.

(6) The director will only consider a penalty issue where the assessment and payment of additional amounts described in ORS 656.262(11) is the sole issue of any proceeding between the parties. If a proceeding on any other issue is initiated before the Hearings Division of the Workers' Compensation Board between the same parties before the director issues an order under this section, and the director is made aware of the proceeding, jurisdiction over the penalty proceeding before the director will immediately rest with the Hearings Division and the director will refer the proceedings to the Hearings Division. If the director has not been made aware of the proceeding before the Hearings Division and issues a penalty order that becomes final, the director's penalty will stand.

(7) The director will use the matrix attached to these rules in Appendix "B" in assessing penalties. When there are no "amounts then due" upon which to assess a penalty, no penalty will be issued under this rule.

(8) Penalties ordered under this rule must be paid to the worker no later than the 30th day after the date of the order, unless the order is appealed. If the order is appealed and later upheld, the penalty will be due within 14 days of the date the order upholding the penalty becomes final. If the insurer does not pay penalties in a timely manner the insurer will be subject to civil penalties under OAR 436-060-0200.

(9) Disputes regarding unreasonable delay or unreasonable refusal to pay compensation, attorney fees or costs or unreasonable delay in acceptance or denial of a claim may be resolved by the parties. In cases where the parties wish to resolve such disputes and the assessment and payment of additional amounts under ORS 656.262(11) is the sole issue of a proceeding between the parties, and the violation(s) occurred within the last 180 days in accordance with section (3), then the parties must submit a stipulation to the division for approval. The stipulation must specify:

(a) The benefits, attorney fees or costs delayed and the amounts;

(b) The time period(s) involved;

(c) If applicable, the name of the medical provider(s) and the date(s) of service(s) relating to medical bills;

(d) The amount of the penalty not to exceed 25 percent of the amount of compensation delayed; and

(e) The attorney fees, if applicable.

(10) Payment of the penalty is due within 14 days after the date the division approves the stipulation, unless otherwise stated in the stipulation. If the insurer does not pay penalties in a timely manner the insurer will be subject to civil penalties under OAR 436-060-0200.

(11) Any other agreements between the parties to pay a penalty or attorney fee without a stipulation approved by the division will not be acknowledged as a violation as it applies to the matrix attached to these rules.

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

Stat. Auth.: ORS 656.262(11), 656.704, 656.726(4) & 656.745

Stats. Implemented: ORS 656.262(11), 656.704 & 656.726(4)

Hist.: WCD 9-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 29-1990, f. 11-30-90, cert. ef. 12-26-90; WCD 1-1992, f. 1-3-92, cert. ef. 2-1-92; WCD 7-1994, f. 8-11-94, cert. ef. 8-28-94; WCD 5-1996, f. 2-6-96, cert. ef. 2-12-96; WCD 11-2001, f. 11-30-01, cert. ef. 1-1-02; WCD 10-2002, f. 10-2-02 cert. ef. 11-1-02; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 5-2008, f. 12-15-08, cert. ef. 1-1-09; WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-060-0200
Assessment of Civil Penalties

(1) The director through the division and under ORS 656.745 will assess a civil penalty against an employer or insurer that intentionally or repeatedly induces claimants for compensation to fail to report accidental injuries, causes employees to collect accidental injury claims as off-the-job injury claims, persuades claimants to accept less than the compensation due or makes it necessary for claimants to resort to proceedings against the employer to secure compensation due.

(2) A penalty under section (1) will only be assessed after all litigation on the matter has become final by operation of the law. For the purpose of section (1):

(a) "Intentionally" means the employer or insurer acted with a conscious objective to cause any result described in ORS 656.745(1) or to engage in the conduct described in that section; and

(b) "Repeatedly" means more than once in any twelve month period.

(3) Under ORS 656.745, the director may assess a civil penalty against an employer or insurer that does not comply with rules and orders of the director regarding reports or other requirements necessary to carry out the purposes of the Workers' Compensation Law. Except as provided in ORS 656.780, the director may assess a civil penalty against a service company only for claims processing violations identified in the director's annual audits of claims processing performance. The director may assess only one penalty for each separate violation by an employer, insurer, or service company identified in an annual audit.

(4) The director may assess a civil penalty up to $2,000 to an employer or insurer that does not meet the time frame requirements in OAR 436-060-0010, 436-060-0017, 436-060-0018, 436-060-0030, 436-060-0060, 436-060-0147, 436-060-0155 and 436-060-0180. The director may assess a

civil penalty up to $2,000 to a service company failing to meet the time frame requirements, only for violations identified in the director's annual audits of claims processing performance. The director may assess only one penalty for each separate violation by an employer, insurer, or service company identified in an annual audit.

(5) An insurer that willfully violates OAR 436-060-0160 will be assessed a civil penalty of up to $2,000.

(6) An insurer that does not accurately report timeliness of first payment information to the division may be assessed a civil penalty by the director of $500 for reporting inaccurate information plus $50 for each violation, or $10,000 in the aggregate for all violations within any three month period. The director may assess this civil penalty to the service company processing the insurer's claims if the violations were identified in the director's annual audits of claims processing performance. The director may assess only one penalty for each separate violation by an insurer or service company identified in an annual audit. For the purposes of this section, a violation consists of each situation where a first payment was reported to have been made timely, but was found upon audit to have actually been late.

(7) Notwithstanding section (3) of this rule, an employer, insurer, or service company that does not comply with the claims processing requirements of ORS chapter 656, and rules and orders of the director may be assessed a civil penalty of up to $2,000 for each violation or $10,000 in the aggregate for all violations within any three month period.

(8) Any employer or insurer that misrepresents themselves in any manner to obtain workers' compensation claims records from the director, or that uses such records in a manner contrary to these rules, is subject to a civil penalty of $1,000 for each occurrence. In addition, the director may suspend or revoke an employer's or insurer's access to workers' compensation claims records for such time as the director may determine. Any other person determined to have misrepresented themselves or who uses records in a manner contrary to these rules will have access to these records suspended or revoked for such time as the director may determine.

(9) For the purpose of section (7), statutory claims processing requirements include but are not limited to, ORS 656.202, 656.210, 656.212, 656.228, 656.234, 656.236, 656.245, 656.262, 656.263, 656.264, 656.265, 656.268, 656.273, 656.307, 656.313, 656.325, 656.331, and 656.335.

(10) In arriving at the amount of penalty, the division may consider, but is not limited to:

(a) The ratio of the volume of violations to the volume of claims reported, or

(b) The ratio of the volume of violations to the average volume of violations for all insurers or self-insured employers, and

(c) Prior performance in meeting the requirements outlined in this section.

(11) Insurer performance data is reviewed every quarter based on reports submitted by the insurer during the previous calendar quarter. Civil penalties will be issued for each of the performance areas where the percentages fall below the acceptable standards of performance as set forth in these rules. The standard for reporting claims to the division will allow insurers to report claims by filing a Form 1502 accompanied by a Form 827 where the Form 801 is not available. Penalties will be issued in accordance with the matrix set forth in Appendix "C."

(12) Under ORS 656.262(14), an injured worker's attorney that is not willing or available to participate in an interview at a time reasonably chosen by the insurer within 14 days of the request for interview may be assessed a civil penalty not to exceed $1,000 if the director finds the attorney's actions unreasonable.

[ED. NOTE: Appendices & Forms referenced are available from the agency.]

Stat. Auth.: ORS 656.704 & 656.726(4)

Stats. Implemented: ORS 656.202, 656.210, 656.212, 656.228, 656.234, 656.236, 656.245, 656.262, 656.263, 656.264, 656.265, 656.268, 656.273, 656.307, 656.313, 656.325, 656.331, 656.335, 656.704, 656.726(4) & 656.745, OL 2009, ch. 526

Hist.: WCD 1-1980(Admin), f. & ef. 1-11-80; WCD 6-1981(Admin), f. 12-23-81, ef. 1-1-82; WCD 8-1983(Admin), f. 12-29-83, ef. 1-1-84; Renumbered from 436-054-0981, 5-1-85; WCD 8-1985(Admin), f. 12-12-85, ef. 1-1-86; WCD 4-1987, f. 12-18-87, ef. 1-1-88; WCD 6-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 3-1991, f. 4-18-91, cert. ef. 6-1-91; WCD 1-1992, f. 1-3-92, cert. ef. 2-1-92; WCD 7-1994, f. 8-11-94, cert. ef. 8-28-94; WCD 5-1996, f. 2-6-96, cert. ef. 2-12-96; WCD 21-1996, f. 10-18-96, cert. ef. 11-27-96; WCD 11-2001, f. 11-30-01, cert. ef. 1-1-02; WCD 10-2002, f. 10-2-02 cert. ef. 11-1-02; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-060-0500

Reimbursement of Supplemental Disability for Workers with Multiple Jobs at the Time of Injury

(1) When an insurer elects to pay supplemental disability due a worker with multiple jobs at the time of injury, the director shall pay reimbursement of the supplemental amount quarterly, after receipt and approval of documentation of compensation paid by the insurer or the service company. The director will reimburse the insurer, in care of a service company, if applicable.

(2) Requests for reimbursement must be submitted on Form 3504, "Supplemental Disability Benefits Quarterly Reimbursement Request," and must include at least:

(a) Identification and address of the insurer responsible for processing the claim;

(b) The worker's name, WCD file number, date of injury, social security number, and the insurer claim number;

(c) Whether the claim is disabling or nondisabling;

(d) The primary and secondary employer's legal names;

(e) The primary and secondary employer's WCD registration numbers;

(f) The weekly wage of all jobs at the time of the injury separated by employer;

(g) The dates for the period(s) of supplemental disability due and payable to the worker. Dates must be inclusive (e.g., 1-16-02 through 1-26-02);

(h) The amount of supplemental disability paid for the periods in (2)(g);

(i) The quarter and year in which the payment was made;

(j) A signed payment certification statement verifying the payments; and

(k) Any other information the director requires.

(3) In addition to the supplemental disability reimbursement, the division shall calculate and the insurer shall be paid an administrative fee based on the annual claim processing administrative cost factor, as published in Bulletin 316.

(4) Periodically the division will audit the physical file of the insurer responsible for processing the claim to validate the amount reimbursed. Reimbursement will be disallowed and repayment will be required if, upon such audit, it is found:

(a) Payments exceeded statutory amounts due, excluding reasonable overpayments, as determined by the division;

(b) Compensation has been paid as a result of untimely or inaccurate claims processing; or

(c) Payments of compensation have not been documented, as required by OAR 436-050.

(5) Supplemental disability benefits due subject workers of an employer who is in a noncomplying status as defined in ORS 656.052 are not eligible for separate reimbursement under this rule, but remain a cost recoverable from the employer as provided by ORS 656.054(2).

(6) Claim Dispositions or Stipulated Settlements, under ORS 656.236 or 656.289 which include amounts for supplemental disability benefits due to multiple jobs, are not eligible to receive reimbursement from the Workers' Benefit Fund unless made with the prior written approval of the director.

(a) Requests for written approval of proposed dispositions must include:

(A) A copy of the proposed disposition or settlement that specifies the amount of the proposed contribution to be made from the Workers' Benefit Fund;

(B) A statement from the insurer indicating how the amount of the contribution was calculated; and

(C) Any other information required by the director.

(b) The director will not approve the disposition for reimbursement if the proposed contribution exceeds a reasonable projection of that claim's future liability to the Workers' Benefit Fund.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 656.704, 656.726(4)

Stats. Implemented: ORS 656.210, 656.704, 656.726(4)

Hist.: WCD 11-2001, f. 11-30-01, cert. ef. 1-1-02; WCD 10-2002, f. 10-2-02 cert. ef. 11-1-02; WCD 9-2003(Temp), f. 8-29-03, cert. ef. 9-2-03 thru 2-28-04; WCD 11-2003(Temp), f. & cert. ef. 9-22-03 thru 2-28-03; WCD 2-2004, f. 2-19-04 cert. ef. 2-29-04; WCD 9-2004, f. 10-26-04, cert. ef. 1-1-05; WCD 8-2005, f. 12-6-05, cert. ef. 1-1-06; WCD 5-2008, f. 12-15-08, cert. ef. 1-1-09; WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-075-0001

Authority for Rules

These rules are promulgated under the director's authority in ORS 656.726 and 656.506.

Stat. Auth.: ORS 656.506 & 656.726

Stats. Implemented: ORS 656.506

Hist.: WCD 4-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-075-0003
Applicability of Rules

(1) These rules are effective January 1, 2016, and apply to all requests for reimbursement from the Retroactive Program involving benefits payable under:

(a) ORS 656.204 Death

(b) ORS 656.206 Permanent Total Disability

(c) ORS 656.208 Death During Permanent Total Disability

(d) ORS 656.210 Temporary Total Disability for injuries before April 1, 1974.

(2) The director may waive procedural rules as justice requires, unless otherwise obligated by statute.

Stat. Auth.: ORS 656.209, 656.206, 656.208, 656.210, 656.236, 656.289 & 656.506
Stats. Implemented: ORS 656.204, 656.206, 656.208, 656.210, 656.276, 656.289 & 656.506
Hist.: WCD 4-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 10-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 23-1990, f. 11-29-90, cert. ef. 12-26-90; WCD 14-1997, f. 12-4-97, cert. ef. 1-1-98; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-075-0005
Definitions

Except where the context requires otherwise, these rules are governed by the following definitions:

(1) "Beneficiaries" are those persons as defined in ORS 656.005.

(2) "Child" is as defined in the laws applicable at the worker's date of injury.

(3) "Department" means the Department of Consumer and Business Services.

(4) "Director" means the director of the Department of Consumer and Business Services or the director's designee.

(5) "Disposition" or "claim disposition" means the written agreement executed by all parties in which a claimant agrees to release rights, or agrees to release an insurer or self-insured employer from obligations, under ORS 656.001 to 656.794, except for medical services, in an accepted claim.

(6) "Insurer" means the State Accident Insurance Fund Corporation, an insurer authorized under ORS Chapter 731 to transact workers' compensation insurance in this state, or an employer or employer group that has been certified as self-insured under ORS 656.430.

(7) "Performance Section" means the Performance Section of the Workers' Compensation Division of the Department of Consumer and Business Services.

(8) "Retroactive Program benefit" means that additional benefit paid to eligible claimants or beneficiaries to bring their benefits to a more current level.

(9) "Social Security offset" means a reduction of permanent total disability benefits or fatal benefits based on the amount of federal social security disability benefits received by a worker or surviving spouse.

(10) "Spouse" means the spouse of a worker. This definition includes cohabitants under ORS 656.226.

(11) "Statutory benefit" means any benefit payable to or on behalf of the injured worker under the law in effect at the time of the worker's injury, as modified by marital and dependency status changes.

(12) "Through" means inclusion of a specific date.

(13) "To" means until but not including a specific date.

Stat. Auth.: ORS 656.726
Stats. Implemented: ORS 656.726
Hist.: WCD 4-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 10-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 23-1990, f. 11-29-90, cert. ef. 12-26-90; WCD 14-1997, f. 12-4-97, cert. ef. 1-1-98; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-075-0006
Administration of Rules

In administering these rules, orders of the Performance Section are deemed orders of the director.

Stat. Auth.: ORS 656.726
Stats. Implemented: ORS 656.726
Hist.: WCD 4-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-075-0008
Administrative Review

(1) Any party as defined by ORS 656.005 aggrieved by a proposed order or proposed assessment of civil penalty of the director or division issued under ORS 656.745 or 656.750 may request a hearing by the Hearings Division of the Workers' Compensation Board under ORS 656.740.

(a) The request for hearing must be sent in writing to the Administrator of the Workers' Compensation Division. No hearing will be granted unless the request specifies the grounds on which the person requesting the hearing contests the proposed order or assessment.

(b) The request for hearing must be filed with the Administrator of the Workers' Compensation Division by the aggrieved person within 60 days after the mailing of the proposed order or assessment. No hearing will be granted unless the request is mailed or delivered to the administrator within 60 days after the mailing date of the proposed order or assessment.

(2) Under ORS 656.704(2), any party that disagrees with an action or order of the director under these rules, other than as described in section (1), may request a hearing by filing a request for hearing under OAR 436-001-0019 within 30 days of the mailing date of the order or notice of action. OAR 436-001 applies to the hearing.

Stat. Auth.: ORS 656.740, 656.745 & 656.750
Stats. Implemented: ORS 656.704, 656.740, 656.745, 656.750 & 2005 OL Ch. 26
Hist.: WCD 4-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 10-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 23-1990, f. 11-29-90, cert. ef. 12-26-90; WCD 14-1997, f. 12-4-97, cert. ef. 1-1-98; WCD 12-2003, f. 12-4-03, cert. ef. 1-1-04; WCD 7-2005, f. 10-20-05, cert. ef. 1-2-06; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-075-0010
Criteria for Eligibility

(1) The department will issue a bulletin to notify all insurers of changes in the Retroactive Program benefit levels whenever the director determines a change is necessary under ORS 656.506(7).

(2) Eligibility for Retroactive Program benefits is based on the worker's injury date as follows:

(a) Workers or beneficiaries eligible to receive either death or permanent total disability benefits become eligible for Retroactive Program benefit increases when the benefits granted under the Retroactive Program bulletin exceed the benefits provided by the statute in effect at the time of the injury.

(b) For workers receiving temporary total disability benefits, the injury must have occurred before July 1, l973. Workers with injuries occurring between July 1, 1973 and April 1, 1974 may qualify for benefits according to the limits defined in the Retroactive Program bulletin. Workers injured on or after April 1, 1974 are not entitled to receive Retroactive Program increases to their temporary total disability benefit.

(3) A claim is not eligible for Retroactive Program benefits if all issues except compensable medical services are disposed of under ORS 656.236 or settled under ORS 656.289 before becoming eligible under section (2) of this rule.

(4) Costs for claims of subject workers of a noncomplying employer under ORS 656.052 are not eligible for reimbursement from the program, but remain a cost recoverable from the employer under ORS 656.054(3).

Stat. Auth.: ORS 656.506
Stats. Implemented: ORS 656.236, 656.289 & 656.506
Hist.: WCD 4-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 23-1990, f. 11-29-90, cert. ef. 12-26-90; WCD 14-1997, f. 12-4-97, cert. ef. 1-1-98; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-075-0020
Death Benefit

(1) Death benefits must be paid to eligible beneficiaries under ORS 656.204 and the Retroactive Program benefit schedules.

(2) Burial benefits must be paid under ORS 656.204(1) and the Retroactive Program benefit schedules.

(3) The statutory death benefit for injuries occurring from July 1, 1973 to April 1, 1974 will be reduced by the Social Security benefit received, up to the July 1, 1973 statutory benefit level. The amount of reduction to the statutory benefit is a Retroactive Program benefit. The insurer may request reimbursement only for the adjusted Retroactive Program benefit.

(4) Benefits payable for a partial month must be calculated by dividing the monthly benefit by the actual number of days in the month and multiplying that result by the number of days payable.

(5) Benefits for beneficiaries must be paid to the date of any status change.

(6) Remarriage allowance must be paid under ORS 656.204 and the Retroactive Program benefit schedules.

(7) At least once every two years, the insurer must verify that all beneficiaries receiving death benefits for which the insurer may request reimbursement from the Retroactive Program are alive and remain eligible for those benefits. Insurers' questions regarding beneficiaries' status must be reasonably pertinent to the continuing eligibility of those persons for benefits.

Stat. Auth.: ORS 656.506
Stats. Implemented: ORS 656.204
Hist.: WCD 4-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 14-1997, f. 12-4-97, cert. ef. 1-1-98; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-075-0030
Permanent Total Disability Benefit

(1) Permanent total disability benefits must be paid under ORS 656.206 and the benefit schedules in the Retroactive Program bulletin.

(2) Benefit amounts payable for a partial month must be calculated under 436-075-0020(4).

(3) Benefits for beneficiaries must be paid to the date of any status change.

(4) Any Social Security offset determined under ORS 656.209 must first be applied against the statutory portion of the permanent total disability benefit. Any amount of the Social Security offset that exceeds the statutory benefit must be applied against the Retroactive Program benefit. The insurer may request reimbursement only for that portion of the Retroactive Program benefit that has not been offset.

(5) At least once every two years, the insurer must verify that all beneficiaries receiving benefits for which the insurer may request reimbursement from the Retroactive Program are alive and remain eligible for those benefits. Such "status checks" of beneficiaries may occur at the same time the insurer reexamines the permanent total disability claim under OAR 436-030-0065(1). Insurers' questions regarding beneficiaries' status must be reasonably pertinent to the continuing eligibility of those persons for benefits.

Stat. Auth.: ORS 656.506
Stats. Implemented: ORS 656.206 & 656.209
Hist.: WCD 4-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 14-1997, f. 12-4-97, cert. ef. 1-1-98; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-075-0040
Death During Permanent Total Disability

(1) If the injured worker dies during the period of permanent total disability, death benefits must be paid to eligible beneficiaries under ORS 656.208, 656.204, and the Retroactive Program benefit schedules.

(2) Permanent total disability benefits must be paid to the date of death, at which time death benefits will begin. Where death benefits are not due, permanent total disability benefits must be paid through the date of death.

(3) The Social Security benefit for injuries occurring between July 1, 1973 and April 1, 1974 must be applied under OAR 436-075-0020(3).

(4) Benefit amounts payable for a partial month must be calculated under OAR 436-075-0020(4).

(5) Burial benefits must be paid under ORS 656.208(1), 656.204(1), and the Retroactive Program benefit schedules. However, if the injury date is before July 1, 1973, burial benefits are due only if death results from the accidental injury causing the permanent total disability.

(6) At least once every two years, the insurer must verify that all beneficiaries receiving death benefits for which the insurer may request reimbursement from the Retroactive Program are alive and remain eligible for those benefits. Insurers' questions regarding beneficiaries' status must be reasonably pertinent to the continuing eligibility of those persons for benefits.

Stat. Auth.: ORS 656.506
Stats. Implemented: ORS 656.204 & 656.208
Hist.: WCD 4-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 14-1997, f. 12-4-97, cert. ef. 1-1-98; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-075-0050
Temporary Total Disability

(1) Temporary total disability benefits must be paid under ORS 656.210, OAR 436-060-0150, and the benefit schedules in the Retroactive Program bulletin.

(2) The computation of benefits under these rules and the Retroactive Program bulletin may not reduce temporary total disability benefits currently being paid.

Stat. Auth.: ORS 656.506
Stats. Implemented: ORS 656.210
Hist.: WCD 4-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 14-1997, f. 12-4-97, cert. ef. 1-1-98; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-075-0065
Dispositions

(1) Disposition of the claim by the parties under ORS 656.236, or settlement of the claim under ORS 656.289, is not eligible for reimbursement from the Retroactive Program unless made with the director's prior written approval.

(2) Requests for written approval of proposed dispositions must include:

(a) A copy of the proposed disposition that specifies the amount of the proposed contribution to be made from the Retroactive Program;

(b) A statement from the insurer indicating how the amount of the contribution was calculated; and

(c) Any other information required by the director.

(3) The director will not approve the disposition for reimbursement if:

(a) The ratio of the amount requested from the program to the total amount of the disposition exceeds the percentage of current benefits due the worker from the program; or

(b) The settlement exceeds a reasonable projection of future liability.

(4) The insurer must submit dispositions to the division in the format prescribed by the director.

Stat. Auth.: ORS 656.506
Stats. Implemented: ORS 656.236 & 656.289
Hist.: WCD 10-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 23-1990, f. 11-29-90, cert. ef. 12-26-90; WCD 14-1997, f. 12-4-97, cert. ef. 1-1-98; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-075-0070
Reimbursement

(1) Reimbursement from the Retroactive Program will be authorized by the Performance Section on a quarterly basis.

(2) Requests for reimbursement must be mailed or delivered to the Performance Section within 30 days after the end of each quarter to be processed in that quarterly disbursement.

(3) Requests for reimbursement mailed or delivered to the Performance Section more than 30 days after the end of the quarter will be processed with the next quarterly disbursement.

(4) A separate request for reimbursement must be submitted for each insurer and include a signed certification that the payments reported on the request have been made in the amounts reported.

(5) Requests for reimbursement must be submitted in the format prescribed by the director. Each request must accurately reflect the marital and dependency status in effect and eligible for reimbursement in the period requested.

(6) The Performance Section will not process any request that does not meet the requirements of section (4) or (5) of this rule until such requirements are met.

(7) The department will recover any overpayment made to an insurer as a result of an insurer error in reporting, or incorrect information submitted, on a quarterly request form.

(8) If a denied claim is found to be compensable by an administrative law judge, the Workers' Compensation Board, or the Court of Appeals, and that decision is reversed by a higher level of appeal, the insurer will receive reimbursement for Retroactive Program benefit payments required to be made while the claim was in an accepted status.

Stat. Auth.: ORS 656.506
Stats. Implemented: ORS 656.506
Hist.: WCD 4-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 14-1997, f. 12-4-97, cert. ef. 1-1-98; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-075-0090
Third Party Recovery

(1) In a third party recovery, previously reimbursed Retroactive Program benefits are a portion of the paying agency's lien.

(2) Under ORS 656.593, when the insurer learns of third party settlement negotiations on any claim for which it has received reimbursement from the Retroactive Program, the insurer must notify the Performance Section.

(3) Remittance on recovered Retroactive Program benefits must be made to the department in the quarter following the recovery in amounts determined under ORS 656.591 and 656.593.

Stat. Auth.: ORS 656.506
Stats. Implemented: ORS 656.591 & 656.593
Hist.: WCD 4-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 14-1997, f. 12-4-97, cert. ef. 1-1-98; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-075-0100
Assessment of Civil Penalties

Under ORS 656.745 the director may assess a civil penalty against an insurer for failure to comply with these rules. Penalty orders will be issued under ORS 656.447 and 656.704 and are subject to review under OAR 436-075-0008.

Stat. Auth.: ORS 656.745
Stats. Implemented: ORS 656.204, 656.726, 656.745 & 656.447
Hist.: WCD 4-1989, f. 12-22-89, cert. ef. 1-1-90; WCD 10-1990(Temp), f. 6-18-90, cert. ef. 7-1-90; WCD 23-1990, f. 11-29-90, cert. ef. 12-26-90; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-100-0002
Purpose of Rules

The purpose of these rules is to establish requirements and procedures for offsetting permanent total disability benefits against social security disability benefits.

Stat. Auth.: ORS 656.209 & 656.727
Stats. Implemented: ORS 656.209
Hist.: WCB 7-1978, f. 6-5-78, ef. 6-6-78; WCD 4-1983 (Admin)(Temp), f. & ef. 9-1-83; WCD 2-1984(Admin), f. & ef. 2-22-84; Renumbered to 436-057-0004, 5-1-85; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-100-0003
Applicability of Rules

(1) These rules are effective January 1, 2016, to carry out the provisions of ORS 656.209 and 656.727.

(2) These rules apply to:

(a) Those workers receiving awards for permanent total disability and eligible for and receiving federal social security disability benefits; and

(b) Injured workers whose period of disability under the Social Security Administration began on or after June 1, 1965.

(3) The director may waive procedural rules as justice requires, unless otherwise obligated by statute.

Stat. Auth.: ORS 656.209 & 656.727
Stats. Implemented: ORS 656.209
Hist.: WCB 7-1978, f. 6-5-78, ef. 6-6-78; WCD 4-1983(Admin)(Temp), f. & ef. 9-1-83; WCD 2-1984(Admin), f. & ef. 2-22-84; Renumbered from 436-057-0003, 5-1-85; WCD 15-1997, f. 12-4-97, cert. ef. 1-1-98; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-100-0005
Definitions

(1) "Authorization" means an order issued by the Workers' Compensation Division directing the paying agent to offset the worker's permanent total disability benefits by the amount specified in the order.

(2) "Beneficiary" means an injured worker, and the spouse, child or dependent of a worker, who is entitled to receive payments under ORS 656.001 through 656.794.

(3) "Department" means the Department of Consumer and Business Services.

(4) "Director" means the director of the Department of Consumer and Business Services or the director's designee.

(5) "Division" means the Workers' Compensation Division.

(6) "Federal Disability Benefit Limitation" means the amount determined under 42 USC 224(a) and Social Security Administration rules.

(7) "Offset" means a reduction of permanent total disability benefits based on the amount of federal social security disability benefits received by a worker.

(8) "Paying agency" or "paying agent" means the self-insured employer or insurer paying benefits to the worker or beneficiaries.

(9) "Performance Section" means the Performance Section of the Workers' Compensation Division.

(10) "Permanent total disability benefits" means compensation to an injured worker awarded permanent total disability compensation under ORS 656.206.

(11) "Worker" means any worker receiving permanent total disability benefits.

Stat. Auth.: ORS 656.726
Stats. Implemented: ORS 656.209
Hist.: WCB 7-1978, f. 6-5-78, ef. 6-6-78; WCD 4-1983(Admin)(Temp), f. & ef. 9-1-83; WCD 2-1984(Admin). f. & ef. 2-22-84; Renumbered from 436-057-0005, 5-1-85; WCD 15-1997, f. 12-4-97, cert. ef. 1-1-98; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-100-0006
Administration of Rules

In administration of these rules, orders of the Workers' Compensation Division are deemed orders of the director.

Stat. Auth.: ORS 656.726
Stats. Implemented: ORS 656.209 & 656.726
Hist.: WCB 7-1978, f. 6-5-78, ef. 6-6-78; WCD 4-1983(Admin)(Temp), f. & ef. 9-1-83; WCD 2-1984(Admin), f. & ef. 2-22-84; Renumbered from 436-057-0007, 5-1-85; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-100-0008
Administrative Review

(1) Any worker aggrieved by any offset authorization of the division may apply to the Workers' Compensation Division for a reconsideration of that authorization before requesting a hearing.

(2) Any party aggrieved may request a hearing under ORS 656.283.

Stat. Auth.: ORS 656.726 & 656.727
Stats. Implemented: ORS 656.209
Hist.: WCB 7-1978, f. 6-5-78, ef. 6-6-78; WCD 4-1983(Admin)(Temp), f. & ef. 9-1-83; WCD 2-1984(Admin), f. & ef. 2-22-84; Renumbered from 436-057-0998, 5-1-85; WCD 15-1997, f. 12-4-97, cert. ef. 1-1-98; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-100-0010
Criteria for Eligibility

(1) Permanent total disability benefits must be offset by the workers' social security disability benefits. However, the total combined benefit, permanent total disability benefits plus social security disability benefits, must not be offset to an amount less than the greater of:

(a) The amount the worker would have received under ORS chapter 656; or

(b) The Federal Disability Benefit Limitation.

(2) Permanent total disability benefits must not be paid by the paying agent in an amount greater than authorized by ORS Chapter 656.

(3) Offset of permanent total disability benefits must be made by a paying agent only in an amount and as authorized by the director.

(4) Offset of permanent total disability benefits will be authorized by the director only upon actual receipt of federal social security disability benefits by the injured worker.

Stat. Auth.: ORS 656.209 & 656.727
Stats. Implemented: ORS 656.209
Hist.: WCB 7-1978, f. 6-5-78, ef. 6-6-78; WCD 4-1983(Admin)(Temp), f. & ef. 9-1-83; WCD 2-1984(Admin), f. & ef. 2-22-84; Renumbered from 436-057-0100, 5-1-85; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-100-0020
Requirements of Workers

(1) Workers entitled to receive permanent total disability benefits must make application for federal social security disability benefits.

(2) Workers and eligible beneficiaries must, upon department request, execute a release form authorizing the Social Security Administration to make disclosure to the department of such information regarding the injured workers as will enable the department to carry out the provisions of ORS 656.209 and these rules.

(3) Whenever there is a change in the federal social security beneficiary eligibility, the worker must notify the Performance Section.

(4) Upon request of the department, the worker may be required at any time to furnish additional information regarding social security disability benefits.

Stat. Auth.: ORS 656.209 & 656.727
Stats. Implemented: ORS 656.209 & 656.727
Hist.: WCB 7-1978, f. 6-5-78, ef. 6-6-78; WCD 4-1983(Admin)(Temp), f. & ef. 9-1-83; WCD 2-1984(Admin), f. & ef. 2-22-84; Renumbered from 436-057-0115, 5-1-85; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-100-0030
Authorization of Offset; Effective Date

(1) Authorization issued by the department will be directed to the paying agent with a copy to the injured worker.

(2) A paying agent making payment of permanent total disability benefits will be entitled to social security disability offset only as authorized by the department.

(3) The department will review the social security offset calculation when notified of a change in the status of a worker subject to social security offset. An amended authorization will be issued, if necessary.

(4) Whenever there is a change in eligibility status of the worker or any one of the worker's beneficiaries receiving benefits for permanent total disability subject to offset, the paying agent must notify the Performance Section.

(5) The paying agent must, immediately upon the death of a worker, terminate payment of previously authorized permanent total disability benefits offset and begin payment of other compensation due under ORS Chapter 656, if any.

(6) The effective date of offset must be the effective date established in the authorization.

Stat. Auth.: ORS 656.209 & 656.727
Stats. Implemented: ORS 656.209 & 656.727
Hist.: WCB 7-1978, f. 6-5-78, ef. 6-6-78; WCD 4-1983(Admin)(Temp), f. & ef. 9-1-83; WCD 2-1984(Admin), f. & ef. 2-22-84; Renumbered from 436-057-0130, 5-1-85; WCD 7-2015, f. 10-12-15, cert. ef. 1-1-16

436-100-0040
Sanctions Against Worker for Failure to Cooperate with the Department

(1) Any worker entitled to receive permanent total disability benefits who fails to comply with these rules will be subject to suspension of benefits until the worker has complied.

(2) If a worker fails to comply with these rules, the director will make a written demand upon the worker by personal service or registered mail. If the worker fails to comply within 20 days of receipt of the demand, the director may authorize suspension of benefits until the worker complies.

(3) An order of suspension of benefits will continue in force from the date issued until the date the worker actually complies with these rules.

(4) No compensation will become due or be payable during a period of suspension of benefits.

Stat. Auth.: ORS 656.209 & 656.727
Stats. Implemented: ORS 656.209 & 656.727
Hist.: WCB 7-1978, f. 6-5-78, ef. 6-6-78; WCB 4-1983(Admin)(Temp), f. & ef. 9-1-83; WCB 2-1984(Admin), f. & ef. 2-22-84; Renumbered from 436-057-0150, 5-1-85; WCB 7-2015, f. 10-12-15, cert. ef. 1-1-16

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Department of Energy
Chapter 330

Rule Caption: Updating State Home Oil Weatherization program rules.
Adm. Order No.: DOE 3-2015
Filed with Sec. of State: 9-30-2015
Certified to be Effective: 10-1-15
Notice Publication Date: 9-1-2015
Rules Amended: 330-061-0005, 330-061-0010, 330-061-0015, 330-061-0020, 330-061-0025, 330-061-0030, 330-061-0035, 330-061-0040, 330-061-0045, 330-061-0050, 330-061-0060
Subject: The permanent rules for the State Home Oil Weatherization (SHOW) program assist and improve program administration. Since 1978, the Oregon Department of Energy has administered the SHOW program, which serves Oregon households that heat with oil, propane, kerosene, butane or wood. The amended rules adjust eligible conservation measure requirements and incentive rates aligning those requirements across department programs, especially for duct sealing, envelope insulation R-values and exterior window U-factors. The amended rules remove eligibility for above ground oil tanks and blower door tests from the individual cash payment part of the program. The amended rules clarify rule language to align with statute by removing cash payments provided to tenants. The amended rules also unrestrict the matching funds requirement for projects completed by community action agencies. The rule is effective October 1, 2015.
Rules Coordinator: Elizabeth Ross—(503) 378-8534

330-061-0005
Purpose

(1) Oregon Administrative Rules, chapter 330, division 61 prescribe how the Oregon Department of Energy will run the State Home Oil Weatherization (SHOW) program providing energy conservation measure cash payments. Operation of the program depends on availability of funds.

(2) The amendments to these rules apply to energy conservation measures completed on or after the effective date of these rules.

Stat. Auth.: ORS 469.040
Stats. Implemented: ORS 469.673 – 469.683
Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 3-1987, f. & ef. 12-18-87; DOE 4-1993, f. & cert. ef. 10-22-93; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04; DOE 2-2007, f. 8-29-07, cert. ef. 9-1-07; DOE 8-2008, f. 12-4-08, cert. ef. 12-5-08; DOE 3-2015, f. 9-30-15, cert. ef. 10-1-15

330-061-0010
Definitions

For the purposes of Oregon Administrative Rules, chapter 330, division 61 the following definitions apply, unless the context requires otherwise:

(1) "Applicant" means an individual, corporation, partnership, joint venture or other entity applying for a cash payment.

(2) "Community Action Agency" means an agency designated to receive federal low income weatherization or energy assistance funds on behalf of low income clients.

(3) "Contractor" means a person receiving payment for installing an energy conservation measure. If installation is performed by a subcontractor, then the subcontractor may fulfill requirements such as the warranty requirements.

(4) "Department" means the Oregon Department of Energy.

(5) "Director" means the Director of the department.

(6) "Dwelling" has the meaning provided in ORS 469.673. Real or personal property within the state inhabited as the principal of a dwelling owner or a tenant. "Dwelling" includes a manufactured dwelling as defined in ORS 446.003, a floating home as defined in ORS 488.705 and a single unit in in multiple-unit residential housing. "Dwelling" does not include a recreational vehicle as defined in ORS 446.003.

(7) "Energy Conservation Measures" has the meaning provided in ORS 469.673.

(8) "Fuel Oil" means any petroleum product sold by a petroleum supplier for use as a residential heating fuel, including heating oil, propane, butane and kerosene.

(9) "Improvement Costs" means

(a) The actual costs of an energy conservation measure;

(b) Any incidental cost necessary to ensure the quality of the energy conservation measure, but not including the cost of repairs; and

(c) If installed by contractor, the actual costs to the recipient;

(d) Improvement costs do not include the applicant's own labor.

(10) "Recipient" means an applicant receiving a cash payment under the energy conservation measure program.

(11) "Tenant" means a tenant as defined in ORS 91.100 or any other tenant.

Stat. Auth.: ORS 469.040
Stats. Implemented: ORS 469.673 – 469.683
Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1986, f. & ef. 2-19-87; DOE 3-1987, f. & ef. 12-18-87; DOE 3-1988, f. & cert. ef. 5-24-89; DOE 2-1991, f. & cert. ef. 10-14-91; DOE 4-1993, f. & cert. ef. 10-22-93; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04; DOE 2-2007, f. 8-29-07, cert. ef. 9-1-07; DOE 3-2015, f. 9-30-15, cert. ef. 10-1-15

330-061-0015
Description of State Home Oil Weatherization Program

The Oregon Department of Energy offers cash payments for energy conservation measures. The cash payments are subject to available funding on a first-come, first-served basis.

Stat. Auth.: ORS 469.040
Stats. Implemented: ORS 469.673 – 469.683
Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 3-1987, f. & ef. 12-18-87; DOE 2-1991, f. & cert. ef. 10-14-91; DOE 4-1993, f. & cert. ef. 10-22-93; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04; DOE 2-2007, f. 8-29-07, cert. ef. 9-1-07; DOE 3-2015, f. 9-30-15, cert. ef. 10-1-15

330-061-0020
Eligible Recipients

(1) A dwelling owner who purchases and installs energy conservation measures may receive a cash payment. Dwellings must be heated by oil, propane, kerosene, butane or wood as the primary source of space heat at the time of receipt of the cash payment.

(2) A contractor may receive a cash payment on behalf of any dwelling owner who would be eligible to receive a cash payment, if such dwelling owner consents to the arrangement in writing. The contractor must comply with all requirements which would apply to the dwelling owner if he or she had received the cash payment.

(3) Community Action Agencies and other organizations that assist low-income households with weatherization and energy conservation measures may receive a cash payment on behalf of any dwelling owner who would be eligible to receive a cash payment. Such agencies may apply for a cash payment on behalf of dwelling owners who meet income guidelines for the U.S. Department of Energy's Low Income Weatherization Program.

(4) In the case of a commercial building which has some residential living space, the following can qualify for a cash payment:

(a) That part of the building used exclusively for residential purposes; and

(b) In a centrally heated building, a prorated share of the cost of a heating system upgrade. This share shall be based on the percentage of residential to total square footage served by the heating system.

Stat. Auth.: ORS 469.040
Stats. Implemented: ORS 469.673 – 469.683
Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 3-1987, f. & ef. 12-18-87; DOE 2-1991, f. & cert. ef. 10-14-91; DOE 4-1993, f. & cert. ef. 10-22-93; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04; DOE 2-2007, f. 8-29-07, cert. ef. 9-1-07; DOE 3-2015, f. 9-30-15, cert. ef. 10-1-15

330-061-0025
Specifications and Amount of Cash Payment

(1) The Oregon Department of Energy may annually allocate available funding. When allocating the funding, the department will allocate as provided in sections (2) and (3) of this rule.

(2) Households at or below eligibility levels for the U.S. Department of Energy's Low Income Weatherization Program can receive weatherization and energy conservation measure services from a Community Action Agency or other agencies serving low-income households. The agency may

apply for the cash payment program for installing qualifying energy conservation measures. The cash payment for installing qualifying energy conservation measures shall not exceed the lesser of the following:

(a) The cost of the qualifying energy conservation measures,

(b) 50 percent of the total project costs incurred at the dwelling for weatherization and energy conservation measures by the Community Action Agency during the current State Home Oil Weatherization grant period, or

(c) $2,500.

(3) Any eligible dwelling owner may receive a cash payment not to exceed 50 percent of the project cost up to a cash payment of $500 per dwelling address, for installing at least one of the qualifying energy conservation measures listed below, subject to the following limitations:

(a) Fuel oil furnace or boilers with tested steady state efficiency of at least 81 percent replacing a fuel oil heating system that is more than 20 years old or has a steady-state efficiency of 70 percent or less or as otherwise authorized by the Oregon Department of Energy.

(b) Replacement fuel oil burners, including electrical controls and combustion chamber improvements when needed, which increase combustion efficiency of oil furnaces or boilers. A replacement burner must have a tested steady state efficiency of at least 80 percent and be replacing a burner that is more than 10 years old or is in a heating systems with a tested steady state efficiency of 70 percent or less.

(c) Replacement windows including storm windows, storm doors, double pane windows, or double pane sliding doors subject to the following:

(A) Windows (including sliding doors) with a U-factor of at least 0.30 or lower replacing less energy efficient windows and sliding doors that are certified and labeled for U-factor in accordance with the simulation, testing and certification procedures of the National Fenestration Rating Council (NFRC).

(B) Storm doors covering uninsulated exterior doors; or

(C) Storm windows over single pane glass windows on an exception basis when double glazed windows are not a practical option.

(d) Insulated exterior doors with a U-factor no higher than 0.20. Subject to other limits, a cash payment for insulated exterior doors is limited to $200.

(e) Insulation for attics and ceilings, floors or walls subject to the following:

(A) Attics and ceilings, with a preexisting insulation level of R-21 or less, must be insulated to a minimum nominal loose fill material of R-49 or cavity fill, or continuous rigid insulation of R-20 for roof decks;

(B) Floors, insulate over unheated spaces to fill framing cavity to R-30, if achievable; or

(C) Walls, fill the wall cavity with insulation. If area has unfinished walls adjacent to unheated areas, fill the wall cavity to R-21, if achievable. In areas that have finished walls with no insulation that are adjacent to unheated areas, fill up to R-15, if achievable.

(f) Weather-stripping, caulking or air sealing, seal the heated space and ducts in a dwelling. Subject to other limits, a cash payment for weather-stripping, caulking or air sealing is limited to $200.

(g) Duct sealing and insulation, insulate supply and return air ducts in unheated spaces to at least R-8. This must be performed by a technician and certified that Bonneville Power Administration's Prescriptive Duct Sealing Specifications have been completed. Subject to other limits, a cash payment for duct sealing and insulation is limited to $200.

(h) Programmable thermostats. Subject to other limits, a cash payment for programmable thermostats is limited to $100.

(4) Notwithstanding OAR 330-061-0025(1), the Director may:

(a) Reduce incentive amounts or limit the number of qualifying energy conservation measures if the Director determines that cash payment applications are likely to exceed the funding allocated. This action will apply to any applications received no sooner than 30 calendar days after that determination.

(b) Allocate additional funding for financial incentives through pilot programs that the Oregon Department of Energy determines may encourage installation of energy efficiency measures.

(5) In some cases, a landlord may not wish to install energy conservation measures in all units within a building. To determine the building type, all dwelling units in the building must be counted. The cash payment is only available for those units where energy conservation measures have been installed. All dwelling units sharing a common space conditioning system shall be considered part of the same residential building.

Stat. Auth.: ORS 469.040

Stats. Implemented: ORS 469.673 – 469.683

Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 3-1987, f. & ef. 12-18-87; DOE 2-1991, f. & cert. ef. 10-14-91; DOE 4-1993, f. & cert. ef. 10-22-93; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04; DOE 2-2007, f. 8-29-07, cert. ef. 9-1-07; DOE 8-2008, f. 12-4-08, cert. ef. 12-5-08; DOE 3-2015, f. 9-30-15, cert. ef. 10-1-15

330-061-0030
Application Procedure

(1) An applicant for a cash payment must submit to the Oregon Department of Energy a copy of a home energy assessment or third-party audit for the dwelling unit for which a cash payment is requested before the cash payment is provided.

(2) Applicant certification. The applicant must certify to the department that the applicant heats with oil, propane, kerosene, butane or wood, the application is for costs of qualifying energy conservation measures, the applicant will grant permission for an inspection of the installed measures within a reasonable time if requested by the department, and the applicant understands that the installed measures must comply with the program's energy conservation measure specifications and if the measures do not comply that the installation must be remedied or the cash payment repaid.

(3) A contractor applying for a cash payment on behalf of any dwelling owner must provide the department with evidence of written consent from the dwelling owner before receiving a cash payment.

(4) Contractor requirements:

(a) All contractors who install energy conservation measures receiving a cash payment must be registered with the Oregon Construction Contractors Board. This requirement may not apply to community action agencies acting as contractors;

(b) Contractors shall certify, if requested by the Oregon Department of Energy, that all applicable federal, state and local licenses are in good standing.

(c) Warranties:

(A) Basic Requirement:

(i) The contractor for the installation of energy conservation measures shall, in connection with such measures, warrant in writing that the recipient shall (for those measures found within one year from the date of installation to be defective due to materials, manufacture, design or installation) at a minimum be entitled to obtain, within a reasonable period of time and at no charge, appropriate replacement parts, materials or installation;

(ii) Any replacement parts or materials must be provided at the site of installation without charge for transportation and must be installed without charge by the contractor.

(B) Other law. This section may not relieve a warrantor under this section from full compliance with federal and state laws applicable to warranties, except to the extent that such law is inconsistent with the requirements of this section.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 469.040

Stats. Implemented: ORS 469.673 – 469.683

Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 3-1987, f. & ef. 12-18-87; DOE 2-1991, f. & cert. ef. 10-14-91; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04; DOE 2-2007, f. 8-29-07, cert. ef. 9-1-07; DOE 8-2008, f. 12-4-08, cert. ef. 12-5-08; DOE 3-2015, f. 9-30-15, cert. ef. 10-1-15

330-061-0035
Cash Payment

After receipt of all documents and certificates required by OAR 330-061-0030, the department will issue a two-party check in the allowable cash payment amount to the applicant and the applicant's designated contractor or supplier. The department may also, at its discretion, issue a two-party check to the applicant and another person (such as a landlord, Community Action Agency, or lending institution). If no contractor or supplier is involved, or if the applicant has receipts showing that the contractor has been paid in full, the department may issue a single-party check to the applicant. The department may also, at its discretion, issue a single-party check to the contractor. The department may issue checks to Community Action Agencies administering the SHOW program on behalf of the department.

Stat. Auth.: ORS 469.040

Stats. Implemented: ORS 469.673 – 469.683

Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 3-1987, f. & ef. 12-18-87; DOE 2-1991, f. & cert. ef. 10-14-91; DOE 4-1993, f. & cert. ef. 10-22-93; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04; DOE 2-2007, f. 8-29-07, cert. ef. 9-1-07; DOE 3-2015, f. 9-30-15, cert. ef. 10-1-15

330-061-0040
Post-Installation Inspections

(1) The Oregon Department of Energy may conduct post-installation inspections to inspect energy conservation measures:

(a) The department may inspect energy conservation measures installed by a dwelling owner receiving a cash payment; and

(b) The department may require an inspection before disbursing cash payments.

(2) The inspection will verify that measures included for the cash payment were installed and that workmanship and materials meet industry standards. All measures installed must meet the energy conservation measure specifications. Local codes must prevail in all cases.

Stat. Auth.: ORS 469.040
Stats. Implemented: ORS 469.673 – 469.683
Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04; DOE 2-2007, f. 8-29-07, cert. ef. 9-1-07; DOE 3-2015, f. 9-30-15, cert. ef. 10-1-15

330-061-0045
Penalties and Remedies

(1) Any person who knowingly makes any false statement or misrepresents any material fact with respect to any cash payment provided by the Oregon Department of Energy is subject under state law ORS 162.085 to a fine of not more than $1,000, or imprisonment for not more than six months, or both, for each offense. Each false statement, material misrepresentation or failure to make a required disclosure or statement shall be a separate offense.

(2) Refusal by a recipient to allow an inspection previously authorized in writing by the recipient, upon reasonable request by the department and at a reasonable time constitutes grounds for the department to recover the full cash payment amount from the recipient.

(3) Penalties in these sections are not exclusive. The penalties provided for in sections (1) and (2) of this rule are in addition to any civil or criminal fines or penalties applicable under law, including any applicable provisions of federal, state or local law.

Stat. Auth.: ORS 469.040
Stats. Implemented: ORS 469.673 – 469.683
Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 3-1987, f. & ef. 12-18-87; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04; DOE 2-2007, f. 8-29-07, cert. ef. 9-1-07; DOE 3-2015, f. 9-30-15, cert. ef. 10-1-15

330-061-0050
Retention of Records by Recipients

Recipients shall retain all records pertaining to the SHOW application and the energy conservation measures for which the cash payment was provided for a period of three years after the financial assistance is provided.

Stat. Auth.: ORS 469.040
Stats. Implemented: ORS 469.673 – 469.683
Hist.: DOE 5-1983, f. & ef. 12-2-83; DOE 8-1984, f. & ef. 12-19-84; DOE 1-1987, f. & ef. 2-19-87; DOE 1-2000, f. 3-30-00, cert. ef. 4-1-00; DOE 2-2003, f. 9-24-03, cert. ef. 10-1-03; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04; DOE 3-2015, f. 9-30-15, cert. ef. 10-1-15

330-061-0060
Applicability of Rules

These rules shall apply to all weatherization cash payments.

Stat. Auth.: ORS 469.040
Stats. Implemented: ORS 469.673 – 469.683
Hist.: DOE 3-1987, f. & ef. 12-18-87; DOE 4-1993, f. & cert. ef. 10-22-93; DOE 5-2004, f. 10-14-04, cert. ef. 11-1-04; DOE 3-2015, f. 9-30-15, cert. ef. 10-1-15

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Rule Caption: Amending Residential Energy Tax Credit rules to implement HB 2171 solar thermal changes.
Adm. Order No.: DOE 4-2015
Filed with Sec. of State: 10-5-2015
Certified to be Effective: 10-5-15
Notice Publication Date: 9-1-2015
Rules Amended: 330-070-0022
Subject: This permanent rule amendment for the Residential Energy Tax Credit program implements changes provided in Oregon Laws 2015, chapter 701, sections 26 and 37 (HB 2171). HB 2171 increases the tax credit amount available for solar radiation for domestic water heating devices and solar radiation for swimming pool heating devices certified on or after September 1, 2015. As provided in HB 2171, solar radiation for domestic water heating devices may receive tax credits equaling the lesser of the first-year energy savings of the alternative energy device in kWh multiplied by $2.00, up to 50 percent of the eligible cost of the alternative energy device, or $6,000. Additionally as provided in HB 2171, solar radiation for swimming pool heating devices may receive tax credits equaling the lesser of the first-year energy savings of the alternative energy device in kWh multiplied by 20 cents, up to 50 percent of the eligible cost of the alternative energy device, or $2,500. The certification date for solar radiation for domestic water heating devices is the system's operational date which is the date of the final inspection. The certification date for solar radiation for swimming pool heating devices is the system's operational date as reported on the RETC application form. The permanent rule provides that solar thermal devices installed at a dwelling within a five year period will be considered a single device. The rule is effective upon the effective date of HB 2171, October 5, 2015.
Rules Coordinator: Elizabeth Ross—(503) 378-8534

330-070-0022
Amount of Tax Credit

(1) The amount of the AED tax credit is based on the first-year energy savings of an eligible AED. The department has determined first-year energy savings estimates for eligible AEDs and associated tax credit amounts, which are listed in the RETC Rate Chart. The energy savings basis for a solar tax credit may be adjusted by the department to account for less than optimal solar access.

(2) The amount of the AED tax credit may not exceed the lesser of:

(a) For AEDs used for space heating, cooling, electrical energy or domestic water heating, other than an AED using solar radiation for domestic water heating, $1,500 or the first-year energy savings of the AED in kWh multiplied by 60 cents. The amount of the credit may not exceed 100 percent of the cost of the system components and their installation. Only one tax credit for ground source heat pump systems will be issued per year per residence.

(b) For AEDs that use solar radiation for domestic water heating:

(A) The incentive rate is based on when the system is certified as operational as of the date of the final inspection:

(i) Before September 1, 2015, $1,500 or the first-year energy savings of the AED in kWh multiplied by 60 cents. The amount of the credit may not exceed 100 percent of the cost of the system components and their installation.

(ii) Between September 1, 2015 and December 31, 2015 and for tax years beginning on or after January 1, 2015, the first-year energy savings of the AED in kWh multiplied by $2.00, or 50 percent of the cost of the system, not to exceed $6,000. The maximum credit claimed per year may not exceed $1,500.

(B) The tax credit is calculated:

(i) Prior to September 1, 2015, by multiplying the Solar Rating and Certification Corporation (SRCC) savings estimate for the appropriate zone, times the Total Solar Resource Fraction (TSRF), times the incentive rate.

(ii) On September 1, 2015 through December 31, 2016, by multiplying the Solar Rating and Certification Corporation (SRCC) savings estimate for the appropriate zone times the incentive rate.

(iii) On or after January 1, 2017, by multiplying the Solar Rating and Certification Corporation (SRCC) savings estimate for the appropriate zone, times the Total Solar Resource Fraction (TSRF), times the incentive rate.

(c) For AEDs used for swimming pool, spa or hot tub heating, other than an AED using solar radiation for swimming pool heating, the first-year energy savings of the AED in kWh multiplied by 15 cents, up to 50 percent of the eligible cost of the AED, or $1,500.

(d) For AEDs using solar radiation for swimming pool heating:

(A) The incentive rate is based on when the system is certified as operational as of the operational date reported on the RETC application form:

(i) Before September 1, 2015, the first-year energy savings of the AED in kWh multiplied by 15 cents, up to 50 percent of the eligible cost of the AED, or $1,500.

(ii) Between September 1, 2015 and December 31, 2015 and for tax years beginning on or after January 1, 2015, the first-year energy savings of the AED in kWh multiplied by $0.20, or 50 percent of the cost of the system, not to exceed $2,500. The maximum credit claimed per year may not exceed $1,500.

(B) The tax credit is calculated:

(i) Prior to January 1, 2017, by multiplying the collector area in square feet, times the number of collectors, times the solar output by zone, times the incentive rate.

(ii) On or after January 1, 2017, by multiplying the collector area in square feet, times the number of collectors, times the solar output by zone, times the Total Solar Resource Fraction (TSRF), times the incentive rate.

(C) The solar output by zone is:

(i) 30 kWh/ft2 for systems located in Zone 1 which is areas not in Zone 4 of the following counties: Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington and Yamhill.

(ii) 30 kWh/ft2 for systems located in Zone 2 which is areas not in Zone 4 of the following counties: Coos, Curry, Douglas, Jackson and Josephine.

(iii) 35 kWh/ft2 for systems located in Zone 3 which is the following counties: Baker, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco and Wheeler.

(iv) 20 kWh/ft2 for systems located in Zone 4 which is areas within 10 miles of the coast.

(e) For each alternative fuel device, 25 percent of the eligible cost of the alternative fuel device or $750.

(f) For fuel cell systems, $3.00 per watt of the installed capacity or $6,000, and not to exceed 50 percent of the cost of the system. One tax credit may be issued per year, per residence, and the maximum credit claimed per year will not exceed $1,500.

(g) For wind AEDs, the first-year energy savings of the AED in kWh multiplied by $2.00, not to exceed the lesser of $6,000 or 50 percent of the cost of the system. One tax credit may be issued per year, per residence, and the maximum credit claimed per year will not exceed $1,500, over a four year period.

(h) For premium efficiency biomass combustion devices, the average heating need times the stove efficiency improvement times 60 cents, up to $1,500. The department will use the EPA default efficiency as of January 1, 2015 when calculating the stove efficiency improvement for:

(A) Wood or pellet stoves without full efficiency testing listed on the EPA list of EPA Certified Wood Heaters,

(B) Wood or pellet stoves without full efficiency testing with the testing data submitted and approved by EPA, or

(C) Pellet stoves on the List of EPA Exempt Wood Heating Appliances that submitted testing certificates to the department.

(3) For photovoltaic systems:

(a) On or after January 1, 2012 and before January 1, 2014, the credit allowed under this section is equal to $2.10 per watt of the installed capacity measured in watts of direct current at industry standard test conditions; the tax credit is claimed according to OAR 330-070-0024.

(b) On or after January 1, 2014 and before January 1, 2015, the credit allowed under this section is equal to $1.90 per watt of the installed capacity measured in watts of direct current at industry standard test conditions; the tax credit is claimed according to OAR 330-070-0024.

(c) On or after January 1, 2015, the credit allowed under this section is equal to $1.70 per watt of the installed capacity measured in watts of direct current at industry standard test conditions; the tax credit is claimed according to OAR 330-070-0024.

(d) A maximum of one credit valued at $6,000 is allowed per residence, per AED. The maximum amount of credit allowed per year, beginning in the year in which the AED was installed, is $1,500 per year over a four-year period. The total credit may not exceed 50 percent of the cost of the system as defined in OAR 330-070-0022(4).

(4) The amount of the tax credit may not exceed the system cost of the AED to the applicant. The sum of any rebates or cash payments, including public purpose organization or federal grants or credits and the residential energy tax credit may not exceed system costs.

(5) Each of the following device types installed at a dwelling within in a 5-year period will be considered a single device:

(a) Photovoltaic,

(b) Solar radiation for domestic water heating, or

(c) Solar radiation for swimming pool heating.

(6) For purposes of the tax credit, the cost of the AED must:

(a) Comply with OAR 330-070-0060 through 330-070-0097, as those rules apply;

(b) Be the system cost of acquiring the system.

(A) AEDs using an alternative energy source for only a part of their energy output or savings will have system cost prorated. System cost must be based on that part of the AED's energy output or savings that is due to the alternative source;

(B) The department may find an AED to be too large for a dwelling. In such case the system cost must be prorated. System cost must be based on the largest useful size of an AED for the dwelling. The department will determine largest useful size based on the energy needs of the building; and

(C) The amount of credit for the original system and any addition may not exceed $1,500 per year.

(7) For purposes of the tax credit, the eligible system cost of the AED is only those costs necessary for the system to yield energy savings or produce renewable energy such as:

(a) The cost to purchase the AED.

(b) The cost of materials directly associated with installation or construction of the AED.

(c) For solar thermal systems, the cost of solar collectors; thermal storage devices; monitors, meters and controls; photovoltaic devices used to supply electricity to parts of the system; installation charges; fees paid for design or building; and ductwork, piping, fans, pumps and controls that move heat from solar collectors to storage and to heat buildings.

(d) For solar photovoltaic systems, solar labor costs and solar material costs including photovoltaic modules; inverters; storage systems and regulators; monitors, meters, and controls; wiring and framing materials; trackers; mounting or racking structures only, no structures beyond those needed for mounting or racking purposes; shipping; and for owner-built system inspections by a tax-credit technician, up to $400; permits and fees.

(e) For wind systems, the cost of wind turbine generators; DC/AC converters, inverters and synchronous inverters; energy storage (batteries or other methods); tower, foundation and guys; electric transformers and lines and supports; safety equipment; up to $500 of wind permitting cost; windmills; pumps, linkage, pump heads, and vacuum chambers; and obtaining a project site specific computer model wind speed estimate from a nationally recognized service as approved by the department, not to exceed $100.

(8) Eligible system cost do not include:

(a) Unpaid labor (including the applicant's labor);

(b) Operating and maintenance costs;

(c) Land costs;

(d) Legal and court costs;

(e) Patent search fees;

(f) Fees for use permits or variances;

(g) Loan interest;

(h) Vendor rebates, discounts and refunds;

(i) Service contracts;

(j) Cost of moving a used AED from one site to another;

(k) Cost of repair or resale of a system;

(L) Any part of the purchase price which is optional, such as an extended warranty; or

(m) Support structures beyond the mounting or racking hardware necessary for securing equipment.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 469.040; 469B.103; 316.116

Stats. Implemented: ORS 469B.100–469B.118; 316.116; 317.115

Hist.: DOE 1-1986, f. & ef. 2-7-86; DOE 4-1987, f. 12-18-87, ef. 1-1-88; DOE 2-1989, f. 12-28-89, cert. ef. 1-1-90; DOE 1-1996, f. & cert. ef. 4-1-96; DOE 1-1997, f. 12-15-97, cert. ef. 1-1-98; DOE 1-1999, f. 12-21-99, cert. ef. 1-1-00; DOE 2-2001, f. 10-5-01, cert. ef. 10-8-01; DOE 1-2004, f. & cert. ef. 1-21-04; DOE 2-2005, f. 12-30-05, cert. ef. 1-1-06; DOE 4-2007, f. 11-30-07, cert. ef. 12-1-07; DOE 7-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; DOE 16-2010, f. & cert. ef. 12-22-10; DOE 11-2011, f. 12-16-11, cert. ef. 1-1-12; DOE 14-2012, f. 12-26-12, cert. ef. 1-1-13; DOE 8-2013, f. 12-27-13, cert. ef. 1-1-14; DOE 8-2014, f. 11-18-14, cert. ef. 1-1-15; DOE 4-2015, f. & cert. ef. 10-5-15

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Rule Caption: Amends geothermal heating source requirements for public school buildings in the green energy technology program.

Adm. Order No.: DOE 5-2015

Filed with Sec. of State: 10-14-2015

Certified to be Effective: 10-14-15

Notice Publication Date: 9-1-2015

Rules Amended: 330-135-0015

Subject: These permanent rules for the Oregon Department of Energy for the 1.5% Green Energy Technology program make the administrative rules consistent with the statutory amendments adopted through Oregon Laws 2015, chapter 262 (House Bill 3329), which revised a provision in the requirements for public bodies to spend 1.5 percent of the total contract price for green energy technology when constructing, renovating or undertaking a major remodel of a public building. Consistent with the changes made by Oregon Laws

2015, chapter 262, this rulemaking amends the definition of "green energy technology" to allow geothermal energy sources to qualify as green energy technology for public school buildings if the water used as a heat source is more than 128 degrees Fahrenheit.
Rules Coordinator: Elizabeth Ross—(503) 378-8534

330-135-0015
Definitions

For the purpose of this division, the following definitions apply:

(1) "Building" means any structure used or intended for supporting or sheltering any use or occupancy, as defined in Section 202 of the 2010 Oregon Structural Specialty Code.

(2) "Contracting agency" means a public body as defined in ORS 174.109 that plans to enter into a public improvement contract for the construction, reconstruction or major renovation of a public building.

(3) "Cost-effective" means an investment in green energy technology away from the site has a higher estimated economic benefit than an investment in corresponding green energy technology at the site. The comparison must include, but is not limited to, the cost of green energy technology, the cost of energy transmission infrastructure back to the public building, the value of electrical energy produced, saved or used over the life of the system, and the value of thermal energy produced, saved or used over the life of the system.

(4) "Department" means the Oregon Department of Energy.

(5) "Director" means the Director of the Oregon Department of Energy.

(6) "Direct use" of geothermal energy means using the geothermal resource directly for space or water heating in a building without the assistance of a heat pump. For the purpose of these rules, direct use applications employ resource temperatures of at least 140°F, except when applied to public school construction, in which case the minimum resource temperature is 128°F.

(7) "Geothermal energy" means the energy from a geothermal source including, but not limited to, indigenous steam, hot water, and hot brines.

(8) "Green energy technology" has the definition given in ORS 279C.527 as updated by Oregon Laws 2013, chapter 612 (HB 3169).

(9) "Green energy technology database" means a database of public building construction projects that are subject to these rules, and is administered by Oregon Department of Energy.

(10) "Public school" means a kindergarten through grade 12 public school institution.

(11) "Site" means a land parcel or a group of contiguous land parcels, controlled by the contracting agency, on which a building either is or will be located.

(12) "Total contract price" means the estimated cost to construct a building including building systems, interior finishes, site infrastructure within five feet of the building perimeter, connections to existing utilities, landscaping, and sidewalks and parking lots built for the immediate use of the building. It does not include the cost of major new utility infrastructure that needs to be brought to the site or wetland mitigation requirements.

(13) "Total solar resource fraction" (TSRF) means the percent of energy produced by a fixed axis solar energy system when compared to the annual performance of the same system with optimal tilt and orientation and no external shading.

Stat. Auth.: ORS 469.040, 297C.528, OL 2013, Ch. 612 (HB 3169)
Stats. Implemented: ORS 279C.527, 279C.528, 2013 OL, Ch. 612
Hist.: DOE 6-2007, f. 12-31-07, cert. ef. 1-2-08; DOE 15-2012, f. 12-27-12, cert. ef. 1-1-13; DOE 7-2013, f. & cert. ef. 12-23-13; DOE 5-2015, f. & cert. ef. 10-14-15

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Department of Fish and Wildlife
Chapter 635

Rule Caption: Columbia River Treaty Indian Fall Commercial Gill Net Season Amended.
Adm. Order No.: DFW 130-2015(Temp)
Filed with Sec. of State: 9-17-2015
Certified to be Effective: 9-18-15 thru 10-31-15
Notice Publication Date:
Rules Amended: 635-041-0075
Rules Suspended: 635-041-0075(T)
Subject: This amended rule reduces the size of the Spring Creek sanctuary for the Treaty Indian fall commercial gill net fishery in the Columbia River and its Washington tributaries to the lesser of the two areas as described in OAR 635-041-0045(11). Rule modifications are consistent with action taken September 17, 2015 by the Departments of Fish & Wildlife for the States of Oregon and Washington in cooperation with the Columbia River Treaty Tribes at a meeting of the Columbia River Compact.
Rules Coordinator: Michelle Tate—(503) 947-6044

635-041-0075
Fall Salmon Season

(1) Salmon, steelhead, shad, walleye, catfish, bass, yellow perch, and carp may be taken for commercial purposes in all of Zone 6 of the Columbia River above Bonneville Dam from August 1 through October 31, 2015. Legal fish landed during an open commercial period may be sold after the period concludes.

(a) White sturgeon between 43–54 inches in fork length caught in The Dalles Pool and John Day Pool and white sturgeon between 38–54 inches in fork length caught in the Bonneville Pool may not be sold but may be retained for subsistence use.

(b) Gear is restricted to subsistence fishing gear which includes hoopnets, dipnets, and rod and reel with hook-and-line. Fish may also be taken by gill net with an 8-inch minimum mesh size during the following fishing periods:

(A) 6:00 a.m. Monday, September 14 through 6:00 p.m. Saturday, September 19, 2015 (5.5 days); and

(B) 6:00 a.m. Monday, September 21 through 6:00 p.m. Friday, September 25, 2015 (4.5 days).

(2) Closed areas are set forth in OAR 635-041-0045, including the closure at the mouth of Spring Creek, which is reduced to the standard 150-foot radius around the fishway as described in OAR 635-041-0045(11), beginning at 6:00 a.m. Friday, September 18, 2015.

(3) Beginning August 1 through October 31, 2015 commercial sales of salmon, steelhead, walleye, shad, catfish, carp, bass and yellow perch caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; and Drano Lake are allowed for Yakama Nation members during those days and hours when these tributaries are open under lawfully enacted Yakama Nation fishing periods. Legal fish landed during an open period may be sold after the period concludes.

(a) Sturgeon may not be sold. Sturgeon between 38-54 inches in fork length may be kept for ceremonial or subsistence purposes.

(b) Gear is restricted to subsistence fishing gear which includes hoopnets, dipnets, and rod and reel with hook-and-line. Gillnets may only be used in Drano Lake.

Stat. Auth.: ORS 496.118 & 506.119
Stats. Implemented: ORS 506.109, 506.129 & 507.030
Hist.: FWC 25-1979, f. & ef. 8-2-79; FWC 36-1979(Temp), f. & ef. 8-22-79; FWC 47-1979(Temp), f. & ef. 9-21-79; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 46-1980(Temp), f. & ef. 9-13-80; FWC 33-1981(Temp), f. & ef. 9-15-81; FWC 58-1982(Temp), f. & ef. 8-27-82; FWC 62-1982(Temp), f. & ef. 9-7-82; FWC 63-1982(Temp), f. & ef. 9-14-82; FWC 75-1982 (Temp), f. & ef. 10-29-82; FWC 36-1983, f. & ef. 8-18-83; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 51-1983(Temp), f. & ef. 9-30-83; FWC 55-1983(Temp), f. & ef. 10-4-83; FWC 46-1984, f. & ef. 8-30-84; FWC 55-1984(Temp), f. & ef. 9-10-84; FWC 58-1984(Temp), f. & ef. 9-17-84; FWC 61-1984 (Temp), f. & ef. 9-21-84; FWC 70-1984(Temp), f. & ef. 10-9-84; FWC 47-1985, f. & ef. 8-23-85; FWC 60-1985(Temp), f. & ef. 9-13-85; FWC 63-1985(Temp), f. & ef. 9-24-85; FWC 42-1986, f. & ef. 8-15-86; FWC 53-1986(Temp), f. & ef. 9-4-86; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 57-1986(Temp), f. & ef. 9-11-86; FWC 60-1986(Temp), f. & ef. 9-26-86; FWC 62-1986(Temp), f. & ef. 10-2-86; FWC 63-1987, f. & ef. 8-7-87; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987 (Temp), f. & ef. 9-1-87; FWC 78-1987(Temp), f. & ef. 9-15-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 89-1987(Temp), f. & ef. 10-12-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 72-1988(Temp), f. & cert. ef. 8-19-88; FWC 77-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988 (Temp), f. 9-27-88, cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 87-1989(Temp), f. & cert. ef. 9-1-89; FWC 95-1989(Temp), f. & cert. ef. 9-19-89; FWC 96-1989 (Temp), f. & cert. ef. 9-21-89; FWC 99-1989(Temp), f. & cert. ef. 9-27-89; FWC 100-1989(Temp), f. & cert. ef. 9-28-89; FWC 80-1990(Temp), f. 8-7-90, cert. ef. 8-8-90; FWC 90-1990, f. & cert. ef. 8-31-90; FWC 96-1990(Temp), f. 9-7-90, cert. ef. 9-10-90; FWC 98-1990(Temp), f. 9-14-90, cert. ef. 9-17-90; FWC 85-1991, f. 8-7-91, cert. ef. 8-12-91; FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991(Temp), f. & cert. ef. 9-10-91; FWC 103-1991(Temp), f. 9-17-91, cert. ef. 9-18-91; FWC 110-1991(Temp), f. & cert. ef. 9-27-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 86-1992(Temp), f. 9-1-92, cert. ef. 9-2-92; FWC 87-1992(Temp), f. 9-4-92, cert. ef. 9-7-92; FWC 91-1992(Temp), f. 9-16-92, cert. ef. 9-17-92; FWC 96-1992(Temp), f. 9-22-92, cert. ef. 9-23-92; FWC 105-1992(Temp), f. 10-2-92, cert. ef. 10-5-92; FWC 107-1992 (Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 52-1993, f. & cert. ef. 8-30-93; FWC 57-1993(Temp), f. & cert. ef. 9-13-93; FWC 59-1993(Temp), f. 9-17-93, cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. 8-26-94, cert. ef. 8-29-94; FWC 61-1994(Temp), f. 9-7-94, cert. ef. 9-8-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. 8-25-95, cert. ef. 8-29-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. 9-12-95, cert. ef. 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. 8-29-96, cert. ef. 9-2-96; FWC 51-1996(Temp), f. 9-6-96, cert. ef. 9-9-96; FWC 53-1996(Temp), f. & cert. ef. 9-26-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 52-1997(Temp), f. 8-29-97, cert. ef. 9-2-97, FWC 57(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. 9-16-97, cert. ef. 9-17-97; DFW 68-1998(Temp), f. & cert. ef. 8-25-98 thru 9-25-98; DFW 76-1998(Temp), f. & cert. ef. 9-8-98 thru 9-25-98; DFW 77-1998(Temp), f. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. 9-21-98, cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. 9-23-98, cert. ef. 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99;

DFW 62-1999(Temp), f. 9-2-99, cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. 9-14-99, cert. ef. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. 9-21-99, cert. ef. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. 9-28-99, cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. 9-10-01, cert. ef. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 113-2002(Temp), f. 10-14-02, cert. ef. 10-15-02 thru 12-31-02;. DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. 9-12-03 cert. ef. 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. 9-22-03, cert. ef. 9-24-03 thru 12-31-03; DFW 101-2003(Temp), f. 9-26-03, cert. ef. 10-1-03 thru 12-31-03; DFW 103-2003(Temp), f. 10-3-03, cert. ef. 10-8-03 thru 12-31-03; DFW 104-2003(Temp), f. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 104-2004(Temp), f. 10-12-04 cert. ef. 10-13-04 thru 12-31-04; DFW 110-2004(Temp), f. & cert. ef. 10-29-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 104-2005(Temp), f. & cert. ef. 9-12-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 113-2005(Temp), f. & cert. ef. 9-28-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; Administrative correction 1-19-06; DFW 71-2006(Temp), f. 7-31-06, cert. ef. 8-1-06 thru 12-31-06; DFW 86-2006(Temp), f. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 94-2006(Temp), f. 9-8-06, cert. ef. 9-11-06 thru 12-31-06; DFW 101-2006(Temp), f. 9-15-06, cert .ef. 9-18-06 thru 12-31-2006; DFW 107-2006(Temp), f. 9-28-06, cert. ef. 10-3-06 thru 12-31-06; DFW 115-2006(Temp), f. 10-13-06, cert. ef. 10-15-06 thru 12-31-06; Administrative correction 1-16-07; DFW 60-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 12-31-07; DFW 77-2007(Temp), f. 8-17-07, cert. ef. 8-22-07 thru 12-31-07; DFW 88-2007(Temp), f. 9-10-07, cert. ef. 9-11-07 thru 12-31-07; DFW 95-2007(Temp), f. 9-21-07, cert. ef. 9-25-07 thru 12-31-07; DFW 100-2007(Temp), f. 9-28-07, cert. ef. 10-3-07 thru 12-31-07; DFW 110-2007(Temp), f. 10-16-07, cert. ef. 10-20-07 thru 12-31-07; DFW 106-2008(Temp), f. 9-4-08, cert. ef. 9-6-08 thru 10-31-08; DFW 109-2008(Temp), f. 9-12-08, cert. ef. 9-15-08 thru 10-31-08; DFW 112-2008(Temp), f. 9-17-08, cert. ef. 9-18-08 thru 10-31-08; DFW 117-2008(Temp), f. & cert. ef. 9-22-08 thru 10-31-08; DFW 122-2008(Temp), f. & cert. ef. 9-29-08 thru 10-31-08; DFW 125-2008(Temp), f. 10-6-08, cert. ef. 10-7-08 thru 10-31-08; DFW 134-2008(Temp), f. & cert. ef. 10-17-08 thru 10-31-08; DFW 141-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 11-30-08; DFW 88-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 95-2009(Temp), f. 8-19-09, cert. ef. 8-24-09 thru 12-31-09; DFW 111-2009(Temp), f. 9-11-09, cert. ef. 9-13-09 thru 9-30-09; DFW 114-2009(Temp), f. 9-18-09, cert. ef. 9-21-09 thru 10-31-09; DFW 119-2009(Temp), f. & cert. ef. 9-29-09 thru 10-31-09; DFW 129-2009(Temp), f. 10-13-09, cert. ef. 10-14-09 thru 10-31-09; Administrative correction 11-19-09; DFW 111-2010(Temp), f. 7-30-10, cert. ef. 8-1-10 thru 10-31-10; DFW 120-2010(Temp), f. 8-18-10, cert. ef 8-24-10 thru 10-31-10; DFW 128-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; DFW 136-2010(Temp), f. 9-24-10, cert. ef. 9-27-10 thru 10-31-10; DFW 142-2010(Temp), f. 10-8-10, cert. ef. 10-9-10 thru 10-31-10; DFW 149-2010(Temp), f. 10-18-10, cert. ef. 10-19-10 thru 10-31-10; Administrative correction 11-23-10; DFW 103-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 10-31-11; DFW 119-2011(Temp), f. 8-26-11, cert. ef. 8-29-11 thru 10-31-11; DFW 124-2011(Temp), f. 9-8-11, cert. ef. 9-12-11 thru 10-31-11; DFW 130-2011(Temp), f. 9-15-11, cert. ef. 9-19-11 thru 10-31-11; DFW 133-2011(Temp), f. 9-21-11, cert. ef. 9-22-11 thru 10-31-11; DFW 138-2011(Temp), f. 9-30-11, cert. ef. 10-3-11 thru 10-31-11; DFW 142-2011(Temp), f. 10-6-11, cert. ef. 10-8-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 94-2012(Temp), f. & cert. ef. 7-27-12 thru 10-31-12; DFW 107-2012(Temp), f. 8-15-12, cert. ef. 8-21-12 thru 10-31-12; DFW 119-2012(Temp), f. 9-10-12, cert. ef. 9-11-12 thru 10-31-12; DFW 120-2012(Temp), f. & cert. ef. 9-18-12 thru 10-31-12; DFW 124-2012(Temp), f. 9-25-12, cert. ef. 9-26-12 thru 10-31-12; DFW 127-2012(Temp), f. & cert. ef. 10-2-12 thru 10-31-12; DFW 143-2012(Temp), f. 11-7-12, cert. ef. 11-8-12 thru 1-29-13; Administrative correction, 2-25-13; DFW 88-2013(Temp), f. 8-9-13, cert. ef. 8-12-13 thru 12-31-13; DFW 89-2013(Temp), f. 8-14-13, cert. ef. 8-19-13 thru 12-31-13; DFW 98-2013(Temp), f. 9-6-13, cert. ef. 9-10-13 thru 10-31-13; DFW 102-2013(Temp), f. 9-13-13, cert. ef. 9-16-13 thru 10-31-13; DFW 106-2013(Temp), f. 9-19-13, cert. ef. 9-24-13 thru 10-31-13; DWF 111-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; DFW 116-2013(Temp), f. 10-8-13, cert. ef. 10-9-13 thru 12-31-13; DFW 105-2014(Temp), f. 7-30-14, cert. ef. 8-1-14 thru 10-31-14; DFW 118-2014(Temp), f. 8-7-14, cert. ef. 8-18-14 thru 10-31-14; DFW 134-2014(Temp), f. 9-19-14, cert. ef. 9-23-14 thru 10-31-14; DFW 140-2014(Temp), f. 9-24-14, cert. ef. 9-25-14 thru 10-31-14; DFW 142-2014(Temp), f. 10-2-14, cert. ef. 10-3-14 thru 10-31-14; DFW 146-2014(Temp), f. 10-8-14, cert. ef. 10-13-14 thru 10-31-14; DFW 153-2014(Temp), f. 10-23-14, cert. ef. 10-31-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 97-2015(Temp), f. 7-30-15, cert. ef. 8-1-15 thru 10-31-15; DFW 108-2015(Temp), f. 8-13-15, cert. ef. 8-17-15 thru 10-31-15; DFW 127-2015(Temp), f. 9-10-15, cert. ef. 9-15-15 thru 10-31-15; DFW 130-2015(Temp), f. 9-17-15, cert. ef. 9-18-15 thru 10-31-15

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Rule Caption: Mainstem Columbia River Late Fall Commercial Salmon Season Extended.
Adm. Order No.: DFW 131-2015(Temp)
Filed with Sec. of State: 9-18-2015
Certified to be Effective: 9-20-15 thru 10-31-15
Notice Publication Date:
Rules Amended: 635-042-0060
Rules Suspended: 635-042-0060(T)
Subject: This amended rule authorizes two new 10-hour drift gill net fishing periods for the ongoing late fall commercial salmon fishery in zones 4-5 of the Columbia River. The start time for the first new period is 8:00 p.m. Sunday, September 20, 2015. Allowed sales include Chinook, coho, pink and sockeye salmon and shad. Rule modifications are consistent with action taken September 17, 2015 by the Departments of Fish & Wildlife for the States of Oregon and Washington.
Rules Coordinator: Michelle Tate—(503) 947-6044

635-042-0060
Late Fall Salmon Season

(1) Salmon may be taken for commercial purposes from the Columbia River in Zones 4 and 5, the lower end of Zone 4 is defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation Buoy #1 and continuing to the Washington shore during the following fishing period:

8:00 p.m. Sunday, September 20 to 6:00 a.m. Monday, September 21, 2015 (10 hours); and
8:00 p.m. Tuesday, September 22 to 6:00 a.m. Wednesday, September 23, 2015 (10 hours).

(2) For the fishing periods described in section (1) above, gear is restricted to drift gill nets with a 8 inch minimum mesh size. Mesh size is determined as described in OAR 635-042-0010(3). The multiple net rule is in effect for all authorized fishing periods. Nets not authorized for a specific 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.

(3) For the fishing periods described in section (1) above sturgeon and chum salmon may not be possessed or sold by participating vessels. Allowable sales are Chinook, coho, pink and sockeye salmon and shad.

(4) For the fishing periods described in section (1) above, the following sanctuaries are in effect:

(a) Sandy River sanctuary; and

(b) Washougal sanctuary. The lower end of the Washougal sanctuary is extended and defined as a line originating at the USCG green marker #1 near the Washington shore due south to the downstream Fisher Quarry Channel range light on the western end of Ackerman Island (Sand Island) then from the upstream tip of Ackerman Island (Sand Island) across to the downstream (western) tip of Lady Island.

Stat. Auth.: ORS 183.325, 506.109 & 506.119
Stats. Implemented: ORS 506.129 & 507.030
Hist.: FWC 40-1979, f. & ef. 9-10-79; FWC 45-1979(Temp), f. & ef. 9-21-79; FWC 52-1979(Temp), f. & ef. 11-2-79; FWC 48-1980(Temp), f. & ef. 9-19-80; FWC 51-1980(Temp), f. & ef. 9-22-80; FWC 55-1980(Temp), f. & ef. 9-26-80; FWC 56-1980(Temp), f. & ef. 9-29-80; FWC 58-1980(Temp), f. & ef. 10-17-80; FWC 37-1981(Temp), f. & ef. 9-24-81; FWC 38-1981(Temp), f. & ef. 9-29-81; FWC 69-1982(Temp), f. & ef. 9-30-82; FWC 72-1982(Temp), f. & ef. 10-20-82; FWC 56-1983(Temp), f. & ef. 10-5-83; FWC 54-1984(Temp), f. & ef. 9-10-84; FWC 59-1984(Temp), f. & ef. 9-18-84; FWC 66-1984 (Temp), f. & ef. 9-26-84; FWC 68-1984(Temp), f. & ef. 10-2-84; FWC 58-1985(Temp), f. & ef. 9-13-85; FWC 62-1985 (Temp), f. & ef. 9-24-85; FWC 66-1985(Temp), f. & ef. 10-11-85; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 64-1986 (Temp), f. & ef. 10-3-86; FWC 67-1986(Temp), f. & ef. 10-17-86; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987 (Temp), f. & ef. 9-11-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 91-1987(Temp), f. & ef. 10-16-87; FWC 85-1988(Temp), f. & cert. ef. 9-9-88; FWC 93-1988(Temp), f. & cert. ef. 9-16-88; FWC 99-1988(Temp), f. & cert. ef. 10-7-88; FWC 100-1988(Temp), f. 10-21-88, cert. ef. 10-24-88; FWC 94-1989(Temp), f. 9-15-89, cert. ef. 9-17-89; FWC 97-1989(Temp), f. & cert. ef. 9-21-89; FWC 109-1989(Temp), f. & cert. ef. 10-6-89; FWC 113-1989 (Temp), f. & cert. ef. 11-9-89; FWC 100-1990(Temp), f. & cert. ef. 9-18-90; FWC 101-1990(Temp), f. & cert. ef. 9-19-90; FWC 102-1990(Temp), f. & cert. ef. 9-20-90; FWC 114-1990, f. & cert. ef. 10-8-90; FWC 105-1991, f. & cert. ef. 9-20-91; FWC 118-1991, f. & cert. ef. 10-4-91; FWC 122-1991(Temp), f. & cert. ef. 10-18-91; FWC 129-1991(Temp), f. 11-1-91, cert. ef. 11-3-91; FWC 97-1992(Temp), f. & cert. ef. 9-22-92; FWC 100-1992(Temp), f. 9-25-92, cert. ef. 9-27-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 109-1992(Temp), f. 10-19-92, cert. ef. 10-20-92; FWC 110-1992(Temp), f. & cert. ef. 10-22-92; FWC 80-1995(Temp), f. 9-27-95, cert. ef. 10-9-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 58-1996(Temp), f. 9-27-96, cert. ef. 9-30-96; FWC 60-1996(Temp), f. & cert. ef. 10-7-96; FWC 62(Temp), f. 10-18-96, cert. ef. 10-21-96; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; FWC 62-1997(Temp), f. & cert. ef. 10-6-97; FWC 64-1997(Temp), f. & cert. ef. 10-14-97; FWC 65-1997(Temp), f. & cert. ef. 10-20-97; FWC 68-1997(Temp), f. & cert. ef. 11-3-97; DFW 79-1999(Temp), f. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 83-1999(Temp), f. 10-26-9, cert. ef. 10-27-99 thru 12-31-99; DFW 87-1999(Temp), f. & cert. ef. 11-4-99 thru 11-5-99; Administrative correction 11-17-99; DFW 62-at2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; DFW 68-2000(Temp), f. 10-6-00, cert. ef. 10-9-00 thru 12-31-00; DFW 71-2000(Temp), f. 10-20-00, cert. ef. 10-23-00 thru 12-31-00; DFW 74-2000(Temp), f. 10-27-00, cert. ef. 10-30-00 thru 12-31-00; Administrative correction 6-20-01; DFW 89-2001(Temp), 9-14-01 thru 12-31-01; DFW 92-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 93-2001(Temp), f. 9-21-01, cert. ef. 9-24-01 thru 12-31-01; DFW 98-2001(Temp), f. 10-8-01, cert. ef. 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 106-2002(Temp), f. & cert. ef. 9-24-02 thru 12-31-02; DFW 109-2002(Temp) f. & cert. ef. 9-27-02 thru 12-31-02; DFW 112-2002(Temp), f. 10-10-02, cert. ef. 10-14-02 thru 12-31-02; DFW 122-2002(Temp), f. 10-24-02, cert. ef. 10-28-02 thru 12-31-02; DFW 92-2003(Temp), f. 9-12-03 cert. ef. 915-03 thru 12-31-03; DFW 95-2003(Temp), f. & cert. ef. 9-17-03 thru 12-31-03; DFW 98-2003(Temp), f. 9-22-03, cert. ef. 9-23-03 thru 12-31-03; DFW 105-2003(Temp), f. 10-10-03, cert. ef. 10-12-03 thru 12-31-03; DFW 107-2003(Temp), f. 10-21-03, cert. ef. 10-26-03 thru 12-31-03; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 98-2004(Temp), f. & cert. ef. 9-22-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 101-2004(Temp), f. & cert. ef. 9-29-04 thru 12-31-04; DFW 102-2004(Temp), f. 10-1-04, cert. ef. 10-4-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; Administrative correction, 2-18-05; 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 113-2005(Temp), f. & cert. ef. 9-28-05 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; DFW 126-2005(Temp), f. 10-21-05, cert. ef. 10-23-05 thru 12-31-05; Administrative correction 1-19-06; DFW 102-2006(Temp), f. 9-15-06, cert. ef. 9-19-06 thru 12-31-06; DFW 106-2006(Temp), f. 9-22-06, cert. ef. 9-25-06 thru 12-31-06; DFW 111-2006(Temp), f. 9-29-06, cert. ef. 10-2-06 thru 12-31-06; DFW 112-2006(Temp), f. 10-4-06, cert. ef. 10-8-06 thru 12-31-06; DFW 114-2006(Temp), f. & cert. ef. 10-12-06 thru 12-31-06; DFW 120-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 91-2007(Temp), f. 9-18-07, cert. ef. 9-19-07 thru 12-31-07; DFW 94-2007(Temp), f. 9-21-07, cert. ef. 9-24-07 thru 12-31-07; DFW 97-2007(Temp), f. 9-25-07, cert. ef. 9-26-07 thru 12-31-07; DFW 98-2007(Temp), f. 9-26-07, cert. ef. 9-27-07 thru 12-31-07; DFW 99-2007(Temp), f. 9-28-07, cert. ef. 10-1-07 thru 12-31-07; DFW 104-2007(Temp), f. & cert. ef. 10-3-07 thru 12-31-07; DFW 107-2007(Temp), f. & cert. ef. 10-10-07 thru 12-31-07; DFW 109-2007(Temp), f. 10-16-07, cert. ef. 10-17-07 thru 12-31-07; DFW 111-2007(Temp), f. 10-22-07, cert. ef. 10-23-07 thru 12-31-07; DFW 112-2007(Temp), f. 10-24-07, cert. ef. 10-25-07 thru 12-31-07; DFW 113-2008(Temp), f. 9-17-08, cert. ef. 9-18-08 thru 12-31-08; DFW 119-2008(Temp), f. & cert. ef. 9-24-08 thru 12-31-08; DFW 127-2008(Temp), f. 10-7-08, cert. ef. 10-8-08 thru 12-31-08; DFW 132-2008(Temp), f. 10-14-08, cert. ef. 10-15-08 thru 12-31-08; DFW 136-2008(Temp), f. & cert. ef. 10-21-08 thru 12-31-08; DFW 117-2009(Temp), f. 9-23-09, cert. ef. 9-24-09 thru 10-31-09; DFW 120-2009(Temp), f. & cert. ef. 9-30-09 thru 10-31-09; DFW 122-2009(Temp), f. & cert. ef. 10-5-09 thru 10-31-09; DFW 124-2009(Temp), f. & cert. ef. 10-7-09 thru 10-31-09; DFW 130-2009(Temp), f. & cert. ef. 10-13-09 thru 10-31-09; DFW 134-2009(Temp), f. & cert. ef. 10-20-09 thru 10-31-09; DFW 135-2009(Temp), f. & cert. ef. 10-27-09 thru 10-31-09; Administrative correction 11-19-09; DFW 139-2010(Temp), f. & cert. ef. 10-5-10 thru 11-30-10; DFW 146-2010(Temp), f. 10-13-10, cert. ef. 10-14-10 thru 11-30-10; DFW 150-2010(Temp), f. 10-18-10, cert. ef. 10-19-10 thru 11-30-10; Administrative correction 12-28-10; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 126-2012(Temp), f. & cert. ef. 9-27-12 thru 10-31-12; DFW 128-2012(Temp), f. 10-3-12, cert. ef. 10-4-12 thru 10-31-12; DFW 133-2012(Temp), f. 10-15-12, cert. ef. 10-16-12 thru 10-31-12; Administrative correction 11-23-12; DFW 119-2013(Temp), f. 10-15-13, cert. ef. 10-16-13 thru 10-31-13; DFW 120-2013(Temp), f. 10-22-13, cert. ef. 10-23-13 thru 11-1-13; Administrative correction, 11-22-13; DFW 144-2014(Temp), f.10-8-14, cert. ef. 10-9-14 thru 12-31-14; DFW 154-2014(Temp), f. & cert. ef. 10-23-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 129-2015(Temp), f.& cert. ef. 9-15-15 thru 10-31-15; DFW 131-2015(Temp), f. 9-18-15, cert. ef. 9-20-15 thru 10-31-15

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Rule Caption: Mainstem Columbia River Late Fall Commercial Salmon Season Extended.
Adm. Order No.: DFW 132-2015(Temp)
Filed with Sec. of State: 9-23-2015
Certified to be Effective: 9-27-15 thru 10-31-15
Notice Publication Date:
Rules Amended: 635-042-0060
Rules Suspended: 635-042-0060(T)
Subject: This amended rule authorizes a new 10-hour drift gill net fishing period for the ongoing late fall commercial salmon fishery in zones 4-5 of the Columbia River. The start time for the new period is 8:00 p.m. Sunday, September 27, 2015. Allowed sales include Chinook, coho, pink and sockeye salmon and shad. Rule modifications are consistent with action taken September 23, 2015 by the Departments of Fish & Wildlife for the States of Oregon and Washington.
Rules Coordinator: Michelle Tate—(503) 947-6044

635-042-0060
Late Fall Salmon Season

(1) Salmon may be taken for commercial purposes from the Columbia River in Zones 4 and 5, the lower end of Zone 4 is defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation Buoy #1 and continuing to the Washington shore during the following fishing period:

8:00 p.m. Sunday, September 27 to 6:00 a.m. Monday, September 28.

(2) For the fishing period described in section (1) above, gear is restricted to drift gill nets with a 8 inch minimum mesh size. Mesh size is determined as described in OAR 635-042-0010(3). The multiple net rule is in effect for all authorized fishing periods. Nets not authorized for a specific 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.

(3) For the fishing period described in section (1) above sturgeon and chum salmon may not be possessed or sold by participating vessels. Allowable sales are Chinook, coho, pink and sockeye salmon and shad.

(4) For the fishing period described in section (1) above, the following sanctuaries are in effect:

(a) Sandy River sanctuary; and

(b) Washougal sanctuary. The lower end of the Washougal sanctuary is extended and defined as a line originating at the USCG green marker #1 near the Washington shore due south to the downstream Fisher Quarry Channel range light on the western end of Ackerman Island (Sand Island) then from the upstream tip of Ackerman Island (Sand Island) across to the downstream (western) tip of Lady Island.

Stat. Auth.: ORS 183.325, 506.109 & 506.119
Stats. Implemented: ORS 506.129 & 507.030
Hist.: FWC 40-1979, f. & ef. 9-10-79; FWC 45-1979(Temp), f. & ef. 9-21-79; FWC 52-1979(Temp), f. & ef. 11-2-79; FWC 48-1980(Temp), f. & ef. 9-19-80; FWC 51-1980(Temp), f. & ef. 9-22-80; FWC 55-1980(Temp), f. & ef. 9-26-80; FWC 56-1980(Temp), f. & ef. 9-29-80; FWC 58-1980(Temp), f. & ef. 10-17-80; FWC 37-1981(Temp), f. & ef. 9-24-81; FWC 38-1981(Temp), f. & ef. 9-29-81; FWC 69-1982(Temp), f. & ef. 9-30-82; FWC 72-1982(Temp), f. & ef. 10-20-82; FWC 56-1983(Temp), f. & ef. 10-5-83; FWC 54-1984(Temp), f. & ef. 9-10-84; FWC 59-1984(Temp), f. & ef. 9-18-84; FWC 66-1984 (Temp), f. & ef. 9-26-84; FWC 68-1984(Temp), f. & ef. 10-2-84; FWC 58-1985(Temp), f. & ef. 9-13-85; FWC 62-1985 (Temp), f. & ef. 9-24-85; FWC 66-1985(Temp), f. & ef. 10-11-85; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 64-1986 (Temp), f. & ef. 10-3-86; FWC 67-1986(Temp), f. & ef. 10-17-86; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987 (Temp), f. & ef. 9-11-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 91-1987(Temp), f. & ef. 10-16-87; FWC 85-1988(Temp), f. & cert. ef. 9-9-88; FWC 93-1988(Temp), f. & cert. ef. 9-16-88; FWC 99-1988(Temp), f. & cert. ef. 10-7-88; FWC 100-1988(Temp), f. 10-21-88, cert. ef. 10-24-88; FWC 94-1989(Temp), f. 9-15-89, cert. ef. 9-17-89; FWC 97-1989(Temp), f. & cert. ef. 9-21-89; FWC 109-1989(Temp), f. & cert. ef. 10-6-89; FWC 113-1989 (Temp), f. & cert. ef. 11-9-89; FWC 100-1990(Temp), f. & cert. ef. 9-18-90; FWC 101-1990(Temp), f. & cert. ef. 9-19-90; FWC 102-1990(Temp), f. & cert. ef. 9-20-90; FWC 114-1990, f. & cert. ef. 10-8-90; FWC 105-1991, f. & cert. ef. 9-20-91; FWC 118-1991, f. & cert. ef. 10-4-91; FWC 122-1991(Temp), f. & cert. ef. 10-18-91; FWC 129-1991(Temp), f. 11-1-91, cert. ef. 11-3-91; FWC 97-1992(Temp), f. & cert. ef. 9-22-92; FWC 100-1992(Temp), f. 9-25-92, cert. ef. 9-27-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 109-1992(Temp), f. 10-19-92, cert. ef. 10-20-92; FWC 110-1992(Temp), f. & cert. ef. 10-22-92; FWC 80-1995(Temp), f. 9-27-95, cert. ef. 10-9-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 58-1996(Temp), f. 9-27-96, cert. ef. 9-30-96; FWC 60-1996(Temp), f. & cert. ef. 10-7-96; FWC 62(Temp), f. 10-18-96, cert. ef. 10-21-96; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; FWC 62-1997(Temp), f. & cert. ef. 10-6-97; FWC 64-1997(Temp), f. & cert. ef. 10-14-97; FWC 65-1997(Temp), f. & cert. ef. 10-20-97; FWC 68-1997(Temp), f. & cert. ef. 11-3-97; DFW 79-1999(Temp), f. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 83-1999(Temp), f. 10-26-9, cert. ef. 10-27-99 thru 12-31-99; DFW 87-1999(Temp), f. & cert. ef. 11-4-99 thru 11-5-99; Administrative correction 11-17-99; DFW 62-at2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; DFW 68-2000(Temp), f. 10-6-00, cert. ef. 10-9-00 thru 12-31-00; DFW 71-2000(Temp), f. 10-20-00, cert. ef. 10-23-00 thru 12-31-00; DFW 74-2000(Temp), f. 10-27-00, cert. ef. 10-30-00 thru 12-31-00; Administrative correction 6-20-01; DFW 89-2001(Temp), 9-14-01 thru 12-31-01; DFW 92-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 93-2001(Temp), f. 9-21-01, cert. ef. 9-24-01 thru 12-31-01; DFW 98-2001(Temp), f. 10-8-01, cert. ef. 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 106-2002(Temp), f. & cert. ef. 9-24-02 thru 12-31-02; DFW 109-2002(Temp) f. & cert. ef. 9-27-02 thru 12-31-02; DFW 112-2002(Temp), f. 10-10-02, cert. ef. 10-14-02 thru 12-31-02; DFW 122-2002(Temp), f. 10-24-02, cert. ef. 10-28-02 thru 12-31-02; DFW 92-2003(Temp), f. 9-12-03 cert. ef. 915-03 thru 12-31-03; DFW 95-2003(Temp), f. & cert. ef. 9-17-03 thru 12-31-03; DFW 98-2003(Temp), f. 9-22-03, cert. ef. 9-23-03 thru 12-31-03; DFW 105-2003(Temp), f. 10-10-03, cert. ef. 10-12-03 thru 12-31-03; DFW 107-2003(Temp), f. 10-21-03, cert. ef. 10-26-03 thru 12-31-03; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 98-2004(Temp), f. & cert. ef. 9-22-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 101-2004(Temp), f. & cert. ef. 9-29-04 thru 12-31-04; DFW 102-2004(Temp), f. 10-1-04, cert. ef. 10-4-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; Administrative correction, 2-18-05; 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 113-2005(Temp), f. & cert. ef. 9-28-05 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; DFW 126-2005(Temp), f. 10-21-05, cert. ef. 10-23-05 thru 12-31-05; Administrative correction 1-19-06; DFW 102-2006(Temp), f. 9-15-06, cert. ef. 9-19-06 thru 12-31-06; DFW 106-2006(Temp), f. 9-22-06, cert. ef. 9-25-06 thru 12-31-06; DFW 111-2006(Temp), f. 9-29-06, cert. ef. 10-2-06 thru 12-31-06; DFW 112-2006(Temp), f. 10-4-06, cert. ef. 10-8-06 thru 12-31-06; DFW 114-2006(Temp), f. & cert. ef. 10-12-06 thru 12-31-06; DFW 120-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 91-2007(Temp), f. 9-18-07, cert. ef. 9-19-07 thru 12-31-07; DFW 94-2007(Temp), f. 9-21-07, cert. ef. 9-24-07 thru 12-31-07; DFW 97-2007(Temp), f. 9-25-07, cert. ef. 9-26-07 thru 12-31-07; DFW 98-2007(Temp), f. 9-26-07, cert. ef. 9-27-07 thru 12-31-07; DFW 99-2007(Temp), f. 9-28-07, cert. ef. 10-1-07 thru 12-31-07; DFW 104-2007(Temp), f. & cert. ef. 10-3-07 thru 12-31-07; DFW 107-2007(Temp), f. & cert. ef. 10-10-07 thru 12-31-07; DFW 109-2007(Temp), f. 10-16-07, cert. ef. 10-17-07 thru 12-31-07; DFW 111-2007(Temp), f. 10-22-07, cert. ef. 10-23-07 thru 12-31-07; DFW 112-2007(Temp), f. 10-24-07, cert. ef. 10-25-07 thru 12-31-07; DFW 113-2008(Temp), f. 9-17-08, cert. ef. 9-18-08 thru 12-31-08; DFW 119-2008(Temp), f. & cert. ef. 9-24-08 thru 12-31-08; DFW 127-2008(Temp), f. 10-7-08, cert. ef. 10-8-08 thru 12-31-08; DFW 132-2008(Temp), f. 10-14-08, cert. ef. 10-15-08 thru 12-31-08; DFW 136-2008(Temp), f. & cert. ef. 10-21-08 thru 12-31-08; DFW 117-2009(Temp), f. 9-23-09, cert. ef. 9-24-09 thru 10-31-09; DFW 120-2009(Temp), f. & cert. ef. 9-30-09 thru 10-31-09; DFW 122-2009(Temp), f. & cert. ef. 10-5-09 thru 10-31-09; DFW 124-2009(Temp), f. & cert. ef. 10-7-09 thru 10-31-09; DFW 130-2009(Temp), f. & cert. ef. 10-13-09 thru 10-31-09; DFW 134-2009(Temp), f. & cert. ef. 10-20-09 thru 10-31-09; DFW 135-2009(Temp), f. & cert. ef. 10-27-09 thru 10-31-09; Administrative correction 11-19-09; DFW 139-2010(Temp), f. & cert. ef. 10-5-10 thru 11-30-10; DFW 146-2010(Temp), f. 10-13-10, cert. ef. 10-14-10 thru 11-30-10; DFW 150-2010(Temp), f. 10-18-10, cert. ef. 10-19-10 thru 11-30-10; Administrative correction 12-28-10; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 126-2012(Temp), f. & cert. ef. 9-27-12 thru 10-31-12; DFW 128-2012(Temp), f. 10-3-12, cert. ef. 10-4-12 thru 10-31-12; DFW 133-2012(Temp), f. 10-15-12, cert. ef. 10-16-12 thru 10-31-12; Administrative correction 11-23-12; DFW 119-2013(Temp), f. 10-15-13, cert. ef. 10-16-13 thru 10-31-13; DFW 120-2013(Temp), f. 10-22-13, cert. ef. 10-23-13 thru 11-1-13; Administrative correction, 11-22-13; DFW 144-2014(Temp), f.10-8-14, cert. ef. 10-9-14 thru 12-31-14; DFW 154-2014(Temp), f. & cert. ef. 10-23-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 129-2015(Temp), f.& cert. ef. 9-15-15 thru 10-31-15; DFW 131-2015(Temp), f. 9-18-15, cert. ef. 9-20-15 thru 10-31-15; DFW 132-2015(Temp), f. 9-23-15, cert. ef. 9-27-15 thru 10-31-15

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Rule Caption: Columbia River Treaty Indian Fall Commercial Gill Net Season Extended.

Adm. Order No.: DFW 133-2015(Temp)
Filed with Sec. of State: 9-23-2015
Certified to be Effective: 9-28-15 thru 10-31-15
Notice Publication Date:
Rules Amended: 635-041-0075
Rules Suspended: 635-041-0075(T)
Subject: This amended rule authorizes an additional 3.5 day season for the ongoing Treaty Indian fall commercial gill net fishery in the Columbia River and its Washington tributaries. Rule modifications are consistent with action taken September 23, 2015 by the Departments of Fish & Wildlife for the States of Oregon and Washington in cooperation with the Columbia River Treaty Tribes at a meeting of the Columbia River Compact.
Rules Coordinator: Michelle Tate—(503) 947-6044

635-041-0075
Fall Salmon Season

(1) Salmon, steelhead, shad, walleye, catfish, bass, yellow perch, and carp may be taken for commercial purposes in all of Zone 6 of the Columbia River above Bonneville Dam from August 1 through October 31, 2015. Legal fish landed during an open commercial period may be sold after the period concludes.

(a) White sturgeon between 43-54 inches in fork length caught in The Dalles Pool and John Day Pool and white sturgeon between 38-54 inches in fork length caught in the Bonneville Pool may not be sold but may be retained for subsistence use.

(b) Gear is restricted to subsistence fishing gear which includes hoopnets, dipnets, and rod and reel with hook-and-line. Fish may also be taken by gill net with an 8-inch minimum mesh size during the following fishing periods:

(A) 6:00 a.m. Monday, September 21 through 6:00 p.m. Friday, September 25, 2015 (4.5 days); and

(B) 6:00 a.m. Monday, September 28 through 6:00 p.m. Thursday, October 1, 2015 (3.5 days).

(2) Closed areas are set forth in OAR 635-041-0045, including the closure at the mouth of Spring Creek, which is reduced to the standard 150-foot radius around the fishway as described in OAR 635-041-0045(11), beginning at 6:00 a.m. Friday, September 18, 2015.

(3) Beginning August 1 through October 31, 2015 commercial sales of salmon, steelhead, walleye, shad, catfish, carp, bass and yellow perch caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; and Drano Lake are allowed for Yakama Nation members during those days and hours when these tributaries are open under lawfully enacted Yakama Nation fishing periods. Legal fish landed during an open period may be sold after the period concludes.

(a) Sturgeon may not be sold. Sturgeon between 38-54 inches in fork length may be kept for ceremonial or subsistence purposes.

(b) Gear is restricted to subsistence fishing gear which includes hoopnets, dipnets, and rod and reel with hook-and-line. Gillnets may only be used in Drano Lake.

Stat. Auth.: ORS 496.118 & 506.119
Stats. Implemented: ORS 506.109, 506.129 & 507.030
Hist.: FWC 25-1979, f. & ef. 8-2-79; FWC 36-1979(Temp), f. & ef. 8-22-79; FWC 47-1979(Temp), f. & ef. 9-21-79; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 46-1980(Temp), f. & ef. 9-13-80; FWC 33-1981(Temp), f. & ef. 9-15-81; FWC 58-1982(Temp), f. & ef. 8-27-82; FWC 62-1982(Temp), f. & ef. 9-7-82; FWC 63-1982(Temp), f. & ef. 9-14-82; FWC 75-1982 (Temp), f. & ef. 10-29-82; FWC 36-1983, f. & ef. 8-18-83; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 51-1983(Temp), f. & ef. 9-30-83; FWC 55-1983(Temp), f. & ef. 10-4-83; FWC 46-1984, f. & ef. 8-30-84; FWC 55-1984(Temp), f. & ef. 9-10-84; FWC 58-1984(Temp), f. & ef. 9-17-84; FWC 61-1984 (Temp), f. & ef. 9-21-84; FWC 70-1984(Temp), f. & ef. 10-9-84; FWC 47-1985, f. & ef. 8-23-85; FWC 60-1985(Temp), f. & ef. 9-13-85; FWC 63-1985(Temp), f. & ef. 9-24-85; FWC 42-1986, f. & ef. 8-15-86; FWC 53-1986(Temp), f. & ef. 9-4-86; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 57-1986(Temp), f. & ef. 9-11-86; FWC 60-1986(Temp), f. & ef. 9-26-86; FWC 62-1986(Temp), f. & ef. 10-2-86; FWC 63-1987, f. & ef. 8-7-87; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987 (Temp), f. & ef. 9-1-87; FWC 78-1987(Temp), f. & ef. 9-15-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 89-1987(Temp), f. & ef. 10-12-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 72-1988(Temp), f. & cert. ef. 8-19-88; FWC 77-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988 (Temp), f. 9-27-88, cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 87-1989(Temp), f. & cert. ef. 9-1-89; FWC 95-1989(Temp), f. & cert. ef. 9-19-89; FWC 96-1989 (Temp), f. & cert. ef. 9-21-89; FWC 99-1989(Temp), f. & cert. ef. 9-27-89; FWC 100-1989(Temp), f. & cert. ef. 9-28-89; FWC 80-1990(Temp), f. 8-7-90, cert. ef. 8-8-90; FWC 90-1990, f. & cert. ef. 8-31-90; FWC 96-1990(Temp), f. 9-7-90, cert. ef. 9-10-90; FWC 98-1990(Temp), f. 9-14-90, cert. ef. 9-17-90; FWC 85-1991, f. 8-7-91, cert. ef. 8-12-91; FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991(Temp), f. & cert. ef. 9-10-91; FWC 103-1991(Temp), f. 9-17-91, cert. ef. 9-18-91; FWC 110-1991(Temp), f. & cert. ef. 9-27-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 86-1992(Temp), f. 9-1-92, cert. ef. 9-2-92; FWC 87-1992(Temp), f. 9-4-92, cert. ef. 9-7-92; FWC 91-1992(Temp), f. 9-16-92, cert. ef. 9-17-92; FWC 96-1992(Temp), f. 9-22-92, cert. ef. 9-23-92; FWC 105-1992(Temp), f. 10-2-92, cert. ef. 10-5-92; FWC 107-1992 (Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 52-1993, f. & cert. ef. 8-30-93; FWC 57-1993(Temp), f. & cert. ef. 9-13-93; FWC 59-1993(Temp), f. 9-17-93, cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. 8-26-94, cert. ef. 8-29-94; FWC 61-1994(Temp), f. 9-7-94, cert. ef. 9-8-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. 8-25-95, cert. ef. 8-29-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. 9-12-95, cert. ef. 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. 8-29-96, cert. ef. 9-2-96; FWC 51-1996(Temp), f. 9-6-96, cert. ef. 9-9-96; FWC 53-1996(Temp), f. & cert. ef. 9-26-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 52-1997(Temp), f. 8-29-97, cert. ef. 9-2-97, FWC 57(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. 9-16-97, cert. ef. 9-17-97; DFW 68-1998(Temp), f. & cert. ef. 8-25-98 thru 9-25-98; DFW 76-1998(Temp), f. & cert. ef. 9-8-98 thru 9-25-98; DFW 77-1998(Temp), f. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. 9-21-98, cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. 9-23-98, cert. ef. 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. 9-2-99, cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. 9-14-99, cert. ef. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. 9-21-99, cert. ef. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. 9-28-99, cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. 9-10-01, cert. ef. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 113-2002(Temp), f. 10-14-02, cert. ef. 10-15-02 thru 12-31-02;. DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. 9-12-03 cert. ef. 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. 9-22-03, cert. ef. 9-24-03 thru 12-31-03; DFW 101-2003(Temp), f. 9-26-03, cert. ef. 10-1-03 thru 12-31-03; DFW 103-2003(Temp), f. 10-3-03, cert. ef. 10-8-03 thru 12-31-03; DFW 104-2003(Temp), f. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 104-2004(Temp), f. 10-12-04 cert. ef. 10-13-04 thru 12-31-04; DFW 110-2004(Temp), f. & cert. ef. 10-29-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 104-2005(Temp), f. & cert. ef. 9-12-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 113-2005(Temp), f. & cert. ef. 9-28-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; Administrative correction 1-19-06; DFW 71-2006(Temp), f. 7-31-06, cert. ef. 8-1-06 thru 12-31-06; DFW 86-2006(Temp), f. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 94-2006(Temp), f. 9-8-06, cert. ef. 9-11-06 thru 12-31-06; DFW 101-2006(Temp), f. 9-15-06, cert .ef. 9-18-06 thru 12-31-2006; DFW 107-2006(Temp), f. 9-28-06, cert. ef. 10-3-06 thru 12-31-06; DFW 115-2006(Temp), f. 10-13-06, cert. ef. 10-15-06 thru 12-31-06; Administrative correction 1-16-07; DFW 60-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 12-31-07; DFW 77-2007(Temp), f. 8-17-07, cert. ef. 8-22-07 thru 12-31-07; DFW 88-2007(Temp), f. 9-10-07, cert. ef. 9-11-07 thru 12-31-07; DFW 95-2007(Temp), f. 9-21-07, cert. ef. 9-25-07 thru 12-31-07; DFW 100-2007(Temp), f. 9-28-07, cert. ef. 10-3-07 thru 12-31-07; DFW 110-2007(Temp), f. 10-16-07, cert. ef. 10-20-07 thru 12-31-07; DFW 106-2008(Temp), f. 9-4-08, cert. ef. 9-6-08 thru 10-31-08; DFW 109-2008(Temp), f. 9-12-08, cert. ef. 9-15-08 thru 10-31-08; DFW 112-2008(Temp), f. 9-17-08, cert. ef. 9-18-08 thru 10-31-08; DFW 117-2008(Temp), f. & cert. ef. 9-22-08 thru 10-31-08; DFW 122-2008(Temp), f. & cert. ef. 9-29-08 thru 10-31-08; DFW 125-2008(Temp), f. 10-6-08, cert. ef. 10-7-08 thru 10-31-08; DFW 134-2008(Temp), f. & cert. ef. 10-17-08 thru 10-31-08; DFW 141-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 11-30-08; DFW 88-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 95-2009(Temp), f. 8-19-09, cert. ef. 8-24-09 thru 12-31-09; DFW 111-2009(Temp), f. 9-11-09, cert. ef. 9-13-09 thru 9-30-09; DFW 114-2009(Temp), f. 9-18-09, cert. ef. 9-21-09 thru 10-31-09; DFW 119-2009(Temp), f. & cert. ef. 9-29-09 thru 10-31-09; DFW 129-2009(Temp), f. 10-13-09, cert. ef. 10-14-09 thru 10-31-09; Administrative correction 11-19-09; DFW 111-2010(Temp), f. 7-30-10, cert. ef. 8-1-10 thru 10-31-10; DFW 120-2010(Temp), f. 8-18-10, cert. ef 8-24-10 thru 10-31-10; DFW 128-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; DFW 136-2010(Temp), f. 9-24-10, cert. ef. 9-27-10 thru 10-31-10; DFW 142-2010(Temp), f. 10-8-10, cert. ef. 10-9-10 thru 10-31-10; DFW 149-2010(Temp), f. 10-18-10, cert. ef. 10-19-10 thru 10-31-10; Administrative correction 11-23-10; DFW 103-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 10-31-11; DFW 119-2011(Temp), f. 8-26-11, cert. ef. 8-29-11 thru 10-31-11; DFW 124-2011(Temp), f. 9-8-11, cert. ef. 9-12-11 thru 10-31-11; DFW 130-2011(Temp), f. 9-15-11, cert. ef. 9-19-11 thru 10-31-11; DFW 133-2011(Temp), f. 9-21-11, cert. ef. 9-22-11 thru 10-31-11; DFW 138-2011(Temp), f. 9-30-11, cert. ef. 10-3-11 thru 10-31-11; DFW 142-2011(Temp), f. 10-6-11, cert. ef. 10-8-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 94-2012(Temp), f. & cert. ef. 7-27-12 thru 10-31-12; DFW 107-2012(Temp), f. 8-15-12, cert. ef. 8-21-12 thru 10-31-12; DFW 119-2012(Temp), f. 9-10-12, cert. ef. 9-11-12 thru 10-31-12; DFW 120-2012(Temp), f. & cert. ef. 9-18-12 thru 10-31-12; DFW 124-2012(Temp), f. 9-25-12, cert. ef. 9-26-12 thru 10-31-12; DFW 127-2012(Temp), f. & cert. ef. 10-2-12 thru 10-31-12; DFW 143-2012(Temp), f. 11-7-12, cert. ef. 11-8-12 thru 1-29-13; Administrative correction, 2-25-13; DFW 88-2013(Temp), f. 8-9-13, cert. ef. 8-12-13 thru 12-31-13; DFW 89-2013(Temp), f. 8-14-13, cert. ef. 8-19-13 thru 12-31-13; DFW 98-2013(Temp), f. 9-6-13, cert. ef. 9-10-13 thru 10-31-13; DFW 102-2013(Temp), f. 9-13-13, cert. ef. 9-16-13 thru 10-31-13; DFW 106-2013(Temp), f. 9-19-13, cert. ef. 9-24-13 thru 10-31-13; DWF 111-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; DFW 116-2013(Temp), f. 10-8-13, cert. ef. 10-9-13 thru 12-31-13; DFW 105-2014(Temp), f. 7-30-14, cert. ef. 8-1-14 thru 10-31-14; DFW 118-2014(Temp), f. 8-7-14, cert. ef. 8-18-14 thru 10-31-14; DFW 134-2014(Temp), f. 9-19-14, cert. ef. 9-23-14 thru 10-31-14; DFW 140-2014(Temp), f. 9-24-14, cert. ef. 9-25-14 thru 10-31-14; DFW 142-2014(Temp), f. 10-2-14, cert. ef. 10-3-14 thru 10-31-14; DFW 146-2014(Temp), f. 10-8-14, cert. ef. 10-13-14 thru 10-31-14; DFW 153-2014(Temp), f. 10-23-14, cert. ef. 10-31-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 97-2015(Temp), f. 7-30-15, cert. ef. 8-1-15 thru 10-31-15; DFW 108-2015(Temp), f. 8-13-15, cert. ef. 8-17-15 thru 10-31-15; DFW 127-2015(Temp), f. 9-10-15, cert. ef. 9-15-15 thru 10-31-15; DFW 130-2015(Temp), f. 9-17-15, cert. ef. 9-19-15 thru 10-31-15; DFW 133-2015(Temp), f. 9-23-15, cert. ef. 9-28-15 thru 10-31-15

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Rule Caption: Amend rule to extend hunt seasons for Rocky Mountain Goat Controlled Hunt 956A
Adm. Order No.: DFW 134-2015(Temp)
Filed with Sec. of State: 9-25-2015

Certified to be Effective: 9-27-15 thru 10-31-15
Notice Publication Date:
Rules Amended: 635-067-0040
Subject: The current season for Rocky Mountain Goat Controlled Hunt 956A is from September 12 to September 27, 2015. This rule amendment would extend the ending date of the hunt to October 31, 2015 to accommodate hunters affected by the 2015 hunting conditions.
Rules Coordinator: Michelle Tate—(503) 947-6044

635-067-0040
Controlled Rocky Mountain Goat Hunt Regulations

(1) Rocky Mountain goat taken by hunters shall be inspected by department personnel prior to the hunter leaving the hunt area. Party applications are not allowed. All hunters are required to attend an orientation class with department personnel prior to hunting and to check out through the local district office of ODFW within 72 hours of completion of their hunt.

(2) Notwithstanding the provisions of the 2015 Oregon Big Game Regulations, the season date listed on page 32 for the N Wenaha (956A) Controlled Rocky Mountain Goat Hunt is extended to October 31, 2015.

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; FWC 38-1997, f. & cert. ef. 6-17-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 81-2011, f. 6-29-11, cert. ef. 8-20-11; DFW 159-2011, f. 12-14-11, cert. ef. 1-1-12; DFW 134-2015(Temp), f. 9-25-15, cert. ef. 9-27-15 thru 10-31-15

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Rule Caption: Mainstem Columbia River Late Fall Commercial Drift Tangle Net Salmon Seasons Set.
Adm. Order No.: DFW 135-2015(Temp)
Filed with Sec. of State: 9-29-2015
Certified to be Effective: 10-1-15 thru 10-31-15
Notice Publication Date:
Rules Amended: 635-042-0032
Subject: This amended rule authorizes three 12-hour fishing periods for the 2015 late fall commercial salmon drift tangle net fishery in the Columbia River mainstem. The first fishing period commences in Zones 1 through 3 and is scheduled to begin at 6:00 a.m. Thursday, October 1, 2015. Modifications are consistent with joint state action taken September 28, 2015 by the Departments of Fish and Wildlife for the states of Oregon and Washington at a meeting of the Columbia River Compact.
Rules Coordinator: Michelle Tate—(503) 947-6044

635-042-0032
Coho Target Fishery

(1) Chinook, adipose fin-clipped coho, pink, and sockeye salmon, and shad may be taken in the Columbia River by tangle net for commercial purposes in all of, or portions of Zones 1–3 from the mouth of the Columbia River upstream to a line projected from Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation buoy #1 and continuing to the Washington shore. 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.

(2) Authorized Fishing Periods are as follows:
6:00a.m. to 6:00p.m. Thursday, October 1, 2015 (12 hours);
6:00a.m. to 6:00p.m. Monday, October 5, 2015 (12 hours); and
6:00a.m. to 6:00p.m. Wednesday, October 7, 2015 (12 hours).

(3) During the fall coho tangle net fishery it is unlawful to use other than a single-wall multi-filament floater net. Monofilament nets are not allowed. Maximum mesh size is 3-3/4 inches determined by placing three consecutive meshes under hand tension and the measurement is taken from the inside of one knot to the inside of the opposite 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) There are no restrictions on the hang ratio. The hang ratio is used to horizontally add slack to the net. The hang ratio is determined by the length of the web per length of the corkline.

(6) The use of slackers or stringers to slacken the net vertically is prohibited. Rip lines are allowed providing they do not vertically slacken the net.

(7) Nets that are fished at any time between official sunset and official sunrise must have lighte buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(8) Nets shall be fished for no longer than 30 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) All non-legal fish must be released unharmed immediately to the river or into an operating recovery box.

(a) One operating recovery box with two chambers or two operating recovery boxes with one chamber each 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) All non-legal salmon and all steelhead that are bleeding, in lethargic condition, or appearing lifefless (condition 2–5) must be placed in the recovery box 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 completed training provided by the Oregon or Washington Department of Fish and Wildlife (Departments) to educate fishers on regulations and best methods for conducting live capture fisheries.

(11) Owners or operators of commercial fishing vessels must cooperate with State fishery observers, or observers collecting data for the Departments, when asked by the Departments to carry and accommodate an observer on fishing trips for observation and sampling during an open fishery.

(12) Closed areas include the following sanctuaries: Elokomin-A, Cowlitz River, Kalama-A, and the Lewis-A.

Stat. Auth.: ORS 183.325, 506.109 & 506.119
Stats. Implemented: ORS 506.129 & 507.030
Hist.: FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991 (Temp), f. & cert. ef. 9-10-91; FWC 102-1991, f. & cert. ef. 9-17-91; Suspended by FWC 92-1992(Temp), f. & cert. ef. 9-16-92; FWC 46-1996, f. & cert. ef. 8-23-96; DFW 71-1999(Temp), f. & cert. ef. 9-20-99 thru 10-22-99; DFW 75-1999(Temp), f. 9-29-99, cert. ef. 9-30-99 thru 10-22-99; DFW 79-1999(Temp), f. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 83-1999(Temp), f. 10-26-99, cert. ef. 10-27-99 thru 12-31-99; DFW 62-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; DFW 65-2000(Temp) f. 9-22-00, cert. ef. 9-25-00 thru 12-31-00; DFW 66-2000(Temp) f. 9-29-00, cert. ef. 10-2-00 thru 12-31-00; DFW 68-2000(Temp) f. 10-6-00, cert. ef. 10-9-00 thru 12-31-00; DFW 71-2000(Temp) f. 10-20-00, cert. ef. 10-23-00 thru 12-31-00; DFW 74-2000(Temp), f. 10-27-00, cert. ef. 10-30-00 thru 12-31-00; Administrative correction 6-20-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 92-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 93-2001(Temp), f. 9-21-01, cert. ef. 9-24-01 thru 12-31-01; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 106(Temp), f. & cert. ef. 9-24-02 thru 12-31-02; DFW 92-2003(Temp), f. 9-12-03 cert. ef. 9-15-03 thru 12-31-03; Administrative correction, 2-23-05; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 114-2013(Temp), f. 9-27-13, cert. ef. 10-2-13 thru 10-15-13; Administrative correction, 11-22-13; DFW 139-2014(Temp), f. 9-24-14, cert. ef. 10-1-14 thru 10-31-14; DFW 145-2014(Temp), f. 10-8-14, cert. ef. 10-13-14 thru 10-31-14; Administrative correction 11-24-14; DFW 135-2015(Temp), f. 9-29-15, cert. ef. 10-1-15 thru 10-31-15

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Rule Caption: Amend Rules for the Lower Deschutes Wildlife Area
Adm. Order No.: DFW 136-2015(Temp)
Filed with Sec. of State: 10-1-2015
Certified to be Effective: 10-1-15 thru 3-28-16

Notice Publication Date:
Rules Amended: 635-008-0123
Subject: Amend rules for the Lower Deschutes Wildlife Area related to the new purchase of the River Ranch parcel to allow camping and to specify where the public can access the new parcel.
Rules Coordinator: Michelle Tate—(503) 947-6044

635-008-0123
Lower Deschutes Wildlife Area (Sherman/Wasco Counties)

The Lower Deschutes Wildlife Area is open to wildlife-oriented public use compatible with the goals and objectives contained in the 2009 Lower Deschutes Wildlife Area Management Plan unless otherwise excluded or restricted by the Deschutes River Scenic Waterway Rules and the following additional rules:

(1) Open to the discharge of firearms only while hunting big game and game birds during authorized seasons or by permit; except that discharge of firearms is prohibited within the scenic waterway boundary from the third Saturday in May through August 31.

(2) Unauthorized motor vehicle use is prohibited.

(3) Horses and horseback riding are prohibited except by access permit issued by OPRD.

(4) Open fires are prohibited except as specified under the Scenic Waterway rules.

(5) Running or training of dogs is prohibited except during authorized game bird hunting seasons.

(6) Camping is prohibited on river islands, areas posted "camping prohibited" within the Deschutes River Scenic Waterway, and on state lands outside the Deschutes River Scenic Waterway in the Lower Deschutes Wildlife Area (Deschutes Scenic Waterway is an area extending 1/4-mile away from each bank of the river). Exception: Camping is allowed on the River Ranch parcel from three days prior to the opening of controlled buck deer season through February 28, and may not exceed 14 days per stay.

(7) Public access to the River Ranch parcel is only allowed from the Deschutes River through adjacent Bureau of Land Management lands.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162
Hist.: FWC 71-1984, f. & ef. 10-12-84; FWC 53-1994, f. & cert. ef. 8-25-94; DFW 40-2009, f. & cert. ef. 4-27-09; DFW 159-2011, f. 12-14-11, cert. ef. 1-1-12; DFW 117-2014, f. & cert. ef. 8-7-14; DFW 136-2015(Temp), f. & cert. ef. 10-1-15 thru 3-28-16

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Rule Caption: Columbia River Treaty Indian Fall Commercial Gill Net Season Extended.
Adm. Order No.: DFW 137-2015(Temp)
Filed with Sec. of State: 10-1-2015
Certified to be Effective: 10-1-15 thru 10-31-15
Notice Publication Date:
Rules Amended: 635-041-0075
Rules Suspended: 635-041-0075(T)
Subject: This amended rule authorizes a 24-hour extension to the ongoing Treaty Indian fall commercial gill net fishery in the Columbia River. This extension to the already authorized three and a half day fishery is consistent with action taken October 1, 2015 by the Departments of Fish & Wildlife for the States of Oregon and Washington, in cooperation with the Columbia River Treaty Tribes, at a meeting of the Columbia River Compact.
Rules Coordinator: Michelle Tate—(503) 947-6044

635-041-0075
Fall Salmon Season

(1) Salmon, steelhead, shad, walleye, catfish, bass, yellow perch, and carp may be taken for commercial purposes in all of Zone 6 of the Columbia River above Bonneville Dam from August 1 through October 31, 2015. Legal fish landed during an open commercial period may be sold after the period concludes.

(a) White sturgeon between 43–54 inches in fork length caught in The Dalles Pool and John Day Pool and white sturgeon between 38–54 inches in fork length caught in the Bonneville Pool may not be sold but may be retained for subsistence use.

(b) Gear is restricted to subsistence fishing gear which includes hoopnets, dipnets, and rod and reel with hook-and-line. Fish may also be taken by gill net with an 8-inch minimum mesh size during the fishing period 6:00 a.m. Monday, September 28 through 6:00 p.m. Friday, October 2, 2015 (4.5 days).

(2) Closed areas are set forth in OAR 635-041-0045, including the closure at the mouth of Spring Creek, which is reduced to the standard 150-foot radius around the fishway as described in OAR 635-041-0045(11), beginning at 6:00 a.m. Friday, September 18, 2015.

(3) Beginning August 1 through October 31, 2015 commercial sales of salmon, steelhead, walleye, shad, catfish, carp, bass and yellow perch caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; and Drano Lake are allowed for Yakama Nation members during those days and hours when these tributaries are open under lawfully enacted Yakama Nation fishing periods. Legal fish landed during an open period may be sold after the period concludes.

(a) Sturgeon may not be sold. Sturgeon between 38-54 inches in fork length may be kept for ceremonial or subsistence purposes.

(b) Gear is restricted to subsistence fishing gear which includes hoopnets, dipnets, and rod and reel with hook-and-line. Gillnets may only be used in Drano Lake.

Stat. Auth.: ORS 496.118 & 506.119
Stats. Implemented: ORS 506.109, 506.129 & 507.030
Hist.: FWC 25-1979, f. & ef. 8-2-79; FWC 36-1979(Temp), f. & ef. 8-22-79; FWC 47-1979(Temp), f. & ef. 9-21-79; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 46-1980(Temp), f. & ef. 9-13-80; FWC 33-1981(Temp), f. & ef. 9-15-81; FWC 58-1982(Temp), f. & ef. 8-27-82; FWC 62-1982(Temp), f. & ef. 9-7-82; FWC 63-1982(Temp), f. & ef. 9-14-82; FWC 75-1982 (Temp), f. & ef. 10-29-82; FWC 36-1983, f. & ef. 8-18-83; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 51-1983(Temp), f. & ef. 9-30-83; FWC 55-1983(Temp), f. & ef. 10-4-83; FWC 46-1984, f. & ef. 8-30-84; FWC 55-1984(Temp), f. & ef. 9-10-84; FWC 58-1984(Temp), f. & ef. 9-17-84; FWC 61-1984 (Temp), f. & ef. 9-21-84; FWC 70-1984(Temp), f. & ef. 10-9-84; FWC 47-1985, f. & ef. 8-23-85; FWC 60-1985(Temp), f. & ef. 9-13-85; FWC 63-1985(Temp), f. & ef. 9-24-85; FWC 42-1986, f. & ef. 8-15-86; FWC 53-1986(Temp), f. & ef. 9-4-86; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 57-1986(Temp), f. & ef. 9-11-86; FWC 60-1986(Temp), f. & ef. 9-26-86; FWC 62-1986(Temp), f. & ef. 10-2-86; FWC 63-1987, f. & ef. 8-7-87; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987 (Temp), f. & ef. 9-1-87; FWC 78-1987(Temp), f. & ef. 9-15-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 89-1987(Temp), f. & ef. 10-12-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 72-1988(Temp), f. & cert. ef. 8-19-88; FWC 77-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988 (Temp), f. 9-27-88, cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 87-1989(Temp), f. & cert. ef. 9-1-89; FWC 95-1989(Temp), f. & cert. ef. 9-19-89; FWC 96-1989 (Temp), f. & cert. ef. 9-21-89; FWC 99-1989(Temp), f. & cert. ef. 9-27-89; FWC 100-1989(Temp), f. & cert. ef. 9-28-89; FWC 80-1990(Temp), f. 8-7-90, cert. ef. 8-8-90; FWC 90-1990, f. & cert. ef. 8-31-90; FWC 96-1990(Temp), f. 9-7-90, cert. ef. 9-10-90; FWC 98-1990(Temp), f. 9-14-90, cert. ef. 9-17-90; FWC 85-1991, f. 8-7-91, cert. ef. 8-12-91; FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991(Temp), f. & cert. ef. 9-10-91; FWC 103-1991(Temp), f. 9-17-91, cert. ef. 9-18-91; FWC 110-1991(Temp), f. & cert. ef. 9-27-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 86-1992(Temp), f. 9-1-92, cert. ef. 9-2-92; FWC 87-1992(Temp), f. 9-4-92, cert. ef. 9-7-92; FWC 91-1992(Temp), f. 9-16-92, cert. ef. 9-17-92; FWC 96-1992(Temp), f. 9-22-92, cert. ef. 9-23-92; FWC 105-1992(Temp), f. 10-2-92, cert. ef. 10-5-92; FWC 107-1992 (Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 52-1993, f. & cert. ef. 8-30-93; FWC 57-1993(Temp), f. & cert. ef. 9-13-93; FWC 59-1993(Temp), f. 9-17-93, cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. 8-26-94, cert. ef. 8-29-94; FWC 61-1994(Temp), f. 9-7-94, cert. ef. 9-8-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. 8-25-95, cert. ef. 8-29-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. 9-12-95, cert. ef. 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. 8-29-96, cert. ef. 9-2-96; FWC 51-1996(Temp), f. 9-6-96, cert. ef. 9-9-96; FWC 53-1996(Temp), f. & cert. ef. 9-26-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 52-1997(Temp), f. 8-29-97, cert. ef. 9-2-97, FWC 57(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. 9-16-97, cert. ef. 9-17-97; DFW 68-1998(Temp), f. & cert. ef. 8-25-98 thru 9-25-98; DFW 76-1998(Temp), f. & cert. ef. 9-8-98 thru 9-25-98; DFW 77-1998(Temp), f. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. 9-21-98, cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. 9-23-98, cert. ef. 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. 9-2-99, cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. 9-14-99, cert. ef. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. 9-21-99, cert. ef. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. 9-28-99, cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. 9-10-01, cert. ef. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 113-2002(Temp), f. 10-14-02, cert. ef. 10-15-02 thru 12-31-02;. DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. 9-12-03 cert. ef. 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. 9-22-03, cert. ef. 9-24-03 thru 12-31-03; DFW 101-2003(Temp), f. 9-26-03, cert. ef. 10-1-03 thru 12-31-03; DFW 103-2003(Temp), f. 10-3-03, cert. ef. 10-8-03 thru 12-31-03; DFW 104-2003(Temp), f. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 104-2004(Temp), f. 10-12-04 cert. ef. 10-13-04 thru 12-31-04; DFW 110-2004(Temp), f. & cert. ef. 10-29-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 104-2005(Temp), f. & cert. ef. 9-12-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 113-2005(Temp), f. & cert. ef. 9-28-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; Administrative correction 1-19-06; DFW 71-2006(Temp), f. 7-31-06, cert. ef. 8-1-06 thru 12-31-06; DFW 86-2006(Temp), f. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 94-2006(Temp), f. 9-8-06, cert. ef. 9-11-06 thru 12-31-06; DFW 101-2006(Temp), f. 9-15-06, cert .ef. 9-18-06 thru 12-31-2006; DFW 107-2006(Temp), f. 9-28-06, cert. ef. 10-3-06 thru 12-31-06; DFW 115-2006(Temp), f. 10-13-06, cert. ef. 10-15-06 thru 12-31-06; Administrative correction 1-16-07; DFW 60-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 12-31-07; DFW 77-2007(Temp), f. 8-17-07, cert. ef. 8-22-07

thru 12-31-07; DFW 88-2007(Temp), f. 9-10-07, cert. ef. 9-11-07 thru 12-31-07; DFW 95-2007(Temp), f. 9-21-07, cert. ef. 9-25-07 thru 12-31-07; DFW 100-2007(Temp), f. 9-28-07, cert. ef. 10-3-07 thru 12-31-07; DFW 110-2007(Temp), f. 10-16-07, cert. ef. 10-20-07 thru 12-31-07; DFW 106-2008(Temp), f. 9-4-08, cert. ef. 9-6-08 thru 10-31-08; DFW 109-2008(Temp), f. 9-12-08, cert. ef. 9-15-08 thru 10-31-08; DFW 112-2008(Temp), f. 9-17-08, cert. ef. 9-18-08 thru 10-31-08; DFW 117-2008(Temp), f. & cert. ef. 9-22-08 thru 10-31-08; DFW 122-2008(Temp), f. & cert. ef. 9-29-08 thru 10-31-08; DFW 125-2008(Temp), f. 10-6-08, cert. ef. 10-7-08 thru 10-31-08; DFW 134-2008(Temp), f. & cert. ef. 10-17-08 thru 10-31-08; DFW 141-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 11-30-08; DFW 88-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 95-2009(Temp), f. 8-19-09, cert. ef. 8-24-09 thru 12-31-09; DFW 111-2009(Temp), f. 9-11-09, cert. ef. 9-13-09 thru 9-30-09; DFW 114-2009(Temp), f. 9-18-09, cert. ef. 9-21-09 thru 10-31-09; DFW 119-2009(Temp), f. & cert. ef. 9-29-09 thru 10-31-09; DFW 129-2009(Temp), f. 10-13-09, cert. ef. 10-14-09 thru 10-31-09; Administrative correction 11-19-09; DFW 111-2010(Temp), f. 7-30-10, cert. ef. 8-1-10 thru 10-31-10; DFW 120-2010(Temp), f. 8-18-10, cert. ef 8-24-10 thru 10-31-10; DFW 128-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; DFW 136-2010(Temp), f. 9-24-10, cert. ef. 9-27-10 thru 10-31-10; DFW 142-2010(Temp), f. 10-8-10, cert. ef. 10-9-10 thru 10-31-10; DFW 149-2010(Temp), f. 10-18-10, cert. ef. 10-19-10 thru 10-31-10; Administrative correction 11-23-10; DFW 103-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 10-31-11; DFW 119-2011(Temp), f. 8-26-11, cert. ef. 8-29-11 thru 10-31-11; DFW 124-2011(Temp), f. 9-8-11, cert. ef. 9-12-11 thru 10-31-11; DFW 130-2011(Temp), f. 9-15-11, cert. ef. 9-19-11 thru 10-31-11; DFW 133-2011(Temp), f. 9-21-11, cert. ef. 9-22-11 thru 10-31-11; DFW 138-2011(Temp), f. 9-30-11, cert. ef. 10-3-11 thru 10-31-11; DFW 142-2011(Temp), f. 10-6-11, cert. ef. 10-8-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 94-2012(Temp), f. & cert. ef. 7-27-12 thru 10-31-12; DFW 107-2012(Temp), f. 8-15-12, cert. ef. 8-21-12 thru 10-31-12; DFW 119-2012(Temp), f. 9-10-12, cert. ef. 9-11-12 thru 10-31-12; DFW 120-2012(Temp), f. & cert. ef. 9-18-12 thru 10-31-12; DFW 124-2012(Temp), f. 9-25-12, cert. ef. 9-26-12 thru 10-31-12; DFW 127-2012(Temp), f. & cert. ef. 10-2-12 thru 10-31-12; DFW 143-2012(Temp), f. 11-7-12, cert. ef. 11-8-12 thru 1-29-13; Administrative correction, 2-25-13; DFW 88-2013(Temp), f. 8-9-13, cert. ef. 8-12-13 thru 12-31-13; DFW 89-2013(Temp), f. 8-14-13, cert. ef. 8-19-13 thru 12-31-13; DFW 98-2013(Temp), f. 9-6-13, cert. ef. 9-10-13 thru 10-31-13; DFW 102-2013(Temp), f. 9-13-13, cert. ef. 9-16-13 thru 10-31-13; DFW 106-2013(Temp), f. 9-19-13, cert. ef. 9-24-13 thru 10-31-13; DWF 111-2013(Temp), f. 9-27-13, cert. ef. 9-30-13 thru 10-31-13; DFW 116-2013(Temp), f. 10-8-13, cert. ef. 10-9-13 thru 12-31-13; DFW 105-2014(Temp), f. 7-30-14, cert. ef. 8-1-14 thru 10-31-14; DFW 118-2014(Temp), f. 8-7-14, cert. ef. 8-18-14 thru 10-31-14; DFW 134-2014(Temp), f. 9-19-14, cert. ef. 9-23-14 thru 10-31-14; DFW 140-2014(Temp), f. 9-24-14, cert. ef. 9-25-14 thru 10-31-14; DFW 142-2014(Temp), f. 10-2-14, cert. ef. 10-3-14 thru 10-31-14; DFW 146-2014(Temp), f. 10-8-14, cert. ef. 10-13-14 thru 10-31-14; DFW 153-2014(Temp), f. 10-23-14, cert. ef. 10-31-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 97-2015(Temp), f. 7-30-15, cert. ef. 8-1-15 thru 10-31-15; DFW 108-2015(Temp), f. 8-13-15, cert. ef. 8-17-15 thru 10-31-15; DFW 127-2015(Temp), f. 9-10-15, cert. ef. 9-15-15 thru 10-31-15; DFW 130-2015(Temp), f. 9-17-15, cert. ef. 9-19-15 thru 10-31-15; DFW 133-2015(Temp), f. 9-23-15, cert. ef. 9-28-15 thru 10-31-15; DFW 137-2015(Temp), f. & cert. ef. 10-1-15 thru 10-31-15

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Rule Caption: Mainstem Columbia River Late Fall Commercial Drift Net Salmon Seasons Set
Adm. Order No.: DFW 138-2015(Temp)
Filed with Sec. of State: 10-7-2015
Certified to be Effective: 10-8-15 thru 10-31-15
Notice Publication Date:
Rules Amended: 635-042-0032, 635-042-0060
Rules Suspended: 635-042-0032(T), 635-042-0060(T)
Subject: This amended rule authorizes two new fishing periods for the 2015 late fall commercial salmon drift net fisheries in the Columbia River mainstem. The first new fishing period is for 10 hours and commences in Zones 1 through 5 beginning at 8:00 p.m. Thursday, October 8, 2015. The following fishing period is for 12 hours and will be conducted in Zones 1 through 3 beginning at 7:00 a.m. Monday, October 12, 2015. Modifications are consistent with joint state action taken October 7, 2015 by the Departments of Fish and Wildlife for the states of Oregon and Washington at a meeting of the Columbia River Compact.
Rules Coordinator: Michelle Tate—(503) 947-6044

635-042-0032
Coho Target Fishery

(1) Chinook, coho, pink, and sockeye salmon, and shad may be taken in the Columbia River for commercial purposes in all of, or portions of Zones 1–3 from the mouth of the Columbia River upstream to a line projected from Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation buoy #1 and continuing to the Washington shore.

(2) Authorized Fishing Periods are as follows: 7:00 a.m. to 7:00 p.m. Monday, October 12, 2015 (12 hours).

(3) Nets are to be hung even with no strings, slackers, trammels, or riplines used to slacken nets. Riplines are allowed providing they do not slacken the net. Maximum mesh size is six inches. The multiple net rule is in effect for all authorized fishing periods. Nets not authorized for a specific 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.

(4) Closed areas include the following sanctuaries: Elokomin-A, Cowlitz River, Kalama-A, and the Lewis-A.

Stat. Auth.: ORS 183.325, 506.109 & 506.119
Stats. Implemented: ORS 506.129 & 507.030
Hist.: FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991 (Temp), f. & cert. ef. 9-10-91; FWC 102-1991, f. & cert. ef. 9-17-91; Suspended by FWC 92-1992(Temp), f. & cert. ef. 9-16-92; FWC 46-1996, f. & cert. ef. 8-23-96; DFW 71-1999(Temp), f. & cert. ef. 9-20-99 thru 10-22-99; DFW 75-1999(Temp), f. 9-29-99, cert. ef. 9-30-99 thru 10-22-99; DFW 79-1999(Temp), f. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 83-1999(Temp), f. 10-26-99, cert. ef. 10-27-99 thru 12-31-99; DFW 62-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; DFW 65-2000(Temp) f. 9-22-00, cert. ef. 9-25-00 thru 12-31-00; DFW 66-2000(Temp) f. 9-29-00, cert. ef. 10-2-00 thru 12-31-00; DFW 68-2000(Temp) f. 10-6-00, cert. ef. 10-9-00 thru 12-31-00; DFW 71-2000(Temp) f. 10-20-00, cert. ef. 10-23-00 thru 12-31-00; DFW 74-2000(Temp), f. 10-27-00, cert. ef. 10-30-00 thru 12-31-00; Administrative correction 6-20-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 92-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 93-2001(Temp), f. 9-21-01, cert. ef. 9-24-01 thru 12-31-01; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 106(Temp), f. & cert. ef. 9-24-02 thru 12-31-02; DFW 92-2003(Temp), f. 9-12-03 cert. ef. 9-15-03 thru 12-31-03; Administrative correction, 2-23-05; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 114-2013(Temp), f. 9-27-13, cert. ef. 10-2-13 thru 10-15-13; Administrative correction, 11-22-13; DFW 139-2014(Temp), f. 9-24-14, cert. ef. 10-1-14 thru 10-31-14; DFW 145-2014(Temp), f. 10-8-14, cert. ef. 10-13-14 thru 10-31-14; Administrative correction 11-24-14; DFW 135-2015(Temp), f. 9-29-15, cert. ef. 10-1-15 thru 10-31-15; DFW 138-2015(Temp), f. 10-7-15, cert. ef. 10-8-15 thru 10-31-15

635-042-0060
Late Fall Salmon Season

(1) Salmon may be taken for commercial purposes from the Columbia River in Zones 1 through 5, as described in OAR 635-042-0001 during the following periods:

8:00 p.m. Thursday, October 8 to 6:00 a.m. Friday, October 9, 2015 (10 hours).

(2) For the fishing period described in section (1) above, gear is restricted to drift gill nets with a 8 inch minimum mesh size. Mesh size is determined as described in OAR 635-042-0010(3). The multiple net rule is in effect for all authorized fishing periods. Nets not authorized for a specific 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.

(3) For the fishing period described in section (1) above sturgeon and chum salmon may not be possessed or sold by participating vessels. Allowable sales are Chinook, coho, pink and sockeye salmon and shad.

(4) For the fishing period described in section (1) above, the following sanctuaries are in effect:

(a) Sandy River sanctuary; and

(b) Washougal sanctuary.

Stat. Auth.: ORS 183.325, 506.109 & 506.119
Stats. Implemented: ORS 506.129 & 507.030
Hist.: FWC 40-1979, f. & ef. 9-10-79; FWC 45-1979(Temp), f. & ef. 9-21-79; FWC 52-1979(Temp), f. & ef. 11-2-79; FWC 48-1980(Temp), f. & ef. 9-19-80; FWC 51-1980(Temp), f. & ef. 9-22-80; FWC 55-1980(Temp), f. & ef. 9-26-80; FWC 56-1980(Temp), f. & ef. 9-29-80; FWC 58-1980(Temp), f. & ef. 10-17-80; FWC 37-1981(Temp), f. & ef. 9-24-81; FWC 38-1981(Temp), f. & ef. 9-29-81; FWC 69-1982(Temp), f. & ef. 9-30-82; FWC 72-1982(Temp), f. & ef. 10-20-82; FWC 56-1983(Temp), f. & ef. 10-5-83; FWC 54-1984(Temp), f. & ef. 9-10-84; FWC 59-1984(Temp), f. & ef. 9-18-84; FWC 66-1984 (Temp), f. & ef. 9-26-84; FWC 68-1984(Temp), f. & ef. 10-2-84; FWC 58-1985(Temp), f. & ef. 9-13-85; FWC 62-1985 (Temp), f. & ef. 9-24-85; FWC 66-1985(Temp), f. & ef. 10-11-85; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 64-1986 (Temp), f. & ef. 10-3-86; FWC 67-1986(Temp), f. & ef. 10-17-86; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987 (Temp), f. & ef. 9-11-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 91-1987(Temp), f. & ef. 10-16-87; FWC 85-1988(Temp), f. & cert. ef. 9-9-88; FWC 93-1988(Temp), f. & cert. ef. 9-16-88; FWC 99-1988(Temp), f. & cert. ef. 10-7-88; FWC 100-1988(Temp), f. 10-21-88, cert. ef. 10-24-88; FWC 94-1989(Temp), f. 9-15-89, cert. ef. 9-17-89; FWC 97-1989(Temp), f. & cert. ef. 9-21-89; FWC 109-1989(Temp), f. & cert. ef. 10-6-89; FWC 113-1989 (Temp), f. & cert. ef. 11-9-89; FWC 100-1990(Temp), f. & cert. ef. 9-18-90; FWC 101-1990(Temp), f. & cert. ef. 9-19-90; FWC 102-1990(Temp), f. & cert. ef. 9-20-90; FWC 114-1990, f. & cert. ef. 10-8-90; FWC 105-1991, f. & cert. ef. 9-20-91; FWC 118-1991, f. & cert. ef. 10-4-91; FWC 122-1991(Temp), f. & cert. ef. 10-18-91; FWC 129-1991(Temp), f. 11-1-91, cert. ef. 11-3-91; FWC 97-1992(Temp), f. & cert. ef. 9-22-92; FWC 100-1992(Temp), f. 9-25-92, cert. ef. 9-27-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 109-1992(Temp), f. 10-19-92, cert. ef. 10-20-92; FWC 110-1992(Temp), f. & cert. ef. 10-22-92; FWC 80-1995(Temp), f. 9-27-95, cert. ef. 10-9-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 58-1996(Temp), f. 9-27-96, cert. ef. 9-30-96; FWC 60-1996(Temp), f. & cert. ef. 10-7-96; FWC 62(Temp), f. 10-18-96, cert. ef. 10-21-96; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; FWC 62-1997(Temp), f. & cert. ef. 10-6-97; FWC 64-1997(Temp), f. & cert. ef. 10-14-97; FWC 65-1997(Temp), f. & cert. ef. 10-20-97; FWC 68-1997(Temp), f. & cert. ef. 11-3-97; DFW 79-1999(Temp), f. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 83-1999(Temp), f. 10-26-9, cert. ef. 10-27-99 thru 12-31-99; DFW 87-1999(Temp), f. & cert. ef. 11-4-99 thru 11-5-99; Administrative correction 11-17-99; DFW 62-at2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; DFW 68-2000(Temp), f. 10-6-00, cert. ef. 10-9-00 thru 12-31-00; DFW 71-2000(Temp), f. 10-20-00, cert. ef. 10-23-00 thru 12-31-00; DFW 74-2000(Temp), f. 10-27-00, cert. ef. 10-30-00 thru 12-31-00; Administrative correction 6-20-01; DFW 89-2001(Temp), 9-14-01 thru 12-31-01; DFW 92-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 93-2001(Temp), f. 9-21-01, cert. ef. 9-24-01 thru 12-31-01; DFW 98-2001(Temp), f. 10-8-01, cert. ef. 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 106-2002(Temp), f. & cert. ef. 9-24-02 thru 12-31-02; DFW 109-2002(Temp) f. & cert. ef. 9-27-02 thru 12-31-02; DFW 112-2002(Temp), f. 10-10-02, cert.

ef. 10-14-02 thru 12-31-02; DFW 122-2002(Temp), f. 10-24-02, cert. ef. 10-28-02 thru 12-31-02; DFW 92-2003(Temp), f. 9-12-03 cert. ef. 915-03 thru 12-31-03; DFW 95-2003(Temp), f. & cert. ef. 9-17-03 thru 12-31-03; DFW 98-2003(Temp), f. 9-22-03, cert. ef. 9-23-03 thru 12-31-03; DFW 105-2003(Temp), f. 10-10-03, cert. ef. 10-12-03 thru 12-31-03; DFW 107-2003(Temp), f. 10-21-03, cert. ef. 10-26-03 thru 12-31-03; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 98-2004(Temp), f. & cert. ef. 9-22-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 101-2004(Temp), f. & cert. ef. 9-29-04 thru 12-31-04; DFW 102-2004(Temp), f. 10-1-04, cert. ef. 10-4-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; Administrative correction, 2-18-05; 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 113-2005(Temp), f. & cert. ef. 9-28-05 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; DFW 126-2005(Temp), f. 10-21-05, cert. ef. 10-23-05 thru 12-31-05; Administrative correction 1-19-06; DFW 102-2006(Temp), f. 9-15-06, cert. ef. 9-19-06 thru 12-31-06; DFW 106-2006(Temp), f. 9-22-06, cert. ef. 9-25-06 thru 12-31-06; DFW 111-2006(Temp), f. 9-29-06, cert. ef. 10-2-06 thru 12-31-06; DFW 112-2006(Temp), f. 10-4-06, cert. ef. 10-8-06 thru 12-31-06; DFW 114-2006(Temp), f. & cert. ef. 10-12-06 thru 12-31-06; DFW 120-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 91-2007(Temp), f. 9-18-07, cert. ef. 9-19-07 thru 12-31-07; DFW 94-2007(Temp), f. 9-21-07, cert. ef. 9-24-07 thru 12-31-07; DFW 97-2007(Temp), f. 9-25-07, cert. ef. 9-26-07 thru 12-31-07; DFW 98-2007(Temp), f. 9-26-07, cert. ef. 9-27-07 thru 12-31-07; DFW 99-2007(Temp), f. 9-28-07, cert. ef. 10-1-07 thru 12-31-07; DFW 104-2007(Temp), f. & cert. ef. 10-3-07 thru 12-31-07; DFW 107-2007(Temp), f. & cert. ef. 10-10-07 thru 12-31-07; DFW 109-2007(Temp), f. 10-16-07, cert. ef. 10-17-07 thru 12-31-07; DFW 111-2007(Temp), f. 10-22-07, cert. ef. 10-23-07 thru 12-31-07; DFW 112-2007(Temp), f. 10-24-07, cert. ef. 10-25-07 thru 12-31-07; DFW 113-2008(Temp), f. 9-17-08, cert. ef. 9-18-08 thru 12-31-08; DFW 119-2008(Temp), f. & cert. ef. 9-24-08 thru 12-31-08; DFW 127-2008(Temp), f. 10-7-08, cert. ef. 10-8-08 thru 12-31-08; DFW 132-2008(Temp), f. 10-14-08, cert. ef. 10-15-08 thru 12-31-08; DFW 136-2008(Temp), f. & cert. ef. 10-21-08 thru 12-31-08; DFW 117-2009(Temp), f. 9-23-09, cert. ef. 9-24-09 thru 10-31-09; DFW 120-2009(Temp), f. & cert. ef. 9-30-09 thru 10-31-09; DFW 122-2009(Temp), f. & cert. ef. 10-5-09 thru 10-31-09; DFW 124-2009(Temp), f. & cert. ef. 10-7-09 thru 10-31-09; DFW 130-2009(Temp), f. & cert. ef. 10-13-09 thru 10-31-09; DFW 134-2009(Temp), f. & cert. ef. 10-20-09 thru 10-31-09; DFW 135-2009(Temp), f. & cert. ef. 10-27-09 thru 10-31-09; Administrative correction 11-19-09; DFW 139-2010(Temp), f. & cert. ef. 10-5-10 thru 11-30-10; DFW 146-2010(Temp), f. 10-13-10, cert. ef. 10-14-10 thru 11-30-10; DFW 150-2010(Temp), f. 10-18-10, cert. ef. 10-19-10 thru 11-30-10; Administrative correction 12-28-10; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 126-2012(Temp), f. & cert. ef. 9-27-12 thru 10-31-12; DFW 128-2012(Temp), f. 10-3-12, cert. ef. 10-4-12 thru 10-31-12; DFW 133-2012(Temp), f. 10-15-12, cert. ef. 10-16-12 thru 10-31-12; Administrative correction 11-23-12; DFW 119-2013(Temp), f. 10-15-13, cert. ef. 10-16-13 thru 10-31-13; DFW 120-2013(Temp), f. 10-22-13, cert. ef. 10-23-13 thru 11-1-13; Administrative correction, 11-22-13; DFW 144-2014(Temp), f.10-8-14, cert. ef. 10-9-14 thru 12-31-14; DFW 154-2014(Temp), f. & cert. ef. 10-23-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 129-2015(Temp), f.& cert. ef. 9-15-15 thru 10-31-15; DFW 131-2015(Temp), f. 9-18-15, cert. ef. 9-20-15 thru 10-31-15; DFW 132-2015(Temp), f. 9-23-15, cert. ef. 9-27-15 thru 10-31-15; DFW 138-2015(Temp), f. 10-7-15, cert. ef. 10-8-15 thru 10-31-15

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Rule Caption: Amend Rules Related to Licensing Fees for Hunting, Angling, and Commercial Fishing.
Adm. Order No.: DFW 139-2015
Filed with Sec. of State: 10-14-2015
Certified to be Effective: 1-1-16
Notice Publication Date: 9-1-2015
Rules Adopted: 635-001-0110
Rules Amended: 635-001-0116, 635-004-0305, 635-004-0320, 635-004-0390, 635-004-0405, 635-004-0565, 635-004-0685, 635-005-0250, 635-005-0315, 635-005-0330, 635-005-0410, 635-005-0430, 635-005-0585, 635-005-0605, 635-005-0690, 635-005-0800, 635-005-0820, 635-005-0825, 635-006-0215, 635-006-1025, 635-006-1075, 635-007-0605, 635-007-0910, 635-008-0053, 635-010-0040, 635-010-0155, 635-011-0104, 635-043-0003, 635-043-0033, 635-044-0060, 635-046-0055, 635-047-0025, 635-047-0035, 635-047-0045, 635-049-0165, 635-049-0270, 635-050-0180, 635-055-0015, 635-055-0035, 635-055-0037, 635-056-0075, 635-060-0046, 635-065-0501, 635-075-0005, 635-075-0026, 635-075-0035, 635-200-0050
Subject: Adopt amendments to rules as set forth in Oregon Senate Bills 247 and 958, enacted by the 2015 Legislative Assembly. Senate Bill 247 incrementally decreases, increases or establishes certain fees related to hunting, angling and commercial fishing as applicable beginning on January 1, 2016. Housekeeping and technical corrections to the regulations were performed to ensure accuracy and consistency.
Rules Coordinator: Michelle Tate—(503) 947-6044

635-001-0110
Pikeminnow Fishing Derby

In accordance with Senate Bill 958 (2015), an organizer of a fishing derby for Northern pikeminnow (Ptychocheilus oregonensis) may request a free derby license from the Oregon Department of Fish and Wildlife (Department) with the following restrictions:

(1) A derby license from the Department is required. An organizer must apply for a license at least 60 days prior to the event. The license must be in possession of the organizer at the derby location, and must be shown to Oregon State Police (OSP) or Department representatives on request. ODFW shall set license conditions after consideration of the impacts on sensitive populations or habitats for fish species, as well as social impacts.

(2) The maximum duration of a fishing derby shall be three days.

(3) No more than two fishing derby licenses may be issued per year for a given body of water.

(4) An organizer of a fishing derby is required to obtain a separate fishing derby license for each fishing derby.

(5) All current angling regulations and license requirements for the location of the derby remain in effect and shall not be altered to accommodate the derby. In addition, special license conditions such as reduced bag limits may be applied in order to protect affected fish stocks.

(6) Catch and release angling is permitted, provided fish are released unharmed.

(7) The derby organizer is responsible for identifying non-profit outlets or commercial fish or bait dealers for any unwanted fish which are retained from the derby. Only Northern pikeminnow may be sold to commercial fish or bait dealers and only for charitable fund-raising purposes. The derby license exempts the licensee from any commercial licensing requirements and the wholesale fish and bait dealers are not required to report the Northern pikeminnow purchased from the derby to the Department on fish receiving tickets or pay ad-valorem fees.

(8) Derby organizers are responsible for meeting all other state and local requirements for such things as special use permits, etc.

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162 & 506.129
Hist.: DFW 92-2015(Temp), f. & cert. ef. 7-24-15 thru 12-31-15; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-001-0116
Game Fish Tournaments

In accordance with ORS 498.286 (2), when a prize is offered that exceeds $1,000 for the amount, quality, size, weight or other physical characteristic of a game fish taken, other than black bass or walleye, the following restrictions apply:

(1) A permit from ODFW is required. Sponsors must apply for permits at least 60 days prior to the event. Permits must be in possession of the sponsor or a designated representative at the tournament location, and must be shown to OSP or ODFW representatives on request. ODFW shall set permit conditions after consideration of the condition of the resource and social impacts.

(2) Permit applications shall be accepted beginning November 1 of the year prior to the event. No more than one event on any water body shall be authorized on any single date, and no more than two tournaments shall be authorized on any single water body in any 14 days.

(3) The fee for a Game Fish Tournament Permit is $108.00. No license agent fee is required.

(4) All current angling regulations apply and shall not be altered to accommodate any tournament. In addition, special permit conditions such as reduced bag limits may be applied in order to protect affected fish stocks.

(5) Catch and release is permitted, provided fish are released unharmed.

(6) Tournament sponsors are responsible for identifying non-profit outlets for any unwanted fish which result from the tournament.

(7) Tournament sponsors are responsible for meeting all other state and local requirements for such things as special use permits, etc.

Stat. Auth.: ORS 496.118, 496.138, 496.146 & 497.071
Other Auth.: Senate Bill 247 (2015)
Stats. Implemented: ORS 497.071 & 498.279
Hist.: DFW 90-1998, f. & cert. ef. 11-25-98; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-004-0305
Permit Fee

(1) The annual fee for a Resident Black Rockfish/Blue Rockfish/Nearshore Fishery Permit is $125.00 (plus a $2.00 license agent fee). See ORS 508.949.

(2) The annual fee for a Nonresident Black Rockfish/Blue Rockfish/Nearshore Fishery Permit is $175.00 (plus a $2.00 license agent fee). See ORS 508.949.

(3) A fee of $100.00 shall be charged for each transfer of participation rights under OAR 635-004-0330. See ORS 508.957.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 506.109, 506.119 & 508.949
Hist.: DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-004-0320
Renewal of Permit

(1) Resident Black Rockfish/Blue Rockfish/Nearshore Fishery Permits may be renewed the following year:

(a) By submitting a $125.00 (plus $2.00 license agent fee) and a complete application to the Department date-stamped or postmarked by January 1 of the year the permit is sought for renewal; and

(b) If the provisions specified in ORS 508.947 have been met.

(2) Nonresident Black Rockfish/Blue Rockfish/Nearshore Fishery Permits may be renewed the following year:

(a) By submitting a $175.00 (plus $2.00 license agent fee) and a complete application to the Department date-stamped or postmarked by January 1 of the year the permit is sought for renewal; and

(b) If the provisions specified in ORS 508.947 have been met.

(3) An application for renewal of a Black Rockfish/Blue Rockfish/Nearshore Fishery Permit shall be considered complete if it is legible, has all information requested in the form, and is accompanied by the required fee in full.

(4) Permits issued under this rule expire on December 31 of each year. If an owner of a vessel with a permit does not submit a complete renewal application by January 1 of the permit year sought, the owner may renew the permit by submitting a complete renewal application after January 1 but before April 1 of the permit year sought if the owner pays a $150.00 late fee in addition to the fee required under section (1) (a) or (2) (a) of this rule.

(5) It is the responsibility of the permittee to ensure that an application is complete and is filed in a timely manner. Failure of the Department to return an application for incompleteness or of an individual to receive a returned application may not be grounds for treating the application as having been filed in a timely and complete manner.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129, Other SB 247 (2015)
Stats. Implemented: ORS 506.109 & 506.129
Hist.: DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 136-2013, f. 12-19-13, cert. ef. 1-1-14; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-004-0390
Permit Fee

(1) The annual fee for a Resident Sardine Permit is $125.00 (plus a $2.00 license agent fee) for applicants.

(2) The annual fee for a Nonresident Sardine Permit is $175.00 (plus a $2.00 license agent fee) for applicants.

(3) A fee of $100.00 shall be charged for each transfer of participation rights under OAR 635-004-0415.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129, Other SB 247 (2015)
Stats. Implemented: ORS 506.109 & 506.129
Hist.: DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-004-0405
Renewal of Permit

(1) Sardine Permits may be renewed for the following year:

(a) By submitting a $125.00 fee for a resident permit or a $175.00 fee for a nonresident permit (plus a $2.00 license agent fee) and a complete application to the Department date-stamped or postmarked by December 31 of the year the permit is sought for renewal; and

(b) If all logbooks required under OAR 635-004-0420 were submitted.

(2) An application for renewal of a Sardine Permit shall be considered complete if it is legible, has all information requested in the form, and is accompanied by the required fee in full. Any application which is not complete shall be returned, and unless it is thereafter resubmitted and deemed complete by December 31 of the permit year sought, the individual shall not be considered to have applied for renewal in a timely manner.

(3) It is the responsibility of the permittee to ensure that an application is complete and is filed in a timely manner. Failure of the Department to return an application for incompleteness or of an individual to receive a returned application shall not be grounds for treating the application as having been filed in a timely and complete manner.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129, Other SB 247 (2015)
Stats. Implemented: ORS 506.109 & 506.129
Hist.: DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 47-2015(Temp), f. 5-21-15, cert. ef. 5-27-15 thru 11-22-1; 5DFW 77-2015, f. & cert. ef. 6-29-15; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-004-0565
License Required

(1) Vessels electing to take, land or possess only albacore tuna for commercial purposes in a calendar year in Oregon may purchase an Albacore Tuna Landing License in lieu of commercial fishing, crewmember, and boat licenses.

(a) Vessels which hold an Albacore Tuna Landing License are considered commercial fishing vessels for the purposes of U.S. Coast Guard Commercial Fishing Vessel Safety Requirements, law enforcement and fishery management.

(b) An Albacore Tuna Landing License is not required to take, land or possess albacore tuna for vessels licensed pursuant to ORS 508.260 and individuals licensed pursuant to ORS 508.235.

(2) Application for this license may be made and fee paid at time of first calendar year albacore tuna landing into Oregon or at any Department marine field office or Salem Headquarters office, on a Department license application form.

(3) Fees for an Albacore Tuna Landing License are as follows:

(a) Vessels that hold a valid commercial fishing license from another state and do not hold a valid commercial fishing license from Oregon: $25.00 (plus a $2.00 license agent fee).

(b) Resident vessels that do not hold a valid commercial fishing license from Oregon or another state: $250.00 (plus a $2.00 license agent fee).

(c) Nonresident vessels that do not hold a valid commercial fishing license from Oregon or another state and all foreign vessels: $300.00 (plus a $2.00 license agent fee).

(4) An Albacore Tuna Landing License allows unlimited landings of albacore tuna by the vessel during the calendar year of issuance.

(5) Albacore Tuna Landing Licenses are not transferable.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129, Other SB 247 (2015)
Stats. Implemented: ORS 506.109 & 506.129
Hist.: DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-004-0685
Permit Fee

(1) The annual fee for the Commercial Shellfish And Intertidal Animal Harvest Permit is $125.00 (plus a $2.00 license agent fee) for Resident applicants. The annual fee for Nonresident applicants is $175.00 (plus a $2.00 license agent fee).

(2) Commercial Shellfish And Intertidal Animal Permits are only available at the Astoria, Newport and Charleston Department field offices.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129, Other SB 247 (2015)
Stats. Implemented: ORS 506.109 & 506.129
Hist.: DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-005-0250
Permit Fee

(1) The annual fee for the Commercial Shellfish And Intertidal Animal Harvest Permit is $125.00 (plus a $2.00 license agent fee) for Resident applicants. The annual fee for Nonresident applicants is $175.00 (plus a $2.00 license agent fee).

(2) Commercial Shellfish And Intertidal Animal Harvest Permits are only available at the Astoria, Newport and Charleston Department field offices.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129, Other SB 247 (2015)
Stats. Implemented: ORS 506.109 & 506.129
Hist.: DFW 76-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-005-0315
Permit Fee

(1) The annual fee for a Resident Bay Clam Dive Permit is $125.00 (plus a $2.00 license agent fee) for applicants.

(2) The annual fee for a Nonresident Bay Clam Dive Permit is $175.00 (plus a $2.00 license agent fee) for applicants.

(3) A fee of $100.00 shall be charged for each transfer of participation rights under OAR 635-005-0340.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129, Other SB 247 (2015)
Stats. Implemented: ORS 506.109 & 506.129
Hist.: DFW 76-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-005-0330
Renewal of Permit

(1) Bay Clam Dive Permits may be renewed the following year:

(a) By submitting to the Department a $125.00 fee for a resident permit or a $175.00 fee for a nonresident permit (plus a $2.00 license agent fee) and a complete application date-stamped or postmarked by January 31 of the year for which renewal is sought;

(b) The permittee shall have lawfully made five landings consisting of at least 100 pounds each landing or an annual total of 2,500 pounds of bay clams, using dive gear in Oregon in the prior calendar year;

(c) If all logbooks required under OAR 635-005-0345 were submitted by the application deadline for renewal of a Bay Clam Dive Permit; and

(d) If a Bay Clam Dive Permit is transferred under OAR 635-005-0340(2), annual landing requirements for permit renewal in subsection (1)(b) of this rule are waived in the year the transfer occurred.

(2) An application for renewal of a Bay Clam Dive Permit shall be considered complete if it is legible, has all information requested in the form, and is accompanied by the required fee in full. Any application which is not complete shall be returned, and unless it is thereafter resubmitted and deemed complete by January 31 of the permit year sought, the individual shall not be considered to have applied for renewal in a timely manner.

(3) It is the responsibility of the permittee to ensure that an application is complete and is filed in a timely manner. Failure of the Department to return an application for incompleteness or of an individual to receive a returned application shall not be grounds for treating the application as having been filed in a timely and complete manner.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129, Other SB 247 (2015)
Stats. Implemented: ORS 506.109 & 506.129
Hist.: DFW 76-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-005-0410
Permit Fee

(1) The annual fee for a Resident Ocean Dungeness Crab Permit is $200.00 (plus a $2.00 license agent fee) for resident applicants and $250.00 (plus a $2.00 license agent fee) for non-resident applicants. See ORS 508.941.

(2) A fee of $100.00 shall be charged for each transfer of participation rights under OAR 635-005-0440. See ORS 508.936.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129, Other SB 247 (2015)
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 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-005-0430
Renewal of Permit

(1) An individual who obtained a limited entry Ocean Dungeness Crab Permit may renew the permit pursuant to ORS 508.941 by submitting to the Department a $200.00 (plus a $2.00 license agent fee) for resident applicants and a $250.00 fee (plus a $2.00 license agent fee) for non-resident applicants and a complete application date-stamped or postmarked by December 31 of the year for which renewal is sought.

(2) An application for renewal of an Ocean Dungeness Crab Permit shall be considered complete if it is legible, has all information requested in the form, and is accompanied by the required fee in full. Any application which is not complete shall be returned, and unless it is thereafter resubmitted and deemed complete by December 31 of the permit year sought, the individual shall not be considered to have applied for renewal in a timely manner.

(3) It is the responsibility of the permittee to ensure an application is complete and is filed in a timely manner. Failure of the Department to return an application for incompleteness or of an individual to receive a returned application may not be grounds for treating the application as having been filed in a timely and complete manner.

(4) A permit which is not renewed by December 31 lapses, and shall not be renewed for subsequent years.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129, Other SB 247 (2015)
Stats. Implemented: ORS 506.109 & 506.129
Hist.: DFW 76-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 32-2013, f. & cert. ef. 5-14-13; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-005-0585
Permit Fee

(1) The annual fee for a Pink Shrimp Permit is $200.00 (plus a $2.00 license agent fee) for resident applicants and $250.00 (plus a $2.00 license agent fee) for non-resident applicants. See ORS 508.901.

(2) A fee of $100.00 shall be charged for each transfer of participation rights under OAR 635-005-0615. See ORS 508.907.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129, Other SB 247 (2015)
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 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-005-0605
Renewal of Permit

(1) Pink Shrimp Permits may be renewed the following year by submitting to the Department a $200.00 fee (plus a $2.00 license agent fee) for resident applicants and a $250.00 fee (plus a $2.00 license agent fee) for non-resident applicants and a complete application date-stamped or postmarked by December 31 of the year the permit is sought for renewal.

(2) An application for renewal of a Pink Shrimp Permit shall be considered complete if it is legible, has all information requested in the form, and is accompanied by the required fee in full. Any application which is not complete shall be returned, and unless it is thereafter resubmitted and deemed complete by December 31 of the permit year sought, the individual shall not be considered to have applied for renewal in a timely manner.

(3) It is the responsibility of the permittee to ensure that an application is complete and is filed in a timely manner. Failure of the Department to return an application for incompleteness or of an individual to receive a returned application shall not be grounds for treating the application as having been filed in a timely and complete manner.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129, Other SB 247 (2015)
Stats. Implemented: ORS 506.109 & 506.129
Hist.: DFW 76-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 32-2013, f. & cert. ef. 5-14-13; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-005-0690
Permit Fee

(1) The annual fee for a Brine Shrimp Permit is $100.00 (plus a $2.00 license agent fee) for both resident and nonresident applicants.

(2) A fee of $100.00 shall be charged for each transfer of participation rights under OAR 635-005-0715.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129, Other SB 247 (2015)
Stats. Implemented: ORS 506.109 & 506.129
Hist.: DFW 76-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-005-0800
Permit Fee

(1) The annual fee for a Sea Urchin Permit is $125.00 (plus a $2.00 license agent fee) for resident applicants and $175.00 (plus a $2.00 license agent fee) for non-resident applicants. See ORS 508.760.

(2) A fee of $100.00 shall be charged for each transfer of participation rights under OAR 635-005-0830. See ORS 508.760.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129, Other SB 247 (2015)
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 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-005-0820
Renewal of Permit

(1) Sea Urchin Permits may be renewed the following year:

(a) By submitting to the Department a $125.00 fee (plus a $2.00 license agent fee) for resident applicants and a $175.00 fee (plus a $2.00 license agent fee) for non-resident applicants and a complete application date-stamped or postmarked by January 31 of the year for which renewal is sought; and

(b) The permittee shall have annually lawfully landed 5,000 pounds of sea urchins in Oregon. If a permittee obtained a permit later than January of the prior year (because the permit was obtained through the lottery, or as a result of the Commercial Fishery Permit Board actions or surrender of a permit by a permit holder), the permittee shall not be required to make the 5,000 pound landing requirement by the following January. Instead, at the next renewal thereafter, the permittee shall be required to demonstrate that the 5,000 pound landing requirement was fulfilled during the first full year (twelve-month period) in which the permit was held.

(2) An application for renewal of a Sea Urchin Permit shall be considered complete if it is legible, has all information requested in the form, and is accompanied by the required fee in full. Any application which is not complete shall be returned, and unless it is thereafter resubmitted and deemed complete by January 31 of the permit year sought, the individual shall not be considered to have applied for renewal in a timely manner.

(3) It is the responsibility of the permittee to ensure that an application is complete and is filed in a timely manner. Failure of the Department to return an application for incompleteness or of an individual to receive a returned application shall not be grounds for treating the application as having been filed in a timely and complete manner.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129, Other SB 247 (2015)
Stats. Implemented: ORS 506.109 & 506.129
Hist.: DFW 76-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 32-2013, f. & cert. ef. 5-14-13; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-005-0825
Lottery for Limited Entry Sea Urchin Permits

(1) If the total number of Sea Urchin Permits which have been renewed, and for which an appeal is pending with the Commercial Fishery Permit Board and awarded through a prior lottery, is less than 30, a lottery

shall be held on the 4th Friday in April. However, as a result of any such lottery, the total number of permits issued shall not exceed 30.

(2) An individual must be 18 years of age or older and furnish proof of age to be eligible for the lottery.

(3) An individual shall not already hold a valid Sea Urchin Permit, however, an individual whose permit is at issue in a pending Sea Urchin Permit Board proceeding or before a court of law may participate in the lottery.

(4) If a permittee whose permit is at issue either before the Sea Urchin Permit Board or a court of law is awarded another permit through the lottery and thereafter prevails before the Board or in court, the permittee shall immediately surrender one of the Sea Urchin Permits to any Department office, so that only one valid permit is held.

(5) An individual who qualifies to participate in the lottery shall send a complete lottery application to the Department, date-stamped or postmarked no later than April 15 of the year for which the permit is to be issued. An individual shall not submit more than one application to participate in the lottery. For successful applicants, the application fee shall apply toward the permit fee of $125.00 (plus a $2.00 license agent fee) for resident applicants and $175.00 fee (plus a $2.00 license agent fee) for nonresident applicants.

(6) The names of lottery applicants shall be drawn to obtain the available permits. All other names of lottery applicants shall be drawn and placed on an alternate list in the order in which they were drawn, and shall be issued permits during the next 24 months as they may become available through Permit Board actions or surrender of permits by a permit holder.

(7) An individual whose name is drawn in the lottery shall thereafter apply on the prescribed form, to the Department to obtain a permit. Such application must be received by the Department within 30 days of the date the notification was mailed to the successful applicant following the lottery.

(8) Any individual who fails to apply for the lottery permit within 30 days shall forfeit such permit. The permit shall then be made available to the first name on the alternate list, and shall be applied for in accordance with section (7) of this rule.

(9) If all permits are not issued by renewal or through the lottery, permits thereafter may be issued on a first come first served basis up to the total number of permits allowed. All applications shall be mailed to the Department and priority shall be based on postmark or date-stamped date.

(10) The Commission may suspend the lottery for up to two years based upon its assessment of the condition of the resource and recommendations of the Sea Urchin Permit Review Board.

(11) Each applicant for a permit lottery shall complete the application form prescribed by the Department.

(12) Only one application per vessel may be submitted for each permit fishery lottery.

(13) Any application which is not legible, has incomplete information, or is postmarked after the deadline shall not be entered in the lottery. Applications for all permits will be accepted at the Salem headquarters office of the Department, and shall be postmarked or date stamped no later than March 31 of the year for which the permit is issued.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129, Other SB 247 (2015)
Stats. Implemented: ORS 506.109 & 506.129
Hist.: DFW 76-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 32-2013, f. & cert. ef. 5-14-13; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-006-0215
Monthly Remittance Report

(1) A monthly report is required of all licensed:

(a) Wholesale fish dealers, wholesale fish bait dealers, food fish 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) Halibut:
(i) Gilled and gutted 1.15
(ii) Gilled, gutted, and headed 1.35
(C) Sablefish, gutted and headed 1.60
(D) Pacific whiting:
(i) Fillet 2.86
(ii) Headed and gutted 1.56
(iii) Headed and gutted with tail removed 2.0
(E) Thresher shark 2.0
(F) Lingcod:
(i) Gilled and gutted 1.1
(ii) Gilled, gutted and headed 1.5
(G) Spot prawn, tails 2.24
(H) Rockfish (including thornyheads), except Pacific Ocean Perch:
(i) Gilled and gutted 1.14
(ii) Gutted and headed 1.75
(iii) Gutted and headed, with collarbone still attached to body (western cut) 1.66
(iv) Gutted and headed, with collarbone removed from body (eastern cut) 2.0
(I) Pacific Ocean Perch:
(i) Gilled and gutted 1.14
(ii) Gutted and headed 1.6
(J) Pacific Cod, gutted and headed 1.58
(K) 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
(L) Petrale sole, gutted and headed 1.51
(M) Arrowtooth flounder, gutted and headed 1.35
(N) Starry flounder, gutted and headed 1.49
(O) Groundfish, glazed:

(i) Conversion factors must be calculated for each landing for each species or species group categorized in OAR 635-006-0209 when there are 60 or greater individuals of a category in a single landing as follows:

(I) Weigh a sample of at least 20 glazed fish to obtain the glazed weight;

(II) Completely remove glaze from individual fish making up the sample;

(III) Re-weigh the sample to obtain the non-glazed weight;

(IV) Divide the non-glazed weight by the glazed weight to obtain the conversion factor;

(V) A separate conversion factor may be calculated for each size grade of a species, but may only be applied to landings of that size grade;

(VI) Documentation of this calculation must be retained with the dock receiving ticket.

(ii) A conversion factor of 0.95 must be applied when there are fewer than 60 individuals of any species or species group categorized in OAR 635-006-0209 in a single landing.

(h) Total value of food fish landed in another state but not taxed by that state;

(i) Total pounds in the round of all food fish landed in another state but not taxed by that state;

(j) Total fees due - in accordance with ORS 508.505 the fees are the value of the food fish at the point of landing multiplied by the following rates:

(A) All salmon and steelhead, 3.15 percent.

(B) Effective January 1, 2005, all black rockfish, blue rockfish and nearshore fish (as defined by ORS 506.011), 5.00 percent.

(C) Effective January 1, 2010, all other food fish (except tuna, shellfish, crab, shrimp, sablefish, and whiting, as defined by ORS 508.505) and all other groundfish, 2.25 percent.

(D) All tuna (as defined by ORS 508.505), 1.09 percent.

(E) All crab, 2.35 percent.

(F) All sablefish, 2.40 percent.

(G) All sardines, 2.25 percent.

(H) All shellfish, 2.30 percent.

(I) All shrimp, 2.40 percet.

(J) All whiting, 2.30 percent.

(k) Signature of the individual completing the report.

(4) The monthly report and all landing fees due shall be sent to the Department on or before the 20th of each month for the preceding calendar month. Landing fees are delinquent if not received or postmarked within 20 days after the end of the calendar month. A penalty charge of $5 or five percent of the landing fees due, whichever is larger, shall be assessed along with a one percent per month interest charge on any delinquent landing fee payments.

Stat. Auth.: ORS 506.036, 506.109, 506.119, 506.129, 508.530 Other Auth.: SB 247 (2015)
Stats. Implemented: ORS 506.109, 506.129, 508.535, 508.505, 508.550
Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FC 274(74-6), f. 3-20-74, ef. 4-11-74; FWC 28, f. 11-28-75, ef. 1-1-76, Renumbered from 625-040-0140; FWC 48-1978, f. & ef. 9-27-78, Renumbered from 635-036-0585; FWC 17-1981(Temp), f. & ef. 5-22-81; FWC 25-1981(Temp), f. 7-8-81, ef. 7-15-81; FWC 27-1981, f. & ef. 8-14-81; FWC 1-1986, f. & ef. 1-10-86; FWC 4-1987, f. & ef. 2-6-87; FWC 99-1987, f. & ef. 11-17-87; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 22-1992(Temp), f. 4-10-92, cert. ef. 4-13-92, FWC 53-1992, f. 7-17-92, cert. ef. 7-20-92; FWC 5-1993, f. 1-22-93, cert. ef. 1-25-93; DFW 38-1999, f. & cert. ef. 5-24-99; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 118-2005(Temp), f. & cert. ef. 10-10-05 thru 12-31-05; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2008(Temp) f. & cert. ef. 7-10-08 thru 12-31-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 70-2009(Temp), f. 6-15-09, cert. ef. 6-16-09 thru 12-12-09; DFW 73-2009(Temp), f. 6-24-09, cert. ef. 6-25-09 thru 12-21-09; Administrative correction 12-23-09; DFW 39-2010(Temp), f. 3-30-10, cert. ef. 4-1-10 thru 9-27-10; DFW 47-2010(Temp), f. 4-26-10, cert. ef. 4-27-10 thru 10-23-10; Administrative correction 11-23-10; DFW 157-2010, f. 12-6-10, cert. ef. 1-1-11; DFW 102-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 164-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 77-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 83-2012(Temp), f. & cert. ef. 7-5-12 thru 12-31-12; DFW 151-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 68-2013(Temp), f. & cert. ef. 7-3-13 thru 12-30-13; Administrative correction, 2-5-14; DFW 106-2014(Temp), f. 7-30-14, cert. ef. 8-1-14 thru 12-31-14; DFW 4-2015, f. 1-13-15, cert. ef. 1-15-15; DFW 28-2015(Temp), f. 4-9-15, cert. ef. 5-1-15 thru 10-27-15; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-006-1025
Permit Fee

The annual fee to participate in limited entry fisheries is as follows:

(1) Gillnet salmon:

(a) The annual fee is $125.00 (plus a $2.00 license agent fee) for resident applicants and $175.00 (plus a $2.00 license agent fee) for non-resident applicants. See ORS 508.790, ORS 508.775 and Section 6, Chapter 512, Oregon Laws 1989.

(b) A fee of $100.00 shall be charged for each transfer of participation rights under this section.

(2) Troll salmon:

(a) The annual fee is $125.00 (plus a $2.00 license agent fee) for resident applicants and $175.00 (plus a $2.00 license agent fee) for non-resident applicants. See ORS 508.816, ORS 508.822 and Section 6, Chapter 512, Oregon Laws 1989.

(b) A fee of $100.00 shall be charged for each transfer of participation rights under this section.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129 Other Auth.: SB 247 (2015)
Stats. Implemented: ORS 506.109 & 506.129
Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 137-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 145-2009, f. 12-9-09, cert. ef. 1-1-10; DFW 146-2011, f. & cert. ef. 10-14-11; DFW 77-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 32-2013, f. & cert. ef. 5-14-13; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-006-1075
Renewal of Permit

(1) An individual who obtained a limited entry permit may renew the permit as follows:

(a) Gillnet salmon - Permits may be renewed by submission to the Department of a $125.00 (plus a $2.00 license agent fee) for resident applicants and $175.00 (plus a $2.00 license agent fee) for non-resident applicants and a complete application, see ORS 508.781 and 508.790;

(b) Troll salmon - Permits may be renewed by submission to the Department of a $125.00 (plus a $2.00 license agent fee) for resident applicants and $175.00 (plus a $2.00 license agent fee) for non-resident applicants and a complete application, see ORS 508.807 and 508.816.

(2) An application for renewal in any limited entry fishery shall be considered complete if it is legible, has all information requested in the form, and is accompanied by the required fee in full. Any application which is not complete shall be returned, and unless it is thereafter resubmitted and deemed complete by December 31 of the permit year sought, the individual shall not be considered to have applied for renewal in a timely manner.

(3) It is the responsibility of the permittee to ensure that an application is complete and is filed in a timely manner. Failure of the Department to return an application for incompleteness or of an individual to receive a returned application shall not be grounds for treating the application as having been filed in a timely and complete manner.

Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129 Other Auth.: SB 247 (2015)
Stats. Implemented: ORS 506.109 & 506.129
Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96; DFW 92-1998, f. & cert. ef. 11-25-98; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 137-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 23-2006, f. & cert, ef, 4-21-06; DFW 2-2007, f. & cert. ef. 1-12-07; DFW 86-2007(Temp), f. & cert. ef. 9-10-07 thru 9-17-07; Administrative correction 10-16-07; DFW 3-2008, f. & cert. ef. 1-15-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 38-2009, f. & cert. ef. 4-22-09; DFW 145-2009, f. 12-9-09, cert. ef. 1-1-10; DFW 155-2010(Temp), f. 11-22-10, cert. ef. 11-23-10 thru 5-21-11; Administrative correction 6-28-11; DFW 146-2011, f. & cert. ef. 10-14-11; DFW 39-2012, f. & cert. ef. 4-24-12; DFW 77-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 32-2013, f. & cert. ef. 5-14-13; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-007-0605
Fish Transport Permit Application

(1) Any person wishing to obtain a Fish Transport Permit shall complete and submit to the Department the appropriate permit application form.

(2) A fee of $40.00 (no license agent fee) shall be charged for each Fish Transportation Permit issued by the Department.

(a) An invoices will be issued to Private Fish Suppliers for fish transferred to or from their production facilities for permits that the Department has issued the previous year.

(b) Invoice Payment must be received in full by March 1 for permits issued the previous year.

(c) Failure to pay invoice in full by March 1 shall result in suspension of approved permits.

(3) The Department may prescribe such terms and conditions in a permit as it deems necessary, including but not limited to, the period of time (usually 30 days) during which the transportation and/or release of fish is authorized.

(4) Fish may be held for an indefinite period of time under a Fish Transport Permit. The permit, or a copy thereof, shall be made available for inspection upon request by the Department or the Oregon State Police.

Stat. Auth.: ORS 496.138, 496.146 & 506.119 Other Auth.: SB 247 (2015)
Stats. Implemented: ORS 497.252 & 498.222
Hist.: FWC 27-1982, f. & ef. 4-30-82; FWC 25-1984, f. 6-21-84, ef. 7-1-84, Renumbered from 635-043-0305; FWC 3-1991, f. & cert. ef. 1-18-91; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 145-2009, f. 12-9-09, cert. ef. 1-1-10; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-007-0910
Scientific Taking Permit Application — Fish

(1) Any person or entity wishing to obtain a Scientific Taking Permit must complete and submit to the Department the appropriate permit application form.

(a) No fee is charged for Fish Scientific Taking Permits issued for scientific or educational purposes as part of a program or course of study at a K-12 educational institution.

(b) A fee of $106.00 (plus a $2.00 license agent fee) shall be charged for each Fish Scientific Taking Permit issued for any agency, corporation, association, or other such entity.

(2) The Department may prescribe such terms and conditions in a permit as it may deem necessary to ensure that fish taken pursuant to the permit will be used only for scientific or educational purposes.

(3) Permits will not be issued to any person or entity for the purpose of collecting fish to sell to scientific or educational supply houses or to any other person or entity.

Stat. Auth.: ORS 496.138, 496.146 & 506.119 Other Auth.: SB 247 (2015)
Stats. Implemented: ORS 497.298 & 508.111
Hist.: FWC 18-1992, f. 3-24-92, cert. ef. 4-1-92; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 145-2009, f. 12-9-09, cert. ef. 1-1-10; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-008-0053
Procedures for Issuance and Enforcement of Parking Permits for Department Wildlife Areas

The Oregon Department of Fish and Wildlife hereby adopts the following procedures relating to issuance and enforcement of parking permits for certain vehicles on Department Wildlife Areas where parking permits are required:

(1) Parking is permitted only in designated parking areas. A parking permit is required at all times for all fee parking areas.

(2) Fee parking areas are designated by ODFW approved signs.

(3) One of the following permits is required: an annual permit or a daily permit.

(4) The fee for parking permits is $8.00 (plus $2.00 agent fee) for permits issued on a daily basis or $28.00 (plus $2.00 agent fee) for permits issued on an annual basis beginning each January 1. Any annual hunting license (including Combination and Sports Pac) will include a free annual parking permit.

(5) Permits are issued by selected local agents, Department offices that sell licenses and the Department's Online License Sales website to a party upon payment and may be transferred from vehicle to vehicle.

(6) The permits must be visible from outside the vehicle and be displayed in the front or rear window of the vehicle.

(7) No parking permits will be required for those vehicles which are owned or operated by government agencies. Notwithstanding paragraph (5), the Department reserves the right to issue free administrative parking permits for private vehicles used by volunteers while participating in official Department-related activities. Parking permits will not be required for individuals arriving in private vehicles to address fire, health or safety emergencies.

(8)(a) A person who operates or parks a motor-propelled vehicle in violation of restrictions established and posted under OAR 635-008-0051 through 635-008-0053 commits an offense punishable as provided in ORS 496.992;

(b) The procedure for a peace officer (or other person authorized to enforce the wildlife laws) to follow upon finding a non government vehicle parked in a designated fee parking area without a permit shall consist of the issuance of a citation which shall be either delivered to the defendant or placed in a conspicuous place upon the vehicle in the violation.

(c) A person who is the registered owner of an unattended motor-propelled vehicle parked in violation of the restrictions established and posted under OAR 635-008-0051 through 635-008-0053 shall be presumed to have violated OAR 635-008-0053(8)(a). It is an affirmative defense to a prosecution of the registered owner of a vehicle under subsection (8)(a) of this section that the use was not authorized by the owner, either expressly or by implication (or the owner was not present when the vehicle was parked).

Stat. Auth: ORS 496.012, 496.138, 496.146 & 497.071, Other Auth.: SB 247 (2015)
Stats. Implementation: ORS 496.012, 496.138, 496.146 & 497.071
Hist.: FWC 12-1990, f. & cert. ef. 2-2-90; FWC 8-1993, f. & cert. ef. 2-8-93; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 74-2003(Temp), f. 8-1-03, cert. ef. 8-3-03 thru 8-7-03; Administrative correction 1-12-04; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 3-2011, f. & cert. ef. 1-14-11; DFW 54-2011, f. & cert. ef. 5-24-11; DFW 6-2012(Temp), f. & cert. ef. 2-6-12 thru 8-1-12; DFW 57-2012, f. & cert. ef. 6-11-12; DFW 144-2012(Temp), f. & cert. ef. 11-13-12 thru 5-10-13; DFW 30-2013, f. & cert. ef. 5-10-13; DFW 85-2013, f. & cert. ef. 8-5-13; DFW 65-2014, f. 6-11-14, cert. ef. 7-4-14; Renumbered from 635-008-0151 by DFW 117-2014, f. & cert. ef. 8-7-14; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-010-0040
Issuing Combined Angling Harvest Tag to Youth

When a person under 12 years of age purchases a combined angling harvest tag, the agent must issue at no charge a youth license before issuing a combined angling harvest tag.

Stat. Auth.: ORS 496 & 497, Other Auth.: SB 247 (2015)
Stats. Implemented: ORS 496, 497
Hist.: 3WC 2, f. 12-19-73, ef. 1-11-74, Renumbered from 630-010-0041; FWC 124-1990, f. 11-28-90, cert. ef. 1-1-91; DFW 99-1999(Temp), f.12-22-99, cert. ef. 1-1-00 thru 6-27-00; DFW 33-2000, f. & cert. ef. 6-19-00; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-010-0155
Resident Pioneer Licenses

(1) Resident permanent pioneer licenses issued before January 1, 2000, on or after the applicant's 65th birthday are valid for as long as the licensee is a resident of Oregon. There shall be no refunds granted as a result of any action of the licensee subsequent to issuance of a multiple year license under the provisions of this rule.

(2) A resident pioneer license applicant will be issued a Combination hunting/angling license pursuant to ORS 497.132.

Stat. Auth.: ORS 496 & 497, Other Auth.: SB 247 (2015)
Stats. Implemented: ORS 496, 497
Hist.: FWC 47, f. & ef. 2-25-76, Renumbered from 630-010-0110; FWC 124-1990, f. 11-28-90, cert. ef. 1-1-91; DFW 99-1999(Temp), f.12-22-99, cert. ef. 1-1-00 thru 6-27-00; DFW 33-2000, f. & cert. ef. 6-19-00; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-011-0104
Licenses, Tags, and Permits

(1) Hatchery Salmon and Steelhead Harvest Tag Requirements:

(a) Persons holding an annual angling license and an annual angling harvest tag may purchase Hatchery Salmon and Steelhead Harvest Tags. There is no limit on the number of Hatchery Salmon and Steelhead Harvest Tags an angler may purchase per year. The purchase of each tag entitles the angler to take a combined total of 10 hatchery salmon or steelhead;

(b) Only adipose or otherwise fin-clipped adult salmon or adipose fin-clipped steelhead may be recorded on the Hatchery Salmon and Steelhead Harvest Tag;

(c) A valid annual angling license and a valid annual angling harvest tag must be in possession while fish validated on the Hatchery Salmon and Steelhead Harvest Tag are in angler's possession. All tags purchased must be in angler's possession while angling for salmon or steelhead;

(d) Fish must be recorded immediately upon removal from the water and fish must be recorded in the chronological order caught. The angler who landed the fish must record the fish on his or her tag irrespective of who hooked the fish; and

(e) Hatchery Salmon and Steelhead Harvest Tags should be returned to ODFW upon expiration.

(2) Columbia River Basin Endorsement:

(a) The Columbia River Basin is defined as: The mainstem Columbia River from Buoy 10 upstream to include all rivers and their tributaries that drain into the mainstem Columbia River.

(b) Beginning January 1, 2014 a valid Columbia River Basin Endorsement must be in possession while angling for salmon, steelhead, or sturgeon in the Columbia River Basin except during free fishing weekend where every angler is considered as having a valid Columbia River Basin Endorsement.

(c) The fee for the Columbia River Basin Endorsement, when purchased in conjunction with an annual license is $9.75, in addition to fees as described in ORS 497.121 and ORS 497.123.

(d) The fee for the Columbia River Basin Endorsement when purchased separately is $9.75 (plus a $2.00 agent fee).

(e) The fee for the Columbia River Basin Endorsement, when purchased in conjunction with a daily license is $1.00 per each day, in addition to those fees as described in ORS 497-121.

(f) Purchase of a Columbia River Basin Endorsement is not required for free fishing weekend.

(g) No fee will be charged for a Columbia River Basin Endorsement for an angler(s) in possession of:

(A) A resident disabled veteran, resident pioneer, resident and non-resident youth under 12 license; or

(B) A Permanent Wheel-chair Angling License, a Permanent Blind Angler License, or a Permanent Senior.

Stat. Auth.: ORS 496.138, 496.146, 497.121, 497.123, 506.119, Other Auth.: SB 247 (2015)
Stats. Implemented: ORS 496.162, 506.129
Hist.: DFW 101-2001, f. & cert. ef. 10-23-01; DFW 125-2013, f. 10-30-13, cert. ef. 11-1-13; DFW 128-2013(Temp), 11-18-13, cert. ef. 12-1-13 thru 12-31-13; DFW 133-2013, f. & cert. ef. 12-9-13; DFW 49-2014(Temp), f. 5-27-14, cert. ef. 6-1-14 thru 6-30-14; Administrative correction, 7-24-14; DFW 165-2014, f. 12-18-14, cert. ef. 1-1-15; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-043-0003
Fur Dealer and Taxidermy

(1) Fur Dealer License shall cost $102.00 (plus a $2.00 license agent fee) and shall expire on December 31 of the year issued.

(2) Whenever a fur dealer purchases, possesses, sells, or disposes of the pelt of any furbearing mammal, the dealer must record:

(a) The date, numbers and types of pelts;

(b) For furbearing mammals requiring tags, the tag number, the state issuing the tag, the species, and the year the tag was issued; and

(c) The name and address of those from whom the pelts were obtained, and to whom they were sold or otherwise transferred;

(d) This record must be maintained at the business address of the fur dealer for a period of three years.

(3) No fur dealer may purchase, sell, or possess any raw pelt requiring a tag or seal without having a proper tag or seal affixed to the pelt.

(4) Fur buyers who are agents for companies shall have a fur dealer's license and record the company whom they represent on the fur dealer's license application.

(5) Fur dealer records and pelts are subject to inspection at any time by any Oregon State Police officer or Department representative.

(6) Failure to comply with the record keeping criteria in OAR 635-043-0003(1) or to permit inspection of such records may result in a two year license suspension.

(7) Taxidermy License shall cost $102.00 (plus a $2.00 license agent fee) and shall expire on December 31 of the year issued.

(8) Licensed taxidermists may sell a client's unclaimed, legally taken, mounted wildlife, except migratory birds protected by Federal Law 16 USC 703, provided that:

(a) Upon completion, at least two written notices of intent to sell are sent to the client;

(b) Two months have passed since completion of mount;

(c) The amount realized by the sale of a mount is not to exceed the original quoted price stated contemporaneously in writing, less any deposit received;

(d) Taxidermists may mount and sell legally taken furbearing animals with a fur dealer's license.

(9) At the time of receiving wildlife for mounting, every licensed taxidermist shall:

(a) Record the date, number and kinds of wildlife received;

(b) Record the tag number and year of issuance of those furbearing mammals requiring tags;

(c) Record the date taken and county or hunting unit and state where taken and the name and address of the person who killed the wildlife;

(d) Record the name and address of the person from whom received and the quoted price for the taxidermy work;

(e) Maintain this record at the business address of the taxidermist for a three-year period;

(f) Maintain copies of the written notices, as described in 635-043-0003(6), date of sale, amount of sale and name and address of the person purchasing the mount at the business address of the taxidermist for a three-year period.

(10) Taxidermy records and all wildlife possessed by licensed taxidermists for the purpose of taxidermy are subject to inspection at any time by any Oregon State Police officer or Department representative.

Stat. Auth.: 496.012, 496.138, 496.146, 498.019, 498.022, 498.042, Other Auth.: SB 247 (2015)
Stats. Implemented: 496.012, 496.138, 496.146, 498.019, 498.022, 498.042
Hist.: DFW 96-1998, f. & cert. ef. 11-25-98; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 82-2010, f. & cert. ef. 6-15-10; Renumbered from 635-200-0030, DFW 18-2011, f. & cert. ef. 3-2-11; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-043-0033
Cost of Permit

(1) Wildlife Scientific/Educational Taking Permits (K-12 grades) shall be issued at no cost and shall expire on December 31 of the year issued.

(2) Wildlife Scientific/Educational Taking Permits (other) shall cost $106.00 (plus a $2.00 license agent fee) and shall expire on December 31 of the year issued.

Stat. Auth.: ORS 183 & 496, Other Auth.: SB 247 (2015)
Stats. Implemented: ORS 183 & 496
Hist.: FWC 49-1991, f. & cert. ef. 5-13-91; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-044-0060
License Required to Propagate Wildlife

(1) Any person desiring to propagate for sale any game mammal (excluding the family Cervidae) or game bird, or desiring to sell any propagated game mammal (excluding the family Cervidae) or game bird must first secure a Wildlife Propagation License by applying on a form provided to the Oregon Department of Fish and Wildlife. The application shall list the wildlife species and numbers being held for propagation purposes, or the species being held for sale. The application shall also include the date of application, and the name, address, and signature of applicant.

(2) Wildlife Propagation License shall cost $52.00 (plus a $2.00 license agent fee) and shall expire on December 31 of the year issued.

(3) Any person desiring to propagate and sell any raptor must adhere to all permit requirements and regulations pertaining to the propagation and selling of raptors, as adopted by the U.S. Department of the Interior on July 8, 1983. (Federal Register, Vol. 48, No. 132, Part 21.)

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242 Other Auth.: SB 247 (2015)
Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242
Hist.: 3WC 2, f. 12-19-73, ef. 1-11-74, Renumbered from 630-025-0043, Renumbered from 635-007-0150; FWC 6-1984, f. & ef. 2-29-84; FWC 28-1987, f. & ef. 6-19-87; FWC 69-1996, f. & cert. ef. 12-20-96; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 108-2009, f. & cert. ef. 9-8-09; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 15-2011, f. & cert. ef. 2-15-11; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-046-0055
Use of Wildlife for Competitive Hunting Dog Trials

(1) To hold a competitive hunting dog trial, a person must possess a "Competitive Hunting Dog Trial Permit" from the Department:

(a) If domestically-raised game birds are released.

(b) If wildlife is used outside the pursuit or hunting season for that species; or

(c) If the trial occurs between March 16 and August 14 (whether domestically-raised game birds are released or not).

(2) The applicant (sponsor of the competitive hunting dog trial) must apply for a Competitive Hunting Dog Trial Permit to the Department's wildlife district where the trial will take place.

(a) The fee for a Competitive Hunting Dog Trial Permit is $26.00 (plus a $2.00 license agent fee).

(b) The application must be received by the Department at least ten business days prior to the start of a competitive trial via hand-delivery, U.S. Mail, electronic mail, or facsimile.

(c) The District Wildlife Biologist or his or her designee will respond to permit applications within 10 business days from the received date.

(3) To issue a Competitive Hunting Dog Trial Permit, the Department must determine that the proposed trial will not:

(a) Conflict to a significant degree with other authorized activities, including but not limited to land management actions, other permitted trials, or lawful hunting.

(b) Result in significant adverse impact to wildlife or wildlife habitat, taking into consideration location, land ownership, designation of site, size, and date of the proposed trial.

(4) The Department may approve, approve with conditions, or deny a permit application.

(a) If the Department denies the issuance a permit, the Department will provide the applicant with a written explanation and an opportunity to request a hearing to appeal that action.

(b) The applicant may appeal the Department's decision by submitting a written request for a contested case hearing to the Department within 10 business days after mailing of the Department's decision.

(5) If after issuance of a Competitive Hunting Dog Trial Permit any unforeseen or emergency circumstances necessitate a change to the permit, the Department will, to the maximum extent practicable, work with permittee to exhaust other options to maintain the trial.

(6) The following species may be released under a Competitive Hunting Dog Trial Permit: common pheasant (all races of Phasianus colchicus, most commonly ring-necked); California (valley), bobwhite, and Coturnix quail; Hungarian (gray), chukar, and red-legged partridge; or mallards, provided all domestically-raised game birds were lawfully acquired and any mallard used must be a marked bird.

(7) Domestically-raised game birds released under a valid Competitive Hunting Dog Trial Permit may be pursued or taken during the course of the permitted trial.

(8) Use of recall pens to recapture domestically-raised upland game birds released under a valid Competitive Hunting Dog Trial Permit is allowed on private lands only if all released game birds were marked (except bobwhite and Coturnix quail, or if there is an exception granted as a condition of the permit) and provided that the person operating the recall pen has the original or a copy of the permit.

(9) The carcasses of domestically-raised game birds which were lawfully released under a valid Competitive Hunting Dog Trial Permit and subsequently taken during the trial may be possessed in any number by any person, provided that the person holds a copy of the Competitive Hunting Dog Trial Permit or a written note from the permittee describing when, where, and for what purpose the birds were taken.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 498.006 & 498.106, Other Auth.: SB 247 (2015)
Stats. Implemented: ORS 496.012, 496.138, 496.146, 498.006 & 498.106
Hist.: DFW 70-2011, f. 6-15-11, cert. ef. 7-1-11; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-047-0025
Marking of Birds

All privately owned game birds to be released must be premarked in a manner prescribed by the Department:

(1) All game birds reared for release upon hunting preserves shall be identified by a healed toe mark or be marked with a plastic poultry band or marked by a nasal scar. A nasal scar is a permanent deformity caused by an anti pecking device. For a healed toe mark, the terminal joint, including the entire toenail, shall be clipped from the outside of the right foot of each chick.

(2) In the event that an operator acquires birds that have not been marked, they shall be banded prior to release by the operator with plastic poultry bands or other bands approved by the Department.

(3) Any wild game bird incidentally taken upon a hunting preserve at any time other than the general open season therefore shall be immediately marked with a wild bird seal that has been issued by the Department. The fee for such seals shall be $16.00 each. Any unused wild bird seals may be submitted for refund not later than 30 days after the close of business if a preserve discontinues operation.

(4) Operators shall pay for in advance and have on hand not less than 10 wild bird seals at all times.

(5) A wild bird seal shall be securely affixed to any wild bird taken outside the general season or any wild hen pheasant before it leaves the premises of the hunting preserve.

(6) A record of the date of issue and the names and address of persons receiving wild bird seals must be maintained by the operator and available to Department personnel or enforcement officers at all times.

Stat. Auth.: ORS 496.012, 496.138, 496.570, 497.102, 497.156 & 497.248, Other Auth.: SB 247 (2015)
Stats. Implemented: ORS 496.012, 496.138, 496.570, 497.102, 497.156 & .248
Hist.: GC 101, f. 7-9-59, Renumbered from 630-023-0025, Renumbered from 635-007-0025; FWC 115-1992, f. & cert. ef. 10-28-92; DFW 86-1999, f. & cert. ef. 11-1-99; DFW 7-2002, f. & cert. ef. 1-17-02; DFW 66-2006(Temp), f. & cert. ef. 7-25-06 thru 1-15-07; Administrative correction 1-16-07; DFW 5-2007, f. & cert, ef, 1-18-07; DFW 21-2007, f. & cert. ef. 3-30-07; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-047-0035
Fees

(1) Fee for hunting preserve license shall be $214.00 (plus a $2.00 license agent fee) per year.

(2) Licenses issued under this rule shall be issued for a period of July 1 to June 30 of the following year.

Stat. Auth.: ORS 496.112, 496.138, 496.146 & 496.162, Other Auth.: SB 247 (2015)
Stats. Implemented: ORS 496.112, 496.138, 496.146 & 496.162
Hist.: GC 101, f. 7-9-59, Renumbered from 630-023-0035, Renumbered from 635-007-0035; FWC 115-1992, f. & cert. ef. 10-28-92; DFW 7-2002, f. & cert. ef. 1-17-02; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-047-0045
License Requirements of Hunters

(1) State hunting licenses shall be required of all persons hunting on hunting preserves. Residents shall be required to possess either a resident hunting license or an annual resident private hunting preserve permit. The resident private hunting preserve permit shall cost $4.00 (plus a $2.00 license agent fee) and is good for the entire hunting preserve season on any licensed hunting preserve. Nonresidents shall be required to possess a regular nonresident hunting license, or an annual nonresident private hunting preserve permit. The nonresident private hunting preserve permit shall cost $11.00 (plus a $2.00 license agent fee) and shall be good for the entire hunting preserve season on any licensed hunting preserve in the state.

(2) Operators may obtain special hunting preserve permits for reissue to their clients from the Department. Operators who are not authorized license agents of the Department shall pay in advance for the special $4.00 (plus a $2.00 license agent fee) resident and $11.00 (plus a $2.00 license agent fee) nonresident hunting preserve permits and maintain a record of all sales. Operators shall have on hand a minimum of not less than ten resident and not less than ten nonresident special preserve permits at all times. Operators may return unissued preserve permits for refund within 30 days of close of business in the event they discontinue operation.

Stat. Auth.: ORS 496.012, 496.138, 496.570, 497.102, 497.156 & 497.248 Other Auth.: SB 247 (2015)
Stats. Implemented: ORS 496.012, 496.138, 496.570, 497.102, 497.156 & .248
Hist.: GC 101, f. 7-9-59, Renumbered from 630-023-0045, Renumbered from 635-007-0045; FWC 115-1992, f. & cert. ef. 10-28-92; DFW 86-1999, f. & cert. ef. 11-1-99; DFW 7-2002, f. & cert. ef. 1-17-02; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-049-0165
Type 1 Cervid Licenses

(1) A Type 1 cervid license is required to hold Rocky Mountain elk, Roosevelt elk, Sika deer, Muntjac deer, white-tailed deer or black-tailed deer. No hybrid cervids are allowed except as authorized in OAR 635-049-0015(3).

(2) A Type 1 cervid license is valid as long as the licensee complies with all requirements of these rules, but must be renewed annually. The fee for a Cervid Propagation License — Type 1 shall be $58.00 (plus a $2.00 license agent fee) annually.

(3) Type 1 cervid licenses are allocated as follows:

(a) The number of Type 1 cervid licenses for commercial or exhibition holding of Rocky Mountain elk, and/or Roosevelt elk and their hybrids is limited to 16. Commercial operations are those intending to sell elk or their parts or products. Exhibition operations are operations intending to display elk. These are the Type 1 commercial and exhibition licenses as of May 9, 2008: [Table not included. See ED. NOTE.]

(b) Licenses for commercial and exhibition holding are also subject to the following additional restrictions:

(A) New facilities for Type 1 cervid licenses for commercial or exhibition holding of Roosevelt elk must be located west of the crest of the Cascade Mountains.

(B) New facilities for Type 1 cervid licenses for commercial or exhibition holding of Rocky Mountain elk must be located east of the crest of the Cascade Mountains.

(C) No new Type 1 cervid licenses will be issued for commercial or exhibition holding of hybrids of Roosevelt elk and Rocky Mountain elk.

(c) Type 1 cervid licenses for commercial or exhibition holding of Sika deer, Muntjac deer, White-tailed deer or Black-tailed deer are limited to those issued on or before January 20, 1993.

(d) There is no limit on the number of licenses the Department may issue for holding Type 1 species for scientific research, education or conservation operations. Before a license can be issued for these purposes, the Director must first determine that the application is submitted by an individual or organization involved in a bona fide scientific research, education or conservation project and that the operation will result in an overwhelming benefit to wildlife or wildlife habitat in Oregon.

(4) Notwithstanding the above, if the Department chooses to place any cervid in its custody with a licensed facility, it may do so (with the licensee's consent) regardless of whether that facility is licensed for that particular species.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162, 497.228, 498.002, 498.019, 498.052 & 174.106. Other Auth.: SB 247 (2015)
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162, 497.228, 498.002, 498.019, 498.052 & 174.106
Hist.: DFW 52-2008, f. & cert. ef. 5-28-08; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-049-0270
Application for Cervid Propagation License — Type 2

(1) Person desiring to hold or propagate live fallow deer or reindeer must first secure a Cervid Propagation License — Type 2 by applying to the Department's headquarters office.

(a) The application shall list the:

(A) Cervid species and numbers to be held;

(B) Date of application;

(C) Location and size of the facility; and

(D) Name, address, and signature of the applicant.

(b) Provided review of the application indicates the proposed operation meets the requirements of OAR chapter 635, division 049, the Department will notify the applicant of preliminary approval and the need for a facility inspection.

(2) The fee for a Cervid Propagation License — Type 2 shall be $58.00 (plus a $2.00 license agent fee) annually.

Stat. Auth.: ORS 496.004, 496.012, 496.138, 497.228, 497.308, 498.002, 498.052. Other Auth.: SB 247 (2015)
Stats. Implemented: ORS 496.004, 496.012, 496.138, 497.228, 497.308, 498.002 & 498.052
Hist.: FWC 9-1993, f. & cert. ef. 2-8-93; DFW 15-2000, f. & cert.ef. 3-31-00; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-050-0180
Bobcat and River Otter Record Cards

(1) Each person desiring to hunt or trap bobcat or river otter shall purchase a bobcat or river otter record card prior to hunting or trapping bobcat or river otter.

(2) Bobcat record cards will be available for a fee of $33.00 (plus a $2.00 license agent fee) per card.

(3) River otter record cards will be available for a fee of $33.00 (plus a $2.00 license agent fee) per card.

(4) Record cards will be available at the Salem headquarters and regional offices of the Department.

(5) River otter cards will have spaces for recording 15 river otters. There is no limit on the purchase of river otter record cards.

(6) Each western Oregon bobcat record card will have spaces for recording 15 bobcats. There is no limit on purchase of western Oregon bobcat record cards.

(7) No more than one record card for eastern Oregon bobcats will be issued to any furtaker or hunter. A duplicate card may be issued, but no more than the bag limit described for eastern Oregon bobcats in OAR 635-050-0080 may be taken in a season.

(8) No person may obtain or possess both eastern and western Oregon bobcat record cards.

(9) Bobcat and river otter record cards shall not be sold after the end of their respective seasons.

(10) Each furtaker shall have the appropriate record card on his person while trapping or hunting bobcat or river otter.

(11) Furtakers shall not have record cards other than their own on their person, or in their possession while in the field or in transit.

(12) Upon coming into possession of any bobcat or river otter, the furtaker who killed the animal shall immediately write on their record card, the species, sex, date of possession and county of harvest.

(13) Each furtaker shall retain the record card until he disposes of the raw pelts.

(14) Fees paid for unused record cards shall not be refunded.

(15) It is unlawful to alter or be in possession of an altered bobcat or river otter record card.

(16) Each licensee shall register a brand number to obtain a bobcat or river otter record card.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162, Other Auth.: SB 247 (2015)
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 140, f. & ef. 8-29-77; FWC 165, f. & ef. 12-23-77; FWC 44-1978, f. & ef. 9-1-78; FWC 37-1979, f. & ef. 8-29-79; FWC 53-1979(Temp), f. & ef. 11-6-79; FWC 54-1979(Temp), f. & ef. 11-8-79; FWC 60-1979(Temp), f. & ef. 12-18-79; FWC 2-1980(Temp), f. & ef. 1-8-80; FWC 35-1980, f. & ef. 7-2-80; FWC 21-1981, f. & ef. 6-29-81, Renumbered from 635-050-0025(1); FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 79-1988, f. & cert. ef. 9-2-88; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 127-2010, f. & cert. ef. 9-10-10; DFW 64-2014, f. & cert. ef. 6-11-14; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-055-0015
Cost and Expiration Date of Falconry License

(1) The fee for a falconry license shall be $135.00 (plus a $2.00 license agent fee).

(2) The falconry license is valid for three years. The three year period shall extend from July 1 of the year of issue to June 30 of the third year.

EXAMPLE: A license issued on November 1, 2011 will expire on June 30, 2014.

Stat. Auth.: ORS 496, Other Auth.: SB 247 (2015)
Stats. Implemented: ORS 496
Hist.: FWC 170, f. 12-23-77, ef. 1-1-78; FWC 12-1983, f. 3-24-83, ef. 1-1-84; FWC 12-1985, f. & ef. 3-6-85; FWC 123-1990, f. & cert. ef. 11-28-90; DFW 33-2002, f. & cert. ef. 4-18-02; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 109-2011, f. & cert. ef. 8-9-11; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-055-0035
Capture and Transportation of Raptors

A raptor capture permit is required prior to capturing or attempting to capture any raptor. The permit holder must carry the permit on their person while conducting activities related to Peregrine Capture. A non-resident falconer from a state having a federally approved falconry program may obtain a capture permit for species listed in 635-055-0020(3) with the exception of gyrfalcons. All non-resident applications must include a copy of the applicant's current state falconry license. All applicants for golden eagle capture must include a copy of the federal authorization to take and possess golden eagles. Only 20 non-resident capture permits will be issued in total each capture season. All non-resident capture permits, except for capture permits for peregrine falcons, will be issued on a first come first served basis.

(1) A nonrefundable application fee of $23.00 (plus a $2.00 license agent fee) will be charged for each capture permit allowing the capture of one raptor per permit.

(2) Except for take of peregrine falcons, the Department will issue capture permits in the order applications are received. The permit process will begin January 1st of each year, and applicants must hold a valid Oregon falconry license or a falconry license from a state having a federally approved falconry program. The category of species shall be listed on the permit (e.g. "golden eagle", "gyrfalcon", "peregrine falcon", or "other raptor") and the falconer is authorized to take only one raptor from the category specified. A falconer may apply for a capture permit in more than one category. The falconer whose name appears on the permit must do the capturing except for peregrine falcon nestlings; the permit is not transferable.

(3) Upon taking the raptor authorized, the permit holder shall immediately validate the permit by recording the date, species, sex, county, and capture method and signing his/her name in the space provided. At the time of capture, the permit holder shall affix the permanent plastic band, issued with the permit, to one leg of the bird. Within five business days of capture, the permit holder shall take the bird to a Department office to have the permit certified.

(4) Lost, raptors at hack, or captive bred raptors may be re-trapped at any time without a capture permit. All other raptors captured shall be immediately released.

(5) Exportation of wild caught raptors — No raptor taken from the wild in Oregon shall be transferred to another person residing outside the state except those Oregon wild caught raptors held for six months or longer may be transferred to another person residing outside the state.

(6) An Oregon licensed falconer is allowed to retain legally captured raptors in their possession if they move from Oregon.

(7) Falconers are responsible for treatment and rehabilitation costs of raptors taken for falconry and injured during trapping efforts.

(8) The Department will not issue a falconry capture permit to any person who:

(a) Is awaiting prosecution for, or has been convicted of, any violation of the animal cruelty or animal abuse laws;

(b) Is awaiting prosecution for, or has been convicted of, a wildlife violation involving the illegal take of wildlife;

(c) Is awaiting prosecution for, or has been convicted of, aiding in the illegal take of wildlife; or

(d) Has had his or her hunting or fishing license suspended for a wildlife violation.

(9) A person who is denied a falconry capture permit pursuant to subsection (8) may appeal the decision through a contested case hearing.

Stat. Auth.: ORS 496.012, 496.112, 496.138, 496.146 & 496.162, Other Auth.: SB 247 (2015)
Stats. Implemented: ORS 496.012, 496.112, 496.138, 496.146 & 496.162
Hist.: FWC 170, f. 12-23-77, ef. 1-1-78; FWC 9-1980, f. & ef. 2-27-80; FWC 8-1981, f. & ef. 2-26-81; FWC 14-1982, f. & ef. 2-25-82; FWC 11-1983, f. & ef. 3-24-83; FWC 8-1986, f. & ef. 3-6-86; FWC 19-1990, f. & cert. ef. 2-28-90; FWC 40-1991, f. & cert. ef. 4-24-91; FWC 33-1992(Temp), f. & cert. ef. 5-11-92; FWC 116-1992, f. & cert. ef. 10-28-92; FWC 30-1993, f. & cert. ef. 5-5-93; DFW 33-2002, f. & cert. ef. 4-18-02; DFW 11-2008, f. & cert. ef. 2-21-08; DFW 19-2008, f. & cert. ef. 2-29-08; DFW 152-2008, f. 12-18-08, cert. ef. 1-1-09; DFW 25-2009(Temp), f. 3-10-09, cert. ef. 5-15-09 thru 8-31-09; Administrative correction 9-29-09; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 147-2009, f. & cert. ef. 12-15-09; DFW 4-2011, f. & cert. ef. 1-14-11; DFW 109-2011, f. & cert. ef. 8-9-11; DFW 21-2014, f. & cert. ef. 3-11-14; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-055-0037
Peregrine Falcon Capture Permit

(1) Capture permit applications for peregrine falcons may be submitted to the Department beginning January 1st but must be received no later than March 1st of each year. The Department will issue peregrine falcon capture permits by way of a lottery draw pursuant to OAR 635-055-0037.

(2) The Department will not accept a permit application from any person who:

(a) Is awaiting prosecution for, or has been convicted of, any violation of the animal cruelty or animal abuse laws;

(b) Is awaiting prosecution for, or has been convicted of, a wildlife violation involving the illegal take of wildlife;

(c) Is awaiting prosecution for, or has been convicted of, aiding in the illegal take of wildlife; or

(d) Has had his or her hunting or fishing license suspended for a wildlife violation.

(3) A $23.00 application fee (plus a $2.00 license agent fee) must be submitted with the application. Application fees are nonrefundable, whether or not an applicant is successful in the drawing.

(4) Peregrine capture permit applications (including fees) must be submitted to the Department's Salem headquarters office no later than March 1 each year.

(a) If hand delivered, an application must be received at Department headquarters office (4034 Fairview Industrial Drive, SE, Salem, OR, 97302-1142) by 5:00 p.m. on March 1.

(b) If sent via postal mail, an application must be postmarked no later than March 1.

(5) If an applicant violates any of the following restrictions, the Department will remove his or her application from the drawing.

(a) An applicant may submit only one peregrine capture permit application per capture season.

(b) An applicant must submit a completed application containing name, license number, address, and phone number.

(6) The Department will conduct the lottery to award peregrine falcon capture permits by drawing names of eligible entrants at random. To participate in the lottery, a person must:

(a) If an Oregon resident possess a current Master Falconers license as per OAR 635-055-0002; or

(b) If a nonresident possess a Master Falconers license from a state having a federally approved falconry program.

(7) (a) During each year's lottery, the Department will draw nine Oregon resident applications and two alternates, plus one non-resident application and a non-resident alternate.

(b) The Department will notify successful applicants and alternates by mail. If the applicant does not reply in writing (mail, fax, or email) within 10 calendar days, the applicant will be disqualified and the Department will offer the permit to the next alternate. If neither alternate replies in the required time, the permit will not be issued. If no qualified nonresident applies for or accepts a peregrine falcon take permit, the permit will be allocated to a qualified resident applicant drawn next in sequence in the lottery draw.

(8) If a permit holder violates any of these rules or permit conditions, the Department will invalidate his or her peregrine capture permit. Taking

of a peregrine falcon without a valid permit is a violation of these rules and is therefore an unlawful taking.

(a) Up to ten permits will be made available annually by the department to eligible master falconers; nine such permits will be issued to resident falconers in good standing

(b) Successful resident applicants will be authorized to take a nestling from a natural nest site, or they may also accept a young peregrine falcon taken by persons (authorized by the Department) from man-made structures (but only where nestlings need to be removed from a nest during management or operational activities on the structures). Alternatively, the permit holder may take a post-fledgling bird.

(c) Of the number of permits available for issuance annually, the Department will make one such permit available to a nonresident. The nonresident permit holder may only accept a nestling peregrine falcon taken by persons (authorized by the Department) from man-made structures (but only where nestlings need to be removed from a nest during management or operational activities on the structures). Alternatively, the permit holder may take a post-fledgling bird.

(9) Each permit will include conditions crafted by the Department on a case by case basis to address the capture proposal and include conditions considered appropriate by the Department. The following general conditions apply to all peregrine falcon capture permits:

(a) Young falcons may be removed from their eyries (nests) between May 15th and June 30th but only when between 15 and 24 days of age. At least one nestling must be left in each eyrie prior to fledging.

(A) Prior to entering any nest, a permit holder must monitor each potential nest site to assess the presence and occupancy of nesting peregrine falcons and determine the chronology of nestlings in the selected nest(s) by following a protocol and completing a form provided by the Department.

(B) Permit-holders must contact in person or by phone Falconry Program staff at Salem Headquarters at least seven (7) days prior to proposed nest entry.

(C) The permit holder must be present when the nestling is being removed from the eyrie.

(b) A post-fledgling peregrine falcon may be taken (trapped) by a permitted master falconer during the time period between when the falcon first flies from its nest through August 31st. The permit holder must be present at all times whenever a trap is in operation while attempting to take a post-fledgling peregrine falcon.

(c) Each permit holder who takes a peregrine falcon from the wild must report the sex and precise capture location to the Department within five days following capture by providing a clearly marked map with sufficient labels and information to determine location. If the falconer later determines that the sex of any peregrine falcon taken was reported incorrectly, then the falconer must submit a corrected report as soon as possible after discovering the error.

(d) Permit holders must band each peregrine falcon taken with a band provided by the Department.

(e) After a captured falcon reaches 30 days of age, the permit holder must pluck breast feathers from the falcon and submit them to the Department along with the written record of the precise location of where the bird was taken from in the wild.

(10) Upon taking the raptor authorized, the permit holder must immediately validate the permit by recording the date, species, sex, county, and capture method and signing his or her name in the space provided. At the time of capture, the permit holder must affix the permanent plastic band, issued with the permit, to one leg of the bird. Within five business days of capture, the permit holder must take the bird to a Department office to have the permit certified.

(11) Peregrine falcon capture permits are not transferable.

Stat. Auth.: ORS 496.012, 496.112, 496.138, 496.146 & 496.162, Other Auth.: SB 247 (2015)

Stats. Implemented: ORS 496.012, 496.112, 496.138, 496.146 & 496.162

Hist.: DFW 152-2008, f. 12-18-08, cert. ef. 1-1-09; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 147-2009, f. & cert. ef. 12-15-09; DFW 4-2011, f. & cert. ef. 1-14-11; DFW 109-2011, f. & cert. ef. 8-9-11; DFW 21-2014, f. & cert. ef. 3-11-14; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-056-0075
Controlled Fish Species

(1) Controlled Fish

(a) Grass carp (Ctenopharyngodon idella): Grass carp may be released into water bodies within Oregon only pursuant to the issuance of a permit from the Department. Complete permit applications shall be submitted to Department headquarters at least 60 days before proposed stocking. A fee of $250.00 (plus a $2.00 license agent fee) shall be charged for each Grass carp permit issued.

The following restrictions and standards will govern the issuance of grass carp permits:

(A) Stocking will occur only in water bodies which are:

(i) Completely within private land; or

(ii) On land owned or controlled by irrigation districts or drainage districts.

(B) Stocking will occur only in the following types of water bodies:

(i) Lakes, ponds, or reservoirs less than 10 acres; or

(ii) Ditches and canals.

(C) Public use of the water body must be restricted to prevent removal of grass carp (by angling or otherwise) by unauthorized persons. At a minimum, the water body must be closed to angling and other use by the general public.

(D) Stocking shall not detrimentally affect any population of species listed as threatened or endangered by the federal or state government.

(E) Stocking shall occur only in water bodies with fish screens approved by the Department. Such screens shall have screen openings 1 inch or less for fish 12–19 inches total length and screen openings 2 inches or less for fish over 19 inches total length. Screens shall be inspected and approved by the Department before a permit will be issued. The applicant must comply with fish passage requirements (OAR 635, division 412); given grass carp screening requirements, this entails applying for and receiving a waiver or exemption from passage requirements if grass carp will be stocked into waters where native migratory fish are or were historically present.

(F) Stocking will not be allowed in water bodies within 100-year floodplains (as delineated by the Federal Emergency Management Agency on federal Flood Insurance Rate Maps) during times of potential flood. Times of potential flood are January 1 through July 31 in watersheds east of the Cascades and October 15 through May 31 in watersheds west of the Cascades. Grass carp will be removed from water bodies in a 100-year floodplain and held or disposed of during times of potential flood. If grass carp will be held and not disposed of, they shall be held at a permitted site outside the 100-year floodplain. Applications for sites within a 100-year floodplain shall contain a detailed removal plan which shall receive Department approval.

(G) Grass carp may only be purchased and imported from approved suppliers outside Oregon. Grass carp may not be propagated or held for further distribution within Oregon. Department pathologists shall approve suppliers. Approval will be based on ability to provide grass carp free of Asian tapeworms and meet health and disease requirements according to OAR 635-007-0555 through 635-007-0585.

(H) Grass carp imported into Oregon shall be:

(i)Sterile triploids. Documentation from the U.S. Fish and Wildlife Service that each fish is triploid must be submitted to the Department prior to release;

(ii) At least 12 inches long;

(iii) Tagged with a Passive Integrated Transponder (PIT) tag of frequency 134.2-kilohertz. Each tag shall be programmed with a unique identification number. A list of unique tag numbers shall be submitted to the Department prior to release; and

(iv) Stocked at a rate not exceeding 22 per affected acre.

(I) In addition to documentation relating to the restrictions above, each permit application shall include:

(i) Applicant's name, address and daytime telephone number. All property owners of the water body to which grass carp will have unrestricted access must be party to the application and permit;

(ii) Location of the water body, including township, range, section and quarter section, with map including written directions for access;

(iii) Map of the water body including, vegetation present in the water body, all inlets and outlets, and screen locations;

(iv) Description of emergency procedures for responding to fish escapes from approved sites;

(v) Description of how fish will be removed and disposed of at the end of the proposed project.

(J) An application becomes the management plan upon approval. Permits and management plans shall be specific to particular sites and particular stocking projects. Permittees shall not deviate from permit conditions and management plans without prior written approval from the Department. No person may remove grass carp from one site (as identified in a management plan) and transport them to any other site without prior written approval from the Department.

(K) An Oregon Department of Fish and Wildlife fish transport permit shall accompany grass carp imported into and transported within Oregon. If transport is required within the management plan and occurs entirely on

the permittee's property, a transport permit is not needed. Any other permit or documentation required for fish import, transport, or stocking shall also be obtained prior to importation and stocking.

(L) Permittees shall, as a condition of the permit, allow employees of the Department or the Oregon State Police to inspect at reasonable times the permitted water body, permit, and associated records. Inspection may take place without warrant or notice, but, unless prompted by emergency or other exigent circumstances, shall be limited to regular and usual business hours, including weekends. Nothing in these rules is intended to authorize or allow the warrantless search or inspection of property other than the water bodies or fish holding facilities on the permittee's property.

(M) Permits are revocable at any time for violation of any wildlife statute or rule of the Department. Upon revocation, if stocking has already occurred, the permittee shall remove all grass carp within two weeks at her/his own cost.

(N) Grass carp which escape a permitted water body are subject to seizure or destruction by the Department at the expense of the permit holder. The permit holder shall be held liable for incidental kill of any other species due to or during destruction of escaped grass carp.

(O) The Commission may grant an exception to OAR 635-056-0075(1)(a)(A) or (1)(a)(B). Exception requests must be submitted in writing in addition to the normal application and must address the requirements in this section. Unless the Commission determines that an alternative provides equivalent protection to fish and wildlife resources and their habitats, exceptions shall have the following additional requirements:

(i) If the water body into which grass carp will be stocked is greater than or equal to 10 acres a professional topographic survey by a licensed surveyor must be provided for the entire perimeter of the water body showing all points of water movement in and out of the water body. A topographic survey completed by a state or federal agency within five years from the date of application for the water body may be used. The Department shall determine screening requirements from the survey;

(ii) Grass carp may remain in a water body within the 100-year floodplain year-round if a professional plan or drawing that is certified by a licensed engineer is provided which indicates that the entire perimeter of the water body is protected from 100-year floods. In order to prevent grass carp escape, screens, dikes, and devices protecting the water body must be able to remain structurally sound within 100-year floods and not be overtopped by a 100-year flood. The Department reserves the right to have a licensed engineer retained by the agency review and approve or deny the plan or drawing submitted by the applicant.

(b) Tilapia (Mozambique tilapia Oreochromis mossambicus, Nile tilapia O. niloticus, Wami tilapia O. urolepsis, Blackchin tilapia Sarotherodon melanotheron, and hybrids thereof): The possession, propagation, transportation, sale, purchase, exchange and disposition of these tilapia is controlled according to the following restrictions and standards:

(A) A person intending to sell, barter or exchange must apply for and receive an approved propagation license from the Oregon Department of Fish and Wildlife Fish Propagation Program prior to commencing production. A person may raise tilapia in-doors (a house, greenhouse, or other enclosed structure capable of excluding predators) for personal consumption without an Oregon Department of Fish and Wildlife-Fish Propagation license;

(B) Propagation outdoors must occur in ponds or tanks covered with nets or screens adequate to prevent the capture or transport of cultured fish by predators or other animals;

(C) Access to production facilities must be through secure locked gates;

(D) Only animals certified as disease-free by the vendor may be purchased;

(E) Permittees must provide adequate veterinary care to identify and minimize the spread of diseases originating from the animals being held;

(F) No live tilapia or their gametes, fertilized eggs, or larvae may be released into waters of this State, as defined in ORS 506.006; and

(G) An Oregon Department of Fish and Wildlife fish transport permit shall accompany live tilapia imported into and transported within Oregon. If transport occurs entirely on the permittee's property, a transport permit is not needed.

(c) Tiger muskellunge (Esox lucius X Esox masquinongy): tiger muskellunge are classified as a controlled species for the specific purpose of stocking into Phillips Reservoir (Baker County) for fish management purposes according to the following restrictions and standards:

(A) Stocking will occur only in Phillips Reservoir located in Baker County. No other public or private water bodies will be stocked with tiger muskellunge unless approved by the Commission. Tiger muskellunge will be stocked into Phillips Reservoir at a rate not to exceed the adult density required to achieve the objectives of the introduction; control abundance of yellow perch to restore the rainbow trout fishery.

(B) Tiger muskellunge may only be obtained and imported from approved suppliers outside of Oregon. Tiger muskellunge may not be propagated or held for further distribution within Oregon. Department pathologists shall approve suppliers. Approval will be based on the ability to provide tiger muskellunge which meet health and disease requirements according to OAR 635-007-0960 through 635-007-0995.

(C) Allowable catch and release only based on management objectives.

(D) Department will establish a monitoring plan and program prior to release which shall include:

(i) Creel monitoring.

(ii) Population monitoring.

(iii) Plans to eradicate or suppress any illegal introductions of pike or muskellunge introductions to Phillips Reservoir.

(iv) Education and outreach.

(E) In conjunction with fish monitoring activities all live tiger muskellunge handled of suitable marking size shall be tagged with a Passive Integrated Transponder (PIT) tag. Each tag shall be programmed with identification number. A list of the PIT tag identification numbers shall be maintained by the District Fish Biologist and submitted to the Invasive Species Wildlife Integrity Coordinator.

(F) Any permit(s) or documentation(s) required for fish import, transport, or stocking shall be obtained prior to and accompany importation and stocking.

(G) Department will develop an environmental monitoring plan for Phillips Reservoir which should include:

(i) Basic limnological characterization of the reservoir (nutrient concentrations, light penetration, vertical profiles of physical and chemical characteristics of reservoir water, zooplankton, and phytoplankton composition and densities).

(ii) Barramundi (Lates calcarifer) the possession, propagation, transportation, sale, purchase, exchange and disposition of Barramundi are controlled according to the following restrictions and standards:

(I) A person must apply for and receive an approved propagation license from the Oregon Department of Fish and Wildlife Fish Propagation Program prior to commencing production;

(II) An Oregon Department of Fish and Wildlife fish transport permit shall accompany live Barramundi imported into and transported within Oregon. If transport occurs entirely on the permittee's property, a transport permit is not needed;

(III) Fish health certification must be reviewed and found acceptable by ODFW Fish Health personnel or veterinary staffs before fish are purchased or transported;

(IV) Possession of live Barramundi outside of an approved facility or without a transport permit is prohibited;

(V) No live Barramundi or their gametes, fertilized eggs, or larvae may be released into water of the State, as defined in ORS 506.006;

(VI) Propagation must occur indoors (enclosed structure capable of excluding predators) and only in closed recirculating systems;

(VII) Access to production facilities must be through secure locked gates;

(VIII) Permittee must provide adequate veterinary care as directed by a veterinarian and adhere to Fish Health Management Policy OAR 635-007-0960 through 635-007-0995 to identify and minimize the spread of disease originating from the animals being held;

(IX) Effluent water may not be discharged dierctly into any waters of the state.

(2) Controlled Mollusks:

(a) Suminoe oysters (Crassostrea ariakensis), Pacific oysters (C.gigas), Kumamoto oysters (C. sikamea), Eastern oysters (C. virginica), and European flat oysters (Ostrea edulis) may be purchased and imported from outside Oregon (or from other estuaries within Oregon) for release into estuaries in Oregon pursuant to the terms of a permit issued by the department. Complete permit applications must be submitted to the department's Marine Resources Program Headquarters (2040 SE Marine Science Drive, Newport, Oregon 97365) at least 15 days before proposed stocking. Oysters may be commercially harvested and sold pursuant to OAR 635-005.

(b) Softshell clam (Mya arenaria), Japanese varnish clam (Nuttalia obscuratai), and Japanese littleneck clam (Venerupis philipinnarum) may be harvested, possessed and sold commercially pursuant to OAR 635-005 or harvested and possessed recreationally pursuant to OAR 635-039.

(3) Controlled Crustaceans:

(a) Green crabs (Carcinus maenas) may be harvested recreationally pursuant to OAR 635-039. Once harvested, it is unlawful to return green crab to state waters. It is unlawful to take green crab for commercial purposes.

(b) Whiteleg shrimp (Litopenaeus vannamei): The possession, propagation, transportation, sale, purchase, exchange and disposition of whiteleg shrimp is controlled according to the following restrictions and standards:

(A) A person must apply for and receive an approved propagation license from the Oregon Department of Fish and Wildlife Fish Propagation Program prior to commencing production;

(B) Propagation must occur in ponds covered with nets or screens adequate to prevent the capture or transport of cultured shrimp by predators or other animals;

(C) Access to production facilities must be through secure locked gates;

(D) Only animals certified as disease-free by the vendor may be purchased;

(E) Permittees must provide adequate veterinary care to identify and minimize the spread of diseases originating from the animals being held;

(F) No live whiteleg shrimp or their gametes, fertilized eggs, or larvae may be released into waters of this State, as defined in ORS 506.006; and

(G) An Oregon Department of Fish and Wildlife fish transport permit shall accompany live whiteleg shrimp imported into and transported within Oregon. If transport occurs entirely on the permittee's property, a transport permit is not needed.

(c) Giant river prawns (Macrobrachium rosenbergii): The possession, propagation, transportation, sale, purchase, exchange and disposition of giant river prawns is controlled according to the following restrictions and standards:

(A) A person must apply for and receive an approved propagation license from the Oregon Department of Fish and Wildlife Fish Propagation Program prior to commencing production;

(B) Propagation must occur in ponds covered with nets or screens adequate to prevent the capture or transport of cultured prawns by predators or other animals;

(C) Access to production facilities must be through secure locked gates;

(D) Only animals certified as disease-free by the vendor may be purchased;

(E) Permittees must provide adequate veterinary care to identify and minimize the spread of diseases originating from the animals being held;

(F) No giant river prawns or their gametes, fertilized eggs, or larvae may be released into waters of this State, as defined in ORS 506.006; and

(G) An Oregon Department of Fish and Wildlife fish transport permit shall accompany live giant river prawns imported into and transported within Oregon. If transport occurs entirely on the permittee's property, a transport permit is not needed.

(d) Crayfish – Cambaridae and Parastacidae – All species: The importation, possession, propagation, transportation, sale, purchase, exchange and disposition of non-native crayfish is controlled according to the following restrictions and standards.

(A) Non-native crayfish may be harvested, possessed and sold commercially pursuant to OAR 635-005-0855 through 635-005-0885 or harvest recreationally pursuant to ORS 496.162 from waters of the State as defined in ORS 503.006;

(B) Live non-native crayfish may not be used as bait except in the waterbody in which they were taken;

(C) Non-native crayfish or their gametes, fertilized eggs, or larvae may not be released into waters of the State, as defined in ORS 503.006;

(D) Propagation is not allowed;

(E) Non-native crayfish may not be imported except by recognized educational institutions or for immediate consumption (Immediate consumption means within one week from date of delivery):

(i) Prior to purchase and importation; must apply for and receive authorization from Oregon Department of Fish and Wildlife;

(ii) Crayfish must be euthanized after educational section is completed.

(iii) Non-native crayfish must remain in an indoor secure facility and can only be removed when transporting for immediate preparation for consumption;

(iv) An Oregon Department of Fish and Wildlife fish transport permit shall accompany non-native crayfish imported into Oregon.

(F) Fish health certification must be reviewed, found acceptable and be on file by ODFW Fish Health personnel or veterinary staffs before crayfish are imported into the State.

Stat. Auth.: ORS 496.012, 496.138 & 496.146, Other Auth.: SB 247 (2015)
Stats. Implemented: ORS 497.308, 497.318, 498.022, 498.052 & 498.222
Hist.: DFW 63-1998, f. & cert. ef. 8-10-98; DFW 94-1999, f. & cert ef. 12-23-99; DFW 79-2000, f. & cert. ef. 12-22-00; DFW 116-2001, f. & cert. ef. 12-18-01; DFW 64-2003, f. & cert. ef. 7-17-03; DFW 53-2008(Temp), f. & cert. ef. 5-28-08 thru 9-19-08; DFW 114-2008, f. & cert. ef. 9-19-08; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 15-2011, f. & cert. ef. 2-15-11; DFW 131-2012, f. & cert. ef. 10-11-12; DFW 148-2012, f. & cert. ef. 12-18-12; DFW 26-2014(Temp), f. 3-21-14, cert. ef. 4-1-14 thru 8-31-14; DFW 131-2014, f. & cert. ef. 9-11-14; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-060-0046
Lost Tags and Tag Exchanges

(1) A fee of $23.50 (plus a $2.00 license agent fee) is charged to replace a tag or permit. All licenses, tags and permits, issued to the same person, that are identified as being lost, destroyed or stolen may be listed on the same affidavit for a single fee ($23.50 plus a $2.00 license agent fee). A fee of $5.00 (plus a $2.00 license agent fee) is charged to exchange a tag or permit. However, a $10.00 license agent fee will be charged for nonresident deer and elk tags. Duplicates and exchanges may be obtained only through the Salem headquarters, regional offices of the Department, and designated district offices. Exception: Replacement controlled hunt tags or permits will be issued at no charge only through the Salem headquarters or regional office of the Department if the Department determines that the person never received the original controlled tag or permit mailed from the Salem headquarters office.

(2) A Controlled Buck Deer Tag or Controlled Elk Tag may be exchanged for a general season tag before the opening date of the season for which either tag is valid.

(3) No controlled hunt tag shall be exchanged for another controlled hunt tag, except as described in 635-060-0008(5) and 635-075-0015(3).

(4) A Controlled Antlerless Deer Tag shall not be exchanged.

(5) In the event of the death of a successful controlled hunt applicant before the start of the season for which the tag or permit was issued, the tags of the deceased may be issued to a family member as defined by OAR 635-045-0002. Tag or permit transfer shall require a copy of the death certificate and the original controlled hunt tag or permit, and must be requested by the legal heir to the deceased which shall be presumed by possession of the tag or permit and death certificate.

(6) A "leftover" controlled hunt tag may only be exchanged for a general season tag, but only if the person does not already possess a tag authorized by OAR 635-065-0015(4)(a), (b) or (c) or 635-0065-0015(5)(a), (b), (c), (d), (e), (f), or (g).

(7) The Commission shall accommodate Oregon residents who have lost preference points because of being called to active military service after June 1, 2002.

(a) The Commission shall accommodate the following individuals called to service at any location: Oregon National Guard.

(b) The Commission shall accommodate the following Oregon residents with military operational commitments: regular members of the United States Armed Forces (Army, Navy, Air Force, Marines, and Coast Guard), members of the United States military reserves, and members of the National Guard.

(c) The Commission authorizes the Director to make such accommodations by:

(A) Reinstating preference points existing for a series, plus an additional point for participating in the draw.

(B) Reinstating preference points lost after two consecutive years of not applying for a controlled hunt in that series.

(d) Individuals seeking accommodation pursuant to this rule (or immediate family members acting on their behalf) must make a request in writing or in person to the Salem headquarters office. Each request must include a letter from a supervising officer on official unit letterhead verifying operational commitments.

(8)(a) The Director may reinstate the preference points of a person who the Director determines did not or will not participate in a controlled hunt because of:

(A) Circumstances beyond the person's control; or

(B) Tragic personal circumstances.

(b) "Tragic personal circumstances" means:

(A) Death or life-threatening injury or illness in the person's immediate family; or

(B) The person's own serious injury or illness, which results in the person's hospitalization. The person need not be hospitalized during the hunt; this rule also applies if preparation for surgery or recovery after hospitalization renders the person incapable of participating in the hunt.

(c) To apply for reinstatement, the person must provide a sworn affidavit providing adequate details and must return the unused tag if it was purchased or a signed affidavit stating the tag was not used. When relying upon tragic personal circumstances, the person must also provide a sworn affidavit by a physician. When relying upon circumstances beyond the person's control, the person must also provide documentation of the circumstances (such as an accident report or affidavit from an employer).

(d) "Circumstances beyond the person's control" excludes complaints about the quality of a hunt (including, but not limited to, road closures, inclement weather and work being conducted in the hunt area).

(e) If the Director decides that the person does not qualify for reinstatement, the person may appeal that decision to the Oregon Fish and Wildlife Commission (Commission). The Commission must review the Director's decision within 60 days after receipt of appeal. The Commission will not take verbal testimony from the person, and the Commission's decision is final.

(f) If the Director or Commission reinstates a person's preference point under this subsection, the person will be awarded a new point as when classified as "unsuccessful" in the draw and is not entitled to a refund of license or tag fees.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162, Other Auth.: SB 247 (2015)
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 118, f. & ef. 6-3-77; FWC 32-1978, f. & ef. 6-30-78; FWC 29-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 7-1981, f. 2-18-81, ef. 6-1-81; FWC 10-1981, f. & ef. 3-31-81; FWC 22-1981, f. & ef. 6-29-81; FWC 21-1982, f. & ef. 3-31-82; FWC 38-1982, f. & ef. 6-25-82; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 11-1987, f. & ef. 3-6-87; FWC 40-1987, f. & ef. 7-6-87; FWC 12-1988, f. & cert. ef. 3-10-88; FWC 37-1988, f. & cert. ef. 6-13-88; FWC 48-1989, f. & cert. ef. 7-25-89; FWC 18-1991, f. & cert. ef. 3-12-91; FWC 55-1992(Temp), f. 7-22-92, cert. ef. 7-24-92; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 46-1993, f. & cert. ef. 8-4-93; FWC 6-1994, f. & cert. ef. 1-26-94; FWC 94-1994, f. & cert. ef. 12-22-94; FWC 63-1995, f. & cert. ef. 8-3-95; FWC 9-1997, f. & cert. ef. 2-27-97; 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 52-2001(Temp) f. & cert. ef. 6-27-01 thru 12-24-01; DFW 13-2002, f. & cert. ef. 2-12-02; DFW 34-2002, f. & cert. ef. 4-18-02; DFW 36-2002(Temp), f. & cert. ef. 4-22-02 thru 10-19-02; DFW 50-2002(Temp), f. & cert. ef. 5-16-02 thru 11-12-02; DFW 29-2003(Temp), f. & cert. ef. 4-9-03 thru 10-1-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 105-2004(Temp), f. & cert. ef. 10-13-04 thru 11-15-04; DFW 107-2004(Temp), f. & cert. ef 10-18-04 thru 11-27-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 26-2005, f. & cert. ef. 4-20-05; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 93-2007(Temp), f. & cert. ef. 9-26-07 thru 3-23-08; Administrative correction 4-23-08; DFW 126-2008(Temp), f. & cert. ef. 10-6-08 thru 4-4-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 14-2012(Temp), f. & cert. ef. 2-10-12 thru 8-7-12; DFW 58-2012, f. & cert. ef. 6-11-12; DFW 117-2013, f. & cert. ef. 10-10-13; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-065-0501
Exchange of Deer and Elk Tags

(1) Tags may be exchanged only prior to the seasons for which both of the tags to be exchanged are valid. No tag may be exchanged after the start of the season for which it is valid.

(2) Exchanges of tags and duplicate tags may be obtained only through the Department's regional offices or Salem headquarters.

(3) A fee of $23.50 (plus a $2.00 license agent fee) is charged to replace a tag. All licenses, tags and permits, issued to the same person, that are identified as being lost, destroyed or stolen may be listed on the same affidavit for a single fee ($23.50 plus a $2.00 license agent fee.) A fee of $5.00 (plus a $2.00 license agent is charged to exchange a tag. However, a $10.00 license agent fee will be charged for nonresident deer and elk tags.

(4) A "leftover" controlled hunt deer tag may only be exchanged for a general season deer tag, but only if the person does not already possess a deer tag authorized by OAR 635-065-0015(4)(a), (b), or (c).

(5) A "leftover" controlled hunt elk tag may only be exchanged for a general season elk tag but only if the person does not already possess an elk tag authorized by OAR 635-065-0015(5)(a), (b), (c), (d), (e), (f), (g) or (h).

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162, Other Auth.: SB 247 (2015)
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 123, f. & ef. 6-9-77; FWC 33-1978, f. & ef. 6-30-78; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; FWC 28, f. & ef. 7-8-83; FWC 34-1984, f. & ef. 7-24-84; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 11-1987, f. & ef. 3-6-87; FWC 13-1988, f. & cert. ef. 3-10-88; FWC 38-1988, f. & cert. ef. 6-13-88; FWC 15-1989, f. & cert. ef. 3-28-89; FWC 63-1989, f. & cert. ef. 8-15-89; Renumbered from 635-65-022; FWC 55-1990, f. & cert. ef. 6-21-90; FWC 58-1991, f. & cert. ef. 6-24-91; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 4-1995, f. 1-23-95, cert. ef. 7-1-95; FWC 18-1996, f. 4-10-96, cert. ef. 8-1-96; FWC 9-1997, f. & cert. ef. 2-27-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 52-2001(Temp) f. & cert. ef. 6-27-01 thru 12-24-01; DFW 34-2002, f. & cert. ef. 4-18-02; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 138-2013, f. & cert. ef. 12-20-13; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-075-0005
Registration, Application and Tag Issuance Procedures and Limits for All Controlled Hunts

(1) A landowner shall submit a landowner preference registration form to be eligible for a landowner preference tag. A one-time fee of $32.00 is required at the time of registration for new program participants. A landowner can have only one registration form on file with the Department. However, an individual who owns (through business entities, in the individual's own name or a combination thereof) more than one property eligible for the landowner preference program may register each such property. The registration form is an affidavit certifying ownership, number of acres owned, the county and Wildlife Management Unit where the property is located. This registration form registers the individual and remains valid until the individual registered no longer qualifies as a landowner as defined under OAR 635-045-0002, writes to the Department requesting the registration form be deleted, or the Department notifies the landowner that a renewal is required.

(2) In addition to having a landowner preference registration form on file with the Department, a landowner or an authorized designee identified by the landowner in writing to the Department shall submit a tag distribution form annually. The tag distribution form shall list the names of the landowner, stockholder(s), partner(s), and their immediate family members to receive tags for pronghorn antelope, and the names of the landowner, stockholder(s), partner(s), their immediate family members, and those persons of the landowners' choosing to receive landowner preference tags for deer and elk.

(3) Landowners shall submit registration forms and landowners or their designee shall submit tag distribution forms prior to September 15 for all controlled 100 series buck deer and bull elk hunts, and through the day prior to the season openings for 600 series antlerless deer, antlerless elk, and either-sex or doe/fawn pronghorn antelope hunts. A Landowner Preference Tag Redistribution fee of $16.00 will be charged per species for amendments made to the original tag distribution forms.

(4) Registration forms and tag distribution forms are available at no charge in any office of the Department.

(5) Registration forms, tag distribution forms, and applications shall be received at the Salem headquarters office of the Department prior to issuance of any landowner preference tag, except as provided for in OAR 635-075-0007. Landowners are not required to submit proof of ownership with their registration form. Landowners shall be required to submit proof of ownership at the request of the Department or the Oregon State Police acting on behalf of the Department.

(6) A landowner, stockholder(s), partner(s), and immediate family and those persons of the landowners' choosing wishing to also apply for controlled hunt tags shall apply by the May 15 controlled hunt deadline. Listing a hunt choice other than a landowner preference choice is not required.

(7) Everyone shall follow controlled hunt application procedures and regulations as described in OAR Division 060.

(8) The number of landowner preference tags issued is based upon a landowner's acreage. Landowner Preference tags shall be allocated by the following minimum acreage requirements: [Table not included. See ED. NOTE.]

(9) Landowner preference tags for the hunting of deer or elk may be issued to any person of the landowner's choosing, and shall be used for the taking of antlerless animals except as described in OAR 635-075-0005(10). Season dates of the transferred landowner preference tags shall be the same dates as the original tag.

(10) Landowner preference tags for the hunting of antlered deer or elk may be issued to a person of the landowner's choosing who is not a member of the landowner's, partner's, or stockholder's immediate family as follows:

(a) A landowner who is issued only one tag may not transfer that tag.

(b) A landowner who is issued two or more tags may transfer not more than 50 percent of the tags to a person who is not an immediate family member as defined in ORS 496.146 (4). If calculation of the number of tags eligible for transfer under the provisions of this paragraph results in a fraction, the Commission shall round up the number of tags to the next whole number.

(11) A landowner who is qualified to receive landowner hunting preference tags may request two additional tags for providing public access and/or two additional tags for wildlife habitat programs. This request shall be made to the Access and Habitat Board with supporting evidence that the access is significant and the habitat programs benefit wildlife. The board may recommend that the commission grant the request. These tags may not be applied to the options as defined in OAR 635-075-0005(8).

(12) No one shall receive both a controlled hunt tag and a landowner preference tag for the same type of hunt. Landowner hunting preference tags shall not be issued to any person successful in the controlled hunt drawing for the same type of hunt.

(13) Landowner preference tags, except as described in OAR 635-075-0007, 635-075-0010, and 635-075-0015 shall only be issued from the headquarters office of the Department following the controlled hunt drawings.

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

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162, Other Auth.: SB 247 (2015)

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

Hist.: FWC 35-1982, f. & ef. 6-7-82; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 48-1987, f. & ef. 7-6-87; FWC 20-1988, f. & cert. ef. 3-10-88; FWC 45-1988, f. & cert. ef. 6-13-88; FWC 98-1988, f. & cert. ef. 10-6-88; FWC 14-1990, f. & cert. ef. 2-2-90; FWC 99-1992, f. & cert. ef. 9-25-92; FWC 10-1994, f. & cert. ef. 2-24-94; FWC 14-1994(Temp), f. & cert. ef. 3-1-94; FWC 40-1994, f. & cert. ef. 6-28-94; FWC 7-1996, f. & cert. ef. 2-12-96; FWC 38-1997, f. & cert. ef. 6-17-97; 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 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 131-2008, f. & cert. ef. 10-14-08; DFW 42-2009(Temp), f. 5-4-09, cert. ef 5-5-09 thru 10-31-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 140-2009, f. 11-3-09, cert. ef. 1-1-10; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 19-2013(Temp), f. & cert. ef. 3-11-13 thru 9-6-13; DFW 53-2013, f. & cert. ef. 6-10-13; DFW 63-2014, f. & cert. ef. 6-10-14; DFW 1-2015, f. & cert. ef. 1-6-15; DFW 69-2015, f. & cert. ef. 6-11-15; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-075-0026
Application Requirements

(1) A valid controlled hunt Outfitter and Guide application shall be purchased from the Department. The purchase price of the application is set forth in OAR 635-060-0005(2) ($28.00 plus a $2.00 agent fee).

(a) Only one hunt number and one species type may be included on a single application. No more than 50% of the available tags for a specific hunt number and species may be applied for, except in cases where only one person applies for tags and/or an odd number of tags exists in particular hunt.

(b) Tags will only be issued for specific hunt units in which the Outfitter and Guide is certified.

(c) Applications must be complete and include such information as required which will include the six-digit State Marine Board Registration number required under ORS 704.020 or they may be disqualified from the tag allocation drawing.

(d) Applications, along with the proper fees, must be received by midnight December 1, of each year, at the Department headquarters office. Applications received after the specified deadline dates shall be disqualified.

(2) No outfitter or guide may receive more than 25 tags per year for any single species of big game from the December Outfitter and Guide tag drawing. Tags received in the first-come, first-serve remaining tag process are in addition to tags drawn by an outfitter and guide in the December Outfitter and Guide tag drawing.

Stat. Auth.: ORS 496.012, 496.138 & 497.112, Other Auth.: SB 247 (2015)

Stats. Implemented: ORS 496.012, 496.138 & 497.112

Hist.: FWC 73-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 114-2004(Temp), f. & cert. ef. 11-23-04 thru 5-20-05; Administrative correction 6-17-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 6-2006, f. & cert. ef. 1-25-06; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-075-0035
Remaining Tags

(1) Any remaining Outfitter and Guide tags not sold on or before March 31st will become available on a first-come, first-serve basis. The Department will publish a list of available tags two business days after March 31st.

(2) First-come, first-serve tags will become available for purchase starting at 8:00 AM on the third business day after March 31st and ending at 5:00 PM on April 15th. Any applications received prior to 8:00 AM on the third business day after March 31st will not be accepted.

(3) Up to five first-come, first-serve tags can be sold to outfitters and guides for unnamed clients.

(a) The non-refundable tag fee for unnamed client tags is $527.00 (plus a $10.00 license agent fee) for deer and $782.00 (plus a $10.00 license agent fee) for elk.

(b) The deadline to identify a hunter for tags sold with unnamed clients is one week before the hunt begins.

(4) An unlimited number of first-come, first-serve tags can be sold to an outfitter or guide when the client is identified.

(5) Any unsold Outfitter and Guide Tags remaining after 5:00 PM on April 15th will be included in the June public controlled hunt drawing.

Stat. Auth.: ORS 496.012, 496.138, 497.112, Other Auth.: SB 247 (2015)

Stats Implemented: ORS 496.012, 496.138, 497.112

Hist.: DFW 6-2006, f. & cert. ef. 1-25-06; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

635-200-0050
Deer, Elk, and Antelope (Pronghorn)

(1) Any person may purchase, sell, or exchange processed hides, hooves, dewclaws, sinews, or capes of deer (Odocoilius hemionus or O. virgininanus), elk (Cervus canadensis) or antelope (pronghorn) (Antilocapra americana).

(2) Any person may sell or exchange the unprocessed hides, hooves, dewclaws, sinews, or capes of a deer, elk, or antelope legally taken during an authorized hunting season.

(3) Any person may sell, purchase, or exchange any bone, elk ivory "buglers" or other part of the skeletal structure of a deer or elk, except the skull.

(4) Any person may sell or exchange lawfully taken antlers which are detached from the skull, skull is split apart between the antlers or naturally shed antlers to a licensed antler dealer for use only in manufacturing handcrafted items from parts of these antlers. Handcrafted items do not include complete sets of antlers or whole heads and antlers which are mounted for display or other purposes. Any person may purchase such lawfully manufactured handcrafted items.

(5) Except as provided in subsection 6, any person desiring to purchase or exchange unprocessed deer, elk, and antelope hides, hooves, dewclaws, or sinews must first secure a Hide Dealer Permit. Clients of a taxidermist do not need this permit when a taxidermist provides the hide for mounting a client's legally taken antler or horn.

(a) Any person desiring to purchase or exchange antlers for use in the manufacture of handcrafted items must first secure an Antler Dealers Permit. Antlers may not be purchased unless antlers are detached from the skull, the skull is split apart between antlers, or the antlers are naturally shed;

(b) Hide and Antler Dealer Permits may be obtained by applying to the Oregon Department of Fish and Wildlife.

(6) Any person may purchase the following for their personal use (not resale):

(a) Unprocessed deer, elk and antelope hides; and

(b) Deer and elk antlers (if detached from the skull, if skull is split apart between the antlers, or if naturally shed).

(7) Hide Dealer and Antler Dealer Permit shall cost $32.00 (plus a $2.00 license agent fee) and shall expire on December 31 of the year issued.

(8) At the time of purchase or exchange for unprocessed deer and elk hides and antlers, and for antelope hides, every dealer shall maintain a record. Such record shall:

(a) Include the date of the transaction, numbers and kinds of hides or antlers purchased or exchanged, and the name and address of the person from whom acquired;

(b) Be maintained at the business address of the hide dealer or antler dealer for a three-year period.

(9) Hide and antler dealer records are subject to inspection at any time by any State Police officer or Department of Fish and Wildlife representative.

(10) Any person may sell, purchase or exchange any bone or other part of the skeletal structure of pronghorn antelope, except the skull and horn sheaths.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 498.019, 498.022 & 498.042, Other Auth.: SB 247 (2015)

Stats. Implemented: ORS 496.012, 496.138, 496.146, 498.019, 498.022, 498.042

Hist.: DFW 96-1998, f. & cert. ef. 11-25-98; DFW 90-2002(Temp), f. & cert. ef. 8-16-02 thru 2-11-03; DFW 114-2002(Temp), f. & cert. ef. 10-18-02 thru 2-11-03; DFW 127-2002(Temp), f. & cert. ef. 11-14-02 thru 2-11-03; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 139-2015, f. 10-14-15, cert. ef. 1-1-16

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Rule Caption: Treaty Indian Commercial Fall Sturgeon Set-Line Fishery Set In The Dalles and Bonneville Pools.
Adm. Order No.: DFW 140-2015(Temp)
Filed with Sec. of State: 10-15-2015
Certified to be Effective: 10-19-15 thru 11-30-15
Notice Publication Date:
Rules Amended: 635-041-0063
Subject: This amended rule sets a Treaty Tribe white sturgeon set-line fishery in The Dalles Pool beginning 6:00 a.m. Monday, October 19 through 6:00 p.m. Friday, October 30, 2015; and in the Bonneville Pool beginning 6:00 a.m. Monday, November 2 through 6:00 p.m. Friday, November 13, 2015. Fishing for the purpose of com-

mercial sales and subsistence is allowed. Modifications are consistent with joint state action taken October 14, 2015, by the Departments of Fish and Wildlife for the States of Oregon and Washington, at a meeting of the Columbia River Compact, in cooperation with the Columbia River Treaty Tribes.

Rules Coordinator: Michelle Tate—(503) 947-6044

635-041-0063

Sturgeon Setline Fishery

(1) White sturgeon may be taken by setline for commercial purposes from 6:00 a.m. Monday, October 19 through 6:00 p.m. Friday, November 30, 2015 (11.5 days) from The Dalles Pool; and 6:00 a.m. Monday, November 2 through 6:00 p.m. Friday, November 13, 2015 (11.5 days) from Bonneville Pool.

(a) In The Dalles Pool white sturgeon taken must be 43-54 inches in fork length.

(b) In the Bonneville Pool white sturgeon taken must be 38-54 inches in fork length.

(c) White sturgeon taken in The Dalles and Bonneville pools during open fishing periods as described in subsections (1)(a) and (1)(b) of this rule may be sold at any time or kept for subsistence use.

(2) Closed areas are set forth under OAR 635-041-0045.

(3) During the white sturgeon setline season it shall be unlawful to:

(a) Operate any fishing gear other than setlines except as provided in OAR 635-041-0060;

(b) Operate any setline having more than 100 hooks;

(c) Use other than single hooks size 9/0 or larger;

(d) Operate any setline on which the buoy or marker does not have the tribal identification number of the individual operating the line clearly marked on it and which is attached in a manner that will not allow it to float visibly on the surface at all times.

(4) Notwithstanding OAR 635-041-0045(6)-(11), it is lawful during the open season to fish for white sturgeon by means of set lines in the Columbia River within areas at and adjacent to the mouths of rivers.

Stat. Auth.: ORS 183.325 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 89, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0063; FWC 6-1980, f. & ef. 1-28-80; FWC 12-1980, f. & ef. 2-29-80; FWC 64-1980(Temp), f. & ef. 11-7-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 2-1983, f. 1-21-83, ef. 2-1-83; FWC 9-1983(Temp), f. & ef. 3-1-83; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. 1-30-85; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 48-1988, f. & cert. ef. 6-21-88; FWC 5-1989, f. 2-6-89, cert. ef. 2-7-89; FWC 12-1989(Temp), f. & cert. ef. 3-21-89; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 9-1991, f. & cert. ef. 1-31-91; FWC 37-1991(Temp), f. & cert. ef. 4-3-91; FWC 4-1992, f. 1-30-92, cert. ef. 2-1-92; FWC 13-1992(Temp), f. & cert. ef. 3-5-92; FWC 41-1992(Temp), f. 6-30-92, cert. ef. 7-1-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 7-1993, f. & cert. ef. 2-1-93; FWC 15-1996(Temp), f. & cert. ef. 4-1-96; FWC 25-1996(Temp), f. 5-14-96, cert. ef. 5-15-96; FWC 23-1997(Temp), f. 4-4-97, cert. ef. 4-7-97; FWC 35-1997(Temp), f. & cert. ef. 6-13-97; FWC 40-1997(Temp), f. 6-20-97, cert. ef. 6-23-97; DFW 23-1998(Temp), f. & cert. ef. 3-20-98 thru 6-30-98; DFW 50-1998(Temp), f. 6-25-98, cert. ef. 6-26-98 thru 7-24-98; DFW 57-1998(Temp), f. & cert. ef. 7-24-98 thru 12-31-98; DFW 22-1999(Temp), f. & cert. ef. 4-1-99 thru 4-23-99; DFW 28-1999(Temp) , f. & cert. ef. 4-23-99 thru 7-31-99; DFW 41-1999(Temp), f. & cert. ef. 6-7-99 thru 7-31-99; DFW 79-1999(Temp), f. 10-8-99, cert. ef. 10-11-99 thru 12-31-99; DFW 14-2000(Temp), f. 3-17-00, cert. ef. 3-20-00 thru 7-31-00; DFW 31-2000(Temp), f. 6-9-00, cert. ef. 6-10-00 thru 7-31-00; DMV 43-2000(Temp), f. 8-7-00, cert. ef. 8-8-00 thru 8-20-00; DFW 66-2000(Temp), f. 9-29-00, cert. ef. 10-2-00 thru 12-31-00; DFW 43-2001(Temp), f. 5-23-01, cert. ef. 5-24-01 thru 11-20-01; DFW 65-2001(Temp), f. & cert. ef. 7-24-01 thru 12-31-01; DFW 94-2001(Temp), f. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 114-2001(Temp), f. & cert. ef. 12-13-01 thru 12-31-01; DFW 51-2002(Temp), f. & cert. ef. 5-22-02 thru 9-1-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 121-2002(Temp), f. 10-24-02, cert. ef. 10-27-02 thru 12-31-02; DFW 49-2003(Temp), f. & cert. ef. 6-5-03 thru 9-1-03; DFW 58-2003(Temp), f. & cert. ef. 7-9-03 thru 12-31-03; DFW 67-2003(Temp), f. 7-18-03, cert. ef. 7-21-03 thru 12-31-03; DFW 104-2003(Temp), f. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; Administrative correction 1-19-06; DFW 69-2006(Temp), f. 7-28-06, cert. ef. 7-31-06 thru 12-31-06; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 60-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 19-2009, f. & cert. ef. 2-26-09; DFW 88-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; Administrative correction 1-25-10; DFW 103-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 10-31-11; DFW 142-2011(Temp), f. 10-6-11, cert. ef. 10-8-11 thru 10-31-11; DFW 150-2011(Temp), f. 10-25-11, cert. ef. 10-26-11 thru 11-30-11; DFW 152-2011(Temp), f. 11-11-11, cert. ef. 11-2-11 thru 12-31-11; DFW 95-2012(Temp), f. 7-27-12, cert. ef. 7-30-12 thru 8-11-12; Administrative correction, 8-27-12; DFW 40-2013(Temp), f. 5-23-13, cert. ef. 5-24-13 thru 6-15-13; Administrative correction, 7-18-13; DFW 152-2014(Temp), f. & cert. ef. 10-23-14 thru 11-29-14; DFW 158-2014(Temp), f. & cert. ef. 11-25-14 thru 12-31-14; Administrative correction, 1-27-15; DFW 140-2015(Temp), f. 10-15-15, cert. ef. 10-19-15 thru 11-30-15

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Rule Caption: Modified Angling Regulations for North Twin Lake due to Rotenone Treatment in November 2015.

Adm. Order No.: DFW 141-2015(Temp)

Filed with Sec. of State: 10-15-2015

Certified to be Effective: 10-16-15 thru 12-31-15

Notice Publication Date:

Rules Amended: 635-018-0090

Rules Suspended: 635-018-0090(T)

Subject: This amended rule postpones the previously authorized closure to angling in North Twin Lake in the Central Zone from October 20 to November 9, 2015, due to the unavailability of the fish toxicant Rotenone. Further rule modifications liberalize catch limits and harvest methods to provide sport fishers increased opportunities to salvage as many game fish as possible. This unanticipated delay in the start of the process to remove unwanted fish species also provides anglers with three additional weeks to salvage any remaining game fish.

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) North Twin lake is open to angling for all game species through November 8, 2015 with the following restictions:

(a) Allowed harvest methods are by hand, dip net or angling;

(b) There are no daily catch or possession limits; and

(c) There are no minimum length requirements.

(3) North Twin Lake will be closed to angling from November 9 thru December 31, 2015.

(4) All other regulations as shown in the 2015 Oregon Sport Fishing Regulations remain in effect.

Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119

Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 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; Administrative correction, 7-24-15; DFW 88-2015(Temp), f. 7-16-15, cert. ef. 7-18-15 thru 12-31-15; DFW 99-2015(Temp), f. & cert. ef. 8-3-15 thru 12-31-15; Temporary suspended by DFW 120-2015(Temp), f. 8-31-15, cert. ef. 9-1-15 thru 12-31-15; DFW 128-2015(Temp), f. 9-14-15, cert. ef. 9-18-15 thru 12-31-15; DFW 141-2015(Temp), f. 10-15-15, cert. ef. 10-16-15 thru 12-31-15

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

Rule Caption: Payment Limitations in Community-Based Care Settings
Adm. Order No.: APD 18-2015(Temp)
Filed with Sec. of State: 9-21-2015
Certified to be Effective: 9-21-15 thru 3-18-16
Notice Publication Date:
Rules Adopted: 411-027-0170
Rules Amended: 411-027-0005
Subject: The Department of Human Services (Department) is immediately amending OAR 411-027 to add the home and community based care facility rates as a new part of the rule. Adding the rates in to the rule will allow the Department to provide a more public process for rate changes and allow the Department to pay providers of Medicaid services. In order to add these rates into the rule, OAR 411-027-0170 was added as a new rule with the current rate table information. Rules that were impacted by this change will also be amended.

Minor grammar, formatting, and housekeeping changes were done to align the rules with other current program rule and definition changes.
Rules Coordinator: Kimberly Colkitt-Hallman—(503) 945-6398

411-027-0005
Definitions

(1) "AAA" means "Area Agency on Aging" as defined in this rule.

(2) "Activities of Daily Living (ADL)" mean those personal, functional activities required by an individual for continued well-being, which are essential for health and safety. Activities include eating, dressing, grooming, bathing, personal hygiene, mobility (ambulation and transfer), elimination (toileting, bowel and bladder management), and cognition and behavior as described in OAR 411-015-0006.

(3) "ADL" means "activities of daily living" as defined in this rule.

(4) "Aging and People with Disabilities (APD)" means the division of Aging and People with Disabilities, within the Department of Human Services.

(5) "APD" means "Aging and People with Disabilities" as defined in this rule.

(4) "Area Agency on Aging (AAA)" means the Department designated agency charged with the responsibility to provide a comprehensive and coordinated system of services to older adults and adults with disabilities in a planning and service area. The term Area Agency on Aging is inclusive of both Type A and Type B Area Agencies on Aging as defined in ORS 410.040 and described in ORS 410.210-300.

(5) "Assessment" means the process of evaluating the functional impairment levels for service eligibility, including an individual's requirements for assistance or independence in performing activities of daily living and instrumental activities of daily living and determining nursing facility services. The Department requires use of the Client Assessment and Planning System (CA/PS) as the tool used to determine service eligibility and planning.

(6) "Assistive Devices" means any category of durable medical equipment, mechanical apparatus, electrical appliance, or instrument of technology, service animals, general household items, or furniture used to assist and enhance an individual's independence in performing any activity of daily living.

(7) "CA/PS" means the "Client Assessment and Planning System" as defined in this rule.

(8) "Case Manager" means an employee of the Department or Area Agency on Aging, who assesses the service needs of an applicant, determines eligibility, and offers service choices to the eligible individual. The case manager authorizes and implements the service plan and monitors the services delivered.

(9) "Central Office" means the main office of the Department, Division, or Designee.

(10) "Client Assessment and Planning System (CA/PS)":

(a) Is the single entry data system used for:

(A) Completing a comprehensive and holistic assessment;

(B) Surveying an individual's physical, mental, and social functioning; and

(C) Identifying risk factors, individual choices and preferences, and the status of service needs.

(b) The CA/PS documents the level of need and calculates the individual's service priority level in accordance with the rules in OAR chapter 411, division 015, calculates the service payment rates, and accommodates individual participation in service planning.

(11) "Consumer Choice" means an individual has been informed of alternatives to nursing facility services and has been given the choice of institutional services, Medicaid home and community-based service options, or the Independent Choices Program.

(12) "Contracted In-Home Care Agency" means an incorporated entity or equivalent, licensed in accordance with OAR chapter 333, division 536, that provides hourly contracted in-home services to individuals served by the Department or Area Agency on Aging.

(13) "Cost Effective" means being responsible and accountable with Department resources. This is accomplished by offering less costly alternatives when providing choices that adequately meet an individual's service needs. Those choices consist of the available services under the Medicaid home and community-based service options, the utilization of assistive devices, natural supports, architectural modifications, and alternative service resources (defined in OAR 411-015-0005) not paid for by the Department.

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

(15) "Exception" means the approval for payment of a service plan granted to a specific individual in their current residence (or in the proposed residence identified in the exception request) that exceeds the CA/PS assessed service payment levels for individuals residing in community-based care facilities or the maximum hours of service as described in OAR 411-030-0070 for individuals residing in their own homes or the home of a relative. The approval is based on the service needs of the individual and is contingent upon the service plan meeting the requirements in OAR 411-027-0020, 411-027-0025, and 411-027-0050. The term "exception" is synonymous with "exceptional rate" or "exceptional payment."

(16) "Homecare Worker" means a provider, as described in OAR 411-031-0040, that is directly employed by a consumer to provide either hourly or live-in services to the eligible consumer.

(a) The term homecare worker includes consumer-employed providers in the Spousal Pay and Oregon Project Independence Programs. The term homecare worker also includes consumer-employed providers that provide state plan personal care services to older adults and adults with physical disabilities. Relatives providing Medicaid in-home services to an individual living in the relative's home are considered homecare workers.

(b) The term homecare worker does not include Independent Choices Program providers or personal care attendants enrolled through the Office of Developmental Disability Services or the Addictions and Mental Health Division.

(17) "Hourly Services" mean the in-home services, including activities of daily living and instrumental activities of daily living, that are provided at regularly scheduled times.

(18) "IADL" means "instrumental activities of daily living" as defined in this rule.

(19) "ICP" means "Independent Choices Program" as defined in this rule.

(20) "Independent Choices Program (ICP)" means the self-directed in-home services program in which a participant is given a cash benefit to purchase goods and services identified in a service plan and prior approved by the Department or Area Agency on Aging.

(21) "Individual" means the person applying for, or eligible for, services. The term "individual" is synonymous with "client", "participant", "consumer", and "consumer-employer."

(22) "In-Home Services" mean those activities of daily living and instrumental activities of daily living that assist an individual to stay in his or her own home or the home of a relative.

(23) "Instrumental Activities of Daily Living (IADL)" mean those activities, other than activities of daily living, required by an individual to continue independent living. The definitions and parameters for assessing needs in IADL are identified in OAR 411-015-0007.

(24) "Live-In Services" mean the in-home services provided when an individual requires and receives assistance with activities of daily living and instrumental activities of daily living throughout a 24-hour work period by one homecare worker.

(25) "Natural Supports" or "Natural Support System" means resources and supports (e.g. relatives, friends, significant others, neighbors, roommates, or the community) who are willing to voluntarily provide services to an individual without the expectation of compensation. Natural supports are identified in collaboration with the individual and the potential "natural support". The natural support is required to have the skills, knowledge and ability to provide the needed services and supports.

(26) "Rate Schedule" means the rate schedule maintained by the Department in OAR 411-027-0170 and posted at http://www.oregon.gov/DHS/spd/provtools/rateschedule.pdf. Printed copies may be obtained by contacting the Department of Human Services, Aging and People with Disabilities, ATTN: Rule Coordinator, 500 Summer Street NE, E-48, Salem, Oregon 97301.

(27) "These Rules" mean the rules in OAR chapter 411, division 027.

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.070
Hist.: SPD 7-2008, f. 5-29-08, cert. ef. 6-1-08; APD 4-2014(Temp), f. & cert. ef. 3-20-14 thru 9-16-14; APD 33-2014, f. & cert. ef. 9-2-14; APD 18-2015(Temp), f. & cert. ef. 9-21-15 thru 3-18-16

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

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

(2) Monthly Rates:

(a) Residential Care Facilities:

(A) Base — $1371.00.

(B) Base plus 1 add-on — $1636.00.

(C) Base plus 2 add-ons — $1901.00.

(D) Base plus 3 add-ons — $2166.00.

(E) Hourly Exception Rate — $12.00 per hour.

(b) Adult Foster Homes: Rates will be paid in accordance with the terms of collective bargaining agreements negotiated between the Service Employees International Union and the State of Oregon.

(c) Assisted Living Facilities:

(A) Level 1 — $1,100.00.

(B) Level 2 — $1,363.00.

(C) Level 3 — $1,711.00.

(D) Level 4 — $2,148.00.

(E) Level 5 — $2,586.00.

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

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

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

Stat. Auth.: ORS 410.070
Stats. Implemented: ORS 410.070
Hist.: APD 18-2015(Temp), f. & cert. ef. 9-21-15 thru 3-18-16

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Rule Caption: In-Home Services
Adm. Order No.: APD 19-2015(Temp)
Filed with Sec. of State: 9-21-2015
Certified to be Effective: 9-21-15 thru 3-18-16
Notice Publication Date:
Rules Adopted: 411-030-0068
Rules Amended: 411-030-0020, 411-030-0070, 411-030-0080, 411-030-0100
Subject: The Department of Human Services (Department) is immediately amending OAR 411-030 to:

- Revise the definition and eligibility requirements for live-in services
- Define and add eligibility requirements for shift services.
- Change the eligibility requirements for services received in the Spousal Pay and the Independent Choices Programs.
- Fix minor grammar, formatting, punctuation, and housekeeping issues in the rules.

These rule changes change the eligibility requirements as of August 31, 2015.

Rules Coordinator: Kimberly Colkitt-Hallman—(503) 945-6398

411-030-0020
Definitions

All temporary rule changes filed in chapter 411, division 030 on September, 21, 2015 are effective as of August 31, 2015. Unless the context indicates otherwise, the following definitions apply to the rules in OAR chapter 411, division 030:

(1) "AAA" means "Area Agency on Aging" as defined in this rule.

(2) "Activities of Daily Living (ADL)" mean those personal, functional activities required by an individual for continued well-being, which are essential for health and safety. Activities include eating, dressing, grooming, bathing, personal hygiene, mobility (ambulation and transfer), elimination (toileting, bowel, and bladder management), and cognition, and behavior as defined in OAR 411-015-0006.

(3) "ADL" means "activities of daily living" as defined in this rule.

(4) "Architectural Modifications" means any service leading to the alteration of the structure of a dwelling to meet a specific service need of an eligible individual.

(5) "Area Agency on Aging (AAA)" means the Department designated agency charged with the responsibility to provide a comprehensive and coordinated system of services to individuals in a planning and service area. The term Area Agency on Aging is inclusive of both Type A and Type B Area Agencies on Aging as defined in ORS 410.040 and described in 410.210 to 410.300.

(6) "Assessment" or "Reassessment" means an assessment as defined in OAR 411-015-0008.

(7) "Assistive Devices" means any category of durable medical equipment, mechanical apparatus, electrical appliance, or instrument of technology used to assist and enhance an individual's independence in performing any activity of daily living. Assistive devices include the use of service animals, general household items, or furniture to assist the individual.

(8) "Business Days" means Monday through Friday and excludes Saturdays, Sundays, and state or federal holidays.

(9) "CA/PS" means the "Client Assessment and Planning System" as defined in this rule.

(10) "Case Manager" means an employee of the Department or Area Agency on Aging who assesses the service needs of an individual applying for services, determines eligibility, and offers service choices to the eligible individual. The case manager authorizes and implements an individual's service plan and monitors the services delivered as described in OAR chapter 411, division 028.

(11) "Client Assessment and Planning System (CA/PS)":

(a) Is a single entry data system used for:

(A) Completing a comprehensive and holistic assessment;

(B) Surveying an individual's physical, mental, and social functioning; and

(C) Identifying risk factors, individual choices and preferences, and the status of service needs.

(b) The CA/PS documents the level of need and calculates an individual's service priority level in accordance with the rules in OAR chapter 411, division 15, calculates the service payment rates, and accommodates individual participation in service planning.

(12) "Consumer" or "Consumer-Employer" means an individual eligible for in-home services.

(13) "Consumer-Employed Provider Program" refers to the program described in OAR chapter 411, division 31 wherein a provider is directly employed by a consumer to provide either hourly or live-in in-home services.

(14) "Contingency Fund" means a monetary amount that continues month to month, if approved by a case manager, that is set aside in the Independent Choices Program service budget to purchase identified items that substitute for personal assistance.

(15) "Contracted In-Home Care Agency" means an incorporated entity or equivalent, licensed in accordance with OAR chapter 333, division 536 that provides hourly contracted in-home services to individuals receiving services through the Department or Area Agency on Aging.

(16) "Cost Effective" means being responsible and accountable with Department resources. This is accomplished by offering less costly alternatives when providing choices that adequately meet an individual's service needs. Those choices consist of all available services under the Medicaid home and community-based service options, the utilization of assistive devices, natural supports, architectural modifications, and alternative service resources (defined in OAR 411-015-0005). Less costly alternatives may include resources not paid for by the Department.

(17) "Debilitating Medical Condition" means the individual's condition is severe and persistent and interferes with the individual's ability to function and participate in most activities of daily living.

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

(19) "Discretionary Fund" means a monetary amount set aside in the Independent Choices Program service budget to purchase items not otherwise delineated in the monthly service budget or agreed to be savings for items not traditionally covered under Medicaid home and community-based services. Discretionary funds are expended as described in OAR 411-030-0100.

(20) "Disenrollment" means either voluntary or involuntary termination of a participant from the Independent Choices Program.

(21) "DMAP" means the Oregon Health Authority, Division of Medical Assistance Programs.

(22) "Employee Provider" means a worker who provides services to, and is a paid provider for, a participant in the Independent Choices Program.

(23) "Employment Relationship" means the relationship of employee and employer involving an employee provider and a participant.

(24) "Exception" means the following:

(a) An approval for payment of a service plan granted to a specific individual in their current residence or in the proposed residence identified in the exception request that exceeds the CA/PS assessed service payment levels for individuals residing in community-based care facilities or the maximum hours of service as described in OAR 411-030-0070 for individuals residing in their own homes or the home of a relative.

(b) An approval for a live-in or shift care service plan granted to a specific individual that does not otherwise meet the criteria as described in OAR 411-030-0068 based upon the service needs of the individual as determined by the Department.

(c) An approval of a service plan granted to a specific individual and a homecare worker to exceed the limitations as described in OAR 411-030-0070(6) based upon the service needs of the individual as determined by the Department.

(d) "Exceptional rate" or "exceptional payment." The approval of an exception is based on the service needs of the individual and is contingent upon the individual's service plan meeting the requirements in OAR 411-027-0020, 411-027-0025, and 411-027-0050.

(25) "FICA" is the acronym for the Social Security payroll taxes collected under authority of the Federal Insurance Contributions Act.

(26) "Financial Accountability" refers to guidance and oversight which act as fiscal safeguards to identify budget problems on a timely basis and allow corrective action to be taken to protect the health and welfare of individuals.

(27) "FUTA" is the acronym for Federal Unemployment Tax Assessment which is a United States payroll (or employment) tax imposed by the federal government on both employees and employers.

(28) "Homecare Worker" means a provider, as described in OAR 411-031-0040, that is directly employed by a consumer to provide either hourly or live-in services to the eligible consumer.

(a) The term homecare worker includes:

(A) A consumer-employed provider in the Spousal Pay and Oregon Project Independence Programs;

(B) A consumer-employed provider that provides state plan personal care services to individuals; and

(C) A relative providing Medicaid in-home services to an individual living in the relative's home.

(b) The term homecare worker does not include an Independent Choices Program provider or a personal support worker enrolled through Developmental Disability Services or the Addictions and Mental Health Division.

(29) "Hourly Services" mean the in-home services, including activities of daily living and instrumental activities of daily living, that are provided at regularly scheduled times not including live-in services.

(30) "IADL" means "instrumental activities of daily living" as defined in this rule.

(31) "ICP" means "Independent Choices Program" as defined in this rule.

(32) "Independent Choices Program (ICP)" means a self-directed in-home services program in which a participant is given a cash benefit to purchase goods and services identified in the participant's service plan and prior approved by the Department or Area Agency on Aging.

(33) "Individual" means a person age 65 or older, or an adult with a physical disability, applying for or eligible for services.

(34) "Individualized Back-Up Plan" means a plan incorporated into an Independent Choices Program service plan to address critical contingencies or incidents that pose a risk or harm to a participant's health and welfare.

(35) "In-Home Services" mean the activities of daily living and instrumental activities of daily living that assist an individual to stay in his or her own home or the home of a relative.

(36) "Instrumental Activities of Daily Living (IADL)" mean those activities, other than activities of daily living, required by an individual to continue independent living. The definitions and parameters for assessing needs in IADL are identified in OAR 411-015-0007.

(37) "Liability" refers to the dollar amount an individual with excess income contributes to the cost of service pursuant to OAR 461-160-0610 and 461-160-0620.

(38) "Live-In Services" mean services provided when an individual requires and receives assistance with activities of daily living and instrumental activities of daily living throughout a 24-hour work period by one homecare worker.

(39) "Medicaid OHP Plus Benefit Package" means only the Medicaid benefit packages provided under OAR 410-120-1210(4)(a) and (b). This excludes individuals receiving Title XXI benefits.

(40) "Natural Supports" or "Natural Support System" means resources and supports (e.g. relatives, friends, neighbors, significant others, roommates, or the community) who are willing to voluntarily provide services to an individual without the expectation of compensation. Natural supports are identified in collaboration with the individual and the potential "natural support". The natural support is required to have the skills, knowledge, and ability to provide the needed services and supports.

(41) "Oregon Project Independence (OPI)" means the program of in-home services described in OAR chapter 411, division 32.

(42) "Participant" means an individual eligible for the Independent Choices Program.

(43) "Provider" means the person who renders the services.

(44) "Rate Schedule" means the rate schedule maintained by the Department at http://www.dhs.state.or.us/spd/tools/program/osip/rateschedule.pdf. Printed copies may be obtained by calling (503) 945-6398 or writing the Department of Human Services, Aging and People with Disabilities, ATTN: Rules Coordinator, 500 Summer Street NE, E-48, Salem, Oregon 97301-1064.

(45) "Relative" means a person, excluding an individual's spouse, who is related to the individual by blood, marriage, or adoption.

(46) "Representative" is a person either appointed by an individual to participate in service planning on the individual's behalf or an individual's natural support with longstanding involvement in assuring the individual's health, safety, and welfare. There are additional responsibilities for an Independent Choices Program (ICP) representative as described in OAR 411-030-0100. An ICP representative is not a paid employee provider regardless of relationship to a participant.

(47) "Service Budget" means a participant's plan for the distribution of authorized funds that are under the control and direction of the participant within the Independent Choices Program. A service budget is a required component of the participant's service plan.

(48) "Service Need" means the assistance an individual requires from another person for those functions or activities identified in OAR 411-015-0006 and 411-015-0007.

(49) "Shift Services" are hourly services provided by an awake homecare worker, Independent Choices Program employee provider, or contracted in-home care agency provider to an individual who is authorized to receive a minimum of 16 hours (496 hours per month) during a 24-hour work period.

(50) "Spouse" means a person that is legally married to an individual as defined in OAR 461-001-0000.

(51) "SUTA" is the acronym for State Unemployment Tax Assessment. State unemployment taxes are paid by employers to finance the unemployment benefit system that exists in each state.

(52) "These Rules" mean the rules in OAR chapter 411, division 30.

(53) "Workweek" is defined as 12:00 a.m. on Sunday through 11:59 p.m. on Saturday.

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Hist.: SSD 5-1983, f. 6-7-83, ef. 7-1-83; SSD 3-1985, f. & ef. 4-1-85; SSD 5-1987, f. & ef. 7-1-87; SSD 4-1993, f. 4-30-93, cert. ef. 6-1-93; SSD 6-1994, f. & cert. ef. 11-15-94; SPD 14-2003, f. & cert. ef. 7-31-03; SPD 15-2003 f. & cert. ef. 9-30-03; SPD 18-2003(Temp), f. & cert. ef. 12-11-03 thru 6-7-04; SPD 15-2004, f. 5-28-04, cert. ef. 6-7-04; SPD 18-2005(Temp), f. 12-20-05, cert. ef. 12-21-05 thru 6-1-06; SPD 20-2006, f. 5-26-06, cert. ef. 6-1-06; SPD 3-2007(Temp), f. 4-11-07, cert. ef. 5-1-07 thru 10-28-07; SPD 17-2007, f. 10-26-07, cert. ef. 10-28-07; SPD 4-2008(Temp), f. & cert. ef. 4-1-08 thru 9-24-08; SPD 13-2008, f. & cert. ef. 9-24-08; SPD 15-2008, f. 12-26-08, cert. ef. 1-1-09; SPD 10-2013(Temp), f. &

cert. ef. 5-23-13 thru 11-19-13; SPD 16-2013(Temp), f. & cert. ef. 7-1-13 thru 11-19-13; SPD 43-2013, f. 10-31-13, cert. ef. 11-1-13; APD 9-2014(Temp), f. 4-17-14, cert. ef. 4-21-14 thru 10-18-14; APD 35-2014, f. & cert. ef. 10-1-14; APD 19-2015(Temp), f. & cert. ef. 9-21-15 thru 3-18-16

411-030-0068
Live-In Services and Shift Services

(1) Individuals with service plans that meet the definition of live-in services or shift services must meet subsections (a) and either (b) or (c) of this section of the rule.

(a) The provision of assistance with at least one ADL or IADL task must be required sometime during each hour the individual is awake in order to ensure the safety and well-being of the individual.

(b) The individual is assessed as full assist in mobility or elimination as defined in OAR 411-015-0006, and has at least one of the following conditions:

(A) A debilitating medical condition that includes, but is not limited to, any of the following symptoms:

(i) Cachexia;

(ii) Severe neuropathy;

(iii) Coma;

(iv) Persistent or reoccurring stage 3 or 4 wounds;

(v) Late stage cancer;

(vii) Frequent and unpredictable seizures; or

(viii) Debilitating muscle spasms.

(B) A spinal cord injury or similar disability with permanent impairment.

(C) An acute care or hospice need that is expected to last no more than six months.

(c) The individual is assessed as full assist in cognition as defined in OAR 411-015-0006 and meets all of the following criteria:

(A) A diagnosis of traumatic brain injury, dementia or a related disorder, or a debilitating mental health disorder that meets the criteria described in OAR 411-015-0015(2).

(B) Has one of the following assessed needs as defined in OAR 411-015-0006:

(i) Full assist in danger to self or others.

(ii) Full assist in wandering.

(iii) Full assist in awareness, or

(iv) Full assist in judgment.

(2) The following limitations apply:

(a) A homecare worker providing live-in services must be available to address the service needs of an eligible individual as they arise throughout an entire 24-hour period. A homecare worker is not providing live-in services if the homecare worker is outside the individual's home or building during the homecare worker's on-duty hours and the homecare worker engages in activities that are unrelated to the provision of the individual's ADL or IADL services and supports. A homecare worker is not providing live-in services if they are offsite and are not performing direct ADL or IADL services.

(b) Hourly services by another home care worker or contracted in-home agency may be authorized in addition to live-in services for a documented need for the service only. This includes any task that requires more than one homecare worker to simultaneously perform the task, or to allow a live-in home care worker to sleep for at least five continuous hours during a 24-hour work period.

(c) A homecare worker who is providing live-in services for an individual may not also provide hourly services for the same individual.

(3) Individuals with assessments that were created prior to August 31, 2015 may continue receiving live-in services or shift services until one of the following occurs:

(a) The individual moves from an in-home setting that does not meet the requirements of OAR 411-030-0033 for more than 30 days and later moves to an in-home setting that meets the requirements of 411-030-0033. A new assessment and service plan must be completed to evaluate and determine if the individual meets the criteria described in section (1) of this rule.

(b) The individual ends their live-in services or shift services for more than 30 days. A new assessment must be completed to evaluate and determine if the individual meets the criteria described in section (1) of this rule.

(c) A reassessment is created on or after August 31, 2015 that requires a new service plan.

(4) If the individual chooses to receive live-in or shift services, and the individual resides in an in-home setting that meets the requirements of OAR 411-030-0033 on or after August 31, 2015, a reassessment must be completed to evaluate and determine if the individual meets the criteria described in section (1) of this rule.

(5) Individuals who currently receive live-in services for at least 4 days a week, or are receiving hours under 24-hour services in the Independent Choices Program, and who are determined not to meet the criteria for live-in services per section (1) of this rule after an assessment created on or after August 31, 2015, may be granted an exception by Central Office under the following circumstances:

(a) The individual must be eligible for 159 hours of live-in services on the most recent assessment prior to August 31, 2015, and be assessed as meeting one of the following as defined in OAR 415-015-0006:

(A) Full assist in mobility and at least a substantial assist in ambulation or an assist in transfers.

(B) Full assist in cognition.

(C) Full assist in at least two ADLs under elimination.

(b) Exceptions granted under subsection (a) of this rule must end when the identified homecare worker per subsection (a) of this rule or the primary provider under the Independent Choices Program is no longer employed by the individual.

(6) An exception may be granted by Central Office to authorize a live-in plan if an individual does not meet section (1) of this rule to meet exceptional needs of the individual as defined by the Department.

Stat. Auth.: ORS 409.050, 410.070 & 410.090
Stats. Implemented: ORS 410.010, 410.020 & 410.070
Hist.: APD 19-2015(Temp), f. & cert. ef. 9-21-15 thru 3-18-16

411-030-0070
Maximum Hours of Service

(1) LEVELS OF ASSISTANCE FOR DETERMINING SERVICE PLAN HOURS.

(a) "Minimal Assistance" means an individual is able to perform the majority of an activity but requires some assistance from another person.

(b) "Substantial Assistance" means an individual is able to perform only a small portion of the tasks that comprise an activity without assistance from another person.

(c) "Full Assistance" means an individual needs assistance from another person through all phases of an activity every time the activity is attempted.

(2) MAXIMUM MONTHLY HOURS FOR ADL.

(a) The planning process uses the following limitations for time allotments for ADL tasks. Hours authorized must be based on the service needs of an individual. Case managers may authorize up to the amount of hours identified in these assistance levels (minimal, substantial, or full assist).

(A) Eating:

(i) Minimal assistance, 5 hours;

(ii) Substantial assistance, 20 hours;

(iii) Full assistance, 30 hours.

(B) Dressing and Grooming:

(i) Minimal assistance, 5 hours;

(ii) Substantial assistance, 15 hours;

(iii) Full assistance, 20 hours.

(C) Bathing and Personal Hygiene:

(i) Minimal assistance, 10 hours;

(ii) Substantial assistance, 15 hours;

(iii) Full assistance, 25 hours.

(D) Mobility:

(i) Minimal assistance, 10 hours;

(ii) Substantial assistance, 15 hours;

(iii) Full assistance, 25 hours.

(E) Elimination (Toileting, Bowel, and Bladder):

(i) Minimal assistance, 10 hours;

(ii) Substantial assistance, 20 hours;

(iii) Full assistance, 25 hours.

(F) Cognition and Behavior:

(i) Minimal assistance, 5 hours;

(ii) Substantial assistance, 10 hours;

(iii) Full assistance, 20 hours.

(b) Service plan hours for ADL may only be authorized for an individual if the individual requires assistance (minimal, substantial, or full assist) from another person in that activity of daily living as determined by a service assessment applying the parameters in OAR 411-015-0006.

(c) For households with two or more eligible individuals, each individual's ADL service needs must be considered separately. In accordance with section (3)(c) of this rule, authorization of IADL hours is limited for each additional individual in the home.

(d) Hours authorized for ADL are paid at the rates in accordance with the rate schedule. The Independent Choices Program cash benefit is based on the hours authorized for ADLs paid at the rates in accordance with the rate schedule. Participants of the Independent Choices Program may determine their own employee provider pay rates, but must follow all applicable wage and hour rules and regulations.

(3) MAXIMUM MONTHLY HOURS FOR IADL.

(a) The planning process uses the following limitations for time allotments for IADL tasks. Hours authorized must be based on the service needs of an individual. Case managers may authorize up to the amount of hours identified in these assistance levels (minimal, substantial, or full assist).

(A) Medication and Oxygen Management:

(i) Minimal assistance, 2 hours;

(ii) Substantial assistance, 4 hours;

(iii) Full assistance, 6 hours.

(B) Transportation or Escort Assistance:

(i) Minimal assistance, 2 hours;

(ii) Substantial assistance, 3 hours;

(iii) Full assistance, 5 hours.

(C) Meal Preparation:

(i) Minimal assistance:

(I) Breakfast, 4 hours;

(II) Lunch, 4 hours;

(III) Supper, 8 hours.

(ii) Substantial assistance:

(I) Breakfast, 8 hours;

(II) Lunch, 8 hours;

(III) Supper, 16 hours.

(iii) Full assistance:

(I) Breakfast, 12 hours;

(II) Lunch, 12 hours;

(III) Supper, 24 hours.

(D) Shopping:

(i) Minimal assistance, 2 hours;

(ii) Substantial assistance, 4 hours;

(iii) Full assistance, 6 hours.

(E) Housecleaning:

(i) Minimal assistance, 5 hours.

(ii) Substantial assistance, 10 hours.

(iii) Full assistance, 20 hours.

(b) Hours authorized for IADL are paid at the rates in accordance with the rate schedule. The Independent Choices Program cash benefit is based on the hours authorized for IADLs paid at the rates in accordance with the rate schedule. Participants of the Independent Choices Program may determine their own employee provider pay rates, but must follow all applicable wage and hour rules and regulations.

(c) When two or more individuals eligible for IADL task hours live in the same household, the assessed IADL need of each individual must be calculated. Payment is made for the highest of the allotments and a total of four additional IADL hours per month for each additional individual to allow for the specific IADL needs of the other individuals.

(d) Service plan hours for IADL tasks may only be authorized for an individual if the individual requires assistance (minimal, substantial, or full assist) from another person in that IADL task as determined by a service assessment applying the parameters in OAR 411-015-0007.

(4) PAYMENT FOR LIVE-IN SERVICES.

(a) Payment for live-in services is authorized only when an individual employs a live-in homecare worker or enrolls in the Independent Choices Program and meets the requirements of OAR 411-030-0068. Individuals who meet these criteria may be authorized 159 hours a month for the provision of this service until December 31, 2015.

(b) Effective January 1, 2016, payment for live-in services is authorized only when an individual employs a live-in homecare worker or enrolls in the Independent Choices Program and meets the requirements of OAR 411-030-0068. Individuals that meet these criteria will be authorized to receive 16 hours per day (496 hours per month). Additional hours may be authorized, on a case by case basis, to meet the needs of the individual during the hours of the homecare worker's scheduled sleep period if the homecare worker's scheduled sleep period is routinely disrupted.

(c) Rates for live-in services are paid in accordance with the rate schedule.

(d) When a live-in homecare worker is employed less than seven days per week, the total service hours must be prorated.

(5) When one or more eligible individuals in the same household is eligible for and receiving in-home services, the amount of hours authorized is subject to the following maximums:

(a) Live-in service plans may not exceed 19 hours per day (589 hours per month).

(b) Hourly and shift service plans (which may also include a live-in service plan within the same household) may not exceed 24 hours per day (744 hours per month).

(6) Beginning August 31, 2015, at the creation of a new service plan resulting from an assessment or when a homecare worker begins employment with an individual, the following limitations to the authorized hours a homecare worker may work will apply:

(a) Hourly or shift services plan of no more than 220 hours per month or 50 hours per workweek per individual.

(b) Hourly or shift services plan of no more than 16 hours during a 24-hour work period.

(7) A provider may not receive payment from the Department for more than the total amount authorized by the Department on the service plan authorization form under any circumstances. All service payments must be prior-authorized by a case manager.

(8) Case managers must assess and utilize as appropriate, natural supports, cost-effective assistive devices, durable medical equipment, housing accommodations, and alternative service resources (as defined in OAR 411-015-0005) that may reduce the need for paid assistance.

(9) The Department may authorize paid in-home services only to the extent necessary to supplement potential or existing resources within an individual's natural supports system.

(10) Payment by the Department for Medicaid home and community-based services are only made for the tasks described in this rule as ADL, IADL tasks, and live-in services. Services must be authorized to meet the needs of an eligible individual and may not be provided to benefit an entire household.

(11) EXCEPTIONS TO MAXIMUM HOURS OF SERVICE.

(a) To meet an extraordinary ADL service need that has been documented, the hours authorized for ADL may exceed the full assistance hours (described in section (2) of this rule) as long as the total number of ADL hours in the service plan does not exceed 145 hours per month.

(b) Monthly service payments that exceed 145 ADL hours per month may be approved by the Department when the exceptional payment criteria identified in OAR 411-027-0020 and 411-027-0050 is met.

(c) As long as the total number of IADL task hours in the service plan does not exceed 85 hours per month and the service need is documented, the hours authorized for IADL tasks may exceed the hours for full assistance (as described in section (3) of this rule) for the following tasks and circumstances:

(A) Housekeeping based on medical need (such as immune deficiency);

(B) Short-term extraordinary housekeeping services necessary to reverse unsanitary conditions that jeopardize the health of an individual; or

(C) Extraordinary IADL needs in medication management or service-related transportation.

(d) Monthly service plans that exceed 85 hours per month in IADL tasks may be approved by the Department when an individual meets the exceptional payment criteria identified in OAR 411-027-0020 and 411-027-0050.

(e) One or more individuals in the same household may exceed the maximums in section (5) of this rule in the following circumstances:

(A) The service plan authorizes payment that requires the assistance of more than one homecare worker to simultaneously perform a specific task.

(B) The ADLs of two or more individuals in the same household require a homecare worker for each individual at the same time.

(f) A homecare worker may be authorized to provide services totaling more than 220 hours per month or 50 hours per workweek per individual if they are prior authorized by the Department. In emergency situations, when the Department is not available, a homecare worker may work critical hours, but must notify the Department within two business days.

(g) A homecare worker may be authorized by the Department to work more than 16 hours of hourly services during a 24-hour work period if an unanticipated need arises that requires the homecare worker to remain awake in order to provide the necessary care.

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

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020 & 410.070

Hist.: SSD 4-1993, f. 4-30-93, cert. ef. 6-1-93; SSD 6-1994, f. & cert. ef. 11-15-94; SDSD 8-1999(Temp), f. & cert. ef. 10-15-99 thru 4-11-00; SDSD 3-2000, f. 4-11-00, cert. ef. 4-12-00; SPD 14-2003, f. & cert. ef. 7-31-03; SPD 15-2003 f. & cert. ef. 9-30-03; SPD 15-2004, f. 5-

28-04, cert. ef. 6-7-04; SPD 15-2004, f. 5-28-04, cert. ef. 6-7-04; SPD 18-2005(Temp), f. 12-20-05, cert. ef. 12-21-05 thru 6-1-06; SPD 20-2006, f. 5-26-06, cert. ef. 6-1-06; SPD 4-2008(Temp), f. & cert. ef. 4-1-08 thru 9-24-08; SPD 13-2008, f. & cert. ef. 9-24-08; SPD 15-2008, f. 12-26-08, cert. ef. 1-1-09; SPD 24-2011(Temp), f. 11-15-11, cert. ef. 1-1-12 thru 6-29-12; SPD 6-2012, f. 5-31-12, cert. ef. 6-1-12; SPD 14-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SPD 44-2013, f. 12-13-13, cert. ef. 12-15-13; APD 11-2014, f. & cert. ef. 5-1-14; APD 19-2015(Temp), f. & cert. ef. 9-21-15 thru 3-18-16

411-030-0080
Spousal Pay Program

(1) The Spousal Pay Program is one of the hourly service options under in-home services for those who qualify.

(2) ELIGIBILITY. An individual may be eligible for the Spousal Pay Program when all of the following conditions are met:

(a) The individual has met all eligibility requirements for in-home services as described in OAR 411-030-0040;

(b) The individual requires full assistance in at least four of the six ADLs described in OAR 411-015-0006 as determined by the assessment described in OAR chapter 411, division 015;

(c) The individual has met all eligibility requirements as described in OAR 411-030-0068 section (1)(b).

(d) The individual would otherwise require nursing facility services without Medicaid in-home services;

(e) The individual's service needs exceed in both extent and duration the usual and customary services rendered by one spouse to another;

(f) The spouse demonstrates the capability and health to provide the services and actually provides the principal services, including the majority of service plan hours, for which payment has been authorized;

(g) The spouse meets all requirements for enrollment as a homecare worker in the Consumer-Employed Provider Program as described in OAR 411-031-0040; and

(h) The Department has reviewed the request and approved program eligibility at enrollment and annually upon re-assessment.

(3) PAYMENTS.

(a) All payments must be prior authorized by the Department or the Department's designee.

(b) The hours authorized to the spousal pay provider in an individual's service plan must consist of one-half of the assessed hours for IADLs and all of the hours for specific ADLs based on the service needs of the individual. Service plans that authorize a spousal pay provider are not eligible for live-in services.

(c) Except as described otherwise in subsection (d) of this section, spousal pay providers are paid at hourly homecare worker rates for ADLs and IADLs as defined in the rate schedule.

(d) Homecare workers who marry their consumer-employer retain the same standard of compensation, if their employer meets the spousal pay eligibility criteria as described in section (3) of this rule. Additional IADL hours may be authorized in the service plan when necessary to prevent a loss of compensation to the homecare worker following marriage to the consumer-employer.

(e) Spousal pay providers may not claim payment from the Department for hours that the spousal pay provider did not work.

(4) Spousal pay providers are subject to the provisions in OAR chapter 411, division 031 governing homecare workers enrolled in the Consumer-Employed Provider Program.

(5) Individuals receiving Spousal Pay Program services who have excess income must contribute to the cost of services pursuant to OAR 461-160-0610 and 461-160-0620.

(6) All Spousal Pay Program service plans with live-in hours in effect prior to January 1, 2016 will transition to hourly plans by January 1, 2016.

Stat. Auth.: ORS 409.050, 410.070 & 410.090
Stats. Implemented: ORS 410.010, 410.020, 410.070, 411.802 & 411.803
Hist.: SSD 4-1984, f. 4-27-84, ef. 5-1-84; SSD 3-1985, f. & ef. 4-1-85; SSD 4-1993, f. 4-30-93, cert. ef. 6-1-93, Renumbered from 411-030-0027; SDSD 2-2000, f. 3-27-00, cert. ef. 4-1-00; SPD 2-2003(Temp), f. 1-31-03, cert. ef. 2-1-03 thru 7-30-03; SPD 14-2003, f. & cert. ef. 7-31-03; SPD 15-2003 f. & cert. ef. 9-30-03; SPD 15-2004, f. 5-28-04, cert. ef. 6-7-04; SPD 20-2006, f. 5-26-06, cert. ef. 6-1-06; SPD 3-2007(Temp), f. 4-11-07, cert. ef. 5-1-07 thru 10-28-07; SPD 17-2007, f. 10-26-07, cert. ef. 10-28-07; SPD 15-2008, f. 12-26-08, cert. ef. 1-1-09; SPD 13-2012(Temp), f. & cert. ef. 9-26-12 thru 3-25-13; SPD 4-2013, f. 3-25-13, cert. ef. 3-26-13; SPD 10-2013(Temp), f. & cert. ef. 5-23-13 thru 11-19-13; SPD 43-2013, f. 10-31-13, cert. ef. 11-1-13; APD 19-2015(Temp), f. & cert. ef. 9-21-15 thru 3-18-16

411-030-0100
Independent Choices Program

(1) The Independent Choices Program (ICP) is an In-Home Services Program that empowers participants to self-direct their own service plans and purchase goods and services that enhance independence, dignity, choice, and well-being.

(2) The ICP is limited to a maximum of 2,600 participants.

(a) The Department establishes and maintains a waiting list for individuals eligible for in-home services requesting ICP after the ICP has reached its maximum.

(b) The Department enters eligible individual's names on the waiting list according to the date the individual applied for participation in ICP.

(c) As vacancies occur, eligible individuals on the waiting list are offered the ICP according to his or her place on the waiting list.

(d) Individuals on the waiting list may receive services through other appropriate Department programs for which they are eligible.

(3) INITIAL ELIGIBILITY REQUIREMENTS.

(a) To be eligible for the ICP an individual must:

(A) Meet all requirements for in-home services as described in these rules;

(B) Develop a service plan and budget to meet the needs identified in his or her CA/PS assessment;

(C) Sign the ICP participation agreement;

(D) Have or be able to establish a checking account;

(E) Provide evidence of a stable living situation for the past three months; and

(F) Demonstrate the ability to manage money as evidenced by timely and current utility and housing payments.

(b) If a participant is unable to direct and purchase his or her own in-home services, the participant must have a representative to act on the participant's behalf. The "representative" is the person assigned by the participant to act as the participant's decision maker in matters pertaining to the ICP service plan and service budget. A representative must:

(A) Complete a background check pursuant to OAR chapter 407, division 007 and receive a final fitness determination of approval; and

(B) Sign and adhere to the "Independent Choices Program Representative Agreement" on behalf of the participant.

(c) If a participant is unable to manage ICP cash payment accounting, tax, or payroll responsibilities and does not have a representative, the participant must arrange and purchase the ongoing services of a fiscal intermediary, such as an accountant, bookkeeper, or equivalent financial services.

(A) A participant, or the participant's representative who has met the eligibility criteria in subsection (b) of this section, may also choose to use a fiscal intermediary.

(B) The participant is responsible for any fees or payment to the fiscal intermediary and may allocate the fees or payment from discretionary or other non-ICP funds.

(4) DISENROLLMENT CRITERIA. Participants may be disenrolled from the ICP voluntarily or involuntarily. Participants who are disenrolled from the ICP may not reapply for six months. After the six month disenrollment period, an individual may re-enroll and must meet all ICP eligibility requirements. If the ICP enrollment cap has been reached, participants who were disenrolled are added to the waiting list.

(a) VOLUNTARY DISENROLLMENT. Participants or representatives must provide notice to the Department of intent to discontinue participation in the ICP. The participant or the representative must meet with the Department to reconcile remaining ICP cash payment either within 30 days of the date of disenrollment or before the termination date, whichever is sooner.

(b) INVOLUNTARY DISENROLLMENT. The participant may be involuntarily disenrolled from the ICP when the participant, representative, or employee provider does not adequately meet the participant's service needs or carry out any of the following ICP responsibilities:

(A) Non-payment of employee's wages, as stated in the service budget.

(B) Failure to maintain the participant's health and well-being by obtaining personal care as evidenced by:

(i) Decline in functional status due to the failure to meet the participant's needs; or

(ii) Substantiated complaints of self-neglect, neglect, or other abuse on the part of the employee provider or representative.

(C) Failure to purchase goods and services according to the participant's service plan.

(D) Failure to comply with the legal or financial obligations as an employer.

(E) Failure to maintain a separate ICP checking account or commingling ICP cash benefit with other assets.

(F) Inability to manage the cash benefit as evidenced by two or more incidents of overdrafts of the participant's ICP checking account during the last cash benefit review period.

(G) Failure to deposit monthly service liability payment into the ICP checking account.

(H) Failure to maintain an individualized back-up plan (as part of the participant's service plan) resulting in a negative consequence.

(I) Failure to sign or follow the ICP Participation Agreement.

(J) Failure to select a representative within 30 days if a participant needs a representative and does not have one.

(5) INTERRUPTION OF SERVICES. The ICP cash benefit is terminated when a participant is absent from the home for longer than 30 days due to illness or medical treatment. The cash benefit may resume upon the participant's return to the home, providing ICP eligibility criteria is met.

(6) SELECTION OF EMPLOYEE PROVIDERS.

(a) The participant or representative carries full responsibility for locating, screening, interviewing, hiring, training, paying, and terminating employee providers. The participant or representative must comply with Immigration and Customs Enforcement laws and policies.

(b) The participant or representative must assure the employee provider's ability to perform or assist with ADL, IADL, and live-in service needs.

(c) Employee providers must complete a background check pursuant to OAR chapter 407, division 007. If a record of a potentially disqualifying crime is revealed, the participant or representative may employ the provider at the participant's or representative's discretion.

(d) A representative may not be an employee provider regardless of relationship to the participant.

(e) A participant's relative may be employed as an employee provider.

(7) CASH BENEFIT.

(a) The cash benefit is determined based on the participant's CA/PS assessment of need, service plan, level of assistance standards in OAR 411-030-0070, and natural supports.

(b) The cash benefit is calculated by adding the ADL task hours, the IADL task hours, and the live-in services hours that the participant is eligible for as determined in the CA/PS assessment, at the rates according to the Department's rate schedule.

(c) The following services, which are approved by the case manager and paid for by the Department, are excluded from the ICP cash benefit:

(A) Long-term care community nursing;

(B) Contracted community transportation;

(C) Medicaid home delivered meals; and

(D) Emergency response systems.

(d) The cash benefit includes the employer's portion of required FICA, FUTA, and SUTA.

(e) The cash benefit is directly deposited into a participant's ICP designated checking account.

(8) SERVICE BUDGET.

(a) The service budget must identify the cash benefit, the discretionary and contingency funds if applicable, the reimbursement to an employee provider, and all other expenditures. The service budget must be initially approved by a Department or AAA case manager.

(b) The participant may amend the service budget as long as the amendments relate to meeting the participant's service needs and are within ICP program guidelines.

(c) A budget review to assure financial accountability and review service budget amendments must be completed at least every six months.

(9) CONTINGENCY FUND.

(a) The participant may establish a contingency fund in the service budget to purchase identified items that are not otherwise covered by Medicaid or the Supplemental Nutrition Assistance Program (SNAP) that substitute for personal assistance and allow for greater independence.

(b) The contingency fund must be approved by the case manager, identified in the service budget, and related to service plan needs.

(c) Contingency funds may be carried over into the next month's budget until the item is purchased.

(10) DISCRETIONARY FUND.

(a) The participant may establish a monthly discretionary fund in the service budget to purchase items that directly relate to the health, safety, and independence of the participant and are not otherwise covered under Medicaid home and community-based services or delineated in the monthly service budget.

(b) The maximum amount of discretionary funds may be up to 10 percent of the participant's cash benefit not including employee taxes.

(c) The discretionary fund must be approved by the case manager, identified in the service budget, and related to service plan needs.

(d) Discretionary funds must be used by the end of the month.

(11) ISSUING BENEFITS.

(a) The service plan and service budget must be prior approved by the case manager before the first ICP cash benefit is paid.

(b) A cash benefit is considered issued and received by the participant when the direct deposit is made to the participant's ICP bank account or a benefit check is received by the participant.

(c) The cash benefit is exempt from resource calculations for other Department programs only while in the ICP bank account and not commingled with other personal funds.

(d) The cash benefit is not subject to assignment, transfer, garnishment, or levy as long as the cash benefit is identified as a program benefit and is separate from other money in the participant's possession.

(12) CASE MANAGER RESPONSIBILITIES.

(a) The case manager is responsible to review and authorize service plans and service budgets that meet the ICP program criteria.

(b) If a participant is disenrolled, the case manager must review eligibility for other Medicaid long term care and community-based service options and offer other alternatives if the participant is eligible.

(c) At least every six months, a Department or AAA case manager must complete a service budget review to assure financial accountability and review service budget amendments.

(13) HEARING RIGHTS. ICP participants have contested case hearing rights as described in OAR chapter 461, division 025.

(14) ICP eligible participants who were determined eligible prior to August 31, 2015 may continue their current service plan until a new assessment and service plan is completed.

Stat. Auth.: ORS 410.090
Stats. Implemented: ORS 410.070
Hist.: 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 14-2013(Temp), f. & cert. ef. 7-1-13 thru 12-28-13; SPD 44-2013, f. 12-13-13, cert. ef. 12-15-13; APD 19-2015(Temp), f. & cert. ef. 9-21-15 thru 3-18-16

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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 20-2015
Filed with Sec. of State: 10-5-2015
Certified to be Effective: 10-6-15
Notice Publication Date: 8-1-2015
Rules Amended: 411-300-0120, 411-350-0030
Rules Repealed: 411-300-0120(T), 411-350-0030(T)
Subject: To meet the expectations of the Centers for Medicare and Medicaid Services (CMS), the Department of Human Services, Office of Developmental Disability Services (Department) is permanently updating 411-300-0120 and 411-350-0030 to make permanent the temporary rule language that became effective on April 10, 2015. The permanent rules include changes to:

- 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 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 OAR 461-001-0000) is subject to the requirements of the rules regarding transfer of assets (see OAR 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 cannot 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; APD 20-2015, f. 10-5-15, cert. ef. 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 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 OAR 461-001-0000) is subject to the requirements of the rules regarding transfer of assets (see OAR 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, sub-acute 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; APD 20-2015, f. 10-5-15, cert. ef. 10-6-15

Department of Human Services, Child Welfare Programs Chapter 413

Rule Caption: Amending rules in OAR chapter 413 division 70 relating to child welfare programs
Adm. Order No.: CWP 17-2015
Filed with Sec. of State: 9-28-2015
Certified to be Effective: 10-1-15
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Rules Adopted: 413-070-0918, 413-070-0990, 413-070-1000, 413-070-1010, 413-070-1020, 413-070-1030, 413-070-1040, 413-070-1050, 413-070-1060
Rules Amended: 413-070-0000, 413-070-0170, 413-070-0450, 413-070-0510, 413-070-0512, 413-070-0514, 413-070-0516, 413-070-0518, 413-070-0519, 413-070-0520, 413-070-0532, 413-070-0536, 413-070-0540, 413-070-0550, 413-070-0551, 413-070-0552, 413-070-0556, 413-070-0565, 413-070-0625, 413-070-0630, 413-070-0800, 413-070-0830, 413-070-0840, 413-070-0855, 413-070-0905, 413-070-0917, 413-070-0919, 413-070-0925, 413-070-0934, 413-070-0939, 413-070-0944, 413-070-0949, 413-070-0964, 413-070-0974
Rules Repealed: 413-070-0022, 413-070-0027, 413-070-0033, 413-070-0110, 413-070-0516(T), 413-070-0518(T), 413-070-0519(T), 413-070-0651, 413-070-0909, 413-070-0917(T)
Subject: The Department of Human Services, Office of Child Welfare Programs, is amending rules in chapter 413, division 70, about substitute care to implement provisions of Oregon Laws 2015, chapters 254, 795, and 840.

Oregon Laws 2015, chapter 254 (HB 2908, which brings Oregon into compliance with the Preventing Sex Trafficking and Strengthening Families Act of 2014) requires the Department to: establish the "reasonable and prudent parent" standard to guide the Department and caregivers in making decisions about whether to allow foster youth to engage in typical and appropriate childhood activities; implement improvements to APPLA (Another Planned Permanent Arrangement); and create a new placement option known as the "fit and willing relative." Specifically:

- OAR 413-070-0000 is amended to define "reasonable and prudent parent standard" as a standard characterized by sensible parental decision-making that protects a child or young adult, while also encouraging developmental growth, to be used when determining whether to allow a child or young adult in substitute care to participate in activities.

- OAR 413-070-0000 is amended to define "age-appropriate or developmentally appropriate activities" as activities generally suitable for the age and abilities of a child or young adult.

- OAR 413-070-0600 to 413-070-0645 about placement matching are amended to require the Department to consider whether a potential substitute care placement has the ability to support the interests of the child or young adult to participate in appropriate extracurricular activities.

-OAR 413-070-0520 to 413-070-0565 about APPLA (Another Planned Permanent Living Arrangement) are being amended to:

-- Require the Department to review Department's efforts to ensure the child has ongoing opportunities to engage in appropriate extracurricular activities, include it in the case plan, and provide it to the court at permanency hearings;

-- Eliminate APPLA for children under the age of 16;

-- Establish new case review requirements for children on APPLA; and

-- Establish new permanency hearing requirements:

- Asking the child about the desired permanency outcome;

- Requiring a compelling reason why other permanency plan options are not in the child's best interest; and

- Making a judicial determination regarding the Department's efforts to ensure the child has ongoing opportunities to engage in appropriate extracurricular activities.

- OAR 413-070-0990 to 413-070-1060 about the "fit and willing relative" placement are being adopted to:

-- Create the option to place a child or young adult with a relative or person with a caregiver relationship

-- State that this placement option may only be used when more preferred placements are not in the best interest of the child or young adult

-- Require an individual to meet the following requirements before being considered as a fit and willing relative:

- Be a relative of the child or a person with a caregiver relationship

- Be approved by the Department as a long-term resource

- Have a current certificate of approval

Oregon Laws, chapter 795 (SB 741) requires the Department to give equal status and priority to relatives and current caretakers as is given to prospective adoptive parents with regard to child safety, attachment, and well-being. OAR 413-070-0500 to 413-070-0519 about legal permanency, concurrent planning, and use of a permanency committee are amended to reflect those policies. This makes permanent temporary rules adopted on September 1, 2015.

Oregon Laws 2015, chapter 840, section 16 (SB 501) expands guardianship assistance eligibility to include a child who is ineligible for Title IV-E funded guardianship assistance. OAR 413-070-0909 and 413-070-0917 about funding and eligibility for guardianship assistance are amended to establish eligibility criteria. This makes permanent a temporary rule adopted on August 19, 2015. OAR 413-070-0918 is also being adopted to establish criteria for extending a guardianship assistance agreement.

Non-substantive changes were also made throughout the division to improve readability and organization; repeal unnecessary rules; correct and improve grammar; and update rule and statutory references.

Rules Coordinator: Kris Skaro—(503) 945-6067

413-070-0000
Definitions

The following definitions apply to OAR chapter 413, division 70.

(1) "Adoption" means a legal or administrative process that establishes a permanent legal parent-child relationship between a child and an adult who is not already the child's legal parent and terminates the legal parent-child relationship between the adopted child and any former parent.

(2) "Adoptive resource" means an individual or individuals selected by the Department, another public child welfare agency, or a licensed adoption agency as the adoptive family for a child where no administrative review was requested within the timeframe allowed for such a request, or if a review was requested, the selection has been sustained by that review and the review is complete.

(3) "Affected family members" means biological and legal parents, extended family members, and any person within the fifth degree of consanguinity to the child.

(4) "Age-appropriate or developmentally appropriate activities" means:

(a) Activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(b) In the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.

(5) "Antipsychotic medication" means a medication, specified in class 28:16:08 by the American Hospital Formulary Service, used to treat psychosis and other conditions.

(6) "APPLA" means Another Planned Permanent Living Arrangement, a permanency plan for a stable secure living arrangement for a child who has reached the age of 16 or young adult that includes building relationships with significant people in the child's life that may continue after substitute care. APPLA is the least preferred permanency plan of the five permanency plans for a child or young adult and is appropriate only after the permanency plans of reunification, adoption, guardianship, and placement with a fit and willing relative have been determined not in the best interests of a child or young adult.

(a) "Planned" means the arrangement is intended, designed, and deliberate.

(b) "Permanent" means enduring and stable.

(7) "Assessment" means the determination of a child or young adult's need for mental health services through interviewing the child or young adult and obtaining all pertinent medical and psychosocial history information from the individual, family, and collateral sources. The "assessment" --

(a) Addresses the current complaint or condition presented by the child or young adult;

(b) Determines a diagnosis; and

(c) Provides treatment direction and individualized services and supports.

(8) "Base rate payment" means a payment to the foster parent or relative caregiver for the costs of providing the child or young adult with the following:

(a) Food, including the special or unique nutritional needs of the child or young adult;

(b) Clothing, including purchase and replacement;

(c) Housing, including maintenance of household utilities, furnishings, and equipment;

(d) Daily supervision, including teaching and directing to ensure safety and well-being at a level appropriate for the age of the child or young adult;

(e) Personal incidentals, including personal care items, entertainment, reading materials, and miscellaneous items; and

(f) Transportation, including gas, oil, and vehicle maintenance and repair costs for local travel associated with providing the items listed above, and transportation to and from extracurricular, child care, recreational, and cultural activities.

(9) "CANS screening" means Child and Adolescent Needs and Strengths screening, a process of gathering information on the needs and strengths of a child or young adult for one or more of the following purposes:

(a) To identify case planning, service planning, and supervision needs of the child or young adult in substitute care with a certified family;

(b) To determine the level of care payment while in substitute care with a certified family; and

(c) To determine the level of care payment included in an adoption assistance agreement or guardianship assistance agreement.

(10) "Caregiver relationship" means a relationship between a person and a child or young adult that meets all of the following requirements:

(a) The relationship has existed for the 12 months immediately preceding the initiation of a dependency proceeding, for at least six months during a dependency proceeding, or for half of the child's life if the child is less than six months of age. A "caregiver relationship" does not include a relationship between a child or young adult and a person who is an unrelated foster parent of the child or young adult unless the relationship continued for a period of at least twelve consecutive months.

(b) The person had physical custody of the child or young adult or resided in the same household as the child or young adult and provided the child or young adult on a daily basis with the love, nurturing, and other necessities required to meet the psychological and physical needs of the child or young adult.

(c) The child or young adult depended on the relationship to meet the needs of the child or young adult.

(11) "CASA" means a court appointed special advocate: a volunteer who is appointed by the court, is a party to the juvenile proceeding, and advocates for the child pursuant to ORS 419B.112.

(12) "Certificate of Approval" means a document that the Department issues to approve the operation of a child-specific relative caregiver home, child-specific foster home, pre-adoptive home, or a regular foster home.

(13) "Child" means a person under 18 years of age.

(14) "Child-family contact" means communication between the child or young adult and family and includes, but is not limited to, visitation with the child or young adult, participation in the child or young adult's activities, and appointments, phone calls, e-mail, and written correspondence.

(15) "Child's home" means the home from which the child is removed under the provisions of ORS 419B.150.

(16) "Committee facilitator" means a Department staff member appointed as a member of the committee to facilitate a permanency or adoption committee meeting.

(17) "Concurrent permanent plan" means the alternate permanency plan whenever the child has been placed in substitute care when the goal of the permanency plan is to return the child to the parents. The "concurrent permanent plan" is developed simultaneously with the plan to return the child to the parents or legal guardians.

(18) "Conditions for return" means a written statement of the specific behaviors, conditions, or circumstances that must exist within a child's home before a child can safely return and remain in the home with an in-home ongoing safety plan.

(19) "Cultural heritage" means the language, customary beliefs, social norms, and material traits including, but not limited to, the dress, food, music, and dance of a racial, religious, or social group that are transmitted from one generation to another.

(20) "Current caretaker" means a foster parent who:

(a) Is currently caring for a child in the care and custody of the Department and who has a permanency plan or concurrent permanent plan of adoption; and

(b) Has cared for the child or at least one sibling of the child for at least the past 12 consecutive months or for one-half of the child's or sibling's life if the child or sibling is younger than two years of age.

(21) "Department" means the Department of Human Services, Child Welfare.

(22) "Designee" means a person who the designator directly and immediately supervises or a person with equal or greater management responsibility than the designator.

(23) "Diligent search" means that, at a minimum, there will be contact with the child's tribal social service program, a search of all county or state listings of available Indian homes, and contact with local, regional, and national Indian programs that have placement resources available for Indian children.

(24) "Enhanced supervision" means the additional support, direction, observation, and guidance necessary to promote and ensure the safety and well-being of the child or young adult when the child or young adult qualifies for a level of care payment.

(25) "Entity" means any organization or agency including, but not limited to a private child placing agency, that is separate and independent of the Department, performs functions pursuant to a contract or subcontract with the Department, and receives federal funds.

(26) "Extended family" has the meaning given by the law or custom of the Indian child's tribe. In the absence of law or custom, "extended family" means a person 18 or over who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.

(27) "Extended family member" means a person ordinarily recognized as the refugee child's parent by the custom of the child's culture, or a person 18 years of age or older who is the child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.

(28) "Family member" means any person related to the child or young adult by blood, marriage, or adoption, including, but not limited to the parents, grandparents, stepparents, aunts, uncles, sisters, brothers, cousins, and great-grandparents. "Family member" also includes the registered domestic partner of a person related to the child, a child 12 years of age or older, and when appropriate, a child younger than 12 years of age. Under the Indian Child Welfare Act (ICWA), "family member" has the meaning given by the law or custom of the child's tribe.

(29) "Fit and willing relative" means an individual who meets the eligibility criteria in OAR 413-070-1010.

(30) "Foster care agency" means a private child-caring agency that offers to place children by taking physical custody of and then placing the children in a home certified by the agency.

(31) "Foster care placement" means any action removing, or which could result in the removal of, a child from his or her parent or Indian custodian, such as court-ordered supervision in the home, for placement in foster care, with a guardian, or in an institution where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated.

(32) "Foster parent" means an individual who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(33) "General applicant" means an individual who:

(a) Is neither a relative or current caretaker; and

(b) Has submitted a completed application to adopt a child.

(34) "Grandparent" for purposes of visitation, contact, or communication ordered by the court under ORS 419B.876 means the legal parent of the child or young adult's legal parent, as defined in ORS 109.119.

(35) "Guardian" means an individual who has been granted guardianship of a child through a judgment of the court.

(36) "Guardianship assistance" means assistance provided by the Department to the guardian on behalf of an eligible child or young adult to offset costs associated with meeting the ongoing needs of the child or young adult. "Guardianship assistance" may be in the form of a payment, medical coverage, or reimbursement of guardianship expenses.

(37) "Guardianship assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the potential guardian or guardian setting forth the assistance the Department is to provide on behalf of the child or young adult, the responsibilities of the guardian and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

(38) "Guardianship assistance agreement only" means a written agreement, binding on the parties to the agreement, between the Department and the potential guardian or guardian of an eligible child or young adult, when the potential guardian or guardian is not receiving a guardianship assistance payment or medical coverage at the time of the agreement but may request it at a later date.

(39) "Guardianship assistance base rate" means the portion of the guardianship assistance payment that is negotiated with the potential guardian or guardian and cannot exceed the amount of the Oregon foster care base rate payment for the child or young adult's age.

(40) "Guardianship assistance payment" means a monthly payment made by the Department to the guardian on behalf of the eligible child or young adult.

(41) "Guardianship Assistance Review Committee" means a committee composed of local and central office Department staff with expertise in the area of guardianship.

(42) "ICWA" means the Indian Child Welfare Act.

(43) "Impending danger safety threat" means a family behavior, condition, or circumstance that meets all five safety threshold criteria. A threat to a child that is not immediate, obvious, or occurring at the onset of the CPS intervention. This threat is identified and understood more fully by evaluating and understanding individual and family function.

(44) "Incapacity" means a physical or mental illness, or impairment that reduces substantially or eliminates the individual's ability to support, care for, or meet the needs of the child and is expected to be permanent.

(45) "Independent living housing subsidy" means a payment to assist in covering the cost of room, board, or other monthly expenses made to an eligible individual who is at least 16 years of age and is in the care and custody of the Department and living independently.

(46) "Indian" means any person who is a member of or eligible for membership in an Indian tribe or who is an Alaskan native and a member of a Regional Corporation as defined in 43 USC section 1606.

(47) "Indian child" means an unmarried person under 18 years of age who is either a member of a federally-recognized Indian tribe or is eligible for membership in a federally-recognized Indian tribe and who is the biological child of a member of an Indian tribe.

(48) "Indian Child Welfare Act Manager" ("ICWA Manager") means staff who monitors Department policy and procedures towards compliance with the Indian Child Welfare Act; investigates complaints of non-compliance from tribes; provides consultation to caseworkers relating to law and administrative rules; and provides ICWA materials and training.

(49) "Indian child's tribe" means the Indian tribe in which an Indian child is a member or eligible for membership. In the case of an Indian child who is a member or eligible for membership in more than one Indian tribe, it is the Indian tribe with which the Indian child has the most significant contacts.

(50) "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control has been transferred by the parent of such child.

(51) "Indian organization" means any group, association, partnership, corporation, or legal entity owned or controlled by Indians or a majority of whose members are Indians, such as an Indian Child Welfare Committee.

(52) "Indian tribe" means any "Indian tribe", band, nation, or organized group or community of Indians who are recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaska native village as defined in 43 USC section 1606, and any tribe whose federal relationship has been terminated by congressional action.

(53) "Interethnic Adoption Provisions of the Small Business Job Protection Act of 1996" ("IEPA") means section 1808 of the act which is entitled "Removal of Barriers to Interethnic Adoption", and affirms and strengthens the prohibition against discrimination in adoption or foster care placements, and is codified in 42 USC section 671(a)18.

(54) "Involuntary proceeding" means any action removing a child from a parent or Indian custodian and such parent or Indian custodian cannot have the child returned upon demand.

(55) "Judicial hours" means the number of hours a court is available to hold a hearing. Legal holidays and weekends do not count as "judicial hours".

(56) "Legal assistance specialist" means an Adoption Program staff member who provides consultation on the technical and legal processes to achieve a permanency plan for a child in the legal custody of the Department.

(57) "Level of care payment" means the payment provided to an approved or certified family, a guardian, a pre-adoptive family, or an adoptive family based on the need for enhanced supervision of a child or young adult determined by applying the CANS algorithm to the results of the CANS screening.

(58) "Licensed medical professional" means an individual who meets the criteria of both of the following subsections:

(a) The individual holds at least one of the following valid licensures or certifications:

(A) Physician licensed to practice in the State of Oregon;

(B) Nurse practitioner certified by the Oregon State Board of Nursing under ORS 678.375; or

(C) Physician assistant licensed to practice in the State of Oregon.

(b) The individual's training, experience, and competence demonstrate expertise in children's mental health, the ability to conduct a mental health assessment, and the ability to provide psychotropic medication management for children and young adults.

(59) "Medically accepted indication," defined in ORS 418.517, means any use for a covered outpatient drug that is approved under the Federal Food, Drug and Cosmetic Act, or recommended by the Pharmacy and Therapeutics Committee, or the use of which is supported by one or more citations included or approved for inclusion in any of the following compendia:

(a) American Hospital Formulary Services drug information;

(b) United States Pharmacopoeia drug information or any successor publication;

(c) The DRUGDEX Information System; or

(d) Peer-reviewed medical literature.

(60) "Multiethnic Placement Act of 1994" means federal statutes which prohibit discrimination based on race, color, or national origin as considerations in adoption and foster placements.

(61) "Nonrecurring guardianship assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the potential guardian of an eligible child for a one-time payment to reimburse the guardian for the reasonable and necessary expenses incurred in legally finalizing the guardianship.

(62) "Nonrecurring guardianship expenses" means a one-time payment of up to $2,000 per child that the Department will make to a guardian to assist with the reasonable and necessary expenses associated with obtaining legal guardianship of an eligible child.

(63) "Office of Developmental Disabilities Services" means the Department of Human Services, Office of Developmental Disabilities Services.

(64) "Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, ORS 416.400 to 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the child by assuming or attempting to assume responsibilities normally associated with parenthood, unless a court finds that the putative father is not the legal father.

(65) "Participating tribe" means a federally-recognized Indian tribe in Oregon with a Title IV-E agreement with the Department.

(66) "Permanency committee" means a group of individuals who are responsible for making a recommendation regarding a permanency plan or a potential permanency resource when the child or young adult likely is not returning to his or her parent.

(67) "Permanency plan" means a written course of action for achieving safe and lasting family resources for the child or young adult. Although the plan may change as more information becomes available, the goal is to develop safe and permanent family resources with the parents, relatives, or other people who will assume responsibility for the child or young adult during the remaining years of dependency and be accessible and supportive to the child or young adult in adulthood.

(68) "Permanent foster care" means the out of home placement of a child or young adult in which there is a long-term foster care agreement between each substitute caregiver and the Department approved by the juvenile court under which the substitute caregiver commits to raise a child in substitute care until the age of majority and be accessible to and supportive of the child into adulthood, until the court determines that APPLA - "permanent foster care" is no longer the appropriate permanency plan for the child or young adult.

(69) "Potential guardian" means an individual who:

(a) Has been approved by the Department or participating tribe to be the guardian of a child; and

(b) Is in the process of legalizing the relationship to the child through the judgment of the court.

(70) "Provider" means an individual approved by a licensed private child-caring agency to provide care for a child or young adult, or an employee of a licensed private child-caring agency approved to provide care for a child or young adult.

(71) "Psychotropic medication," defined in ORS 418.517, means medication, the prescribed intent of which is to affect or alter thought processes, mood, or behavior, including, but not limited to antipsychotic, antidepressant, and anxiolytic medication and behavior medications. The classification of a medication depends upon its stated, intended effect when prescribed because it may have many different effects.

(72) "Qualified mental health professional" means an individual who meets the requirements of both of the following subsections:

(a) Holds at least one of the following educational degrees:

(A) Graduate degree in psychology;

(B) Bachelor's degree in nursing and is licensed by the state of Oregon;

(C) Graduate degree in social work;

(D) Graduate degree in a behavioral science field;

(E) Graduate degree in recreational, art, or music therapy; or

(F) Bachelor's degree in occupational therapy and is licensed by the State of Oregon.

(b) Whose education and experience demonstrates the competencies to --

(A) Identify precipitating events;

(B) Gather histories of mental and physical disabilities, alcohol and drug use, past mental health services, and criminal justice contacts;

(C) Assess family, social, and work relationships;

(D) Conduct a mental status examination;

(E) Document a multiaxial DSM diagnosis;

(F) Develop and supervise a treatment plan;

(G) Conduct a mental health assessment; and

(H) Provide individual, family, or group therapy within the scope of his or her practice.

(73) "Race" means American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, White.

(74) "RCWAC" means the Refugee Child Welfare Advisory Committee.

(75) "Reasonable and prudent parent standard" means the standard, characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child or young adult while encouraging the emotional and developmental growth of the child or young adult, that a substitute care provider shall use when determining whether to allow a child or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.

(76) "Refugee child" has the meaning given the term in ORS 418.925.

(77) "Registered domestic partner" means an individual joined in a domestic partnership that is registered by a county clerk in accordance with ORS 106.300 to 106.340.

(78) "Relative" means any of the following:

(a) An individual with one of the following relationships to the child or young adult through the parent of the child or young adult unless the relationship has been dissolved by adoption of the child, young adult, or parent:

(A) Any blood relative of preceding generations denoted by the prefixes of grand, great, or great-great.

(B) Any half-blood relative of preceding generations denoted by the prefixes of grand, great, or great-great. Individuals with one common biological parent are half-blood relatives.

(C) An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.

(D) A spouse of anyone listed in paragraphs (A) to (C) of this subsection, even if a petition for annulment, dissolution, or separation has been filed or the marriage is terminated by divorce or death. To be considered a "relative" under this paragraph, the child or young adult must have had a relationship with the spouse prior to the most recent episode of Department custody.

(b) An individual with one of the following relationships to the child or young adult:

(A) A sibling, also to include an individual with a sibling relationship to the child or young adult through a putative father.

(B) An individual defined as a relative by the law or custom of the tribe of the child or young adult if the child or young adult is an Indian child under the Indian Child Welfare Act or in the legal custody of a tribe.

(C) An individual defined as a relative of a refugee child or young adult under OAR 413-070-0300 to 413-070-0380.

(D) A stepparent or former stepparent if the child or young adult had a relationship with the former stepparent prior to the most recent episode of Department custody; a stepbrother; or a stepsister.

(E) A registered domestic partner of the parent of the child or young adult or a former registered domestic partner of the parent of the child or young adult if the child or young adult had a relationship with the former domestic partner prior to the most recent episode of Department custody.

(F) The adoptive parent or an individual who has been designated as the adoptive resource of a sibling of the child or young adult.

(G) An unrelated legal or biological father or mother of a half-sibling of the child or young adult when the half-sibling of the child or young adult is living with the unrelated legal or biological father or mother.

(c) An individual identified by the child or young adult or the family of the child or young adult, or an individual who self-identifies, as being related to the child or young adult through the parent of the child or young adult by blood, adoption, or marriage to a degree other than an individual specified as a "relative" in paragraphs (A) to (C) of subsection (a) of this section unless the relationship has been dissolved by adoption of the child, young adult, or parent.

(d) An individual meeting the requirements of at least one of the following:

(A) An individual not related to the child, young adult, or parent by blood, adoption, or marriage:

(i) Who is identified as a member of the family by the child or young adult or by the family of the child or young adult; and

(ii) Who had an emotionally significant relationship with the child or young adult or the family of the child or young adult prior to the most recent episode of Department custody.

(B) An individual who has a blood relationship to the child or young adult as described in paragraphs (A) to (C) of subsection (a) of this section through the birth parent of the child or young adult, but the prior legal relationship has been dissolved by adoption of the child, young adult, or birth parent, and who is identified as a member of the family by the child or young adult or who self-identifies as a member of the family.

(e) For eligibility for the guardianship assistance program:

(A) A stepparent is considered a parent and is not a "relative" for the purpose of eligibility for guardianship assistance unless a petition for annulment, dissolution, or separation has been filed, or the marriage to the adoptive or biological parent of the child has been terminated by divorce or death.

(B) A foster parent may only be considered a "relative" for the purpose of eligibility for guardianship assistance when:

(i) There is a compelling reason why adoption is not an achievable permanency plan;

(ii) The foster parent is currently caring for a child, in the care or custody of the Department or a participating tribe, who has a permanency plan or concurrent permanent plan of guardianship;

(iii) The foster parent has cared for the child for at least 12 of the past 24 months; and

(iv) The Department or tribe has approved the foster parent for consideration as a guardian.

(79) "Relative caregiver" means an individual who operates a home that has been approved by the Department to provide care for a related child or young adult placed in the home by the Department.

(80) "Relative search" means the efforts of the Department to identify, locate, and document the contact with a child or young adult's relatives.

(81) "Reservation" means Indian country as defined in 18 USC section 1151, and any lands not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation.

(82) "Safety service provider" means a participant in a protective action plan, initial safety plan, or ongoing safety plan whose actions, assistance, or supervision help a family in managing a child's safety.

(83) "Secretary" means the Secretary of the Interior.

(84) "Sibling" means one of two or more children or young adults who are related, or would be related but for a termination or other disruption of parental rights, in one of the following ways:

(a) By blood or adoption through a common parent;

(b) Through the marriage of the legal or biological parents of the children or young adults; or

(c) Through a legal or biological parent who is the registered domestic partner of the legal or biological parent of the children or young adults.

(85) "Special immigrant juvenile status" means a legal process to obtain lawful permanent resident status for a child who does not have lawful permanent resident status because he or she entered the United States without inspection and who meets the other criteria required by federal law.

(86) "Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(87) "Substitute caregiver" means a relative caregiver, foster parent, or provider authorized to provide care to a child or young adult in the legal or physical custody of the Department.

(88) "Successor legal guardian" means an individual who has been named in the guardianship assistance agreement, including any amendments to the agreement, as a replacement legal guardian in the event of the death or incapacity of the guardian.

(89) "Supervised visit" means a child-family contact that includes a designated third party to protect the emotional and physical safety of a child or young adult.

(90) "Termination of parental rights" means an action which results in the termination of the parent-child relationship.

(91) "Title VI of Civil Rights Act of 1964" prohibits discrimination on the basis of race, color or national origin under programs receiving federal assistance through the United States Department of Health and Human Services.

(92) "Tribal court" means the court which holds jurisdiction over Indian child custody proceedings and is either a Court of Indian Offenses, a court established and operated under code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings.

(93) "Urgent medical need" means the onset of psychiatric symptoms requiring professional attention within 48 hours to prevent a serious deterioration in a child or young adult's mental or physical condition.

(94) "Visit" means planned, in-person contact between the child or young adult and one or more family members.

(95) "Voluntary proceeding" means any action in which a parent or Indian custodian has voluntarily given custody of his or her child to another and such voluntary action does not prohibit the parent or Indian custodian from regaining custody of the child at any time.

(96) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005, 419A.004
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 13-2000, f. & cert. ef. 7-7-00; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0170
ICWA Procedures at Initial Contact

This section presents the initial steps to follow in providing services and taking legal action for child custody proceedings covered by the ICWA.

(1) Determination of Indian Status:

(a) Oral inquiry must be made in every case which involves or could involve changes in custody to determine whether the case involves an Indian child. Department staff must routinely request racial or ethnic data of parents or guardian by reading aloud from the intake form the racial and ethnic categories for the client's self-identification. If the child's parents are unavailable or unable to provide a reliable answer regarding the Indian heritage of their child, Department staff must consider:

(A) All documentation in the file, including contact with previous caseworkers, if any;

(B) Close observation of the physical characteristics of the child, parents, and other siblings or relatives accompanying the child;

(C) Consultation with relatives and collateral contacts providing information which suggests the child or parent may be Indian; and

(D) Examination of any other information bearing on the determination of the child's Indian heritage, such as communication from other sources including Indian tribes and organizations.

(b) If, in following the above steps, information obtained suggests the child may be of Indian heritage but the tribe cannot be determined, staff must contact the Department ICWA Manager to determine if:

(A) The birth place of the child or parent, or the current or former residence of the child or parent is known to be a common residence of Indian families; and

(B) The surname of the child or parent is one which is known to be common among members of Indian tribes.

(2) Determination of Indian Tribe. If it appears the child is of Indian heritage, the caseworker must determine the tribe in which the child is a member or eligible for membership. Department staff must ask the parent or custodian of the child about the tribe with which the child may be affiliated. If this inquiry does not provide the necessary information, Department staff must, at a minimum, contact the following:

(a) Relatives and extended family members.

(b) Indian tribes and organizations in Oregon, such as the Commission on Indian Services.

(c) The appropriate Bureau of Indian Affairs (BIA) Office.

(3) ICWA Eligibility. For a child to be considered an Indian under ICWA, the child must be:

(a) An unmarried person under the age of eighteen; and

(b) A person who is either a member of a federally-recognized Indian tribe or eligible for membership in a federally-recognized Indian tribe and the biological child of a member of an Indian tribe;

(c) In order for the worker to determine if the child is a tribal member or eligible for membership, the tribe or possible tribes identified must be contacted.

(4) Tribal Membership:

(a) A tribal determination of membership is conclusive because each tribe defines the criteria for membership in the tribe and determines who meets those criteria. Inquiries to the tribe must be sent "Return Receipt Requested" to a membership committee, an enrollment clerk, or individual who is accustomed to responding to questions about tribal membership.

(A) If the tribe does not respond, Department staff must contact the tribe by telephone. If the tribe cannot be reached by phone, the caseworker must contact the local Bureau of Indian Affairs Area Office and the ICWA Manager for assistance.

(B) The caseworker must request that all information given be treated confidentially.

(b) If the child is a member of one tribe and eligible for membership in others, the tribe of actual membership is the child's tribe. If the child is not now a member of a tribe, the caseworker must ascertain whether the child is eligible for membership and is the biological child of a member of a federally-recognized Indian tribe. To do this, the caseworker asks:

(A) The child, when the child is old enough to respond;

(B) The parents or relatives, including in-laws, as appropriate; and

(C) The tribe.

(5) Out-of-State Tribes. When an Indian child is a member of or eligible for membership in a federally-recognized tribe located in another state, the Act applies and all applicable provisions, including provisions governing notification of the tribe, must be followed.

(6) Multi-Tribal Membership:

(a) The child may be eligible for membership in more than one tribe. In that case the Indian child's tribe is the tribe with which the child has the most significant contacts. In considering with which tribe the child has the most significant contacts, the caseworker shall investigate:

(A) The length of residence on or near the reservation of each tribe and the frequency of contacts with each tribe;

(B) The child's participation in activities of each tribe;

(C) The child's fluency in the language of each tribe;

(D) Whether there has been a previous adjudication with respect to the child by a court of one of the tribes;

(E) Residence on or near one of the tribes' reservation of the child's relatives;

(F) Tribal membership of custodial parent or Indian custodian; and

(G) Interest asserted by each tribe in response to the notice specified in OAR 413-070-0210.

(b) Documentation of such investigation shall be submitted to the court so that it can consider the comparative interests of each tribe in the child's welfare in making its decision on the matter.

(7) Enrollment of Indian Clients. If the child is not a member of the child's tribe, but is applying to become a member, the caseworker must proceed as though the child is a member and follow the requirements of the Act. Department staff must assist the family in filling out and returning required paperwork to the appropriate tribe and, as necessary, counsel parents hesitant to enroll a child by emphasizing the positive benefits of tribal enrollment and membership.

(8) ICWA Not Applicable. Once determined, tribal status must be clearly documented in the case record, along with the date and source of documentation. An Indian child who is officially determined by the tribe not to be a member of nor eligible for membership is not subject to the requirements of the Indian Child Welfare Act. In such cases, Department staff must:

(a) Document in the case record steps taken to determine the child's Indian or tribal ancestry and the tribe's written statement declaring the child ineligible for membership; and

(b) Incorporate in any court hearing the tribe's written statement declaring the child ineligible for membership.

(9) Cultural Heritage Protection. In instances where the ICWA does not apply, but the child is biologically an Indian or considered an Indian by the Indian community, the Department must respect the child's right to participate in the culture of origin in case planning, particularly if the child is identifiably Indian by physical features or social relationship.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 41-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0450
Disclosure Requirements for a Child or Young Adult in Substitute Care

Pursuant to ORS 109.675, a child 14 years of age or older or young adult in substitute care may obtain, without parental knowledge or consent, outpatient diagnosis or treatment of a mental or emotional disorder, or a chemical dependency, excluding methadone maintenance, by a licensed physician, licensed physician assistant, licensed psychologist, registered nurse practitioner, licensed clinical social worker, licensed professional counselor or marriage and family therapist, or a community mental health program established and operated pursuant to ORS 430.620. However, when a child 14 years of age or older or young adult is in substitute care, and the substitute caregiver or the Department has knowledge of any prescription, the notification requirements of OAR 413-070-0470, 413-070-0480, and 413-070-0490 apply.

Stat. Auth.: ORS 418.005 & 418.517
Stats. Implemented: ORS 109.640, 109.675, 418.005 & 418.517
Hist.: SCF 5-1995, f. & cert. ef. 9-15-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 8-2007, f. & cert. ef. 5-1-07; CWP 7-2010, f. & cert. ef. 6-30-10; CWP 3-2015, f. & cert. ef. 1-1-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0510
Obligation to Seek Legal Permanency

(1) Except when a parent has subjected a child or young adult to aggravated circumstances as defined in ORS 419B.340, the Department must make reasonable efforts to preserve and reunify families by:

(a) Establishing conditions for return described in OAR 413-040-0006 when a child or young adult is removed; and

(b) Implementing a permanency plan to make it possible for the child or young adult to safely return home.

(2) The Department must also make reasonable efforts to achieve the concurrent permanent plan for permanency through adoption, guardianship, placement with a fit and willing relative, or APPLA.

(3) The Department must seek approval of the court prior to changing the permanency plan of a child or young adult.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SOSCF 10-2000, f. & cert. ef. 4-28-00; CWP 43-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 27-2010, f. & cert. ef. 12-29-10; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0512
Development and Review of the Permanency Plan and Concurrent Permanent Plan

(1) When developing the permanency plan and concurrent permanent plan, the caseworker must complete all of the following actions:

(a) Develop a permanency plan and a concurrent permanent plan for each child or young adult in the Department's custody within 60 days of the placement of the child or young adult into substitute care.

(b) Review the plan every 90 days, pursuant to OAR 413-040-0005 to 413-040-0032.

(c) Involve a team of individuals knowledgeable about the needs of the child or young adult in the development and ongoing assessment of the most appropriate permanency plan and concurrent permanent plan for the child or young adult. The team must include all of the following:

(A) The parents, unless a supervisor approves not including a specified parent because the contact may compromise the safety of a child or young adult or another individual; parental rights have been terminated; or the parent has signed a release and surrender agreement.

(B) The attorney of the parents, unless parental rights have been terminated or the parents have signed a release and surrender agreement.

(C) The child who has attained 14 years of age or young adult and, at the option of the child or young adult, up to two members of the case planning team who are chosen by the child or young adult as described in OAR 413-040-0010(3)(c).

(D) The CASA.

(E) The attorney of the child or young adult.

(F) A tribal representative if the child or young adult is an Indian child.

(G) A member of the RCWAC, if the child is a refugee child.

(H) The team may include any of the following:

(i) The child at any age, whenever developmentally appropriate.

(ii) The substitute caregiver of the child or young adult.

(iii) The substitute caregiver's certifier.

(iv) The relatives of the child or young adult.

(v) Persons with a caregiver relationship.

(vi) Other individuals with involvement in the life of the child or young adult.

(vii) Individuals with expertise in permanency.

(d) Use ongoing contacts with the individuals in subsection (c) of this section to:

(A) Monitor the progress toward achieving the permanency plan.

(B) Provide the child or young adult, and the parents of the child or young adult, the opportunity to identify available permanency resources should reunification not be achievable.

(C) Review the efforts to identify and place the child or young adult with a relative and to place siblings together.

(D) Consider the parents' acceptance of a plan other than reunification and their preference for continued contact with the child or young adult.

(E) Identify and consider which concurrent permanent plan best meets the current and lifelong safety, permanency, and well-being needs of the child or young adult in the following preferential order:

(i) Adoption.

(ii) Guardianship, which may be considered only when there are compelling reasons why adoption cannot be achieved.

(iii) Placement with a fit and willing relative, which may be considered only when there are compelling reasons why adoption or guardianship cannot be achieved.

(iv) If the child has reached the age of 16, Another Planned Permanency Living Arrangement, which may be considered only when there are compelling reasons why adoption, guardianship or placement with a fit and willing relative cannot be achieved.

(e) Determine the Department has taken action on the potential permanency resources identified by the child or young adult, the family of child or young adult, a member of the team of the child or young adult, or the Department.

(f) Determine which permanency plan best meets the safety, permanency, and well-being needs of the child or young adult and provides the child or young adult with support and connection in adulthood, and document the basis for the determination.

(g) Submit a recommendation to the permanency committee as required in OAR 413-070-0516.

(h) Obtain the approval of a legal assistance specialist before recommending a change of permanency plan to adoption.

(2) Participants in the development and review process must be informed of all of the following:

(a) The purpose of permanency and concurrent planning.

(b) The timelines under which the Department pursues permanency pursuant to federal and state law.

(c) The resources which may be available to relatives when adoption or guardianship is a permanency plan.

Stat. Auth.: ORS 418.005
Stats Implemented: ORS 418.005
Hist.: SOSCF 10-2000, f. & cert. ef. 4-28-00; SOSCF 42-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 43-2003, f. 12-31-03, cert. ef. 1-1-04; Renumbered from 413-070-0515 by CWP 27-2010, f. & cert. ef. 12-29-10; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0514
Use of Permanency Committee

A permanency committee must be scheduled when any of the following applies:

(1) A caseworker recommends a change in permanency plan to guardianship, fit and willing relative, or APPLA.

(2) A caseworker is considering a separation of siblings in adoption under OAR 413-110-0132.

(3) A caseworker requests a permanency committee review the relationship between a general applicant and a child whose permanency plan is adoption under OAR 413-120-0750.

(4) A current caretaker or relative caregiver requests consideration as a potential adoptive resource and the adoption home study regarding the child or sibling group has not been completed.

Stat. Auth.: ORS 418.005
Stats Implemented: ORS 418.005
Hist.: CWP 27-2010, f. & cert. ef. 12-29-10; CWP 3-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 23-2011, f, & cert. ef. 9-19-11; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0516
Composition, Scheduling, Responsibilities, and Recommendations of the Permanency Committee

(1) A permanency committee is composed of the following individuals:

(a) Two individuals who have been appointed by a Child Welfare Program Manager to attend a permanency committee.

(A) A committee facilitator, who must be a Department staff member and who must ensure all of the following:

(i) The meeting is held according to the requirements of OAR chapter 413.

(ii) Individuals are informed of the responsibilities of the committee and the confidentiality of information presented during the meeting.

(iii) Committee recommendations are thoroughly and accurately documented.

(B) A second individual who may be either a community partner or another Department staff member.

(C) The individuals in this subsection must meet the following requirements:

(i) Be knowledgeable about permanency issues.

(ii) Be knowledgeable of the importance of lifelong family attachment and cultural connections.

(iii) Have no current personal or professional relationship to the child or a potential placement resource or potential adoptive resource being considered.

(b) The following members of the child's team:

(A) The caseworker of the child or young adult;

(B) The attorney of the child or young adult;

(C) The CASA of the child or young adult;

(D) A tribal representative, if the child or young adult is an Indian child; and

(E) A member of the RCWAC, if the child or young adult is a refugee child.

(2) The substitute caregiver of the child or young adult, or any other individual from the child's team who a caseworker, in consultation with the supervisor, believes can provide important input into the issue before the permanency committee, may be invited to come and present information to the permanency committee, but is excused after presenting information and responding to questions.

(3) The Child Welfare Program Manager or designee responsible for making the decision on behalf of the Department attends the permanency committee and may ask clarifying questions, but does not participate in the deliberation and recommendation.

(4) The Department is responsible for scheduling and notifying the following individuals of the date, time, and location of the permanency committee:

(a) Appointed permanency committee members;

(b) The Child Welfare Program Manager or designee making a recommendation or decision on the issue before the permanency committee;

(c) Each member of the child's or young adult's team identified in subsection (1)(b) of this rule; and

(d) Any other individual invited to present specific information to the permanency committee.

(5) Each individual attending a permanency committee is bound by Oregon statutes regarding confidentiality and OAR 413-010-0010 to 413-010-0075.

(6) Consideration, review, and recommendation.

(a) The permanency committee must consider and review the information presented by any individual invited to the permanency committee, whether the information is presented in person, by phone, through other electronic communication, or in writing.

(b) The permanency committee may seek clarification of information presented, and may request additional information during the presentations.

(c) The permanency committee must consider the safety, permanency, and well-being needs of the child or young adult and, when there are siblings, the safety, permanency, and well-being needs of each sibling and make a recommendation regarding the issue brought before the committee to the Child Welfare Program Manager or designee as follows:

(A) When the caseworker recommends a change in permanency plan to guardianship, the permanency committee provides a recommendation based upon the considerations in OAR 413-070-0660 and OAR 413-070-0665.

(B) When the caseworker recommends a change in permanency plan to placement with a fit and willing relative, the permanency committee provides a recommendation based upon the considerations in OAR 413-070-1020.

(C) When a caseworker recommends a change in permanency plan to APPLA, the permanency committee provides a recommendation based upon the considerations in OAR 413-070-0550(1).

(D) When a caseworker considers the separation of siblings in adoption under OAR 413-110-0132, the permanency committee provides a recommendation based upon the considerations in OAR 413-110-0132(2).

(E) When the caseworker requests that a permanency committee review the relationship between a general applicant and a child whose permanency plan is adoption, the permanency committee provides a recommendation based upon the considerations in OAR 413-120-0750(6)(b).

(d) When members of the permanency committee have not come to consensus on a recommendation, the committee facilitator must document all recommendations and the basis provided by the permanency committee member for that recommendation.

(e) The committee facilitator must provide the written documentation of the permanency committee's recommendation or recommendations to the Child Welfare Program Manager or designee within three business days of the date on which the permanency committee was held.

(7) For the purpose of OAR 413-070-0514(4), a current caretaker or relative caregiver request for consideration as an adoptive resource, the following also apply:

(a) The permanency committee is composed of the individuals in sections (1) and (3) of this rule, and:

(A) The assigned certifier for the current caretaker or relative caregiver.

(B) The assigned adoption worker for the current caretaker or relative caregiver.

(b) The current caretaker or relative caregiver of the child or sibling group under consideration for adoption, or any other individual from the child's team who a caseworker, in consultation with the supervisor, believes can provide important input into the issue before the permanency committee, may be invited to present information to the permanency committee, but is excused after presenting information and responding to questions.

(c) The permanency committee must review the following:

(A) The safety, attachment, and well-being needs of the child or sibling group under consideration for adoption together and how the current caretaker or relative caregiver has met those needs to date;

(B) The current caretaker's or relative caregiver's history of meeting the standards of certification pursuant to OAR 413-200-0301 to 413-200-0396;

(C) Any child abuse and neglect reports made to the Department that were assigned for assessment, closed at screening, or documented in the Department's paper or electronic information system;

(D) Recommendations for continued contact with birth parents, birth family, or other significant persons for the child or sibling group under consideration for adoption; and

(E) Any other information pertinent to the evaluation of the ability of the current caretaker or relative caregiver to meet the lifelong safety, attachment, and well-being needs of the child or sibling group under consideration.

(d) The permanency committee must document and provide to the assigned adoption worker any specific information they determine must be explored in the adoption home study for the current caretaker or relative caregiver.

Stat. Auth.: ORS 418.005
Stats Implemented: ORS 418.005
Hist.: CWP 27-2010, f. & cert. ef. 12-29-10; CWP 3-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 23-2011, f, & cert. ef. 9-19-11; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 16-2015(Temp), f. & cert ef. 9-1-15 thru 2-27-16; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0518
Exceptions to Scheduling a Permanency Committee

(1) An exception to scheduling a permanency committee exists when:

(a) The permanency plan for a child under the age of 16 is being changed from APPLA to an approved permanency plan of guardianship or placement with a fit and willing relative for the purpose of complying with federal and state law but before a resource has been identified; or

(b) The court changes a permanency plan for a child or young adult before the Department makes a recommendation pursuant to OAR 413-070-0512 to 413-070-0516.

(2) When an exception to scheduling a permanency committee applies, the caseworker does the following:

(a) If the new permanency plan for the child or young adult is guardianship:

(A) Change the permanency plan to guardianship;

(B) Diligently recruit and identify a potential guardian resource for the child or young adult; and

(C) Approve the guardian for the child or young adult as outlined in OAR 413-070-0665 and 413-070-0670.

(b) If the new permanency plan for a child or young adult is placement with a fit and willing relative:

(A) Change the permanency plan to placement with a fit and willing relative;

(B) Diligently recruit and identify a potential relative resource for the child or young adult; and

(C) Approve the relative for placement with a fit and willing relative as outlined in OAR 413-070-1020.

(3) After complying with OAR 413-070-0512 to 413-070-0516, if the Department recommendation is something other than the court-approved permanency plan, the Department must schedule a judicial review of the permanency plan of the child or young adult.

Stat. Auth.: ORS 418.005
Stats Implemented: ORS 418.005
Hist.: CWP 27-2010, f. & cert. ef. 12-29-10; CWP 3-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 23-2011, f, & cert. ef. 9-19-11; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 16-2015(Temp), f. & cert ef. 9-1-15 thru 2-27-16; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0519
Decision and Notice

(1) Except when a permanency committee is scheduled for the purpose of a current caretaker or relative caregiver request to be considered as a potential adoptive resource, the Child Welfare Program Manager or designee must:

(a) Consider the recommendations of the permanency committee;

(b) Make a decision within one business day following the receipt of the written recommendations of the permanency committee; and

(c) Provide written notification of the decision and the basis of the decision to the caseworker on a form approved by the Department.

(2) The caseworker must notify the following individuals of the decision under section (1) of this rule:

(a) Each child or young adult, when required by law and developmentally appropriate;

(b) The attorney of each child or young adult, if one has been appointed;

(c) The CASA of each child or young adult, if one has been appointed;

(d) The tribal representative of each child or young adult, when a child or young adult is an Indian child;

(e) The member of the RCWAC when a child or young adult is a refugee child; and

(f) The substitute caregiver of each child or young adult.

Stat. Auth.: ORS 418.005
Stats Implemented: ORS 418.005
Hist.: CWP 27-2010, f. & cert. ef. 12-29-10; CWP 3-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 23-2011, f, & cert. ef. 9-19-11; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 16-2015(Temp), f. & cert ef. 9-1-15 thru 2-27-16; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0520
Purpose

The purpose of OAR 413-070-0520 to 413-070-0565 is to describe the responsibilities of the Department in case planning and the appropriate use of APPLA as a permanency plan for a child or young adult.

Stat. Auth.: ORS 418.005
Stats Implemented: ORS 418.005
Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 17-2009, f. & cert. ef. 11-3-09; CWP 13-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 28-2010, f. & cert. ef. 12-29-10; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0532
APPLA

The caseworker considers one of the following types of APPLA when considering APPLA as a permanency plan for a child who has reached the age of 16 or young adult:

(1) APPLA — permanent foster care. APPLA — permanent foster care is a plan in which the child or young adult remains in a substitute care placement with a substitute caregiver who has:

(a) Committed to the care and well-being of the child or young adult; and

(b) Entered into a permanent foster care agreement.

(2) APPLA — permanent connections and support. An APPLA — permanent connections and support plan is a plan in which:

(a) A child or young adult is in substitute care living with a substitute caregiver or living independently and receiving an independent living housing subsidy and the plan focus is not only on the educational, vocational, health, and treatment needs of the child or young adult, but also on the needs of the child or young adult to develop or maintain relationships with adults, including relatives and persons with a caregiver relationship, who can play a significant role in the life of the child or young adult after the child or young adult leaves substitute care; or

(b) A child or young adult is in a psychiatric residential facility, developmental disabilities placement, or residential treatment facility and is not going to be discharged from the facility while the Department maintains legal custody of the child or young adult.

Stat. Auth.: ORS 418.005
Stats Implemented: ORS 418.005, 419A.004
Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 17-2009, f. & cert. ef. 11-3-09; CWP 28-2010, f. & cert. ef. 12-29-10; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0536
Consideration of APPLA as a Permanency Plan

(1) Department consideration of APPLA as a permanency plan must be based on the individual safety, permanency, and well-being needs of a child who has reached the age of 16 or young adult. The age or disability of a child or young adult is never a disqualifier for a more preferred permanency plan.

(2) The Department may only consider APPLA as a permanency plan for a child who has reached the age of 16 or young adult only if the Department has determined it is not in the best interests of the child or young adult to implement one of the following preferred permanency plans:

(a) Placement with a parent;

(b) Placement in an adoptive home;

(c) Placement with a legal guardian; or

(d) Placement with a fit and willing relative.

(3) Prior to consideration of a foster parent as the APPLA resource, the caseworker and his or her supervisor must:

(a) Review the diligent efforts of the Department to place a child or young adult with relatives and to place siblings together as required under OAR 413-070-0060 to 413-070-0087.

(b) Confirm there are no current Department actions to identify or assess a relative of a child or young adult who has expressed an interest in being a permanency resource.

Stat. Auth.: ORS 109.328, 418.005
Stats Implemented: ORS 109.328, 418.005
Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 17-2009, f. & cert. ef. 11-3-09; CWP 13-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 28-2010, f. & cert. ef. 12-29-10; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0540
Determination of APPLA as a Permanency Plan

(1) When the Department is considering a change in the permanency plan of a child or young adult, the Department makes the determination pursuant to OAR 413-070-0500 to 413-070-0519.

(2) Prior to the permanency committee, when APPLA - permanent foster care is being considered as the most appropriate permanency plan for a child or young adult, the caseworker must:

(a) Meet with the substitute caregiver to:

(A) Assess interest in and commitment to a permanent foster care agreement with each substitute caregiver as long as APPLA - permanent foster care is the permanency plan for the child or young adult; and

(B) Review the requirements, responsibilities, and approval process for the permanent foster care agreement with each substitute caregiver.

(b) Meet with the child or young adult, as developmentally appropriate and, at the option of the child or young adult, up to two members of the case planning team who are chosen by the child or young adult to assess interest in APPLA - permanent foster care as the permanency plan.

Stat. Auth.: ORS 418.005
Stats Implemented: ORS 418.005, 418.937, 418.941, 419A.004
Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 17-2009, f. & cert. ef. 11-3-09; CWP 13-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 28-2010, f. & cert. ef. 12-29-10; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0550
Approval and Implementation of an APPLA Permanency Plan

(1) The permanency committee must consider the best interests of the child who has reached the age of 16 or young adult and each of the following factors when developing a recommendation regarding APPLA to the Child Welfare Program Manager or designee:

(a) The safety, permanency, and well-being needs of the child or young adult.

(b) The opportunities the Department has provided the child or young adult and the parents of the child or young adult to identify permanency resources.

(c) The parents' acceptance of APPLA as a permanency plan and their preference for continued contact with the child or young adult.

(d) The ability of the substitute caregiver to meet the needs of the child or young adult pursuant to OAR 413-070-0640.

(e) The compelling reasons reunification, adoption, guardianship, or placement with a fit and willing relative cannot be achieved.

(f) The sufficiency of the plan for continued contact with siblings.

(2) The Child Welfare Program Manager or designee must consider all of the following when making the decision regarding APPLA:

(a) The considerations in section (1) of this rule.

(b) The information presented to the permanency committee.

(c) The recommendation of the permanency committee.

(3) Within 30 days of the Department's decision to approve an APPLA permanency plan under OAR 413-070-0519, the caseworker must request a permanency hearing before the court.

(4) The caseworker must encourage the child or young adult to attend the APPLA permanency hearing, offer to provide transportation, and request the court inquire with the child or young adult about his or her desired permanency outcome.

(5) At the hearing, the caseworker must provide the court:

(a) The intensive, ongoing efforts by the Department to achieve reunification, adoption, guardianship, or placement with a fit and willing relative;

(b) The compelling reasons reunification, adoption, guardianship, and placement with a fit and willing relative would not be in the best interests of the child or young adult;

(c) A recommendation that the court issue an order approving the APPLA plan;

(d) The steps the Department has taken to ensure the foster parent applies the reasonable and prudent parent standard and provides opportunities for the child or young adult to engage in age-appropriate or developmentally appropriate activities;

(e) A timetable for placement of the child or young adult in another planned permanent living arrangement;

(f) The reasonable services the Department may offer each parent to meet the best interests of the child or young adult until a more preferred permanency plan is achieved, the child reaches the age of majority, reaches independence, or the juvenile court relieves the Department of legal custody of the child or young adult; and

(g) The type and amount of contact and involvement between the parent and child or young adult and between the sibling and child or young adult until a more preferred permanency plan is achieved, the child reaches age of majority, reaches independence, or the juvenile court relieves the Department of legal custody of the child or young adult.

(6) When the Department recommends contact be limited or prohibited between a parent and child or young adult or between a sibling and child or young adult, the caseworker must make the request to the court, and include the reasons contact should be limited or prohibited.

(7) Within 30 days of the Department or court decision not to approve the APPLA plan the caseworker must:

(a) Inform the child or young adult and, at the option of the child or young adult, up to two members of the case planning team who are chosen by the child or young adult as described in OAR 413-040-0010(3)(c), the substitute caregivers, parents, attorney, and court appointed special advocate of the child or young adult, and other persons with significant involvement in the life of the child or young adult; and

(b) Consult with the team to reconsider other permanency options for the child or young adult.

Stat. Auth.: ORS 418.005
Stats Implemented: ORS 418.005, 419A.004
Hist.: CWP 17-2009, f. & cert. ef. 11-3-09; CWP 13-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 28-2010, f. & cert. ef. 12-29-10; CWP 2-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 22-2011, f. & cert. ef. 9-19-11; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0551
Contents of an APPLA Case Plan

(1) When APPLA is the permanency plan for a child or young adult, the caseworker must address each of the following in the case plan of the child or young adult:

(a) Family composition, which includes the identifying information of each parent, except when parental rights have been terminated, guardian, and sibling.

(b) Except when parental rights have been terminated, the identified impending danger safety threats.

(c) Except when parental rights have been terminated, the ongoing safety plan as described in OAR 413-015-0400 to 413-015-0485 and recorded in the electronic information system of the Department.

(d) A description of how the Department determined the APPLA is the most appropriate permanency plan for the child or young adult, and each compelling reason why the more preferred permanency plan options were not selected for the child or young adult.

(e) The steps the Department has taken to ensure the substitute caregiver is applying the reasonable and prudent parent standard and the child or young adult has regular, ongoing opportunities to engage in age-appropriate or developmentally appropriate activities.

(f) A description of how the attachments and relationships of the child or young adult with each parent, sibling, other family member, advocate, substitute caregiver, and other person who provides continuity, belonging, stability, support, nurturing, and caring relationships and cultural connections for the child or young adult may be developed while the child or young adult is in substitute care and maintained when the child or young adult reaches the age of majority or the juvenile court relieves the Department of legal custody of the child or young adult. When appropriate, the description may include the following:

(A) A description of how each parent and sibling of the child or young adult may participate actively in the life of the child or young adult.

(B) For each existing relationship the child or young adult has with a permanent adult caregiver or adult parental figure who is capable of sustaining a significant relationship with the child or young adult, a description of how the relationship may be maintained.

(C) A description of how relationships with relatives and other persons involved in the child or young adult's life may be developed and maintained.

(D) Current placement information including the location of the child or young adult when the substitute caregiver authorizes release of the address, except when doing so would jeopardize the safety of the child.

(E) The record of visits between the child or young adult and his or her parents or siblings.

(g) When applicable, a description of the plan to transition a child or young adult with intellectual or developmental disabilities to an appropriate program for adults with intellectual or developmental disabilities.

(h) The comprehensive transition plan described in OAR 413-030-0400 to 413-030-0460 for any child 14 years of age or older or young adult and services that prepare the child or young adult to transition to adulthood.

(i) A description of the reasonable efforts made by the Department to put the services and structures described in this rule in place to meet the needs of the child or young adult and to enhance the stability of the living arrangement of the child or young adult when the child or young adult is not living with a specified adult.

(j) A description of the services the Department must provide to ensure the emotional, medical, educational, cultural, and physical needs of the child or young adult are being met, including:

(A) The health information of the child or young adult, which documents the specialized medical, dental, and mental health services of the child or young adult; and

(B) The education services of the child or young adult, including the school or educational placement history of the child or young adult, high school credits earned for a child over 14 years of age or young adult, and any special educational needs.

(k) The services required to prepare the child or young adult to live in the least restrictive setting possible at the most appropriate time.

(l) The services that may make it possible to achieve a more preferred permanency plan listed in OAR 413-070-0536(2) for the child or young adult.

(m) The services the Department may continue to make available to the parents of the child or young adult, upon request, that continue to be in the best interests of the child or young adult.

(n) For any child who has attained 14 years of age or young adult, the documents described in OAR 413-040-0010(1)(j)(A) and (B).

(2) Except when parental rights have been terminated or the Department is unable to obtain the signature of the parent or guardian, the case plan must include the signature of the caseworker, the supervisor, and each parent or guardian as described in OAR 413-040-0010.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005, 419A.004
Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 17-2009, f. & cert. ef. 11-3-09; Renumbered from 413-070-0548, CWP 28-2010, f. & cert. ef. 12-29-10; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0552
Ongoing Department Responsibilities When APPLA is the Permanency Plan

(1) When APPLA is the court-approved permanency plan for a child or young adult in the Department's legal custody, the caseworker must do all of the following:

(a) Discuss the needs of the child or young adult with the substitute caregiver and the child or young adult during face-to-face and other contacts, and routinely discuss needs, benefits, barriers, and solutions towards achieving a more preferred permanency option.

(b) Have contact with the child or young adult, with the substitute caregiver, and monitor child or young adult safety as described in OAR 413-080-0040 to 413-080-0067.

(c) Provide timely assessment and services for identified needs of the child or young adult and the substitute caregiver or the parents of the child or young adult.

(d) As soon as possible after the child reaches 14 years of age initiate comprehensive transition planning as described in OAR 413-030-0400 to 413-030-0460.

(e) Ensure an annual review of Department efforts to identify and contact relatives of a child or young adult and efforts to place with or develop and maintain a child or young adult's connection and support with relatives is completed.

(f) Monitor the case plan and complete the required case plan reviews.

(g) Submit to the court and to the citizen review board the case plan updates required in Child Welfare Policy I-I.2, "Narrative Recording" and, when the APPLA plan is APPLA - permanent foster care, submit a copy of the permanent foster care agreement.

(2) In addition to the requirements of section (1) of this rule, when the child or young adult has an approved APPLA - permanent foster care plan:

(a) The Department must continue to assess requirements for certification of a foster home pursuant to OAR 413-200-0270 to 413-200-0296; and

(b) The substitute caregiver must:

(A) Maintain a current Certificate of Approval and follow the requirements of the Department pursuant to OAR 413-200-0301 to 413-200-0396;

(B) Follow the requirements of the Department regarding education, medical care, mental health care, and other services requested by the Department to meet the needs of the child or young adult;

(C) Maintain residence in the state of Oregon unless the ICPC referral has been submitted to the receiving state and approval to move has been obtained from the Department and the court prior to the move outside of Oregon; and

(D) Maintain residence in the ICPC approved state if the substitute caregiver lives in another state.

Stat. Auth.: ORS 418.005 & 419A.004(17)
Stats Implemented: ORS 418.005 & 419A.004(17)
Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 17-2009, f. & cert. ef. 11-3-09; CWP 28-2010, f. & cert. ef. 12-29-10; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0556
APPLA Permanency Plan Reviews

(1) The caseworker must review the APPLA case plan at least every six months and the review must occur prior to a review by the court or citizen review board as required by ORS 419B.470 and 419A.106(1) respectively.

(a) The review must take place in a face-to-face meeting with the child or young adult, and may include members of the team of the child or young adult.

(A) When appropriate, the meeting may include a parent or guardian, unless the parent or guardian is not available for the review. When a parent or guardian is unavailable, the caseworker must document the reason the parent or guardian was unavailable and the efforts made to involve the parent or guardian.

(B) During the meeting the caseworker must consider input received from the child or young adult and, at the option of the child or young adult, up to two members of the case planning team who are chosen by the child or young adult as described in OAR 413-040-0010(3)(c), other participants in the meeting, and other information received from service providers, substitute caregivers, an attorney of the child or young adult, a court appointed special advocate of the child or young adult, the tribe if the child is an ICWA child, persons with significant attachments to the child or young adult, and relatives of the child or young adult.

(b) After the meeting described in subsection (a) of this section, the caseworker must document in the case record:

(A) Whether the current placement continues to be the least restrictive setting available to meet the safety and permanency needs of the child or young adult; or

(B) Whether a more permanent permanency plan, such as reunification, adoption, guardianship, or placement with a fit and willing relative is more appropriate for the child or young adult.

(2) When an APPLA has been approved by the court as the permanency plan for a child or young adult in the legal custody of the Department, the Department must notify the court and request a review or permanency hearing:

(a) No less frequently than once every 12 months while the child or young adult remains in substitute care in accordance with ORS 419B.470(2).

(b) Unless good cause is shown, at any time upon the request of the Department, a substitute caregiver directly responsible for the care of the child or young adult, a parent of the child or young adult, an attorney for the child or young adult, a court appointed special advocate, a citizen review board, or a tribal court in accordance with ORS 419B.470(5).

(c) By the citizen review board no less frequently than every six months in accordance with ORS 419A.106(1)(a) unless the court has relieved the citizen review board of its responsibility to review a case in accordance with ORS 419A.106(1)(b).

(d) Within 90 days of a change of substitute care placement.

Stat. Auth.: ORS 418.005, 419A.004(17), 419B. 470
Stats Implemented: ORS 418.005, 419A.004(17), 419B. 470
Hist.: CWP 15-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 17-2009, f. & cert. ef. 11-3-09; CWP 28-2010, f. & cert. ef. 12-29-10; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0565
Termination of APPLA

(1) The APPLA — permanent connections and support must be terminated when:

(a) Court wardship is terminated;

(b) The court relieves the Department of legal custody of the child or young adult; or

(c) The court determines that APPLA — Permanent Connections and Support is no longer the appropriate permanency plan for the child or young adult.

(2) The APPLA — permanent foster care plan and agreement must be terminated when:

(a) The child reaches the age of majority as provided in ORS 419A.004(17);

(b) Court wardship is terminated;

(c) The court determines that APPLA — permanent foster care is no longer the appropriate permanency plan for the child;

(d) One of the more preferred permanency plans described in OAR 413-070-0536(2) is achieved;

(e) The Department and the substitute caregiver mutually consent to termination;

(f) The foster parent or relative caregiver fails to maintain a current Certificate of Approval in accordance with OAR 413-200-0301 to 413-200-0396 and OAR 413-200-0270 to 413-200-0296, including when the certificate has been revoked or denied;

(g) The child or young adult is removed from the substitute caregiver by the Department; or

(h) The child or young adult requests, and a Child Welfare Program Manager approves, termination of the agreement because of serious or extraordinary circumstances.

(3) The Department must provide written notification to the court of any change in the placement of the child or young adult.

(4) If a child or young adult is removed from court-approved APPLA — permanent foster care, the caseworker must request a permanency hearing within 90 days after the date of the change in placement to review the permanency plan for the child or young adult under ORS 419B.470(3).

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 419A.004, 419B.470
Hist.: CWP 17-2009, f. & cert. ef. 11-3-09; CWP 28-2010, f. & cert. ef. 12-29-10; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0625
Identifying and Assessing the Child or Young Adult's Needs when Placement in Substitute Care is Required

(1) To select a substitute care placement that will meet the safety, permanency, and well-being needs of the child or young adult, the caseworker must:

(a) Involve the parent or guardian of the child or young adult and the child or young adult as developmentally appropriate in identifying substitute care placement resources whenever possible.

(b) Assess the ability of each potential substitute caregiver to provide safety for the child or young adult.

(c) Assess the potential substitute care placements in the order of preference under OAR 413-070-0220 and 413-070-0320, when the child or young adult is an Indian child or refugee child.

(d) Except as provided in subsection (c) of this section, assess the potential substitute care placements in the following order of preference:

(A) A relative of the child or young adult who can be certified by the Department.

(B) A person who has a caregiver relationship with the child or young adult and can be certified by the Department.

(C) A foster parent who is certified by the Department, or a provider who is approved through a licensed child-caring agency.

(e) Consider the use of a family meeting to seek the placement preferences of the family if more than one person requests to have the child or young adult placed with them; and

(f) Consider whether the potential substitute care placement --

(A) Has the ability to provide safety for the child or young adult and, when there are one or more siblings, each of the siblings;

(B) Is willing to cooperate with any restrictions placed on contact between the child or young adult and others;

(C) Has the ability to prevent anyone from influencing the child or young adult in regard to the allegations of the case;

(D) Has the ability to support the efforts of the Department to implement the permanent plan for the child or young adult;

(E) Has the ability to meet the physical, emotional, and educational needs of the child or young adult, including the need of the child or young adult to continue in the same school or educational placement; and

(F) Has the ability to support the interests of the child or young adult to participate in age-appropriate or developmentally appropriate activities, including extracurricular, enrichment, cultural, and social activities.

(g) Ensure that the substitute care placement is the most home-like, least restrictive available to meet the needs of the child or young adult.

(h) Assure that the race, color, or national origin of the child or young adult or substitute care placement is not a consideration when assessing a substitute care placement.

(2) When a child or young adult is placed in substitute care and has a sibling who is currently in or also needs substitute care, the caseworker must make diligent efforts to place siblings together unless placing the siblings together is not in the best interests of the child or young adult or the sibling of the child or young adult.

(3) Within one month of the placement of the child or young adult in a substitute care setting, the caseworker must reconsider whether the substitute caregiver is able to meet the requirements in subsection (1)(f) of this rule and assess whether the following placement considerations are met:

(a) The placement is in close proximity to the parents or guardians of the child or young adult;

(b) The placement is in close proximity to the community of the child or young adult;

(c) If in the best interests of the child and siblings as set forth in section (2) of this rule, the siblings are together in placement; and

(d) The culture and family identity of the child or young adult are supported by the placement.

(4) After consultation with the supervisor, when the caseworker determines the substitute care placement does not meet one or more of the placement considerations in subsection (1)(f) or section (3) of this rule, the caseworker must:

(a) Determine whether remaining in the substitute care placement is in the best interests of the child or young adult;

(b) Work with Department staff to secure another substitute care placement for the child or young adult when appropriate; and

(c) Document the basis for the determination and subsequent actions in the information system of the Department.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005, 419B.192
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 26-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 8-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 29-2010, f. & cert. ef. 12-29-10; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0630
Monitoring the Ongoing Substitute Care Placement Needs of the Child or Young Adult

(1) The caseworker must monitor the substitute care placement of the child or young adult and determine whether the relative caregiver, foster parent, or provider:

(a) Meets the placement considerations of OAR 413-070-0625; and

(b) Manages the supervision needs of the child or young adult as identified in the CANS screening and other current assessments or evaluations of the child or young adult.

(2) The caseworker must assess the ongoing and permanency needs of the child or young adult:

(a) For physical and emotional safety;

(b) To promote and preserve existing attachments to family;

(c) For continuity and familiarity;

(d) For appropriate educational, developmental, emotional, and physical support;

(e) For stability and permanency;

(f) For maintaining his or her identity and cultural and religious heritage; and

(g) For opportunities to participate in age-appropriate or developmentally-appropriate activities, including extracurricular, enrichment, cultural, and social activities.

(3) During the required face-to-face contacts with the child or young adult, the caseworker must:

(a) Confirm that the substitute caregiver can maintain the safety and well-being of the child or young adult;

(b) Develop and maintain a good working relationship with the child or young adult;

(c) Observe the child or young adult in an age-appropriate and comfortable setting;

(d) Gather updated information on the physical and mental health as well as educational, behavioral, and developmental progress of the child or young adult;

(e) Share updated information about the case plan and permanency plan for the child or young adult with the substitute caregiver and as permitted by state or federal law; and

(f) Document the date, time, and location of the contact, observations, and update information in the Department's information system.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005, 419B.192
Hist.: SOSCF 13-1999, f. 7-8-99, cert. ef. 7-12-99; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 29-2010, f. & cert. ef. 12-29-10; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0800
Purpose

The purpose of OAR 413-070-0800 to 413-070-0880 is to describe the Department's responsibilities in arranging frequent contact between the child or young adult in substitute care and parents or guardians of the child or young adult, siblings, and other people with whom the child or young adult has a significant connection. In all cases, the contact is intended to;

(1) Be in the best interests of the child or young adult, develop or enhance attachment with the family of the child or young adult, including siblings, and continue relationships with significant others, including siblings;

(2) Reduce the trauma to the child or young adult associated with separation from primary attachment figures; and

(3) Assure that the safety and well-being of the child or young adult are the paramount concerns in developing a child-family contact plan.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SOSCF 16-2000, f. & cert. ef. 7-17-00; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 9-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 14-2013, f. 12-31-13, cert. ef. 1-1-14; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0830
Visitation Rights

(1) The child or young adult, a parent or guardian, and each sibling have the right to visit each other while the child or young adult is in substitute care. The child or young adult, the parent or guardian, and each sibling have the right to visit as often as reasonably necessary to develop and enhance their attachment to each other.

(2) The Department will prohibit or cancel visits, unless otherwise ordered by the court, when:

(a) There is reason to believe acts or omissions of a parent or guardian would result in child abuse or neglect during the visit;

(b) The safety of the child or young adult cannot be managed by supervision;

(c) The visit does not meet the best interests of the child or young adult; or

(d) A court order prohibits visits.

(3) When Department resources alone cannot meet the family contact and visitation needs of the child or young adult, the caseworker must solicit help from family and community resources.

(4) If a parent or guardian objects to the contact and visit requirements and limitations that the Department imposes, the parent or guardian may seek juvenile court review of the requirements and limitations.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SOSCF 16-2000, f. & cert. ef. 7-17-00; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 9-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 14-2013, f. 12-31-13, cert. ef. 1-1-14; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0840
Orientation Activities

Prior to the first contact and after each revision of the Visit and Contact Plan developed under OAR 413-070-0860, the Department must explain the following to the family, substitute caregiver, and, when appropriate, the child or young adult:

(1) The rights and expectations regarding child-family visitation and contact, including its importance to the child or young adult.

(2) The reason for supervised or unsupervised visits.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SOSCF 16-2000, f. & cert. ef. 7-17-00; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 14-2013, f. 12-31-13, cert. ef. 1-1-14; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0855
Determining Priority in Visit and Contact Plans

(1) Unless the court has entered an order regarding visitation by the parents, guardians, siblings, or grandparents of the child or young adult, the caseworker determines a hierarchy of the attachments of the child or young adult and prioritizes visits with the parents or guardians and siblings. The caseworker may consider the preferences expressed by the child or young adult.

(2) When the permanency plan is reunification with a parent or guardian, the first priority of the caseworker is to provide visits with parents or guardians, siblings, and each intervenor granted visitation by the court.

(3) When the permanency plan is a plan other than reunification with the parents or guardians, the visitation priority of the caseworker is to preserve attachment to parents or guardians and siblings and promote attachment of the child or young adult to the permanent placement resource.

(4) When appropriate, the caseworker may establish visits between the child or young adult and family members.

(5) When appropriate, the caseworker may establish visits between the child or young adult and non-related persons with whom the child or young adult has a significant attachment.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005, 419B.876
Hist.: SOSCF 16-2000, f. & cert. ef. 7-17-00; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 9-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 14-2013, f. 12-31-13, cert. ef. 1-1-14; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0905
Funding of Guardianship Assistance

(1) When grandparents or other approved relatives make a permanent commitment to and assume legal guardianship of a child for whom they have cared as a substitute caregiver, the Department provides guardianship assistance as described in OAR 413-070-0900 to 413-070-0974.

(2) Guardianship assistance for Title IV-E children and young adults is funded in part with Title IV-E funds as authorized by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351).

(3) A child who is ineligible for Title IV-E funded guardianship assistance may be eligible for state-funded guardianship assistance as described in OAR 413-070-0917(3).

(4) State-funded guardianship assistance is subject to the availability of funds. When all available state funds are obligated, the Department will continue to:

(a) Accept new applications;

(b) Accept requests to adjust a guardianship assistance payment; and

(c) Establish a waiting list.

(5) When state funds are unavailable and a new guardianship assistance application is received, the guardian may sign a guardianship assistance agreement only to prevent delay in finalizing the guardianship, with the understanding that guardianship assistance may be available at a later date.

Stat. Auth.: ORS 409.050 & 418.005
Stats. Implemented: ORS 409.010, 411.141 & 418.005
Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 11-2014, f. & cert. ef. 6-3-14; CWP 16-2014(Temp), f. & cert. ef. 8-4-14 thru 1-31-15; CWP 4-2015(Temp), f. & cert. ef. 1-21-15 thru 7-19-15; CWP 6-2015, f. 1-29-15, cert. ef. 2-1-15; CWP 7-2015(Temp), f. 1-30-15, cert. ef. 2-1-15 thru 7-19-15; CWP 11-2015(Temp), f. & cert. ef. 5-22-15 thru 11-17-15; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0917
Eligibility for Guardianship Assistance

(1) To be eligible for Title IV-E guardianship assistance, a child must meet all of the following:

(a) Be a United States citizen or qualified non-citizen as described in OAR 413-100-0210 and in 8 USC section 1641(b) or (c).(b) Be placed in the United States or a possession thereof.

(c) Have resided in the home of the potential guardian for a period of at least six consecutive months during which the potential guardian was fully licensed, certified, or approved by the state or a participating tribe as meeting the licensure or certification requirements for a foster family home in the state where the home is located.

(d) Be placed with the potential guardian who meets the relative definition as described in OAR 413-070-0000(78)(a) to (e).

(e) Demonstrate a strong attachment to the potential guardian.

(f) Be removed from his or her home pursuant to a voluntary placement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child.

(g) Be eligible for Title IV-E foster care maintenance payments.

(h) Be in the care or custody of the Department or participating tribe.

(2) Each sibling of a child or young adult eligible for Title IV-E guardianship assistance is also eligible for Title IV-E guardianship assistance without meeting the eligibility requirements in subsections (c) to (g) of section (1) of this rule when:

(a) The sibling is placed in a guardianship with the same potential guardian or guardian, whether the siblings are placed at the same time or not; and

(b) The potential guardian or guardian and the Department or participating tribe agree that placing the child's sibling in the home of the potential guardian or guardian is appropriate.

(3) Effective August 12, 2015, to be eligible for state-funded guardianship assistance, a child must:

(a) Be ineligible for Title IV-E funded guardianship assistance;

(b) Meet the eligibility requirements in subsections (a) to (e) of section (1) of this rule; and.

(c) Be in the care or custody of the Department.

(4) Each sibling of a child or young adult eligible for state-funded guardianship assistance as described in section (3) of this rule is also eligible for state-funded guardianship assistance without meeting the eligibility requirements in subsections (b) to (f) of section (1) of this rule when:

(a) The sibling is placed in a guardianship with the same potential guardian or guardian, whether the siblings are placed at the same time or not; and

(b) The potential guardian or guardian and the Department agree that placing the child's sibling in the home of the potential guardian or guardian is appropriate.

(5) The child must be consulted regarding the guardianship arrangement when the child has attained 14 years of age.

(6) In the event of the death or incapacity of the guardian, a child eligible for Title IV-E or state-funded guardianship assistance remains eligible if a successor legal guardian is named in the guardianship assistance agreement, including any amendments to the agreement, prior to the death or incapacity of the guardian, and the requirements of OAR 413-070-0925(2) are met.

(7) All of the following must be documented in the child's case plan:

(a) How the child meets the eligibility requirements.

(b) The steps the Department or participating tribe has taken to determine that return to the home or adoption is not appropriate.

(c) The efforts the Department or participating tribe has made to discuss adoption with the child's relative caregiver and the reasons adoption is not an option.

(d) The efforts the Department or participating tribe has made to discuss kinship guardianship with the child's parent or parents or the reasons why efforts were not made.

(e) The reason a permanent placement with a potential relative guardian and receipt of a kinship guardian assistance payment is in the child's best interests.

(f) The reasons for any separation of siblings during placement. If the child's placement with the potential relative guardian does not include siblings, the case plan must also include a description of the reasons the child is separated from siblings during placement.

(8) A guardianship assistance agreement must be signed by the potential guardian and a Department representative before guardianship has been legally established by a state or participating tribal court.

Stat. Auth.: ORS 409.050, 418.005, OL 2015, ch 840
Stats. Implemented: ORS 409.010, 411.141, 418.005, OL 2015, ch 840
Hist.: SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 4-2015(Temp), f. & cert. ef. 1-21-15 thru 7-19-15; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 14-2015(Temp), f. & cert. ef. 8-19-15 thru 2-14-16; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0918
Extension of Guardianship Assistance for a Young Adult

The Department may approve an extension of a guardianship assistance agreement for an individual under the age of 21 when the individual meets the following criteria:

(1) An initial guardianship assistance agreement was entered into on behalf of the child and at the time of the child's 18th birthday, the child:

(a) Qualifies as an individual with a developmental disability as determined by the local County Community Developmental Disabilities Program in Oregon;

(b) Qualifies as an individual with a developmental disability as determined by the equivalent developmental disability program if living in a state other than Oregon; or

(c) Qualifies for Supplemental Security Income (SSI) as determined by the Social Security Administration.

(2) An initial guardianship assistance agreement was entered into on behalf of the child who is age 16 or 17, and upon reaching the age of 18, the child is:

(a) Completing secondary school (or equivalent);

(b) Enrolled in post-secondary or vocational school;

(c) Participating in a program or activity that promotes or removes barriers to employment;

(d) Employed for at least 80 hours a month; or

(e) Determined incapable of any of the above due to a documented medical condition, physical disability, or mental disability.

(3) In order for the extension of guardianship assistance under section (1) of this rule to be approved on behalf of a young adult, the guardian must submit to the Department documentation from the agency making the determination described in subsections (1)(a) to (c) of this rule.

(4) In order for the extension of guardianship assistance under section (2) of this rule to be approved on behalf of a young adult, the guardian must submit to the Department documentation verifying the circumstances described in subsections (2)(a) to (e) of this rule. Documentation of circumstances described in subsection (1)(e) of this rule must be from a medical or mental health professional.

(5) The Department must receive the request for extension of the guardianship assistance agreement and the documentation described in sections (3) and (4) of this rule:

(a) At least 30 calendar days before the individual's 18th birthday; or

(b) Before a date determined by the Department when the Department approves a request from the guardian to submit the documentation after the individual's 18th birthday. The Department must receive the request before the individual's 18th birthday.

(6) If the Department does not receive the documentation as required by sections (3) to (4) of this rule, the Department may not approve an extension of a guardianship assistance agreement.

(7) When an extension of guardianship assistance has been approved under section (1) of this rule, guardianship assistance will continue until the young adult turns 21 years old.

(8) When an extension of guardianship assistance has been approved under section (2) of this rule, the Department will review the eligibility of the young adult for continued guardianship assistance:

(a) At least annually; or

(b) When information is received that indicates the young adult may no longer be eligible for guardianship assistance or may be eligible for guardianship assistance in a different amount.

(9) The guardian must notify the Department, orally or in writing, of any changes in circumstances that may make the young adult:

(a) Ineligible for guardianship assistance; or

(b) Eligible for guardianship assistance in a different amount.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 411.141, 418.005
Hist.:CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0919
Eligibility for a Child or Young Adult in the Care or Custody of a Participating Tribe

(1) In addition to guardianship assistance program criteria in OAR 413-070-0900 to 413-070-0974, the following requirements apply to a child in the care or custody of a participating tribe:

(a) The child must be placed in a foster home approved by the participating tribe that meets the certification and licensing standards of the participating tribe; and

(b) The participating tribe must document how continued placement with the potential guardian is in the best interests of the child and meets the safety and permanency needs of the child.

(2) The participating tribe must:

(a) Conduct and prepare a written home study of the guardian;

(b) Have a current Title IV-E agreement with the Department which includes participation in the guardianship assistance program;

(c) Notify the Adoption Assistance and Guardianship Assistance Unit within 30 calendar days after reestablishing custody of a child or young adult in a guardianship placement established under OAR 413-070-0900 to 413-070-0974; and

(d) Provide the Adoption Assistance and Guardianship Assistance Unit with a copy of the court order terminating the guardianship within 30 calendar days of the termination, when applicable.

Stat. Auth.: ORS 411.141 & 418.005
Stats. Implemented: ORS 409.010, 411.141, 418.005
Hist.: CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0925
Guardianship Assistance Eligibility for Potential Guardian and Successor Legal Guardian

(1) The Department may approve a potential guardian for guardianship assistance when the potential guardian;

(a) Meets the requirements of OAR 413-070-0665(2); and

(b) Agrees to ensure that, if the child has attained the minimum age for compulsory attendance under the law of the state of residence but has not completed secondary school, the child is:

(A) Enrolled in an elementary or secondary school as determined by the law of the state of residence;

(B) Home schooled in accordance with the law of the state of residence;

(C) Enrolled in an independent study program in accordance with the law of the state of residence; or

(D) Incapable of attending school due to a documented medical condition.

(2) In the event of the death or incapacity of the guardian, before the successor legal guardian may receive a guardianship assistance payment, all of the following requirements must be met:

(a) The successor legal guardian must be named in the guardianship assistance agreement, prior to the death or incapacity of the guardian. A successor legal guardian may be added, removed, or replaced by amending the guardianship assistance agreement any time prior to the death or incapacity of the guardian.

(b) The successor legal guardian and the Department must negotiate and enter into a written guardianship assistance agreement as described in OAR 413-070-0949.

(c) The successor legal guardian and all adults living in the home of the successor legal guardian must have a Department-approved, fingerprint-based criminal records check of the National Crime Information Databases (NCID) and a Child Abuse and Neglect (CAN) registry check.

(d) The successor legal guardian must be granted guardianship of the child or young adult through a judgment of the court.

(3) A guardianship assistance payment to a successor legal guardian begins on the date all requirements in section (2) of this rule are met.

Stat. Auth.: ORS 411.141, 418.005
Stats. Implemented: ORS 411.141, 418.005
Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0934
Application Requirements

(1) Except as described in subsections (a) and (b) of this section, the Adoption Assistance and Guardianship Assistance Unit must begin negotiation of the guardianship assistance agreement no later than 60 calendar days after receipt of the completed guardianship assistance application.

(a) The Adoption Assistance and Guardianship Assistance Unit may delay negotiation of the guardianship assistance base rate when the child is due for an updated CANS screening, a new CANS screening is warranted, or a CANS screening is in process or completed but a decision is pending regarding the level of care payment under OAR 413-020-0230. The unit must begin negotiation no later than 30 calendar days from receipt of the final decision regarding the level of care payment.

(b) The Adoption Assistance and Guardianship Assistance Unit may delay negotiation following a request by the caseworker, guardian, or potential guardian when there are extenuating circumstances regarding the child or family. The unit must begin negotiation no later than 30 calendar days from notification that the extenuating circumstance causing the delay has been resolved.

(c) The Adoption Assistance and Guardianship Assistance Unit will begin negotiation with the successor legal guardian no later than 30 days after receipt of the Department approved fingerprint-based criminal records check of the National Crime Information Databases (NCID) and a Child Abuse and Neglect (CAN) registry check of the successor legal guardian and all adults living in the successor legal guardian's home.

(2) A guardianship assistance application is considered complete when the Adoption Assistance and Guardianship Assistance Unit has received a signed application and all supporting documentation.

Stat. Auth.: ORS 411.141 & 418.005
Stats. Implemented: ORS 409.010, 411.141, 418.005
Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; Suspended by CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0965, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0939

Guardianship Assistance Payments, Medical Assistance, and Nonrecurring Guardianship Expenses

(1) When a guardianship assistance payment or medical assistance is not being provided, a potential guardian, guardian or successor legal guardian may enter into a guardianship assistance agreement only.

(2) The monthly guardianship assistance payment may not exceed the total of:

(a) The guardianship assistance base rate; and

(b) When applicable, the level of care payment determined by the CANS screening conducted under OAR 413-020-0230.

(3) The monthly guardianship assistance base rate:

(a) Is determined through discussion and negotiation between the Department and the potential guardian, guardian or successor legal guardian.

(b) May not exceed the current foster care base rate payment the child or young adult would be eligible to receive in foster care as determined under OAR 413-090-0010(1)(b).

(c) Is negotiated between the potential guardian, guardian or successor legal guardian of a child or young adult and the Department, taking into consideration relevant factors which include, but are not limited to:

(A) The ordinary and special needs of the child or young adult.

(B) The services and goods required to meet the needs of the child or young adult.

(C) The cost of the services and goods required to meet the needs of the child or young adult.

(D) The circumstances of the potential guardian, guardian or successor legal guardian and their ability to provide the required services and goods for the child or young adult.

(E) The resources available to the potential guardian, guardian or successor legal guardian such as medical coverage, private health insurance, public education, other income sources, and community resources.

(F) A guardianship assistance payment may be reduced when other sources of income are received by the potential guardian, guardian or successor legal guardian or the child or young adult.

(d) Is intended to combine with the resources of the potential guardian or guardian to provide for the needs of the child or young adult.

(4) When, during negotiation of the guardianship assistance base rate payment, the Adoption Assistance and Guardianship Assistance Coordinator and the potential guardian, guardian, or the successor legal guardian are unable to reach agreement, the Adoption Assistance and Guardianship Assistance Coordinator, the potential guardian, guardian, or the successor legal guardian may request a review by the Guardianship Assistance Review Committee. When a review is requested:

(a) An Adoption Assistance and Guardianship Assistance Coordinator must:

(A) Prepare documentation for the scheduled Guardianship Assistance Review Committee;

(B) Notify the potential guardian, guardian, or successor legal guardian of the date of the committee;

(C) Notify the assigned caseworkers of the date of the committee; and

(D) Attend and participate in the Guardianship Assistance Review Committee.

(b) The potential guardian, guardian, or successor legal guardian may provide written documentation to the Adoption Assistance and Guardianship Assistance Coordinator for review and consideration by the Guardianship Assistance Review Committee.

(c) The certification worker for the potential guardian and the caseworker for the child may participate in a Guardianship Assistance Review Committee meeting and may present information and respond to questions. The workers may not participate in the deliberations of the Guardianship Assistance Review Committee.

(d) The Guardianship Assistance Review Committee members must:

(A) Consider written documentation provided by the potential guardian, guardian, or successor legal guardian, caseworkers, and the Adoption Assistance and Guardianship Assistance Coordinator.

(B) Review materials submitted to the Guardianship Assistance Review Committee, deliberate, and make one or more recommendations regarding the guardianship assistance base rate.

(e) At the conclusion of the Guardianship Assistance Review Committee, the Adoption Assistance and Guardianship Assistance Coordinator must:

(A) Document the recommendations of the Guardianship Assistance Review Committee; and

(B) Submit the documentation to the Post Adoption Services Manager or designee within one business day of the Guardianship Assistance Review Committee meeting.

(f) The Post Adoption Services Manager or designee must complete each of the following actions:

(A) Attend the Guardianship Assistance Review Committee and ask any clarifying questions, but not participate in the deliberation or recommendation of the Guardianship Assistance Review Committee;

(B) Review and consider:

(i) The materials submitted to the Guardianship Assistance Review Committee;

(ii) The recommendations of the committee; and

(iii) The information presented by the potential guardian, guardian, or successor legal guardian under subsection (4)(b) of this rule.

(C) Make a decision within 30 calendar days of the date of the request for review; and

(D) Provide written notification to the potential guardian, guardian, or successor legal guardian and the Adoption Assistance and Guardianship Assistance Coordinator within ten business days of the decision.

(5) The monthly level of care payment:

(a) Is determined based on the results of a CANS screening conducted under OAR 413-020-0230.

(b) Cannot exceed the amount of the level of care payment set forth in OAR 413-090-0010(2)(g).

(c) Is included in the guardianship assistance payment when the child or young adult qualifies for a level of care payment and when requested by the potential guardian, guardian, or successor legal guardian.

(6) When a potential guardian, guardian, or successor legal guardian is not satisfied with the final guardianship assistance offer from the Department, consisting of the guardianship assistance base rate and, when applicable, a level of care payment, the potential guardian, guardian, or successor legal guardian has the right to a contested case hearing under OAR 413-010-0500 to 413-010-0535.

(7) An initial guardianship assistance payment begins on the date the state or tribal court legally establishes the guardianship provided there is a written guardianship assistance agreement signed by the Department and the potential guardian.

(8) A guardianship assistance payment to a guardian for the child or young adult is inalienable, not assignable or transferable, and exempt from execution, levy, attachment, garnishment, and other legal process under the laws of Oregon, as long as the payment can be identified as a guardianship assistance payment and is kept separate from other money in the guardian's possession.

(9) The guardian may apply to be the designated payee for any benefit the child or young adult receives if the benefit program allows such application.

(10) Medical assistance and social services.

(a) A child or young adult who is the subject of a guardianship assistance agreement funded by Title IV-E funds as authorized by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351) is categorically eligible for medical assistance through Title XIX and social services under Title XX when;

(A) The guardianship is in effect; and

(B) A guardianship assistance payment is being made to the guardian.

(b) A child or young adult who is not eligible for Title XIX medical assistance is eligible for medical assistance under OAR 413-100-0400 to 413-100-0530, when:

(A) The child or young adult resides in Oregon; or

(B) The child or young adult resides outside of Oregon but in the United States or possession thereof and is not able to obtain medical assistance in his or her place of residence.

(c) Medical assistance is not provided for a child or young adult who resides outside of the United States or possession thereof.

(11) Nonrecurring guardianship expenses.

(a) The Department will reimburse a guardian up to $2,000 per eligible child for approved nonrecurring guardianship expenses, including but not limited to:

(A) The cost of a home study;

(B) Court costs;

(C) Attorney fees;

(D) Physical and psychological examinations required for the guardianship; and

(E) Travel to visit with the child prior to placement.

(b) Payment for nonrecurring guardianship expenses may not duplicate expenses covered by ORS 417.200 — 417.260 or another resource available to the potential guardian or successor legal guardian.

(c) Documentation of nonrecurring guardianship expenses is required and must be submitted prior to execution of the nonrecurring guardianship assistance agreement. The nonrecurring guardianship assistance agreement, indicating the nature and amount of the nonrecurring guardianship expenses, must be signed by the potential guardian and a Department representative prior to the establishment of the guardianship.

(d) Payment for nonrecurring guardianship expenses is made when the Department receives the court order establishing the guardianship.

(12) Overpayment.

(a) If the Department issues a guardianship assistance payment on behalf of a child or young adult after the date the guardianship assistance agreement automatically expires, the Department may seek reimbursement of the overpayment and the guardian must repay the Department.

(b) If the guardian fails to comply with any provisions of the guardianship assistance agreement, including failing to notify the Department of any of the events or circumstances described in OAR 413-070-0964 and 413-070-0974(6) and (8), the Department may collect any guardianship assistance payment or medical assistance which the Department would not have provided had the guardian complied with the provisions of the guardianship assistance agreement.

Stat. Auth.: ORS 411.141 & 418.005
Stats. Implemented: ORS 409.010, 411.141, 418.005
Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0930, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0944
Legal Expenses of a Guardian

The Department may not authorize payment for legal services provided:

(1) For the potential guardian, guardian, or successor legal guardian in connection with a contested case hearing; or

(2) To defend or retain a guardianship upon challenge by another party once a guardianship is established.

Stat. Auth.: ORS 411.141 & 418.005
Stats. Implemented: ORS 411.141 & 418.005
Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0960, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0949
Guardianship Assistance Agreement Requirements

(1) Before a guardian may receive guardianship assistance, there must be a negotiated written guardianship assistance agreement between the Department and the potential guardian or guardian signed by all parties prior to the court order establishing the legal guardianship.

(2) The guardianship assistance agreement must include each of the following:

(a) A statement indicating that a guardianship assistance agreement remains in effect without regard to the state of residency of the guardian.

(b) The effective date of the guardianship assistance agreement.

(c) That the Department will pay the nonrecurring guardianship expenses associated with obtaining legal guardianship of the child, to the extent the nonrecurring guardianship expenses do not exceed $2,000 per child.

(d) That the child or young adult for whom the Department is providing a guardianship assistance payment remains eligible for medical assistance provided:

(A) The guardianship remains in effect;

(B) A payment is being made; and

(C) The child or young adult is placed in the United States or possession thereof.

(e) Information regarding garnishment of guardianship assistance payments as set forth in OAR 413-070-0939(8).

(f) That the guardian agrees to comply with the reporting requirements under OAR 413-070-0964.

(g) That the guardian understands that a guardianship assistance agreement may be reviewed and the guardianship assistance may be adjusted, suspended, or terminated under OAR 413-070-0974.

(h) A statement indicating that the guardian understands that the provisions of ORS 192.558 allow the Oregon Health Plan (OHP) and the OHP managed care plans without the authorization of the guardian or child or young adult to exchange the following protected health information for the purpose of treatment activities related to the behavioral or physical health of the child or young adult when the child or young adult is the recipient of OHP services:

(A) The name and Medicaid recipient number of the child or young adult;

(B) The name of the hospital or medical provider of the child or young adult;

(C) The Medicaid number of the hospital or medical provider;

(D) Each diagnosis for the child or young adult;

(E) Each treatment activity's date of service;

(F) Each treatment activity's procedure or revenue code;

(G) The quantity of units or services provided; and

(H) Information about medication prescription and monitoring.

(i) The amount of the guardianship assistance and the manner in which it is to be provided.

(j) The basis and requirements for periodic changes in the guardianship assistance payment, in consultation with the guardian, based on the circumstances of the guardian and the needs of the child or young adult.

(k) The additional services and assistance for which the child or young adult and guardian are eligible under the agreement and the procedure by which the guardian may apply for such services.

(L) When the Department has agreed to include such language, that the Department may continue to provide guardianship assistance for a child or young adult when the child or young adult moves out of the home of the guardian to attend college or live independently.

(3) The potential guardian or guardian may name a successor legal guardian in the guardianship assistance agreement, to replace the guardian in the event of the death or incapacity of the guardian.

(4) The Department must provide the guardian with a copy of the guardianship assistance agreement.

Stat. Auth.: ORS 411.141 & 418.005
Stats. Implemented: ORS 409.010, 411.141, 418.005
Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 49-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 4-28-04; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0935, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 4-2015(Temp), f. & cert. ef. 1-21-15 thru 7-19-15; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0964
Required Reports and Communication

(1) A guardian receiving guardianship assistance must immediately report, orally or in writing, to the Adoption Assistance and Guardianship Assistance Unit any changes in circumstances of the child or young adult or guardian that makes the child or young adult ineligible for guardianship assistance including when:

(a) The child or young adult:

(A) Is emancipated;

(B) Dies;

(C) Marries; or

(D) Is adopted.

(b) The court:

(A) Vacates the guardianship; or

(B) Terminates wardship over the child or young adult, unless the guardianship is a tribal court guardianship and the guardianship remains in effect under tribal law.

(2) A guardian receiving guardianship assistance must immediately report, orally or in writing, to the Department's Adoption Assistance and Guardianship Assistance Unit any changes in circumstances of the child or young adult or guardian that may make the child or young adult ineligible for guardianship assistance including when;

(a) The child or young adult:

(A) Is out of the home of a guardian for more than a thirty-day period or, if more than one guardian, is out of the home of both guardians for more than a thirty-day period;

(B) Has a change in needs including but not limited to eligibility for a change in the level of care payment based on a new CANS screening;

(C) Is placed in substitute care;

(D) Is no longer receiving financial support from a guardian or, if there is more than one guardian, both guardians;

(E) Is incarcerated for more than three consecutive months; or

(F) Has a change in any benefit received other than tribal dividend payments.

(b) A guardian is, or if more than one guardian, both guardians are:

(A) No longer legally responsible for the financial support of the child or young adult;

(B) No longer responsible for the child or young adult; or

(C) No longer providing support to the child or young adult.

(c) A guardian seeks to terminate or modify the guardianship.

(d) The court:

(A) Modifies the guardianship, or

(B) Awards child custody or guardianship to another individual.

(3) A guardian receiving a guardianship assistance payment must immediately report, orally or in writing, to the Adoption Assistance and Guardianship Assistance Unit the following:

(a) When there are two guardians and one guardian dies, the surviving guardian must notify the Department.

(b) When there is a change in address.

(c) When a guardian, child, or young adult is planning to move from his or her state of residency.

(4) Guardians appointed under ORS 419B.367 are required to submit an annual report to the court within 30 calendar days after each annual anniversary of the court appointment of guardianship. Guardianships established under a tribal court may also have a requirement to send written reports to the court.

(5) The Department may:

(a) Send notification to a guardian of any court reports required under section (4) of this rule;

(b) Request a guardian to submit a copy of the court report to the Department;

(c) Notify the court or participating tribe of circumstances that may affect a child's eligibility for guardianship assistance; and

(d) Send inquiries to a guardian to ensure the child continues to be eligible for guardianship assistance.

(6) Guardians must respond to inquiries from the Adoption Assistance and Guardianship Assistance Unit within 30 calendar days or as required by the unit.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 19-2003(Temp), f. & cert. ef. 1-23-03 thru 6-20-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0945 & 413-070-0955, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0974

Review, Adjustment, Suspension, Expiration, and Termination of Guardianship Assistance

(1) The Department may review a guardianship assistance agreement when the Department:

(a) Receives information indicating that the child or young adult may no longer be eligible for guardianship assistance or may be eligible for guardianship assistance in a different amount, including when the Department receives information regarding any of the circumstances described in OAR 413-070-0964;

(b) Determines, when the child or young adult is not residing in the home of the guardian, that a periodic review of the guardianship assistance agreement is required;

(c) Receives information that indicates a review is necessary based on a change in the needs of the child or young adult or circumstances of the family;

(d) Receives information that the young adult no longer meets the requirements for continued assistance, if the Department has agreed to extend guardianship assistance under OAR 413-070-0918; or

(e) Determines that the guardian has not complied with the requirements of the guardianship assistance agreement.

(2) Department review of a guardianship assistance agreement may result in a renegotiation, suspension, adjustment, or termination of the guardianship assistance agreement or guardianship assistance payments.

(3) Guardianship assistance may be adjusted at any time by mutual agreement between the guardian and the Department.

(4) When there is an across-the-board reduction or increase in the base rate payment or level of care payment that the child or young adult would be eligible to receive if the child or young adult were in foster care, the Department may, after a case-by-case review and without concurrence of the guardian, adjust the monthly guardianship assistance payment to an amount that does not exceed the new foster care payment the child or young adult would be eligible to receive if currently in foster care, as follows:

(a) In the case of a reduction, only those payments that exceed the amount the child or young adult would be eligible for if currently in foster care would be reduced, and the reduction would only be to the amount that the child or young adult would be eligible to receive if currently in foster care.

(b) In the case of an increase, the Department, considering the needs of the child or young adult and the circumstances of the guardian, may increase the guardianship assistance payment to an amount that does not exceed the new foster care payment the child or young adult would receive if currently in foster care.

(5) If, upon review under section (1) of this rule or an adjustment under section (4) of this rule, the Department intends to adjust guardianship assistance without the concurrence of the guardian, the Department will provide the guardian and the child or young adult with written notice as described in OAR 413-010-0500 to 413-010-0535.

(6) Unless terminated under sections (7) or (8) of this rule, the guardianship assistance agreement and the Department's obligation to provide guardianship assistance expires automatically on the date any of the following events occur:

(a) When the child:

(A) Reaches the age of 18 or, when an extension has been granted under OAR 413-070-0918, no later than the date identified in the guardianship assistance agreement;

(B) Is emancipated;

(C) Dies;

(D) Marries;

(E) Is adopted; or

(F) No longer meets the requirements for continued guardianship assistance if the Department has agreed to continue guardianship assistance under OAR 413-070-0918.

(b) A guardian dies, or if more than one guardian, both die.

(c) The court:

(A) Vacates the guardianship order or otherwise terminates the guardianship;

(B) Terminates wardship over the child or young adult, unless the guardianship is a tribal court guardianship and the guardianship remains in effect under tribal law; or

(C) Appoints another individual as guardian of the child or young adult.

(7) Guardianship assistance may be suspended at any time by mutual agreement between the Department and the guardian.

(8) After a review and on a case-by-case basis, the Department may terminate a guardianship assistance agreement upon ten calendar days written notice to the guardian when the Department determines that;

(a) The guardian is no longer responsible for the child or young adult;

(b) The guardian is no longer providing support to the child or young adult; or

(c) The child or young adult is no longer eligible for guardianship assistance or is eligible for guardianship assistance in a different amount.

(9) If a child receiving guardianship assistance is subsequently adopted by the guardian, the child may be eligible for adoption assistance under OAR 413-130-0000 to 413-130-0130.

Stat. Auth.: ORS 411.141 & 418.005

Stats. Implemented: ORS 409.010, 411.141, 418.005

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0940, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11; CWP 30-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 1-2014, f. 1-31-14, cert. ef. 2-1-14; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-0990
Purpose

The purpose of OAR 413-070-0990 to 413-070-1060 is to describe the responsibilities of the Department to determine the appropriate use of placement with a fit and willing relative as a permanency plan for a child or young adult in the care or custody of the Department.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 411.141, 418.005
Hist.: CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-1000
Placement with a Fit and Willing Relative as a Permanency Plan

(1) Placement with a fit and willing relative is a permanency plan for a child or young adult in the care and custody of the Department.

(2) The Department may consider placement with a fit and willing relative as a permanency plan for a child or young adult in the care or legal custody of the Department based on the individual safety, permanency, and well-being needs of the child or young adult, when:

(a) A person who meets the requirements of OAR 413-070-1010 requests to be considered a fit and willing relative; and

(b) The Department has determined;

(A) The child or young adult is unable to safely return to the home of a parent;

(B) There are no current Department actions to identify or assess a relative of the child or young adult who has expressed an interest in being an adoptive resource, or adoption is not in the best interests of the child or young adult; and

(C) There are no current Department actions to identify or assess a relative of the child or young adult who has expressed an interest in being a guardian, or guardianship is not in the best interests of the child or young adult.

(3) When considering placement with a fit and willing relative as the permanency plan, the caseworker must:

(a) Consult with and seek input from the child or young adult 14 years of age or older and, at the option of the child or young adult, up to two members of the case planning team who are chosen by the child or young adult as described in OAR 413-040-0010(3)(c);

(b) Consult with and seek input from the child or young adult as developmentally appropriate, regardless of the age of the child or young adult;

(c) Assess the parents' acceptance of the fit and willing relative permanency plan, and their preference for continued contact with the child or young adult; and

(d) Document in the electronic information system of the Department how the requirements of subsections (a) to (c) of this section were met.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 409.050, 418.005
Hist.: CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-1010
Eligibility Requirements for a Fit and Willing Relative

To be eligible for consideration as a fit and willing relative, a person must:

(1) Meet the definition of relative; or

(2) Meet the definition of a person with a caregiver relationship under ORS 419B.116(1) for a child or young adult in the care and custody of the Department and be placed in foster care through the Office of Developmental Disabilities Services; and

(3) Be approved by the Department as a long term resource for the child or young adult until a higher level of permanency can be achieved;

(4) Have a current Certificate of Approval from the Department, a licensed foster care agency, a participating tribe, or another state when the relative is currently certified or otherwise approved by the state in which the relative resides and approved as a placement for the child or young adult under the Interstate Compact on Placement of Children;

(5) Have a strong commitment to caring permanently for the child or young adult and any sibling under consideration; and

(6) Agree to the requirements, responsibilities, and approval process for the Placement with a Fit and Willing Relative Agreement.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 409.050, 418.005
Hist.: CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-1020
Approval and Implementation of a Fit and Willing Relative Permanency Plan

(1) When the Department is considering a change in the permanency plan of a child or young adult, the Department makes the determination pursuant to OAR 413-070-0500 to 413-070-0519.

(2) The permanency committee must consider the best interests of the child or young adult and each of the following factors when developing a recommendation regarding placement with fit and willing relative to the Child Welfare Program Manager or designee:

(a) The safety, permanency, and well-being needs of the child or young adult.

(b) The opportunities the Department has provided the child or young adult and his or her parents to identify permanency resources.

(c) The parents' acceptance of fit and willing relative as a permanency plan and their preference for continued contact with the child or young adult.

(d) The ability of the fit and willing relative to meet the needs of the child or young adult pursuant to OAR 413-070-0640.

(e) The compelling reasons placement with a parent, adoption, or guardianship cannot be achieved.

(f) The sufficiency of the plan for continued contact with siblings.

(3) The Child Welfare program manager or designee must consider all of the following when deciding whether placement with a fit and willing relative is the appropriate permanency plan for the child or young adult:

(a) The considerations in section (2) of this rule.

(b) The information presented to the permanency committee.

(c) The recommendation of the permanency committee.

(4) Within 30 days of a Department decision to approve a fit and willing relative permanency plan under OAR 413-070-0519, the caseworker must request a permanency hearing before the court.

(5) At the hearing, the caseworker must provide all of the following to the court:

(a) The intensive, ongoing efforts by the Department to return the child or young adult home, or secure a placement with an adoptive parent or guardian.

(b) The compelling reasons it would not be in the best interests of the child or young adult to return home, be placed for adoption, or be placed with a guardian.

(c) The type and amount of parent-child and child-sibling contact and involvement until a more preferred permanency plan is achieved, the child reaches age of majority, reaches independence, or the juvenile court relieves the Department of legal custody of the child or young adult.

(d) The reasonable services the Department may offer each parent to meet the best interests of the child or young adult until a more preferred permanency plan is achieved, the child reaches the age of majority, reaches independence, or the juvenile court relieves the Department of legal custody of the child or young adult.

(e) The steps the Department has taken to ensure the foster parent is following the reasonable and prudent parent standard, and opportunities the child has had to engage in age-appropriate or developmentally appropriate activities.

(f) A recommendation that the court issue an order approving the placement with a fit and willing relative permanency plan.

(g) A timetable for placement of the child or young adult with a fit and willing relative.

(6) When the Department recommends that contact be limited or prohibited between a parent and child or young adult, or between a sibling and child or young adult, the caseworker must make the request to the court and include the reasons contact should be limited or prohibited in the court report.

(7) The caseworker must ensure the Placement with a Fit and Willing Relative Agreement is signed by the fit and willing relative and the Child Welfare program manager within a reasonable time after the court has approved the permanency plan and the relative resource has been identified and approved.

(8) Within 30 days of the Department or court decision not to approve the fit and willing relative permanency plan, the caseworker must:

(a) Inform the child or young adult and, at the option of the child or young adult, up to two members of the case planning team who are chosen by the child or young adult as described in OAR 413-040-0010(3)(c), the child or young adult's relative caregivers, parents, attorney, court appointed special advocate, and other persons with significant involvement in the life of the child or young adult; and

(b) Consult with the child's or young adult's case planning team to reconsider other permanency options.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 409.050, 418.005
Hist.: CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-1030
Contents of a Placement with a Fit and Willing Relative Case Plan

(1) When a child or young adult's permanency plan is placement with a fit and willing relative, the caseworker must address each of the following in the child or young adult's case plan:

(a) Family composition, which includes the identifying information of each parent except when parental rights have been terminated, guardian, and sibling.

(b) Except when parental rights have been terminated, the identified impending danger safety threats.

(c) Except when parental rights have been terminated, the ongoing safety plan as described OAR 413-015-0400 to 413-015-0485 and recorded in the electronic information system of the Department.

(d) A description of how the Department determined placement with a fit and willing relative is the most appropriate permanency plan for the child or young adult, and each compelling reason why the more preferred permanency plan options were not selected for the child or young adult.

(e) The steps the Department has taken to ensure the relative caregiver is applying the reasonable and prudent parent standard, and to ensure the child or young adult has regular, ongoing opportunities to engage in age-appropriate or developmentally appropriate activities.

(f) A description of how the child or young adult's attachments and relationships with each parent, sibling, and other family members will be developed while the child or young adult is in a permanent placement with a fit and willing relative.

(g) Current placement information including the location of the child or young adult when the relative caregiver authorizes release of the address, except when doing so would jeopardize the safety of the child or young adult.

(h) The record of visits the child or young adult has had with parents or siblings.

(i) When applicable, a description of the plan to transition a child or young adult with developmental or intellectual disabilities to an appropriate program for adults with developmental or intellectual disabilities.

(j) The comprehensive transition plan required by OAR 413-030-0400 to 413-030-0460 for any child 14 years of age or older or young adult and services that prepare the child or young adult to transition to adulthood.

(k) A description of the services the Department must provide to ensure the emotional, medical, educational, cultural, and physical needs of the child or young adult are being met, including:

(A) The health information of the child or young adult, which documents the specialized medical, dental, and mental health services of the child or young adult; and

(B) The education services of the child or young adult, including the school or educational placement history of the child or young adult, high school credits earned for a child over 14 years of age or young adult, and any special educational needs.

(L) The services required to prepare the child or young adult to live in the least restrictive setting possible at the most appropriate time.

(m) The services that may make it possible to achieve a more preferred permanency plan for the child or young adult.

(n) The services the Department may continue to make available to the parents of the child or young adult, upon request, that continue to be in the best interests of the child or young adult.

(o) For any child 14 years of age or older or young adult, the documents described in OAR 413-040-0010(1)(j)(A) and (B).

(2) Except when parental rights have been terminated or the Department is unable to obtain the signature of the parent or guardian, the case plan must include the signature of the caseworker, the supervisor, and each parent or guardian as described in OAR 413-040-0000 to 413-040-0032.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 411.141, 418.005
Hist.: CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-1040
Ongoing Department Responsibilities When Placement with a Fit and Willing Relative is the Permanency Plan

(1) When placement with a fit and willing relative is the court-approved permanency plan for a child or young adult in the legal custody of the Department, the caseworker must do all of the following:

(a) Have monthly contact with the child or young adult, with the relative caregiver, and monitor the safety of the child or young adult as described in OAR413-080-0040 to 413-080-0067.

(b) Evaluate the appropriateness of ongoing contact between the child or young adult with parents, siblings, and other people as described in OAR 413-070-0800 to 413-080-0880.

(c) Provide timely assessment and services for identified needs of the child or young adult, the substitute caregiver, or the parents of the child or young adult.

(d) Monitor the case plan and complete the required case plan reviews

(e) Submit to the court and to the citizen review board the case plan updates required in Child Welfare Policy I-I.2, "Narrative Recording".

(f) Continue to assess requirements for certification of the permanent relative caregiver pursuant to OAR 413-200-0270 to 413-200-0296.

(g) Develop a comprehensive transition plan as required by OAR 413-030-0400 to 413-030-0460 for any child 14 years of age or older.

(2) In addition to the requirements of section (1) of this rule, when the child or young adult has an approved fit and willing relative permanency plan, the caseworker must:

(a) Routinely discuss with the child or young adult and the permanent relative caregiver during face-to-face and other contacts the needs, benefits, barriers, and solutions towards achieving a more preferred permanency option;

(b) Include in the case plan of the child or young adult a description of how relationships with other relatives and persons involved in the life of the child or young adult may be developed and maintained; and

(c) In the event a relative not previously identified as a potential adoptive or guardianship resource expresses an interest, determine whether it is in the best interests of the child or young adult to change the plan to a more preferred permanency plan and to assess the resource for placement.

(3) The permanent relative caregiver must:

(a) Maintain a current Certificate of Approval and follow the requirements of the Department pursuant to OAR 413-200-0301 to 413-200-0396; and

(b) Follow the requirements of the Department regarding the education, medical care, and mental health care of the child or young adult, and other services requested by the Department to meet the needs of the child or young adult.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 411.141, 418.005
Hist.: CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-1050
Placement with a Fit and Willing Relative Permanency Plan Reviews

(1) The caseworker must review the placement with a fit and willing relative case plan at least every six months and the review must occur prior to a review by the court or citizen review board as required by ORS 419B.470 and 419A.106(1) respectively.

(a) The review must take place in a face-to-face meeting with the child or young adult, and may include members of the team of the child or young adult.

(A) When appropriate, the meeting may include a parent or guardian, unless the parent or guardian is not available for the review. When a parent or guardian is unavailable, the caseworker must document the reason the parent or guardian was unavailable and the efforts made to involve the parent or guardian.

(B) During the meeting the caseworker must consider input received from the child or young adult and, at the option of the child or young adult, up to two members of the case planning team who are chosen by the child or young adult as described in OAR 413-040-0010(3)(c), other participants in the meeting, and other information received from the child or young adult's service providers, substitute caregivers, attorney, court appointed special advocate, tribe if the child is an ICWA child, persons with significant attachments to the child or young adult, and relatives.

(b) After the meeting described in subsection (a) of this section, the caseworker must document in the case record:

(A) Whether the current placement continues to be the least restrictive setting available to meet the safety and permanency needs of the child or young adult; or

(B) Whether a more permanent permanency plan, such as reunification, adoption, or guardianship is more appropriate for the child or young adult.

(2) When a placement with a fit and willing relative plan has been approved by the court as the permanency plan for a child or young adult in the legal custody of the Department, the Department must notify the court and request a review or permanency hearing:

(a) Not less frequently than once every 12 months while the child or young adult remains in substitute care in accordance with ORS 419B.470(2).

(b) Unless good cause is shown, at any time upon the request of the Department, a relative caregiver directly responsible for the care of the child or young adult, a parent of the child or young adult, an attorney for the child or young adult, a court appointed special advocate, a citizen review board, or a tribal court in accordance with ORS 419B.470(5).

(c) By the citizen review board no less frequently than every six months in accordance with ORS 419A.106(1)(a) unless the court has relieved the citizen review board of its responsibility to review a case in accordance with ORS 419A.106(1)(b).

(d) Within 90 days of a placement change that removes the child or young adult from the placement with the fit and willing relative.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 411.141, 418.005
Hist.: CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

413-070-1060
Termination of Placement with a Fit and Willing Relative Permanency Plan

(1) The placement with a fit and willing relative plan must be terminated when:

(a) Court wardship is terminated;

(b) The court relieves the Department of legal custody of the child or young adult;

(c) The court determines that placement with a fit and willing relative is no longer the appropriate permanency plan for the child or young adult;

(d) One of the more preferred permanency plans is achieved;

(e) The Department and the relative caregiver mutually consent to termination;

(f) The relative caregiver fails to maintain a current Certificate of Approval in accordance with OAR 413-200-0301 to 413-200-0396 and 413-200-0270 to 413-200-0296, including when the certificate has been revoked or denied; or

(g) The child or young adult is removed from the relative caregiver by the Department.

(2) The Department must provide written notification to the court of any change in the placement of the child or young adult.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 411.141, 418.005
Hist.: CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15

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Rule Caption: Amending rules relating to children and young adults in substitute care
Adm. Order No.: CWP 18-2015(Temp)
Filed with Sec. of State: 9-30-2015
Certified to be Effective: 10-1-15 thru 3-28-16
Notice Publication Date:
Rules Adopted: 413-080-0053, 413-090-0087
Rules Amended: 413-015-0115, 413-015-0211, 413-015-0415, 413-080-0050, 413-080-0054
Subject: The Department of Human Services, Office of Child Welfare Programs, is adopting temporary amendments to implement provisions of the Preventing Sex Trafficking and Strengthening Families Act of 2014 relating to the Department's responsibilities when a child or young adult in substitute care is missing. Specifically, the amendments do the following:

- State that when a child or young adult in substitute care is missing, the caseworker must:

-- Make immediate efforts to locate the child or young adult; and

-- Notify the court and legal parties to the case that the child or young adult is missing. (OAR 413-080-0053)

- State that when a child or young adult in substitute care is located, the caseworker must:

-- Determine and address the primary factors that contributed to the missing status of the child or young adult;

-- Determine the child or young adult's experiences while missing;

-- Determine if the child or young adult is a victim of sex trafficking or is at risk of being a victim of sex trafficking; and

-- Notify the court and legal parties to the case that the child or young adult has been located. (OAR 413-080-0053)

- State that monthly face-to-face contact is a required CPS (Child Protective Services) assessment activity (OAR 413-015-0415) and if a caseworker is unable to make face-to-face contact with a child or young adult because the child or young adult is missing, the caseworker must follow the protocols in OAR 413-080-0053 described above. (OAR 413-015-0054)

- Add definitions for "monthly face-to-face contact," and "sex trafficking," and "young adult." (OAR 413-015-0115 and 413-015-0415)

- Clarify that reports of a missing child or young adult must be documented in the Department's electronic information system. (OAR 413-015-0211)

- Require BRS (Behavior Rehabilitation Services) providers to immediately report to the Department information about a missing child or young adult placed with a BRS program. (OAR 413-090-0087)

Rules Coordinator: Kris Skaro—(503) 945-6067

413-015-0115
Definitions

Unless the context indicates otherwise, these terms are defined for use in OAR chapter 413, division 015:

(1) "Caregiver" means a guardian, legal custodian, or other person acting in loco parentis, who exercises significant authority over and responsibility for a child.

(2) "Child" means a person under 18 years of age.

(3) "Child abuse or neglect" means any form of abuse, including abuse through neglect and abuse or neglect by a third party, of a person under age 18.

(4) "Child protective services" (CPS) means a specialized social service program that the Department provides on behalf of children who may be unsafe after a report of child abuse or neglect is received.

(5) "Child protective services assessment" (CPS assessment) means an investigation into a report of child abuse pursuant to ORS 419B.020, that includes activities and interventions to identify and analyze threats to child safety, determine if there is reasonable cause to believe child abuse or neglect occurred, and assure child safety through protective action plans, initial safety plans, or ongoing safety planning.

(6) "Child protective services supervisor" (CPS supervisor) means an employee of the Department trained in child protective services and designated as a supervisor.

(7) "Child protective services worker" (CPS worker) means an employee of the Department who has completed the mandatory Department training for child protective service workers.

(8) "Child Safety Meeting" means a meeting held at the conclusion of a CPS assessment for the purpose of developing an ongoing safety plan.

(9) "Children's Care Provider" (CCP) means a DHS-licensed Residential Care Agency, Day Treatment Program, Foster Care Agency, Therapeutic Boarding School, or Outdoor Youth Program that has assumed responsibility for all or a portion of the care of a child. The term includes the CCP's employees, agents, contractors and their employees, and volunteers.

(10) "Conditions for return" means a written statement of the specific behaviors, conditions, or circumstances that must exist within a child's home before a child can safely return and remain in the home with an in-home ongoing safety plan.

(11) "Day Care Facility" means each of the following:

(a) A Registered Family Child Care Home, which is the residence of a provider who has a current Family Child Care Registration at that address and who provides care in the family living quarters.

(b) A Certified Family Child Care Home, which is a child care facility located in a building constructed as a single family dwelling that has certification to care for a maximum of 16 children at any one time.

(c) A Certified Child Care Center, which is certified to care for 13 or more children, or a facility that is certified to care for twelve or fewer children and located in a building constructed as other than a single family dwelling.

(d) A Listed Facility, which is a child care provider that is exempt from Office of Child Care licensing and that receives subsidy payments for child care on behalf of clients of the Department of Human Services.

(12) "Department" means the Department of Human Services, Child Welfare.

(13) "Department response" means how the Department intends to respond to information that a child is unsafe after a report of alleged abuse or neglect is received.

(14) "Designated medical professional" means (as described in ORS 418.747(9)) a physician, physician assistant, or nurse practitioner who has been designated by the local multi-disciplinary team and trained to conduct child abuse medical assessments (as defined in ORS 418.782), and who is — or who may designate another physician, physician assistant, or nurse practitioner who is — regularly available to conduct these medical assessments.

(15) "Domestic violence" means a pattern of coercive behavior, which can include physical, sexual, economic, and emotional abuse that an individual uses against a past or current intimate partner to gain power and control in a relationship.

(16) "Face-to-face" means an in-person interaction between individuals.

(17) "Former foster child" means a person under 21 years of age who was in substitute care at or after 16 years of age, including substitute care provided by federally recognized tribes, and had been in substitute care for at least 180 cumulative days after 14 years of age.

(18) "Guardian" means an individual who has been granted guardianship of a child through a judgment of the court.

(19) "Harm" means any kind of impairment, damage, detriment, or injury to a child's physical, sexual, psychological, cognitive, or behavioral development or functioning. "Harm" is the result of child abuse or neglect and may vary from mild to severe.

(20) "ICWA" means the Indian Child Welfare Act.

(21) "Impending danger safety threat" means a family behavior, condition, or circumstance that meets all five safety threshold criteria. A threat to a child that is not immediate, obvious, or occurring at the onset of the CPS intervention. This threat is identified and understood more fully by evaluating and understanding individual and family functioning.

(22) "Initial contact" means the first face-to-face contact between a CPS worker and a family. The initial contact includes face-to-face contact with the alleged child victim, his or her siblings, parent or caregiver, and other children and adults living in the home; accessing the home environment; and gathering sufficient information on the family conditions and functioning to determine if present danger safety threats or impending danger safety threats exist.

(23) "Initial safety plan" means a documented set of actions or interventions sufficient to protect a child from an impending danger safety threat in order to allow for completion of the CPS assessment.

(24) "Moderate to high needs" means observable family behaviors, conditions, or circumstances that are occurring now; and over the next year without intervention, are likely to have a negative impact on a child's physical, sexual, psychological, cognitive, or behavioral development or functioning. The potential negative impact is not judged to be severe. While intervention is not required for the child to be safe, it is reasonable to determine that short-term, targeted services could reduce or eliminate the likelihood that the negative impact will occur.

(25) "Monthly face-to-face contact" means in-person interaction between individuals at least once each and every full calendar month.

(26) "Multi-disciplinary team" (MDT) means a county child abuse investigative team as defined in ORS 418.747.

(27) "Observable" means specific, real, can be seen and described. Observable does not include suspicion or gut feeling.

(28) "Ongoing safety plan" means a documented set of actions or interventions that manage a child's safety after the Department has identified one or more impending danger safety threats at the conclusion of a CPS assessment or anytime during ongoing work with a family.

(29) "Out of control" means family behaviors, conditions, or circumstances that can affect a child's safety are unrestrained, unmanaged, without limits or monitoring, not subject to influence or manipulation within the control of the family, resulting in an unpredictable and chaotic family environment.

(30) "Personal representative" means a person who is at least 18 years of age and is selected to be present and supportive during the CPS assessment by a child who is the victim of a person crime as defined in ORS 147.425 and is at least 15 years of age at the time of the crime. The personal representative may not be a person who is a suspect in, party or witness to, the crime.

(31) "Pre-adoptive family" means an individual or individuals who:

(a) Has been selected to be a child's adoptive family; and

(b) Is in the process of legalizing the relationship to the child through the judgment of the court.

(32) "Present danger safety threat" means an immediate, significant, and clearly observable family behavior, condition, or circumstance occurring in the present tense, already endangering or threatening to endanger a child. The family behavior, condition, or circumstance is happening now and it is currently in the process of actively placing a child in peril.

(33) "Private child-caring agency" is defined in ORS 418.205, and means a "child-caring agency" that is not owned, operated, or administered by any governmental agency or unit.

(a) A "child-caring agency" means an agency or organization providing:

(A) Day treatment for disturbed children;

(B) Adoption placement services;

(C) Residential care, including but not limited to foster care or residential treatment for children;

(D) Outdoor youth programs as defined in OAR 413-215-0911; or

(E) Other similar services for children.

(b) A "child-caring agency" does not include residential facilities or foster care homes certified or licensed by the Department under ORS 443.400 to 443.455, 443.830, and 443.835 for children receiving developmental disability services.

(34) "Protective action plan" means an immediate, same day, short-term plan, lasting a maximum of ten calendar days, sufficient to protect a child from a present danger safety threat.

(35) "Protective capacity" means behavioral, cognitive, and emotional characteristics that can specifically and directly be associated with a person's ability and willingness to care for and keep a child safe.

(36) "Protective custody" means custody authorized by ORS 419B.150.

(37) "Reasonable suspicion" means a reasonable belief given all of the circumstances, based upon specific and describable facts, that the suspicious physical injury may be the result of abuse. Explanation: The belief must be subjectively and objectively reasonable. In other words, the person subjectively believes that the injury may be the result of abuse, and the belief is objectively reasonable considering all of the circumstances. The circumstances that may give rise to a reasonable belief may include, but not be limited to, observations, interviews, experience, and training. The fact that there are possible non-abuse explanations for the injury does not negate reasonable suspicion.

(38) "Referral" means a report that has been assigned for the purpose of CPS assessment.

(39) "Report" means an allegation of child abuse or neglect provided to the Department that the screener evaluates to determine if it constitutes a report of child abuse or neglect as defined in ORS 419B.005.

(40) "Reporter" means an individual who makes a report.

(41) "Safe" means there is an absence of present danger safety threats and impending danger safety threats.

(42) "Safety service provider" means a participant in a protective action plan, initial safety plan, or ongoing safety plan whose actions, assistance, or supervision help a family in managing a child's safety.

(43) "Safety services" mean the actions, assistance, and supervision provided by safety service providers to manage the identified present danger safety threats or impending danger safety threats to a child.

(44) "Safety threshold" means the point at which family behaviors, conditions, or circumstances are manifested in such a way that they are beyond being risk influences and have become an impending danger safety threat. In order to reach the "safety threshold" the behaviors, conditions, or circumstances must meet all of the following criteria: be imminent, be out of control, affect a vulnerable child, be specific and observable, and have potential to cause severe harm to a child. The "safety threshold" criteria are used to determine the presence of an impending danger safety threat.

(45) "School administrator" means the principal, vice principal, assistant principal, or any other person performing the duties of a principal, vice principal, or assistant principal at a school, as defined in the Teacher Standards and Practices Commission (TSPC) OAR 584-005-0005.

(46) "Screener" means a Department employee with training required to provide screening services.

(47) "Screening" means the process used by a screener to determine the Department response when information alleging abuse or neglect is received.

(48) "Severe harm" means:

(a) Significant or acute injury to a child's physical, sexual, psychological, cognitive, or behavioral development or functioning;

(b) Immobilizing impairment; or

(c) Life threatening damage.

(49) "Substance" means any controlled substance as defined by ORS 475.005, prescription medications, over-the-counter medications, or alcoholic beverages.

(50) "Suspicious physical injury" (as defined in ORS 419B.023) includes, but is not limited to:

(a) Burns or scalds;

(b) Extensive bruising or abrasions on any part of the body;

(c) Bruising, swelling, or abrasions on the head, neck, or face;

(d) Fractures of any bone in a child under the age of three;

(e) Multiple fractures in a child of any age;

(f) Dislocations, soft tissue swelling, or moderate to severe cuts;

(g) Loss of the ability to walk or move normally according to the child's developmental ability;

(h) Unconsciousness or difficulty maintaining consciousness;

(i) Multiple injuries of different types;

(j) Injuries causing serious or protracted disfigurement or loss or impairment of the function of any bodily organ; or

(k) Any other injury that threatens the physical well-being of the child.

(51) "Teacher" means (as defined in TSPC OAR 584-005-0005) a licensed or registered employee in a public school or charter school, or employed by an education service district, who has direct responsibility for instruction, coordination of educational programs, or supervision or evaluation of teachers; and who is compensated for services from public funds.

(52) "Third-party abuse" means abuse by a person who is not the child's parent, not the child's caregiver or other member of the child's household, and not a person responsible for the child's care, custody, and control. Examples of persons who could be considered as a third-party under this definition include school personnel, day-care providers, coaches, and church personnel.

(53) "Unsafe" means the presence of a present danger safety threat or an impending danger safety threat.

(54) "Vulnerable child" means a child who is unable to protect him or herself. This includes a child who is dependent on others for sustenance and protection. A "vulnerable child" is defenseless, exposed to behaviors, conditions, or circumstances that he or she is powerless to manage, and is susceptible and accessible to a threatening parent or caregiver. Vulnerability is judged according to physical and emotional development, ability to communicate needs, mobility, size, and dependence.

(55) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 409.185, 418.005, 418.747, 419B.017, 419B.024, 419B.035

Stats. Implemented: ORS 147.425, 409.185, 418.005, 418.015, 418.747, 419B.005 - 419B.050

Hist.: CWP 25-2003, f. & cert. ef. 7-1-03; CWP 14-2004, f. 7-30-04, cert. ef. 8-1-04; CWP 17-2004, f. & cert. ef. 11-1-04; CWP 4-2005, f. & cert. ef. 2-1-05; CWP 19-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-30-06; CWP 14-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 16-2007(Temp), f. & cert. ef. 10-16-07 thru 4-11-08; CWP 22-2007(Temp), f. & cert. ef. 12-3-07 thru 4-11-08; CWP 24-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 4-11-08; CWP 2-2008, f. & cert. ef. 4-1-08; CWP 5-2010(Temp), f. & cert. ef. 6-15-10 thru 12-12-10; CWP 21-2010, f. & cert. ef. 11-15-10; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 13-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; CWP 17-2014, f. & cert. ef. 12-24-14; CWP 18-2015(Temp), f. 9-30-15, cert. ef. 10-1-15 thru 3-28-16

413-015-0211
Additional Screening Activities

In the specific circumstances described below, the screener must complete additional activities to complete the screening process.

(1) The screener receives information on an open CPS assessment.

(a) When a screener receives duplicate information (same alleged victim, same alleged perpetrator, same allegation of child abuse or neglect, and same incident dates) on an open CPS assessment, the screener must:

(A) Inform the reporter that a new screening report will not be documented because the information has already been received;

(B) Provide the reporter with the assigned caseworker's name and phone number; and

(C) Provide contact information about the reporter and any information the screener received to the assigned caseworker.

(b) When a screener receives information that constitutes a new report of child abuse or neglect as defined in ORS 419B.005 on an open CPS assessment, the screener must:

(A) Document the information in a new screening report form; and

(B) Notify the assigned CPS worker and their supervisor of all new information received on the same day the information is received, and document this notification in the Department's electronic information system.

(c) When a screener receives information that constitutes a closed at screening on an open CPS assessment, the screener must:

(A) Document the information in a new screening report form; and

(B) Notify the assigned CPS worker and their supervisor of all new information received on the same day the information is received, and document this notification in the Department's electronic information system.

(2) The screener receives new information on an open Department case.

(a) When a screener receives new information on an open Department case, the screener must:

(A) Consult with a CPS supervisor;

(B) Notify each assigned case worker and their respective supervisors of all new information received on the same day the information is received, and document this notification in the Department's electronic information system's case notes; and

(C) Complete notification on the same day the information is received.

(b) When a screener receives a new report of child abuse or neglect, as defined in ORS 419B.005, but there is no open CPS assessment, the screener must document the information in a new screening report form.

(c) The information received by a screener on an open Department case that will not be documented in a new screening report form but must be documented in the Department's electronic information system's case notes includes:

(A) Additional information on an open case that does not meet the criteria for a new CPS assessment or closed at screening;

(B) When an in-home protective action plan, initial safety plan, or ongoing safety plan is violated, but the violation is not a new incident of child abuse or neglect;

(C) Reports of an ongoing concern in an open case, which the Department is currently addressing;

(D) Reports of a missing child or young adult; and

(E) Any requests for case information received by the screener.

(3) When a screener receives information related to the home of a Department certified foster parent or relative caregiver, the screener must notify and document that the screener has notified each assigned case worker, assigned certifier, and their respective supervisors of all information received (see OAR 413-200-0404 to 413-200-0424).

(4) When a screener receives information related to a minor parent as an alleged perpetrator:

(a) The screener must gather information to determine if there is a report of abuse or neglect with the minor parent as an alleged victim.

(b) If the screener determines there is a report of abuse or neglect of the child of the minor parent with the minor parent as an alleged perpetrator and another report with the minor parent as an alleged victim, the screener must document the information in the following manner to determine when to use the mother or father's name as the case name:

(A) The allegation with the minor parent as an alleged perpetrator must be documented with the mother or father of the alleged victim as the case name (the mother or father being a minor does not preclude them from being the case name); and

(B) The allegation with the minor parent as an alleged victim must be documented with the mother or father of the minor parent as the case name.

(5) When a screener receives a report of a child fatality alleged to be the result of abuse or neglect or involving a child known to the Department, the screener must:

(a) Consult with a CPS supervisor;

(b) Refer to the Child Welfare "Fatality Protocol";

(c) Complete a screening report form identifying in the Department's electronic information system that the report involves a child fatality;

(d) Notify the CPS consultant; and

(e) Complete subsections (a) through (d) of this section even when there are no siblings to the deceased child and no other children in the home where the fatality occurred.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 16-2005, f. & cert. ef. 12-1-05; CWP 3-2007, f. & cert. ef. 3-20-07; CWP 25-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 7-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 15-2009, f. & cert. ef. 11-3-09; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 18-2015(Temp), f. 9-30-15, cert. ef. 10-1-15 thru 3-28-16

413-015-0415
CPS Assessment Activities

The required CPS assessment activities are outlined below. The activities are described in a logical order in these rules, but the order in which they occur is controlled by the specific circumstances in a given case.

(1) Review Records.

(a) The assigned CPS worker must:

(A) Thoroughly review the documentation in the referral;

(B) Thoroughly review the paper and electronic records maintained by the Department for historical information on the family and the child that may be useful in completing the CPS assessment;

(C) Thoroughly review available Self-Sufficiency records; and

(D) Make diligent efforts to contact another state's child welfare agency to obtain records, if any, when the CPS worker has information that the family has lived in another state.

(b) The CPS worker must review the documents to identify information related to:

(A) Present danger safety threats or impending danger safety threats;

(B) History or a pattern of abuse or neglect;

(C) Child and family support systems and protective capacity; and

(D) Worker safety.

(2) Addressing Prior Allegations That Have Not Been Assessed Because the Department was Unable to Locate the Family. The assigned CPS worker must address in the current assessment any allegations not previously assessed because the Department was unable to locate the family as follows:

(a) Discuss the prior unassessed allegations during interviews;

(b) Consider all information about prior unassessed allegations when determining child safety; and

(c) Document the consideration of prior unassessed allegations in interviews, observations, and dispositional findings.

(3) Contact Collateral Sources.

(a) The CPS worker must contact collateral sources who can clarify or supplement the information in the referral and in records already reviewed.

(A) The CPS worker must contact the assigned Self-Sufficiency worker, if any.

(B) The CPS worker may contact other collateral sources including, but not limited to:

(i) Individuals who have regular contact with the child;

(ii) Doctors or others who have evaluated or maintain records on the child;

(iii) People who are in an established personal or professional relationship with the parent or caregiver and who can judge the quality and nature of the parent or caregiver behavior and functioning; and

(iv) People who have records or information about the parent or caregiver as a result of their involvement with, or exposure to, the parent or caregiver.

(b) The CPS worker must gather information from collateral sources throughout the CPS assessment.

(c) The CPS worker must:

(A) Protect the identity of collateral sources to the extent possible.

(B) Consult with the district attorney or the assistant attorney general to obtain a court order for records from a collateral source, if the source is unable or unwilling to share information with the Department.

(4) Consult with CPS Supervisor.

(a) The CPS worker must consult with a CPS supervisor or designee:

(A) When the CPS worker has reasonable cause to believe the alleged perpetrator is an employee of any program, office, or division of the Department of Human Services or Oregon Youth Authority (OYA);

(B) When a referral involves the home of a Department certified foster parent or relative caregiver;

(C) When a referral involves allegations that child abuse or neglect occurred in a private child-caring agency;

(D) When a CPS worker receives notification from a screener that a closed at screening or new referral was created on an open CPS assessment;

(E) Prior to a decision to place a child in protective custody, or after placement if consultation before placement will delay the safety intervention;

(F) Prior to initiating court action, or after initiating court action if consultation before will delay the safety intervention;

(G) Prior to developing an initial safety plan with a Department certified foster parent or relative caregiver;

(H) When the referral involves a child fatality;

(I) When making a disposition in a complicated or sensitive situation or case; or

(J) When closing an assessment with the disposition of "unable to locate".

(b) Subject to the discretion of the CPS supervisor, the CPS worker will consult with a CPS supervisor or designee at additional key points during the assessment, such as:

(A) Before making initial contact with the family; or

(B) When a referral indicates potential danger to the worker.

(5) Contact and Work with Other Entities.

The CPS worker may need to work with representatives of other entities to gather and analyze safety-related information, develop a sufficient protective action plan, initial safety plan, or ongoing safety plan, and to complete the CPS assessment.

(a) The CPS worker may, as appropriate, notify or consult with other Department of Human Services programs or other agencies, including but not limited to the Office of Vocational Rehabilitation Services and Animal Control.

(b) The CPS worker must report to or contact and work with other entities as follows:

(A) Office of Child Care. The CPS worker must notify and coordinate with the Compliance Unit of the Office of Child Care when a report involves a registered day-care home or a licensed day-care center, as required by ORS 419B.020(1).

(B) Oregon Youth Authority (OYA). The CPS worker must notify OYA when the allegation involves an OYA certified foster home.

(C) Office of Adult Abuse Prevention and Investigation (OAAPI). The CPS worker must notify the OAAPI when an allegation involves a child with intellectual or developmental disabilities in a residential group home licensed by the Office of Developmental Disabilities Services.

(D) Office of Licensing and Regulatory Oversight. The CPS worker must notify the Office of Licensing and Regulatory Oversight Children's Care Licensing Unit when the allegation involves a licensed private child-caring agency which is not a Children's Care Provider (CCP).

(E) Community Mental Health Program, Community Developmental Disabilities Program, or Adult Protective Services. The CPS worker must make a report to the Community Mental Health Program, Community Developmental Disabilities Program, or the local Adult Protective Service office when the CPS worker has reasonable cause to believe:

(i) That any person 18 years of age or older with a mental illness, a developmental disability or a physical disability, or any person 65 years of age or older, with whom the CPS worker comes into contact while acting in an official capacity, has suffered abuse.

(ii) That any person with whom the CPS worker comes into contact, while acting in an official capacity, has abused a person 18 years of age or older with a mental illness, a developmental disability or a physical disability, or any person 65 years of age or older.

(F) Indian Tribes. If the CPS worker knows or has reason to know that the child is an Indian child, the CPS worker must give notice within 24 hours to the Indian child's tribe that a CPS assessment is being conducted unless the screener documented completion of this notification in the referral.

(G) Probation and Parole. The CPS worker must contact probation and parole when the allegation involves a parent or caregiver, or alleged perpetrator who is supervised by probation or parole.

(H) Law Enforcement. If the screener did not cross report, the CPS worker must contact one or more law enforcement agencies (LEA) in accordance with the protocols of the local MDT agreement and in accordance with cross reporting rules, OAR 413-015-0300 to OAR 413-015-0310. When there is a joint response involving a CPS worker and LEA staff, the CPS worker is still responsible for all of the activities necessary to complete a CPS assessment which are summarized in OAR 413-015-0400. The CPS worker must, in consultation with a CPS supervisor, determine whether to coordinate assessment activities with LEA in the following situations:

(i) Presence of danger. When the CPS worker has information that indicates that the child is unsafe right now.

(ii) Family cooperation. When the CPS worker has information that the family may not allow the CPS worker to observe the alleged victim or other children in the home.

(iii) Protective custody. When the CPS worker has information that a child may need to be placed in protective custody for the child's safety.

(iv) Child interview. When the CPS worker and the LEA officer must each interview a child, it is preferable to coordinate the interviews to reduce the number of interactions with the child.

(v) Worker safety. When the CPS worker has information that indicates the family behaviors, conditions, or circumstances could pose a danger to the CPS worker.

(vi) Crime committed. When the CPS worker suspects or receives a report that a crime may have been committed.

(I) Public or Private Schools. The CPS worker may interview a child at school when the worker believes it will be the best environment in which to assure a child's safety when making contact with the child. ORS

419B.045 provides requirements for CPS investigations that are conducted on school premises. The CPS worker must do following:

(i) Notify the school administrator that a CPS assessment must be conducted. If the school administrator is a subject of the CPS assessment, then notification is not required.

(ii) Report to the school office, provide identification, inform school personnel of the CPS assessment, and provide the name of the child to be interviewed.

(iii) Request information from school personnel regarding the disabilities of the child, if any, prior to an interview with the affected child.

(iv) Interview the child out of the presence of other persons, unless the CPS worker believes the presence of a school employee or other person would facilitate the interview. If the CPS worker believes that a school employee does not need to be present, but the school employee insists on being present during the interview, the worker may confer with the CPS supervisor for assistance in handling the situation.

(v) Discuss further actions with the child at the conclusion of the interview.

(vi) Inform school personnel when the interview has been completed.

(vii) Inform school personnel if the child is taken into protective custody.

(viii) Inform school personnel that the CPS worker will notify parents of the interview.

(ix) Contact the CPS supervisor if school officials refuse to allow the assessment to take place on school property.

(J) Multi-Disciplinary Teams (MDTs). Department district managers must develop interagency agreements regarding assessment of child abuse and neglect, as necessary, with local MDTs. Requirements for MDT protocols are set out in ORS 418.747.

(6) Obtain Interpreters and Translation. The CPS worker must obtain the services of a competent interpreter and competent written translation service for families, including hearing-impaired family members, who have limited or no means of communicating in or reading English.

(7) Determine Indian Child Welfare Act (ICWA) Status and Comply with ICWA, if Applicable.

The CPS worker must initiate the process to determine the child's ICWA status and notify the Indian child's tribe if ICWA applies. To initiate this process, the CPS worker must:

(a) Assure completion of a form CF 1270, "Verification of ICWA Eligibility", to assist in determining ICWA eligibility.

(b) Contact the child's tribe when an Indian child is the subject of a CPS assessment. Federally recognized tribes must be notified within 24 hours after information alleging abuse or neglect is received by the Department.

(c) If the Indian child is enrolled or eligible for enrollment in a federally recognized tribe, notify the child's tribe if the child may be placed in protective custody.

(d) Consult with the local Department ICWA liaison, a supervisor, or the ICWA manager if the worker has questions regarding the involvement of a tribe or the ICWA status of a child.

(e) Make a diligent attempt to address the following when determining the placement resource:

(A) Contact the tribe's social services department;

(B) Search for relative resources;

(C) Search for available Indian homes; and

(D) Contact other Indian tribes and other Indian organizations with available placement resources.

(f) Unless the Indian child's tribe has established a different order of preference, comply with the ICWA placement preference, which is:

(A) Placement with a member of Indian child's extended family.

(B) Placement with a foster family that is licensed, approved or specified by the Indian child's tribe.

(C) Placement with an Indian foster home licensed or approved by an authorized non-Indian licensing authority.

(D) Placement with an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

(8) Determine Refugee Status and Comply with the Refugee Children Act, if applicable. During a CPS assessment, the CPS worker must consider whether the child is a refugee child. Under ORS 418.925, a "refugee child" is a "person under 18 years of age who has entered the United States and is unwilling or unable to return to the person's country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular group or political opinion, or whose parents entered the United States within the preceding 10 years and are or were unwilling or unable to return to their country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular group or political opinion."

(a) If it appears that a child is a refugee child, the CPS worker must ask about the child or parents' country of origin, length of time the child or parents have been in the United States, reasons why the child or parents came to the United States, and ethnic and cultural information relevant to the child's status as a refugee. The CPS worker does not have to make a legal determination that the child and parent are refugees, but if the child or the parents indicate they are refugees, then the CPS worker must proceed as if they are, until or unless it is known that they are not refugees.

(b) The CPS worker may not take a refugee child into protective custody unless, in addition to the other requirements for taking a child into custody, the CPS worker determines that:

(A) Removal is necessary to prevent imminent serious emotional or physical harm to the child; and

(B) Reasonable efforts to alleviate the harm through remedial or preventive services do not alleviate the harm, have failed, or are not practical in an emergency situation.

(c) Unless it is a voluntary placement, no refugee child may remain in placement more than five days unless there has been a judicial determination, supported by clear and convincing evidence that:

(A) Preventative or remedial services provided by the Department have failed to alleviate the need for removal; and

(B) Return to the home will likely result in psychological or physical damage to the child.

(d) When a refugee child is placed in care, the juvenile court petition must include, in addition to the information required by ORS 419B.809, the following information:

(A) A specific and detailed account of the circumstances that led the Department to conclude that the child was in imminent danger of serious emotional or physical harm;

(B) Specific actions the Department has taken or is taking to alleviate the need for removal;

(C) Assurance that the Department has complied with placement preferences listed in ORS 418.937 and listed in subsection (e) of this section; and

(D) Assurance that the Department is making or has made diligent efforts to locate and give notice to all affected refugee family members and to the Refugee Child Welfare Advisory Committee that the petition has been filed.

(e) The CPS worker must consider the refugee child's culture and tradition when making any placement decision for a refugee child and, unless shown to be inappropriate and inconsistent with the best interests of the child, place the child with the following in order of preference:

(A) Natural parents.

(B) Extended family member.

(C) Members from the same cultural heritage.

(D) Persons with knowledge and appreciation of the child's cultural heritage.

(f) The CPS worker may determine that placement under subsection (e) of this section is inappropriate and inconsistent with the best interests of the child if:

(A) The preferred placement presents a threat to the child's safety;

(B) The extreme medical, physical, or psychological needs of the child cannot be met in the placement; or

(C) There is an informed request from either of the child's biological parents not to use a placement, if the request is consistent with stability, security, and the individual needs of the child.

(g) When a juvenile court petition is filed and a refugee child is placed in care, the CPS worker must staff the case with the Refugee Child Welfare Advisory Committee (RCWAC). The CPS worker must contact the International Case Consultant for the Department to arrange a time for the staffing. In preparation for the staffing, the CPS worker must:

(A) Invite the CPS supervisor to the staffing; and

(B) Be prepared to discuss the reasons for the CPS referral, the information indicating that family members are refugees, and their country of origin.

(9) Take Photographs. The CPS worker must, during the CPS assessment, take photographs and document, as necessary, child abuse or neglect and the observable nature of any present danger safety threat or impending danger safety threat.

(a) As provided in ORS 419B.028, a law enforcement officer or the CPS worker may take photographs for the purpose of documenting the child's condition at the time of the CPS assessment.

(b) As provided in ORS 419B.028, if the CPS worker conducting a CPS assessment observes a child who has suffered suspicious physical injury and the CPS worker is certain or has a reasonable suspicion that the injury is or may be the result of abuse, the CPS worker, in accordance with the protocols and procedures of the county multi-disciplinary team described in ORS 418.747, will immediately photograph or cause to have photographed the suspicious physical injuries. Regardless of whether the child has previously been photographed or assessed during a CPS assessment, the CPS worker will photograph or cause to be photographed any suspicious injuries if the CPS worker is certain or has a reasonable suspicion the suspicious injuries are the result of abuse:

(A) During the assessment of a new allegation of abuse; and

(B) Each time, during the assessment, an injury is observed that was not previously observed by the assigned CPS worker.

(c) When a child is photographed pursuant to subsection (b) of this section:

(A) The person taking the photographs or causing to have the photographs taken must, within 48 hours or by the end of the next regular business day, whichever occurs later:

(i) Provide hard copies or prints of the photographs and, if available, copies of the photographs in an electronic format to the designated medical professional; and

(ii) Place hard copies or prints of the photographs and, if available, copies of the photographs in an electronic format in the Department record labeled with the case name, case number, child's name, and date taken.

(B) If a county multidisciplinary team staffing of the case is held, photographs of the injury will be made available to each team member involved in the case staffing at the first meeting regarding the child's case.

(d) The CPS worker must document injuries, hazardous environments, and the observable nature of any present danger safety threat or impending danger safety threat in the assessment narrative by use of photographs, written description, or illustrations.

(e) Photographs of the anal or genital region may be taken only by medical personnel.

(10) Obtain Medical Assessment.

The CPS worker must, during the CPS assessment as required in this section, facilitate a medical assessment of the child and obtain the child's medical history when necessary to assure child safety, determine treatment needs, reassure the child and family, or assist in analyzing safety-related information.

(a) When the CPS worker determines that the child is in need of a medical assessment as part of a CPS assessment, the CPS worker must consult with a CPS supervisor as soon as possible, but not at the expense of delaying medical treatment.

(b) If a person conducting an assessment under ORS 419B.020 observes a child who has suffered suspicious physical injury as defined in ORS 419B.023 and the person is certain or has a reasonable suspicion that the injury is or may be the result of abuse, the person must, in accordance with the protocols and procedures of the county multi-disciplinary team described in ORS 418.747, ensure that;

(A) A designated medical professional conducts a medical assessment within 48 hours of the observation of the suspicious physical injury, or sooner if dictated by the child's medical needs; or

(B) An available physician, physician assistant, or nurse practitioner conducts a medical assessment if, after reasonable efforts to locate a designated medical professional, a designated medical professional is not available to conduct a medical assessment within 48 hours. The CPS worker is required to document in the Department's electronic information system efforts to locate the designated medical professional when an available physician, physician assistant, or nurse practitioner is used.

(c) The CPS worker must facilitate an assessment by a medical professional if the alleged child abuse or neglect involves injury to the anal or genital region.

(d) When there are indications of severe physical trauma to the child, the CPS worker must make arrangements to immediately transport the child to a medical facility, which may include calling 911. The CPS worker must also make arrangements for medical examination of a child for mild or moderate physical trauma.

(e) To make arrangements for the medical examination of a child, the CPS worker must do the following, unless completing the action would delay medical treatment for the child:

(A) Discuss with the parent or caregiver the need for medical examination or treatment.

(B) Ask the parent or caregiver to take the child to a medical facility for a medical examination or treatment.

(C) Request that the parent sign a form DHS 2099, "Authorization for Use and Disclosure of Information".

(D) Contact an LEA immediately and seek a juvenile court order to obtain protective custody of the child for the purpose of obtaining a medical examination or treatment when:

(i) The parent or caregiver refuses to obtain needed medical examination or treatment;

(ii) The parent or caregiver may flee with the child; or

(iii) Delaying medical examination or treatment could result in severe harm to the child.

(E) Immediately seek medical care and consultation when the child may have a life-threatening condition, or a deteriorating condition that may become life-threatening.

(F) As soon as possible and not later than 24 hours after learning of the exposure, make arrangements to have the child tested for chemical exposure to harmful substances when there is reason to believe a child has been exposed to dangerous chemicals such as those found in a chemical drug lab.

(f) When a report of suspected medical neglect of an infant with a disability and with life-threatening conditions is referred for CPS assessment, the assigned CPS worker must comply with Child Welfare Policy I-B.2.2.2, "Investigation of Suspected Medical Neglect-Infants", OAR 413-030-0600 to 413-030-0650.

(g) When it is medically indicated to subject a child in the custody of the Department to HIV testing, the CPS worker must comply with Child Welfare Policy I-B.5.1, "HIV Testing of Children in Custody and HIV Confidentiality", OAR 413-040-0400 to 413-040-0450.

(h) As provided in ORS 147.425, a child who is the victim of a person crime and is at least 15 years of age at the time of the abuse may have a personal representative present during a medical examination. If a CPS worker believes that a personal representative would compromise the CPS assessment, a CPS worker may prohibit a personal representative from being present during the medical examination.

(i) When the CPS worker is assessing a CPS allegation of medical neglect, the CPS worker must consult with a health care professional as part of the assessment.

(11) Obtain Psychological and Psychiatric Evaluations.

(a) The CPS worker must make a referral for a psychological or psychiatric evaluation of the parent, caregiver, or child by a mental health professional to assure child safety, determine treatment needs, or assist in analyzing safety-related information when during the CPS assessment the CPS worker identifies a specific condition or behavior that requires additional professional evaluation. This includes but is not limited to:

(A) Unusual or bizarre forms of punishment;

(B) Mental illness;

(C) Suicidal ideation;

(D) Homicidal ideation; or

(E) Unusual or bizarre child or parental behavior that is indicative of emotional problems.

(b) The CPS worker must obtain consent of the parent or caregiver prior to making a referral for a psychological or psychiatric evaluation of the parent, caregiver, or child, unless the evaluation is court ordered.

(12) Make Monthly Face-to-Face Contact. The CPS worker must make a minimum of monthly face-to-face contact as described in 413-080-0054.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.185, 418.005, 418.015, 418.747, 418.785 & 419B.005 - 419B.050

Hist.: CWP 3-2007, f. & cert. ef. 3-20-07; CWP 16-2007(Temp), f. & cert. ef. 10-16-07 thru 4-11-08; CWP 24-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 4-11-08; CWP 2-2008, f. & cert. ef. 4-1-08; CWP 6-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 12-24-08; CWP 20-2008, f. & cert. ef. 9-2-08; CWP 23-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; CWP 4-2010, f. & cert. ef. 4-2-10; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 13-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; CWP 17-2014, f. & cert. ef. 12-24-14; CWP 18-2015(Temp), f. 9-30-15, cert. ef. 10-1-15 thru 3-28-16

413-080-0050
Definitions

The following definitions apply to OAR 413-080-0040 to 413-080-0067:

(1) "Certified family" means an individual or individuals who hold a current Certificate of Approval from the Department to operate a home to provide care, in the home in which they reside, to a child or young adult in the care or custody of the Department.

(2) "Child" means a person under 18 years of age.

(3) "Conditions for return" means a written statement of the specific behaviors, conditions, or circumstances that must exist within a child's

home before a child can safely return and remain in the home with an in-home initial safety plan or in-home ongoing safety plan.

(4) "Contact" means any communication between Child Welfare staff and a child, parent or guardian, foster parent or relative caregiver, provider, or other individual involved in a Child Welfare safety plan or case. "Contact" includes, but is not limited to, communication in person, by telephone, by video-conferencing, or in writing. "Contact" may occur, for instance, during a face-to-face visit; a treatment review meeting for a child, young adult, parent, or guardian; a court or Citizen Review Board hearing; or a family meeting.

(5) "Department" means the Department of Human Services, Child Welfare.

(6) "Face-to-face" means an in-person interaction between individuals.

(7) "Foster parent" means a person who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(8) "Guardian" means an individual who has been granted guardianship of a child through a judgment of the court.

(9) "ICPC" means the Interstate Compact for the Placement of Children (see ORS 417.200).

(10) "Impending danger safety threat" means a family behavior, condition, or circumstance that meets all five safety threshold criteria. A threat to a child that is not immediate, obvious, or occurring at the onset of the CPS intervention. This threat is identified and understood more fully by evaluating and understanding individual and family functioning.

(11) "Initial safety plan" means a documented set of actions or interventions sufficient to protect a child from an impending danger safety threat in order to allow for completion of the CPS assessment.

(12) "Monthly face-to-face contact" means in person interaction between individuals at least once each and every full calendar month.

(13) "Ongoing safety plan" means a documented set of actions or interventions that manage a child's safety after the Department has identified one or more impending danger safety threats at the conclusion of a CPS assessment or anytime during ongoing work with a family.

(14) "Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, ORS 416.400 to 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the child by assuming or attempting to assume responsibilities normally associated with parenthood, unless a court finds that the putative father is not the legal father.

(15) "Present danger safety threat" means an immediate, significant, and clearly observable family behavior, condition or circumstance occurring in the present tense, already endangering or threatening to endanger a child. The family behavior, condition, or circumstance is happening now and it is currently in the process of actively placing a child in peril.

(16) "Protective action plan" means an immediate, same day, short-term plan, lasting a maximum of ten calendar days, sufficient to protect a child from a present danger safety threat.

(17) "Protective capacity" means behavioral, cognitive, and emotional characteristics that can specifically and directly be associated with a person's ability and willingness to care for and keep a child safe.

(18) "Provider" means a person approved by a licensed private child-caring agency to provide care for a child or young adult, or an employee of a licensed private child-caring agency approved to provide care for a child or young adult.

(19) "Relative caregiver" means a person who operates a home that has been approved by the Department to provide care for a related child or young adult who is placed in the home by the Department.

(20) "Safety service provider" means a participant in a protective action plan, initial safety plan, or ongoing safety plan whose actions, assistance, or supervision help a family in managing a child's safety.

(21) "Safety services" means the actions, assistance, and supervision provided by safety service providers to manage the identified present danger safety threats or impending danger safety threats to a child.

(22) "Screener" means a Department employee with training required to provide screening services.

(23) "Sex trafficking" means the recruitment, harboring, transportation, provision, or obtaining of a person under the age of 18 for the purpose of a commercial sex act or the recruitment, harboring, transportation, provision, or obtaining of a person over the age of 18 using force, fraud, or coercion for the purpose of a commercial sex act.

(24) "Social service assistant" means a Department employee with training required to provide services to assist a caseworker on an open case.

(25) "Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(26) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: CWP 3-2004(Temp), f. & cert. ef. 3-1-04 thru 8-27-04; CWP 15-2004, f. & cert. ef. 8-25-04; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 18-2015(Temp), f. 9-30-15, cert. ef. 10-1-15 thru 3-28-16

413-080-0053
When A Child or Young Adult in Substitute Care is Missing

(1) When a caseworker receives information that a child or young adult in substitute care is missing, the caseworker must:

(a) Make immediate efforts to locate the child or young adult; and

(b) As soon as practicable, ensure the court and legal parties to the case are notified, unless notification may jeopardize the safety of the child or young adult or interfere with an investigation.

(2) When a child or young adult missing from substitute care is located, the caseworker must:

(a) Determine and, to the extent possible, address the primary factors that contributed to the missing status of the child or young adult;

(b) Determine the child or young adult's experiences when missing;

(c) Determine if the child or young adult is a sex trafficking victim or at risk of being a sex trafficking victim; and

(d) Ensure the court and legal parties to the case are notified the child or young adult has been located.

(3) Documentation.

(a) When a child or young adult in substitute care is missing, the caseworker must document the following in the Department's electronic information system:

(A) Efforts made to locate the missing child or young adult; and

(B) The notifications in subsection (b) of section (1) of this rule.

(b) When a missing child or young adult is located, the caseworker must document the following in the Department's electronic information system:

(A) The determinations and notifications made in subsections (a) to (d) of section (2) of this rule; and

(B) Any actions taken to address the primary factors that contributed to the missing status of the child or young adult.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: CWP 18-2015(Temp), f. 9-30-15, cert. ef. 10-1-15 thru 3-28-16

413-080-0054
Monthly Face-to-Face Contact Requirements

(1) A child or young adult in a child welfare case.

(a) Except as provided in section (2) of this rule, monthly face-to-face contact with a child or young adult in a child welfare case must be made by one of the following Department staff to ensure the safety, permanency, and well-being of the child or young adult:

(A) The primary caseworker;

(B) The caseworker's supervisor; or

(C) When designated by the caseworker's supervisor as described in OAR 413-080-0067:

(i) Another caseworker or supervisor; or

(ii) A social service assistant.

(b) During the face-to-face contact required in section (1) of this rule, Department staff must:

(A) Ensure the safety, permanency, and well-being of the child or young adult;

(B) Address issues pertinent to case planning and service delivery during the contact;

(C) Notify a supervisor when he or she determines that the ongoing safety plan or the living environment is insufficient to ensure the safety of the child or young adult to determine if a protective action plan is necessary to ensure safety; and

(D) Notify a certifier when the well-being needs of a child or young adult are not being met by a certified family, or notify the Well Being Program when the well-being needs of a child or young adult are not being met by a provider.

(c) Department staff making face-to-face contact must document in the Department's electronic information system:

(A) The date, type, and location of each contact with the child, young adult, parent, or guardian; and

(B) The issues addressed during the contact.

(d) A face-to-face contact with a child or young adult made by a social service assistant:

(A) May be reported as the required face-to-face contact no more than one time in any three-month period and no more than a four times within a year; and

(B) May not be reported as the required face-to-face contact for consecutive months.

(e) Face-to-face contact with a child or young adult in substitute care must occur in the substitute care placement every other month.

(f) When face-to face contact with a child or young adult in substitute care is not possible because the child or young adult is missing, the caseworker must comply with OAR 413-080-0053.

(2) A parent or guardian on a child welfare case.

(a) When there is an in-home ongoing safety plan, Department staff must have monthly face-to-face contact in the home with the parents or guardians living in the home with the child.

(b) A caseworker must have face-to-face contact with the child and the child's parent or guardians within five working days of learning any of the following:

(A) A condition of the ongoing safety plan has been violated.

(B) A change in the protective capacity, the family circumstances, or the composition of the household of a parent or guardian may negatively impact the ongoing safety plan.

(C) The caseworker is assigned a case that had been assigned to another caseworker (case transfer).

(c) Department staff must have monthly face-to-face contact with the parents or guardians, unless a supervisor approves an exception to contact with the non-custodial parent who has an in-home ongoing safety plan or, when there is an out-of-home ongoing safety plan, the parent or guardian is unavailable or the contact could compromise the caseworker's safety. The supervisor's exception must be documented in the Department's electronic information system and must document:

(A) The reason for the exception; and

(B) The length of time the exception is in effect, which is not longer than 90 days unless a longer period is approved by a Child Welfare Program Manager.

(3) The substitute caregiver.

(a) Department staff described in subsection (1)(a) of this rule must have monthly contact with the certified family or provider.

(b) The face-to-face contact with the child or young adult required in subsection (1)(e) of this rule must include at least one of the certified adults or providers who provide direct care for the child or young adult.

(4) A child or young adult placed through ICPC or placed internationally.

(a) When a child or young adult is placed in another state through the ICPC or placed internationally, the caseworker must request that officials from the receiving state or country have monthly face-to-face contact to monitor child safety, permanency, and well-being.

(b) When the receiving state or country's child welfare office is unwilling or unable to have monthly face-to-face contact with the child or young adult, a plan must be developed to meet this requirement.

(c) The caseworker must document in the case file the type and level of contact the receiving state or country will provide and how the contact is sufficient to confirm the safety and well-being of the child or young adult.

(d) The documentation received from the receiving state or country must be filed in the Department's electronic information system.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 1-2013, f. & cert. ef. 1-15-13; CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 18-2015(Temp), f. 9-30-15, cert. ef. 10-1-15 thru 3-28-16

413-090-0087

When a Child or Young Adult Placed with a BRS Program is Missing

(1) When a child or young adult placed with a BRS program (see OAR 410-170-0020) is missing, the BRS contractor (see OAR 410-170-0020) must ensure its BRS providers immediately report information about the missing child or young adult to the Department.

(2) Documentation of the report required in section (1) of this rule is required as outlined in OAR 410-170-0030(12)(b)(B).

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.116, 418.005

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.116, 411.141, 418.005, 418.015, 418.490, 418.495

Hist.: CWP 18-2015(Temp), f. 9-30-15, cert. ef. 10-1-15 thru 3-28-16

Rule Caption: Amending rules relating to children and young adults in substitute care

Adm. Order No.: CWP 19-2015

Filed with Sec. of State: 10-1-2015

Certified to be Effective: 10-1-15

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Rules Adopted: 413-040-0014, 413-215-0554

Rules Amended: 413-020-0000, 413-020-0005, 413-020-0020, 413-020-0075, 413-020-0120, 413-020-0130, 413-020-0140, 413-020-0150, 413-020-0160, 413-020-0170, 413-030-0000, 413-030-0003, 413-030-0006, 413-030-0009, 413-030-0200, 413-030-0210, 413-030-0220, 413-030-0300, 413-030-0310, 413-030-0410, 413-030-0445, 413-030-0449, 413-030-0454, 413-030-0456, 413-030-0460, 413-040-0000, 413-040-0005, 413-040-0006, 413-040-0008, 413-040-0010, 413-040-0013, 413-040-0016, 413-040-0017, 413-040-0024, 413-040-0032, 413-040-0100, 413-215-0306, 413-215-0311, 413-215-0313, 413-215-0316, 413-215-0326, 413-215-0336, 413-215-0341, 413-215-0349, 413-215-0351, 413-215-0356, 413-215-0371, 413-215-0391, 413-215-0506, 413-215-0556, 413-215-0561, 413-215-0576

Rules Repealed: 413-020-0065, 413-020-0110, 413-020-0210, 413-020-0610, 413-030-0405, 413-040-0009, 413-040-0110, 413-040-0210, 413-040-0410

Subject: The Department of Human Services, Office of Child Welfare Programs, is amending rules to implement provisions of the Preventing Sex Trafficking and Strengthening Families Act of 2014 and make general updates consistent with current Department practices. Specifically:

Rules about case management (division 413-30); rules about developing the case plan (division 413-40); and rules about licensing foster care agencies and licensing residential care agencies (division 413-215) are being amended to establish the "reasonable and prudent parent" standard to guide the Department and caregivers in making decisions about whether to allow foster youth to engage in typical and appropriate childhood activities. The amendments:

- Define "reasonable and prudent parenting standard" as a standard characterized by sensible parental decision-making that protects a child or ward, while also encouraging developmental growth, to be used when determining whether to allow a child or ward in substitute care to participate in activities;

- Define "age-appropriate or developmentally appropriate activities" as activities generally suitable for the age and abilities of a child or young adult;

- Require caseworkers and caregivers to apply the "reasonable and prudent parent standard" when authorizing a child to participate in appropriate activities;

- Require the Department to review Department's efforts to ensure the child has ongoing opportunities to engage in appropriate extracurricular activities, include it in the case plan of the child or young adult, and provide it to the court at permanency hearings;

- Allow foster care agencies to only approve providers who possess the ability to apply the reasonable and prudent parent standard;

- Require foster care agencies to provide training relating to the "reasonable and prudent parent standard" and "age-appropriate or developmentally appropriate activities";

- Require residential care agencies to support the child or young adult in his or her interests to participate in activities and ensure the child or young adult has opportunities to participate; and

- Require residential care agencies to train staff in applying the "reasonable and prudent parent standard" and designate at least one on-site employee to be the caregiver authorized to apply the standard.

OAR 413-030-0400 to 413-030-0460 about youth transitions and 413-040-0000 to 413-040-0032 about developing and managing the case plan are being amended to create new case plan and transition planning requirements intended to empower youth in substitute care. The amendments:

- Require that any case plan developed for a child 14 and older must be developed in consultation with the child and, at the option

of the child, up to two members of the case planning team who are chosen by the child.

- State that a case plan must include:

-- A document that describes the rights of the child with respect to education, health, visitation, and court participation; and

-- A signed acknowledgement by the child that he or she has been provided a copy of the document and that the rights contained therein have been explained to the child in an age-appropriate way.

- Require planning for youth transition to adulthood to begin by age 14 for all youth in foster care.

- Require the Department to provide foster youth leaving the system with a social security card, driver license or ID, birth certificate, health insurance information, and a copy of his or her medical records.

Additionally, non-substantive changes were made throughout divisions 20, 30, and 40 to update rules; improve organization and readability; remove unnecessary language; and improve overall clarity.
Rules Coordinator: Kris Skaro—(503) 945-6067

413-020-0000
Definitions

(1) "Adoption assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the pre-adoptive family or adoptive family of an eligible child or young adult, setting forth the assistance the Department is to provide on behalf of the child or young adult, the responsibilities of the pre-adoptive family or adoptive family and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

(2) "Adoptive family" means an individual or individuals who have legalized a parental relationship to the child through a judgment of the court.

(3) "Age-appropriate or developmentally appropriate activities" means:

(a) Activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(b) In the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.

(4) "BRS" means Behavior Rehabilitation Services, a Medicaid-funded program that provides behavioral intervention, counseling, or skill building services in a professional, shelter, or residential (including therapeutic foster care formerly referred to as proctor care) placement setting.

(5) "CANS screener" means an individual, who performs CANS screenings under the supervision of the Level of Care Manager, under a contract with the Department, and who annually completes the training in the use of the Oregon CANS Comprehensive Screening Tool with a documented reliability score of 0.70 or greater.

(6) "CANS screening" means Child and Adolescent Needs and Strengths screening, a process of gathering information on the needs and strengths of a child or young adult used for one or more of the following purposes:

(a) To identify case planning, service planning, and supervision needs of the child or young adult in substitute care with a certified family;

(b) To determine the level of care payment while in substitute care with a certified family; and

(c) To determine the level of care payment included in an adoption assistance agreement or guardianship assistance agreement.

(7) "Caseworker" means the agency staff person assigned primary responsibility for a child or young adult served by the Department.

(8) "Certified family" means an individual or individuals who hold a current Certificate of Approval from the Department to operate a home to provide care, in the home in which he or she resides, to a child or young adult in the care or custody of the Department.

(9) "Certifier" means a Child Welfare employee who conducts assessments of applicants interested in providing relative or foster care to a child or young adult in the care or custody of the Department, determines whether or not to recommend approval of the operation of a relative care or foster care home, and monitors the compliance of a relative care or foster care home with Child Welfare certification rules.

(10) "Child" means a person under 18 years of age.

(11) "Department" means the Department of Human Services, Child Welfare.

(12) "Designated Consultant Neonatologist" means a neonatologist whose services are available to Child Welfare to review medical information and consult with Child Welfare and other experts deemed necessary in cases of suspected medical neglect.

(13) "Designated hospital liaison" means an individual, usually the hospital administrator, designated by each respective hospital to assist Child Welfare with coordination, consultation, and prompt notification of suspected cases of medical neglect.

(14) "Disabled infant" means a child of less than one year of age having a physical or mental impairment which may substantially limit one or more major life functions such as breathing, seeing, hearing, walking, caring for one's self, performing manual tasks, learning, and working.

(15) "Enhanced supervision" means the additional support, direction, observation, and guidance necessary to promote and ensure the safety and well-being of a child or young adult when the child or young adult qualifies for a level of care payment.

(16) "Foster parent" means an individual who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(17) "Guardian" means an individual who has been granted guardianship of the child through a judgment of the court.

(18) "Guardianship assistance" means assistance provided on behalf of an eligible child or young adult to offset the costs associated with establishing the guardianship and meeting the ongoing needs of the child or young adult. "Guardianship assistance" may be in the form of payments, medical coverage, or reimbursement of nonrecurring guardianship expenses.

(19) "Guardianship assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the guardian of an eligible child or young adult setting forth the assistance the Department is to provide on behalf of the child or young adult, the responsibilities of the guardian and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

(20) "Hospital Review Committee (HRC)" is a committee established by a medical facility or hospital to offer counsel and review in cases involving a disabled infant with life-threatening conditions.

(21) "Legal custodian" means a person, agency, or institution with legal custody of a child and all of the following duties and authority:

(a) To have physical custody and control of a child.

(b) To supply the child with food, clothing, shelter, and incidental necessities.

(c) To provide the child with care, education, and discipline.

(d) To authorize ordinary medical, dental, psychiatric, psychological, and other remedial care or treatment for the child and, in an emergency where the child's safety appears urgently to require it, to authorize surgery or other extraordinary care.

(e) To make such reports and to supply such information as the court may require.

(f) To apply for any benefits to which the child is entitled and to use them to pay for the child's care.

(22) "Legal custody" means that a person or agency has legal authority:

(a) To have physical custody and control of a child;

(b) To supply the child with food, clothing, shelter and other necessities;

(c) To provide the child with care, education and discipline;

(d) To authorize medical, dental, psychiatric, psychological, hygienic or other remedial care or treatment for the child, and in any emergency where the child's safety appears urgently to require it, to authorize surgery or other extraordinary care; and

(e) "Legal custody" includes temporary custody of a child under an order of a court.

(23) "Level of care payment" means the payment provided to an approved or certified family, a guardian, a pre-adoptive family or an adoptive family based on the child or young adult's need for enhanced supervision as determined by applying the CANS algorithm to the results of the CANS screening.

(24) "Mechanical restraint" means the use of any physical device to involuntarily restrain the movement of all or a portion of a child's body as a means of controlling his or her physical activities in order to protect the child or other persons from injury. "Mechanical restraint" does not apply to movement restrictions stemming from medicinal, dental, diagnostic, or sur-

gical procedures which are based on widely accepted, clinically appropriate methods of treatment by qualified professionals operating within the scope of their licensure.

(25) "Medical neglect" means the failure to provide adequate medical care, including the withholding of medically indicated treatment, from a disabled infant with life-threatening conditions.

(26) "Medical Neglect Investigator" means Child Welfare staff designated and trained to provide consultation and complete investigations of alleged medical neglect reports.

(27) "Medically indicated treatment" means treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician's reasonable medical judgment, is most likely to be effective in amelioration or correcting a life-threatening condition. It does not include the failure to provide treatment other than nutrition, hydration, or medication to an infant when, in the treating physician's reasonable medical judgment, any of the following circumstances apply:

(a) The infant is chronically irreversibly comatose.

(b) The provision of such treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of survival of the infant.

(c) The provisions of treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

(28) "Participating tribe" means a federally-recognized Indian tribe in Oregon with a Title IV-E agreement with the Department.

(29) "Permanent custody" means legal custody of a child:

(a) Who has been permanently committed to the Department by the juvenile court after parental rights have been terminated under ORS 419B.527; or

(b) Who has been released and surrendered to the Department by the parents under ORS 418.270.

(30) "Physical custodian" means a person or agency, including a child's legal or biological parent, a relative, foster parent, adoptive parent, or a licensed child-caring agency who is authorized by the Department to provide a residence and day-to-day care for a child who is in the legal custody of the Department.

(31) "Physical restraint" means the act of restricting a child or young adult's voluntary movement as an emergency measure to manage and protect the child or young adult or others from injury when no alternate actions are sufficient to manage the child or young adult's behavior. "Physical restraint" does not include temporarily holding a child or young adult to assist him or her or assure his or her safety, such as preventing a child from running onto a busy street.

(32) "Potential guardian" means an individual who:

(a) Has been approved by the Department or participating tribe to be a child's guardian; and

(b) Is in the process of legalizing the relationship to the child through the judgment of the court.

(33) "Pre-adoptive family" means an individual or individuals who:

(a) Has been selected to be a child's adoptive family; and

(b) Is in the process of legalizing the relationship to the child through the judgment of the court.

(34) "Reasonable and prudent parent standard" means the standard, characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child or young adult while encouraging the emotional and developmental growth of the child or young adult, that a substitute care provider shall use when determining whether to allow a child or young adult to participate in extracurricular, enrichment, cultural, and social activities.

(35) "Reasonable medical judgment" means a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

(36) "Relative caregiver" means an individual who operates a home that has been approved by the Department to provide care for a related child or young adult placed in the home by the Department.

(37) "Seclusion" means the involuntary confinement of a child alone in a specifically designed room from which the child is physically prevented from leaving.

(38) "Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(39) "Supervision plan" means a documented set of strategies that is developed to assist a relative caregiver or foster parent in providing the additional support, observation, direction, and guidance necessary to promote and ensure the safety and well-being of a child or young adult.

(40) "Voluntary custody" means legal custody given to the Department, by written agreement, by a parent or guardian of a child.

(41) "Voluntary Custody Agreement" means a written agreement between the Department and the parent or guardian of a child, which transfers legal custody to the Department; the Department assumes all parental authority and responsibilities that the agreement does not specifically reserve to the parents or guardians, as permitted by state law; and the Department provides the child substitute care or treatment, or both, if the family falls within a circumstance described in OAR 413-020-0010(2)(a)-(c).

(42) "Voluntary Placement Agreement" means a binding, written agreement between the Department and the parent or guardian of a child that does not transfer legal custody to the Department but that specifies, at a minimum, the legal status of the child and the rights and obligations of the parent or guardian, the child, and the Department while the child is in placement.

(43) "Withholding of medically indicated treatment" means the failure to respond to an infant's life-threatening condition.

(44) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.056, 418.015, 418.270, 418.275, 418.280, 418.285
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 3-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 2-2003, f. & cert. ef. 1-7-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 19-2015, f. & cert. ef. 10-1-15

413-020-0005
Purpose

The purpose of OAR 413-020-0005 to 413-020-0050 is to describe:

(1) The circumstances in which parents or guardians and the Department may enter into a Voluntary Custody Agreement concerning a child who is in the legal custody of the parents or guardians; and

(2) The responsibilities of the parents or guardians and the Department in connection with these agreements.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.056, 418.015, 418.270, 418.275, 418.280, 418.285
Hist.: SOSCF 3-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 2-2003, f. & cert. ef. 1-7-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 19-2015, f. & cert. ef. 10-1-15

413-020-0020
Legal Consent

(1) Only a parent or guardian who has legal custody of the child may enter into a Voluntary Custody Agreement (CF 1005).

(2) All persons who have legal custody of the child must sign the agreement unless one person with legal custody of the child is missing.

(3) If one person with legal custody of the child is missing, all other persons with legal custody of the child must sign the agreement and must provide the Department the persons and places likely to have knowledge of the missing person's whereabouts. The Department must immediately begin a reasonably diligent search to find the other person with legal custody of the child to provide him or her notice of the agreement.

(4) The parent or guardian must provide information to the Department about insurance and other financial resources to meet the medical, dental, and mental health needs of the child by completing a Medical Resource Report Form (DHS 415H).

(5) If the child is an Indian child, who is an enrolled member of or may be eligible for membership in an Indian tribe, each parent or Indian custodian who has legal custody must sign the Voluntary Custody Agreement in a hearing before a judge of a court with appropriate jurisdiction. The child must be more than 10 days old. See OAR 413-070-0240 for detailed requirements.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.015
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 3-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 2-2003, f. & cert. ef. 1-7-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 19-2015, f. & cert. ef. 10-1-15

413-020-0075
Legal Consent

(1) Only a parent or guardian who has legal custody of the child may enter into a Voluntary Placement Agreement.

(2) All persons who have legal custody of the child must sign the agreement unless one person with legal custody of the child is missing.

(3) If one person with legal custody of the child is missing, all other persons with legal custody of the child must sign the agreement and must provide the Department the persons and places likely to have knowledge of the missing person's whereabouts. The Department must immediately

begin a reasonably diligent search to find the other person with legal custody of the child to provide him or her notice of the agreement.

(4) If the child is an Indian child who is an enrolled member of or may be eligible for membership in an Indian tribe, each parent or Indian custodian who has legal custody of the child must sign the Voluntary Placement Agreement in a hearing before a judge of a court with appropriate jurisdiction. The child must be more than 10 days old. See OAR 413-070-0240 for detailed requirements.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.015, 418.312
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 19-2015, f. & cert. ef. 10-1-15

413-020-0120
Responsibility of Staff to Secure a Legal Consent

When the legal consent of a parent or guardian is needed for a child in the care and custody of the Department, the caseworker shall secure the consent of the person authorized to approve the proposed service or activity. Relevant information shall be provided to the authorized person to assure the Department's authority to consent, the need for and advisability of the service or activity and, when feasible, the concurrence of parents and physical custodians.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.640 & 418.312
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2003, f. & cert. ef. 1-9-03; CWP 19-2015, f. & cert. ef. 10-1-15

413-020-0130
Department Authority in Voluntary Placement and Voluntary Custody Agreements

(1) When a parent or guardian of a child authorizes a voluntary placement with the Department, the parent or guardian remains guardian of the child and retains legal authority, and is obligated to continue to exercise and perform all parental duties and legal responsibilities except those delegated to the Department by the signed CF 499 Voluntary Placement Agreement.

(2) In the event the parent or legal guardian is unavailable or unwilling to fulfill the responsibilities of a guardian, the Department will petition the Juvenile Court and request authority to provide essential services to the child.

(3) When a child is in the voluntary custody of the Department, the Department or the physical custodian exercises the authority of a legal custodian as assigned in the CF 1005 Voluntary Custody Agreement.

(4) Voluntary custody agreements are covered in OAR 413-020-0005 to 413-020-0050 and voluntary placement agreements are covered in OAR 413-020-0060 to 413-020-0090.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.640 & 418.312
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2003, f. & cert. ef. 1-9-03; CWP 19-2015, f. & cert. ef. 10-1-15

413-020-0140
Exercise and Delegation of Legal Authority

(1) When the Department has legal custody of a child through a Voluntary Custody Agreement, a court order, or a Release and Surrender Agreement, the Department will exercise its authority through Department staff and through delegation to other persons as described in this rule.

(2) Physical Custodian. The Department delegates the following responsibilities to the physical custodian. This delegation continues as long as the child or young adult is in the legal custody of the Department and resides with the physical custodian. Any exception to this rule must be given in writing to the custodian of the child or young adult and a copy will be maintained in the child or young adult's case record with the Department. The Department will delegate to the child's physical custodian its authority to consent to:

(a) Enrollment and disenrollment of the child or young adult in regular public school; assisting with selecting or changing class schedules; authorizing absence from school; and enrollment in free and reduced meal programs. Consent for standardized testing and assessment. Assessment and implementation of special education, unless the child or young adult has a surrogate parent assigned (see OAR 581-015-2000). School pictures, except those listed under subsection (2)(b) of this rule;

(b) Routine medical care and dental care, including vaccinations and immunization; routine examinations and lab tests;

(c) Short term inter-county travel;

(d) Application for work permits or releases; and

(e) Participation of the child or young adult in age-appropriate or developmentally appropriate activities, including extracurricular, enrichment, cultural, and social activities. When determining whether to allow a child or young adult to participate, the physical custodian must apply the reasonable and prudent parent standard. When applying the reasonable and prudent parent standard, the physical custodian must consider:

(i) The age, maturity, and developmental level of the child or young adult;

(ii) The nature and inherent risks of harm; and

(iii) The best interest of the child or young adult based on information known by the caregiver.

(2) The caseworker may exercise the Department's consent authority to any action to which the physical custodian may consent. In addition, the caseworker may exercise the Department's authority to give consent for the following:

(a) Psychiatric or psychological evaluation, outpatient psychiatric or psychological treatment, and behavioral rehabilitation services for the child; and

(b) Photographs taken for publicity purposes or media promotions that may draw attention to the individual.

(3) District Manager or Designee. The District Manager or designee may exercise the Department's consent authority to any action to which the physical custodian or caseworker may consent. In addition, the District Manager or designee may exercise the Department's authority to consent to all of the following actions with respect to children serviced by the district:

(a) Emergency medical care and/or surgery, to include anesthesia.

(b) Major medical and surgical procedures that are not extraordinary or controversial, to include anesthesia.

(c) Admission to SAIP (Secure Adolescent Inpatient Program), SCIP (Secure Children's Inpatient Program), or a private hospital for purpose of psychiatric treatment.

(d) Enrollment in specialized schools, including private, charter, alternative, international study program, GED, or home schools.

(e) Application for driver's training, permits and license.

(f) Interstate travel and international travel.

(g) Examination by law enforcement agency (e.g., polygraphs, interrogations without a warrant, etc.).

(h) Use of firearms for purpose of recreational hunting, target practice, and/or Hunter Safety Course.

Stat. Auth.: ORS 161.390, 418.005
Stats. Implemented: ORS 109.640, 161.327, 161.336, 161.341, 161, 346, 161.365, 161.370, 418.005, 418.312
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2003, f. & cert. ef. 1-9-03; CWP 2-2006, f. & cert. ef. 2-1-06; CWP 19-2015, f. & cert. ef. 10-1-15

413-020-0150
Exercise and Delegation of Guardian Authority

(1) When the Department has legal custody of a child or young adult through a court order in which the Department has specifically been given guardianship, or a Release and Surrender Agreement, the Department will exercise its authority through Department staff as described in this rule.

(2) District Manager or Designee: may exercise the Department's authority to consent to the following actions with respect to children served by that district:

(a) Enlistment of a child in the Armed Forces or the Job Corps; and

(b) Marriage.

(3) Department Child Permanency Program Manager: may exercise the Department's authority under ORS 109.325 to consent to the adoption of a child who is in the permanent custody of the Department.

(4) Department Chief Operating Officer or Department Director for Child Welfare, or in their absence and in the event of an emergency the Deputy Director for Child Welfare or Field Services may consent to any of the following actions for a child:

(a) Termination of a pregnancy, except when a young woman 15 years of age or older exercises her statutory right to consent to her own termination of a pregnancy.

(b) Extraordinary or controversial medical or surgical procedures, such as Do Not Resuscitate Order (DNR), organ transplants, kidney dialysis, open heart surgery, transgender medical services, or any procedure involving substantial life threat.

(c) Any medical or surgical procedure to which a legal parent or guardian of the child or the child is opposed.

(d) Sterilization under ORS chapter 436, but only when such procedure is necessary to protect the child's life.

(5) Department Director, Director for Child Welfare, Deputy Director for Child Welfare, and Deputy Director for Field Services may exercise the Department's authority to consent to any action to which the physical custodian, caseworker, and District Manager may consent.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.640 & 418.312
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2003, f. & cert. ef. 1-9-03; CWP 19-2015, f. & cert. ef. 10-1-15

413-020-0160
Actions Not Authorized

(1) A Department employee may not consent to educational planning which is defined as the responsibility of a parent or surrogate parent (see OAR 581-015-2000).

(2) A Department employee or agent may not exercise the Department's authority to give consent to the purchase of, or ownership of, a motor vehicle by a child in legal custody of the Department. This prohibition does not prevent a child in the legal custody of the Department from exercising the right to purchase or own a motor vehicle on his or her own account.

(3) A Department employee may not co-sign or counter-sign any purchase contract for a child or young adult in the Department's custody.

(4) A Department employee may not accept responsibility or serve as conservator of a child or young adult's property or estate.

(5) A Department employee or agent may not consent to the sterilization of a child or young adult, except pursuant to ORS chapter 436, and to save the child or young adult's life.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.640 & 418.312
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2003, f. & cert. ef. 1-9-03; CWP 19-2015, f. & cert. ef. 10-1-15

413-020-0170
General Provisions

(1) The Department acknowledges the right of a minor 15 years of age or older to consent to hospital care, medical and surgical diagnosis, or treatment without the consent of the parent or guardian see ORS 109.640).

(2) The Department acknowledges the right of a minor 14 years of age or older to obtain, without parental knowledge or consent, outpatient diagnosis or treatment of a mental or emotional disorder or chemical dependency, excluding methadone maintenance, by a physician (see ORS 109.675).

(3) Whenever Department staff exercise the agency's authority to authorize actions described as the responsibility of a guardian under these rules, Department staff must:

(a) Consider the impact of the proposed action upon the welfare of the child, the child's family and the community prior to deciding whether to consent to or authorize the proposed action;

(b) Consult with the physical custodian of the child;

(c) When the child is not in the permanent custody of the Department, make reasonable efforts to consult the child's parents or guardians about the action proposed and consider the parents or guardians' preference concerning the action proposed prior to making a decision to consent to or authorize the proposed action unless there is cause to believe such consultation will be detrimental to the child; and

(d) Prepare a brief written record of the circumstances of the action consented to whenever the Department provides a written consent for actions defined as the responsibility of a guardian. The written record and a copy of any consent made in writing will be filed in the child's case record.

(4) In any case where Department staff consider it necessary or appropriate, they may notify the juvenile court, or seek the court's concurrence, prior to consenting to or authorizing any of the actions described in these rules with respect to children in the Department's custody.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.675
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 12-2003, f. & cert. ef. 1-9-03; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0000
Definitions

The following definitions apply to OAR chapter 413, division 30:

(1) "APPLA" means Another Planned Permanent Living Arrangement, a permanency plan for a stable secure living arrangement for a child who has reached the age of 16 or young adult that includes building relationships with significant people in the child or young adult's life that may continue after substitute care. APPLA is the least preferred permanency plan of the five permanency plans for a child or young adult and is appropriate only after the permanency plans of reunification, adoption, guardianship, and placement with a fit and willing relative have been determined not in the best interest of a child or young adult.

(a) "Planned" means the arrangement is intended, designed, and deliberate.

(b) "Permanent" means enduring and stable.

(2) "Case plan" means a written, goal-oriented, time-limited individualized plan for the child and the child's family, developed by the Department and the parents or guardians, to achieve the child's safety, permanency, and well-being.

(3) "Chafee housing" means a payment to assist in covering the costs of room and board made to an eligible individual between 18 and 20 years of age who was discharged from the care and custody of the Department or one of the federally recognized tribes on or after reaching 18 years of age.

(4) "Child" means a person under 18 years of age.

(5) "Department" means the Department of Human Services, Child Welfare.

(6) "Expert evaluation" means a written assessment prepared by a professional with specialized knowledge of a particular subject matter such as physical health, psychological health, mental health, sexual deviancy, substance abuse, and domestic violence. The assessment provides information regarding an individual's functioning in the area of the professional's specialized knowledge and when the expert is evaluating a parent or guardian, whether the individual's functioning impacts his or her protective capacity.

(7) "Family support services case plan" means a goal-oriented, time-limited, individualized plan for a child and the child's family or a former foster child. The Department and the family or former foster child jointly develop a "family support services case plan" that addresses the service goals and the identified needs of the child and the child's family or the former foster child.

(8) "Former foster child" means a person under 21 years of age who was in substitute care at or after 16 years of age, including substitute care provided by federally recognized tribes, and had been in substitute care for at least 180 cumulative days after 14 years of age.

(9) "GED" means a General Educational Development certificate issued pursuant to ORS 351.768.

(10) "Guardian" means an individual who has been granted guardianship of a child through a judgment of the court.

(11) "ILP" means the Independent Living Program services provided by the Department to an eligible foster child or former foster child.

(12) "Independent living housing subsidy" means a payment to assist in covering the cost of room, board, or other monthly expenses made to an eligible individual who is at least 16 years of age and is in the care and custody of the Department and living independently.

(13) "Legal custody" means a legal relationship between a person, agency, or institution and a child that imposes on the person, agency, or institution the duties and authority of the child's legal custodian.

(14) "Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, ORS 416.400 to 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the child by assuming or attempting to assume responsibilities normally associated with parenthood unless a court finds that the putative father is not the legal father.

(15) "Permanency plan" means a written course of action for achieving safe and lasting family resources for the child or young adult. Although the plan may change as more information becomes available, the goal is to develop safe and permanent resources with the parents, relatives, or other people who may assume responsibility for the child or young adult during the remaining years of dependency and be accessible and supportive to the child in adulthood.

(16) "Registered domestic partner" means an individual joined in a domestic partnership that is registered by a county clerk in accordance with ORS 106.300 to 106.340.

(17) "Service Agreement" means a written document between the Department and a parent, guardian, or former foster child that identifies one or more of the service goals in a family support services case plan, and the services and activities that are necessary for the parent, guardian, or former foster child to achieve the goal.

(18) "Service goal" means the observable, sustained change in behavior, condition, or circumstance that, when accomplished, achieves the desired effect.

(19) "Short term services" mean actions or activities that are limited in duration to a maximum of 180 days.

(20) "Sibling" means one of two or more children or young adults who are related, or would be related but for a termination or other disruption of parental rights, such as the death of a parent, in one of the following ways:

(a) By blood or adoption through a common parent;

(b) Through the marriage of the legal or biological parents of the children or young adults; or

(c) Through a legal or biological parent who is the registered domestic partner of the legal or biological parent.

(21) "Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(22) "Substitute caregiver" means a relative caregiver, foster parent, or provider authorized to provide care to a child or young adult in the legal or physical custody of the Department.

(23) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0003
Purpose

The purpose of OAR 413-030-0003 to 413-030-0030 is to describe the responsibilities of the Department in providing family support services, including:

(1) Eligibility criteria;

(2) Determination of service needs;

(3) Development of the family support services case plan;

(4) Development of Service Agreements;

(5) Caseworker contact and monitoring requirements; and

(6) Timelines for reviewing progress.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 418.005
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0006
Eligibility For Family Support Services

(1) A parent, guardian, or former foster child may be eligible for family support services if the requirements of one of the following subsections are met:

(a) A parent or guardian requests out-of-home placement of a child due solely to the emotional, behavioral, or mental disorder or developmental or physical disability of the child, as described in OAR 413-020-0060 to 413-020-0090.

(b) A parent or guardian requests that the Department take temporary custody of a child due to conditions described in OAR 413-020-0005 to 413-020-0050.

(c) A former foster child eligible to receive Independent Living Program (ILP) services requests those services.

(d) A parent or guardian requests post adoption or post legal guardianship services in connection with an adoption or legal guardianship that occurred through the Department.

(e) A parent or guardian requests assistance with a child in the home, and all of the following paragraphs apply:

(A) Other community resources have been utilized and determined to be ineffective.

(B) Members of the extended family and other responsible adults who are well known to the child have been explored or utilized and determined to be unsafe, unavailable, unwilling, or ineffective as support for the family.

(C) The parent or guardian is temporarily or will be temporarily unable to fulfill parental responsibilities due to a diagnosed medical or mental health condition.

(D) The inability of the parent or guardian to fulfill parental responsibilities is temporary and immediate; and will be alleviated with short term services or short term services will transition the family to community services.

(E) A Child Welfare program manager approves the request for voluntary services.

(2) Service eligibility requires the full and ongoing cooperation of the parent, guardian, or former foster child in:

(a) The determination of need;

(b) The preparation of the family support services case plan; and

(c) The monitoring of the family support services case plan.

(3) If the Department determines that funds for family support services are unavailable, the Department will not provide services for those who are eligible for services under subsection (1)(e) of this rule.

(4) The Department must provide family support services when a court has ordered the Department to provide services to a pre-adjudicated delinquent.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-030-0020, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0009
Determination of the Service Needs

(1) Within 30 days of receiving the family support services screening information, the caseworker must determine the service needs by completing the following actions:

(a) Provide the parent, guardian, or former foster child with a Service Application.

(b) Initiate the process to determine the child's ICWA status and notify the Indian child's tribe if ICWA applies. To initiate this process, the caseworker must:

(A) Complete a form CF 1270, Verification of ICWA Eligibility, to assist in determining ICWA eligibility.

(B) Contact the child's tribe when an Indian child's family is requesting placement of the child per the requirements of OAR 413-070-0160(1).

(C) Consult with the local Child Welfare ICWA liaison or a supervisor if the caseworker has questions regarding the involvement of a tribe or the ICWA status of the child.

(c) Within five working days of receipt of the case, confirm there is no current reported safety threat to the child by reviewing the screening information and the child welfare case records for all family members living in the household.

(d) Within ten working days of receipt of the case, make initial face-to-face contact with the parent, guardian, or former foster child to assess current behaviors, conditions, and circumstances in the family and gather specific information on the needs of the parent, guardian, or former foster child.

(e) Within ten working days of receipt of the case, when the child is in the home of the parent or guardian, make initial face-to-face contact with the child to assess the identified needs of the child.

(f) When the child is in substitute care, make monthly face-to-face contact as required under OAR 413-080-0054.

(g) To determine service needs, the caseworker must, at a minimum, observe:

(A) The parent, guardian, or former foster child in the home environment;

(B) The child or former foster child in his or her home or substitute care placement; and

(C) The interactions between family members.

(h) Obtain from the parent, guardian, or former foster child the names of persons who can provide additional information on the needs of the child, former foster child, or the family, when appropriate.

(i) Ask the parent, guardian, or former foster child to sign an authorization to release information to enable the Department to obtain additional information from physicians, mental health providers, school employees, or other service and treatment providers, when appropriate.

(j) After obtaining the authorization to release information, contact service and treatment providers, when appropriate, to understand the past and current services and treatment of the family and the child or former foster child.

(k) Obtain expert evaluations when appropriate to determine specific service or treatment needs when a condition or behavior requires additional professional information regarding a person's functioning.

(l) Analyze the behaviors, conditions, and circumstances of the family to determine service or treatment needs based upon information gathered from the activities in subsections (a) to (k) of this section.

(m) Document the findings of the activities in subsections (a) to (k) of this section in the Department's electronic information system.

(2) The caseworker must use the information and determination of service and treatment needs to develop an individualized family support services case plan that addresses the specific identified needs:

(a) The caseworker must also refer to OAR 413-070-0100 to 413-070-0260 if the child is an Indian child.

(b) When a family is eligible for out-of-home placement due to the child's special needs or placement is ordered through the court, the caseworker must also refer to OAR 413-070-0600 to 413-070-0645, 413-020-0060 to 413-020-0090, 413-070-0100 to 413-070-0260 if the child is an Indian child, and OAR 413-080-0040 to 413-080-0067.

(c) When a former foster child requests ILP services, the caseworker must also refer to OAR 413-030-0400 to 413-030-0460 and OAR 413-070-0100 to 413-070-0260 if the child is an Indian child.

(d) When a family requests that the Department take voluntary custody of the child, the caseworker must also refer to OAR 413-070-0600 to 413-070-0645, 413-020-0005 to 413-020-0050, 413-070-0100 to 413-070-0260 if the child is an Indian child, and 413-080-0040 to 413-080-0067.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005, 418.312
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0200
Purpose

(1) The purpose of OAR 413-030-0200 to 413-030-0220 is to emphasize that the child's safety is the paramount concern in determining substitute care eligibility.

(2) The Department is responsible for determining if a child in the legal custody of the Department will be placed or continued in substitute care placement in accordance with statutes, administrative rules, agency procedures, and placement practice guidelines. OAR 413-030-0200 to 413-030-0220 specify the minimum criteria for the substitute care classification and placement under any type of substitute care program licensed or certified by the Department. Additional criteria are outlined in rules for specific substitute care programs.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005, 418.015 – 418.315, 419B.331 419B.349
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 21-1999, f. & cert. ef. 10-6-99; CWP 4-2003, f. & cert. ef. 1-7-03; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0210
Eligibility Criteria for Substitute Care Placement

For a child to be eligible for initial and continuing substitute care, the Department must meet the following criteria:

(1) Legal Basis. The Department must have a current legal basis for placement:

(a) Temporary custody under ORS 419B.165;

(b) Legal custody of the child through a juvenile court order;

(c) A voluntary custody agreement in accordance with OAR 413-020-0005 to 413-020-0005;

(d) A voluntary placement agreement in accordance with OAR 413-020-0060 413-020-0090;

(e) Permanent custody based on a permanent commitment or release and surrender agreement of a parent; or

(f) Verification that the child is an unaccompanied refugee minor.

(2) The child must be under 18 years of age at the time the child is placed in the legal custody of the Department and placement services are first initiated.

(3) Reasonable Efforts. Except in those cases with a Voluntary Custody Agreement or Voluntary Placement Agreement, the Department will make reasonable efforts to prevent or eliminate the need for removal of the child and to alleviate the barriers that keep the child from returning home. This includes an assessment of appropriate treatment and supportive services and providing such services when available through the Department or by referral to other community resources. To aid the court or Citizen Review Board (CRB) in making the findings required by this section, the Department shall present documentation to the court or CRB showing its reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to prevent or eliminate the need for removal of the child and services provided to safely return the child to the home. The department shall seek a reasonable efforts judicial determination within 60 days of a child's removal from the home, or a determination that due to aggravated circumstances reasonable efforts were not required to prevent the child's removal from the home. If the court does not make the reasonable efforts determination within 60 days, the child is not be eligible for Title IV-E foster care maintenance payments program throughout the duration of that child's stay in substitute care. Refer to OAR 413-100-0240.

(4) The child requires substitute care placement because there is no parent or guardian available and able to provide safe care for the child even with the assistance of available supportive resources, and no relative is willing and appropriate to assume full responsibility for the child.

(5) Placement is needed for one of the following reasons:

(a) The parent or guardian is not available to care for the child due to death, abandonment, desertion, incarceration, institutionalization, or catastrophic illness;

(b) The child is at significant risk of abuse or neglect;

(c) The child is in the permanent custody of the Department for adoption planning;

(d) The child has a severe disabling condition requiring skilled care that the family cannot provide even with the assistance of community resources but the Department can provide the care the child requires in an available substitute care resource; or

(e) The child's behavior is a serious danger to the child, the child's family, or the community but the child can, without threat to self or others, be managed in an available and appropriate substitute care resource.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005, 418.015 – 418.315, 419B.331 – 419B.349
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 21-1999, f. & cert. ef. 10-6-99; SOSCF 17-2000, f. & cert. ef. 7-25-00; SOSCF 10-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 4-2003, f. & cert. ef. 1-7-03; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0220
Eligibility After Age 18

(1) Eligibility for substitute care services ends at age 18 unless the person continues to meet both the eligibility criteria outlined in OAR 413 030 0210 and this rule. Under the following conditions the Department may continue to provide placement services up to the maximum age of 21 years if the person is:

(a) Actively striving to complete the requirements for high school graduation and achieving satisfactorily in a full time program of high school attendance, GED classes, or a combination of classes and employment;

(b) Enrolled in a special education program as called for in an Individual Educational Plan (IEP);

(c) An unaccompanied refugee minor; or

(d) The person's situation has been reviewed and approved in writing for an exception to these rules by the District Manager or designee.

(2) The Department may not provide substitute care services after the youth's 21st birthday.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005, 418.015 – 418.315, 419B.331 – 419B.349
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 21-1999, f. & cert. ef. 10-6-99; SOSCF 17-2000, f. & cert. ef. 7-25-00; SOSCF 10-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 4-2003, f. & cert. ef. 1-7-03; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0300
Purpose

The purpose of OAR 413-030-0300 to 413-030-0320 is to describe the eligibility criteria for the program classification of adoption. The adoption program classification is used to describe the services provided to a child placed in an approved adoptive home for the purpose of adoption. This includes agency adoptive placements and courtesy placement supervision of a child placed in Oregon by an out of state adoption agency.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.305 – 109.310, 418.005, 418.270 – 418.285
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 11-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0310
Eligibility for Adoption Program

To be eligible for the program classification of adoption, a child must be in a living situation that is officially considered an adoptive placement. The following are considered eligible for the program classification:

(1) Children fully free for adoption and placed in an approved adoptive home are classified as adoption from the time the placement is approved until the adoption is completed or disrupted.

(2) Children receiving courtesy supervision for an adoptive placement initiated in another state through the Interstate Compact.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 109.305 – 109.310, 418.005, 418.270 – 418.285
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 11-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0410
Eligibility for Youth Transition Services

A child or young adult must meet the following eligibility criteria for youth transition services, however a child or young adult enrolled in an Oregon youth transition service prior to September 1, 2009 is eligible to continue to receive that service until the child or young adult has achieved independence, reaches 21 years of age, or otherwise is no longer eligible for the specific service.

(1) Life skills training.

(a) A child 14 years of age or older who is in substitute care through the Department or one of the nine federally recognized Oregon tribes; or

(b) A former foster child.

(2) Independent living housing subsidy.

(a) The child or young adult must meet all of the following requirements:

(A) Be 16 years of age or older.

(B) Be in the care and custody of the Department.

(C) Be engaged in 40 hours of productive time per week, including a combined total of 25 hours or more of work or education activities and up to 15 hours of flexible time. Examples include, but are not limited to, volunteer activity, school sports, clubs, or counseling.

(D) Have had at least one prior substitute care placement.

(E) Have the approval of the court to participate in the independent living housing subsidy service.

(b) If a high school diploma has not been achieved, the child or young adult must be working actively to achieve a high school diploma or GED.

(c) The child or young adult must be enrolled concurrently in skill building services.

(d) The child or young adult may not live with any of his or her parents.

(3) Chafee housing.

(a) To be eligible for Chafee housing an individual must meet all of the following requirements:

(A) Be 18 years of age or older but not yet 21 years of age.

(B) Have been discharged from the care and custody of the Department or one of the federally recognized tribes on or after reaching 18 years of age.

(C) Be engaged in 40 hours of productive time per week, including a combined total of 25 hours or more of work and education activities.

(D) Have at least four hours of paid employment per week.

(b) If a high school diploma has not been achieved, the individual must be working actively to achieve a high school diploma or GED.

(c) The individual must be enrolled in skill building services.

(d) The individual may not live with any of his or her parents.

(e) The individual may not be eligible for Chafee housing when receiving an education and training grant.

(4) Education and training grant.

(a) To be eligible for an education and training grant the child or young adult must:

(A) Be 14 years of age or older and currently in substitute care through the Department or one of the federally recognized tribes; or

(B) Have been dismissed from substitute care after reaching 16 years of age and had 180 or more cumulative days of substitute care.

(b) The child or young adult initially must receive the grant prior to reaching 21 years of age.

(c) If the child or young adult is receiving the grant upon reaching 21 years of age, he or she may continue to receive the grant until he or she reaches 23 years of age.

(d) The child or young adult may not be eligible for an education and training grant when receiving Chafee housing.

(5) Youth Transition Discretionary Funds. A child or young adult must be eligible for and receiving skill building services as a prerequisite to eligibility for discretionary fund resources.

(6) Services that may be utilized in the transition to independent living, as appropriate and available, when the child or young adult meets all other eligibility requirements, include, but are not limited to:

(a) Flex funds as described in Child Welfare Policy I-E.5.4, "Flex Fund";

(b) Payments made for special or extraordinary needs as described in OAR 413-090-0300 to 413-090-0380;

(c) Housekeeping services as described in OAR 413-050-0000 to 413-050-0050;

(d) Supportive or remedial day care as described in OAR 413-050-0200 to 413-050-0280;

(e) Other resources provided through the Department of Human Services such as Supplemental Nutrition Assistance Program and Temporary Assistance for Needy Families program benefits, vocational rehabilitation, teen pregnancy prevention, Aging and People with Disabilities, or the Office of Developmental Disabilities Services; and

(f) Other state or community health care programs.

(7) The ILP Coordinator may approve an exception to the eligibility requirements of sections (2), (3), or (4) of this rule when there is a time-limited plan for meeting requirements for eligibility and written documentation why the exception is necessary for the child or young adult to achieve his or her comprehensive transition plan.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.475

Hist.: SOSCF 1-2002, f. & cert. ef. 1-22-02; CWP 10-2009(Temp), f. & cert. ef. 9-1-09 thru 12-28-09; CWP 16-2009, f. & cert. ef. 11-3-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0445

Development of the Comprehensive Transition Plan

(1) Development of the comprehensive transition plan. The Department must initiate the development of the comprehensive transition plan for a:

(a) Child 14 years of age or older and in substitute care or a young adult; or

(b) Former foster child who requests services as described in OAR 413-030-0003 to 413-030-0030 and would benefit from a comprehensive transition plan.

(2) The Department must ensure the comprehensive transition plan includes --

(a) The completion of a life skills assessment, which includes:

(A) Assessment of the skills and readiness of the child or young adult through interviews with substitute caregiver, parent or guardian, and any other significant adult; and

(B) Completion of a written independent living assessment in the format required by the Department.

(b) The written life skills assessment must include a description of:

(A) The strengths of the child or young adult; and

(B) His or her need for ongoing skill development in the following ability areas:

(i) Interaction with and connection to adults who can assist in the transition to independent living;

(ii) Transition successfully to independent living;

(iii) Engagement in educational and vocational interests;

(iv) Management of his or her physical and mental health; and

(v) Achievement of residential stability.

(3) After completing the activities in section (2) of this rule, the Department must convene a planning meeting to develop the comprehensive transition plan. The Department must:

(a) Ensure the child or young adult plays a central role in planning for and participating in the meeting, when developmentally appropriate;

(b) Involve the child or young adult in determining who may participate in the planning meeting which may include a parent or guardian, substitute caregiver, service providers, a court appointed special advocate, representative of a tribe, the attorney for the child or young adult or other adults important to the child or young adult;

(c) At the option of the child or young adult, involve the two additional members of the case planning team chosen by the child or young adult as described in OAR 413-040-0010(3)(c); and

(d) If the child or young adult makes the request, include any additional members the child or young adult would like to add to his or her comprehensive youth transition planning meeting when it is determined to be in the best interest of the child or young adult.

(4) The comprehensive transition plan must identify goals and services in each of the following domains:

(a) Education;

(b) Employment;

(c) Health;

(d) Housing;

(e) Life skills;

(f) Supportive relationships;

(g) Community connections; and

(h) Transportation.

(5) The child age 14 or older, young adult, or former foster child must agree to the comprehensive transition plan and the plan is signed by each person who participated in the planning meeting.

(6) A Department supervisor must review and acknowledge the completion of the comprehensive transition plan in the Department's information system.

(7) When a child is placed in another state through the Interstate Compact on the Placement of Children (ICPC), and the Department is unable to complete the comprehensive transition planning process as described in this rule, the Department remains responsible for working with the receiving state and with the child in developing a comprehensive transition plan.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.475, 419B.343, 419B.476

Hist.: SOSCF 1-2002, f. & cert. ef. 1-22-02; SOSCF 8-2002, f. & cert. ef. 5-6-02; CWP 10-2009(Temp), f. & cert. ef. 9-1-09 thru 12-28-09; CWP 16-2009, f. & cert. ef. 11-3-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0449

Review of the Comprehensive Transition Plan

(1) The caseworker must monitor the implementation of the comprehensive transition plan and make reasonable efforts to ensure timely and

appropriate services identified in the comprehensive transition plan are made available.

(2) The caseworker is responsible for regular review of the goals and services of the comprehensive transition plan during the following contacts:

(a) Monthly face-to-face contacts as required under OAR 413-080-0054; and

(b) The 90-day case plan review required under OAR 413-040-0016.

(3) Subsequent to the review of the comprehensive transition plan under subsection (2)(b) of this rule, the caseworker must document in the Department's information system:

(a) The progress in achieving the comprehensive transition plan goals;

(b) Any barriers and plans to address the barriers;

(c) Any changes in the comprehensive transition plan; and

(d) Notification to service providers of changes to the comprehensive transition plan.

(4) The supervisor must review and approve the documentation of the comprehensive transition plan review as a part of the required case plan review.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005, 418.475, 419B.343, 419B.476
Hist.: CWP 16-2009, f. & cert. ef. 11-3-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0454
Benchmark Review of the Comprehensive Transition Plan

(1) For a child with a comprehensive transition plan the caseworker must convene a meeting for the purpose of a benchmark review of the comprehensive transition plan six months prior to the child reaching 18 years of age.

(a) The meeting must include the child, unless the child developmentally is unable to participate, and may include a parent or guardian of the child, substitute caregiver, court appointed special advocate, the attorney for the child, service providers, and others the child determines are important to the meeting including, at the option of the child, the two additional members of the case planning team chosen by the child as described in OAR 413-040-0010(3)(c).

(b) The child plays a central role in the meeting appropriate with his or her developmental ability.

(c) At the meeting, the following are determined:

(A) Agreement on the person with decision-making authority for education services for the child after the child reaches 18 years of age;

(B) Arrangement of sustainable housing, including periods of time the child or young adult may be on break from college or other residential academic or vocational program after the child reaches 18 years of age;

(C) Identification of persons who may provide supportive relationships to the child after the child reaches 18 years of age;

(D) Identification of community resources available for the special or unique needs of the child after the child reaches 18 years of age;

(E) A plan for the employment, continued academic or vocational education, or specialized training of the child after the child reaches 18 years of age;

(F) Agreement on the person with decision-making authority for health and mental health services for the child and identification of health, mental health, and dental providers for the child after the child reaches 18 years of age; and

(G) The plan to meet life skill development needs of the child by the time the child reaches 18 years of age.

(d) The caseworker must document the determinations made under subsection (c) of this section and the documentation must be signed by the child, when developmentally able to do so, and the caseworker, and may be signed by other persons attending the meeting.

(2) The caseworker's supervisor must review and acknowledge the completion of the benchmark review of the comprehensive transition plan in the Department's information system.

(3) The caseworker must provide a copy of the comprehensive transition plan, including the documentation of the determinations made during the benchmark review of the comprehensive transition plan, to the court at the next scheduled permanency hearing.

(4) Within 90 days prior to the child's 18th birthday, the caseworker must review the determinations and plans made during the Benchmark Review with the child and, if identified, the two additional members of the case planning team chosen by the child as described in OAR 413-040-0010(3)(c). The caseworker reviews the progress made to date and makes any necessary adjustments to the plan.

(5) The caseworker's supervisor must review and acknowledge the completion of the Benchmark Review of the comprehensive transition plan in the Department's electronic information system.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005, 419B.343 & 419B.476
Hist.: CWP 16-2009, f. & cert. ef. 11-3-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0456
Health Care Notifications, Credit Reports, and Data Tracking

(1) The Department must notify any young adult over 17 years, six months of age in the care or custody of the Department of the following information regarding health care treatment:

(a) The importance of designating another individual to make health care treatment decisions on his or her behalf if he or she becomes unable to participate in such decisions and does not have or does not want a relative who is otherwise authorized under state law to make such decision; and

(b) The option to execute a health care power of attorney, health care proxy, or other similar document recognized under state law.

(2) The Department must ensure any child 14 years of age or older and in the care or custody of the Department:

(a) Annually receives a copy of a consumer credit report when one exists; and

(b) Receives some assistance in interpreting the credit report and resolving any inaccuracies in that report.

(3) National Youth in Transition Database (NYTD) Requirements. Beginning October 2010, the Department must collect and track independent living type services and outcome data as follows:

(a) Served population: The Department will report all independent living type services paid for or provided by the Department during the six month reporting periods under the NYTD timelines.

(b) Baseline population: The Department will report outcome data by conducting a survey with every child 17 years of age in the care or custody of the Department; and

(c) Follow up populations: The Department will report outcome data by conducting follow up surveys of the young adults surveyed under subsection (b) of this section at ages 19 and 21.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005, 418.475, 419B.343, 419B.476
Hist.: CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-030-0460
Requirements at Independence

(1) At least 60 days prior to the date on which the Department is requesting relief of legal custody of a child or young adult reaching independence, the Department must inform the child or young adult of:

(a) The date, time, and location of the hearing;

(b) The right to attend the hearing, and the importance of attending; and

(c) The right to request assistance with transportation to and from the hearing.

(2) When the court relieves the Department of the custody of the child or young adult reaching independence, the Department must provide the child or young adult with the following written records:

(a) Unless the release is prohibited by law or the law requires the child or young adult to make a specific request for the records under ORS 432.250 and ORS 109.425 to 109.507, information concerning the case of the child or young adult, including family and placement history, location and status of each sibling, and contact information the child or young adult may use to seek additional information about his or her case or family history.

(b) Health and education records, including:

(A) Health and immunization records;

(B) Educational summary and records; and

(C) Information on how to identify a Health Care Representative, complete an Oregon Advance Directive, and complete the Former Foster Care Youth Medical Referral Form.

(c) A copy of each of the following, and documentation that each has been provided to the child or young adult in official form:

(A) The birth certificate of the child or young adult.

(B) Official proof of the citizenship or residence status of the child or young adult in a form acceptable to an employer required to verify immigration status.

(C) The social security card, or a copy of the original, of the child or young adult.

(D) A driver's license or another form of state identification, or a copy of the original, of the child or young adult;

(E) Where applicable, a death certificate of a parent of the child or young adult.

(F) Written verification of placement in substitute care through the Department or one of the federally recognized tribes of the child or young adult when 14 years of age or older and 18 years of age and younger.

(G) The child or young adult's credit report.

(3) When the Department is unable to provide the documentation and information described in section (2) of this rule prior to the court order by which the Department is relieved of legal custody of the child or young adult, the Department must prepare the written records and either deliver them to the child or young adult or, when the whereabouts of the child or young adult are unknown, retain the records in the case file of the child or young adult until requested by the child or young adult.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: CWP 16-2009, f. & cert. ef. 11-3-09; CWP 19-2015, f. & cert. ef. 10-1-15

413-040-0000
Definitions

(1) "AAICPC" means the Association of Administrators of the Interstate Compact on the Placement of Children, which is the national professional association of state administrators of the Interstate Compact on the Placement of Children, housed at the American Public Human Services Association (APHSA).

(2) "Action agreement" means a written document between the Department and a parent or guardian that identifies one or more of the services or activities provided by the Department or other community partners, in which the parent or guardian will participate to achieve an expected outcome.

(3) "Acquired Immune Deficiency Syndrome (AIDS)" is a disorder in which a person's immune system is severely suppressed. It is caused by the human immunodeficiency virus (HIV). In order for a person to be diagnosed as having AIDS, the virus, immune system suppression, and an opportunistic infection or other condition stipulated by the U.S. Centers for Disease Control must all be present. A laboratory diagnosis of a CD4 less than 200 also is an AIDS defined illness.

(4) "Age-appropriate or developmentally appropriate activities" means:

(a) Activities or items that are generally accepted as suitable for children or young adults of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child or young adult, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(b) In the case of a specific child or young adult, activities or items that are suitable for the child or young adult based on the developmental stages attained by the child or young adult with respect to the cognitive, emotional, physical, and behavioral capacities of the child or young adult.

(5) "CANS screening" means Child and Adolescent Needs and Strengths screening, a process of gathering information on the needs and strengths of a child or young adult for one or more of the following purposes:

(a) To identify case planning, service planning, and supervision needs of the child or young adult in substitute care with a certified family.

(b) To determine the level of care payment while in substitute care with a certified family; and

(c) To determine the level of care payment included in an adoption assistance agreement or guardianship assistance agreement.

(6) "Case plan" means a written goal-oriented, time-limited individualized plan for the child and the child's family, developed by the Department and the parents or guardians, to achieve the child's safety, permanency, and well-being.

(7) "Child" means a person under 18 years of age.

(8) "Compact administrator" means the person for each party to the Compact responsible for carrying out the provisions of the Compact. In Oregon, it is the Assistant Director, Children, Adults and Families, Department of Human Services.

(9) "Complete judicial review" means a hearing that results in a written order that contains the findings required under ORS 419B.476 or includes substantially the same findings as are required under ORS 419A.116.

(10) "Concurrent permanent plan" means the alternate permanency plan whenever the child has been placed in substitute care when the goal of the permanency plan is to return the child to the parents. The "concurrent permanent plan" is developed simultaneously with the plan to return the child to the parents or legal guardians.

(11) "Conditions for return" mean a written statement of the specific behaviors, conditions, or circumstances that must exist within a child's home before a child can safely return and remain in the home with an in-home ongoing safety plan.

(12) "Counseling" means group and individual counseling, emotional support groups, one-on-one emotional support, AIDS education, and/or information services.

(13) "Date child entered substitute care" means the earlier of the following two dates:

(a) The date the court found the child within the jurisdiction of the court (under ORS 419B.100); or

(b) The date that is 60 days from the date of removal.

(14) "Department" means the Department of Human Services, Child Welfare.

(15) "Deputy compact administrator" means the person appointed by a compact administrator as the coordinator to assure compliance with the law.

(16) "Expected outcome" means an observable, sustained change in a parent or guardian's behavior, condition, or circumstance that, when accomplished, will increase a parent or guardian's protective capacity and reduce or eliminate an identified impending danger safety threat, and which, when accomplished, will no longer require Child Welfare intervention to manage a child's safety. It is a desired end result and takes effort to achieve.

(17) "Expert evaluation" means a written assessment prepared by a professional with specialized knowledge of a particular subject matter such as physical health, psychological health, mental health, sexual deviancy, substance abuse, and domestic violence. The assessment provides information regarding an individual's functioning in the area of the professional's specialized knowledge, and when the expert is evaluating a parent or guardian, whether the individual's functioning impacts his or her protective capacity.

(18) "Family member" means any person related to the child or young adult by blood, marriage, or adoption, including, but not limited to the parents, grandparents, stepparents, aunts, uncles, sisters, brothers, cousins, or great-grandparents. Family member also includes the registered domestic partner of a person related to the child, a child 12 years of age or older, and when appropriate, a child younger than 12 years of age. In a case involving an Indian child under the Indian Child Welfare Act (ICWA), a "family member" is defined by the law or custom of the child's tribe.

(19) "Family plan" means a written document developed at the OFDM that includes family recommendations on planning for the child and may include a permanency plan, concurrent permanent plan, placement recommendations, or service recommendations. The "family plan" also includes expectations of the parents of the child and other family members; services the Department will provide; timelines for implementation of the plan; benefits of compliance with the plan; consequences of noncompliance with the plan; and a schedule of future meetings if appropriate. The "family plan" described in ORS 417.375(1) is incorporated into the case plan to the extent that it protects the child, builds on family strengths, and is focused on achieving permanency for the child within a reasonable time.

(20) "Guardian" means an individual who has been granted guardianship of a child through a judgment of the court.

(21) "High risk behaviors" means the following:

(a) Having shared a needle with an intravenous drug abuser since 1977;

(b) For a man, having had sex with another man or men since 1977;

(c) Having been sexually active in an area where heterosexual transmission is believed to be high;

(d) Persons with hemophilia;

(e) Having been the sexual partner of a person in one of the previous categories;

(f) Being born to a woman whose history has put her in one of these other categories.

(22) "HIV" is the acronym for human immunodeficiency virus. This is the current name for the virus which causes AIDS.

(23) "HIV Infection". People who have been tested and found to have the antibody are referred to as having HIV infection. These people are capable of transmitting the virus through risk behaviors, as described below.

(24) "HIV Positive" means that a blood test has indicated the presence of antibodies to HIV. This means that the person has been infected by the virus and the immune system has responded by producing antibodies. An exception is infants of HIV-infected mothers. They have been exposed to the mother's antibodies and carry these antibodies in their blood for a num-

ber of months after birth. A series of tests is necessary to determine if these infants are themselves infected with HIV.

(25) "ICPC approved family" means a family approved by the Interstate Compact on the Placement of Children (ICPC) deputy compact administrator or designee after reviewing a home study.

(26) "Impending danger safety threat" means a family behavior, condition, or circumstance that meets all five safety threshold criteria. A threat to a child that is not immediate, obvious, or occurring at the onset of the CPS intervention. This threat is identified and understood more fully by evaluating and understanding individual and family function.

(27) "Local Citizen Review Board (CRB)" means a board of not less than three nor more than five members appointed by the Chief Justice of the Supreme Court of the State of Oregon to review the cases of all children in the custody of the Department and placed in an out-of-home placement (ORS 419A.090-419A.094).

(28) "OFDM" means the family decision-making meeting as defined in ORS 417.365, and is a family-focused intervention facilitated by professional staff that is designed to build and strengthen the natural care giving system for the child. These meetings may include family group conferences, family unity meetings, family mediation, or other professionally recognized interventions that include extended family and rely upon the family to make decisions about planning for its children. The purpose of the family decision-making meeting is to establish a plan that provides for the safety, attachment, and permanency needs of the child. The role of the "OFDM" is described in ORS 417.365 to 417.375.

(29) "Ongoing safety plan" means a documented set of actions or interventions that manage a child's safety after the Department has identified one or more impending danger safety threats at the conclusion of a CPS assessment or anytime during ongoing work with a family.

(30) "Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, ORS 416.400 to 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the child by assuming or attempting to assume responsibilities normally associated with parenthood, unless a court finds that the putative father is not the legal father.

(31) "Permanency hearing" means the hearing that determines the permanency plan for the child. The "Permanency Hearing" is conducted by a juvenile court, another court of competent jurisdiction or by an authorized tribal court.

(32) "Permanency plan" means a written course of action for achieving safe and lasting family resources for the child or young adult. Although the plan may change as more information becomes available, the goal is to develop safe and permanent family resources with the parents, relatives, or other people who will assume legal responsibility for the child or young adult during the remaining years of dependency and be accessible and supportive to the child or young adult in adulthood.

(33) "Personal care services" means the provision of or assistance with those functional activities described in OAR 413-090-0120 consisting of mobility, transfers, repositioning, basic personal hygiene, toileting, bowel and bladder care, nutrition, medication management, and delegated nursing tasks that a child or young adult requires for his or her continued well-being.

(34) "Placement" means the arrangement for the care of a child in a foster home, relative foster home, non-paid relative home, or a child-caring agency or institution. It does not include the arrangement for care in an institute caring for the mentally ill, an institution primarily educational in character, or a hospital or other medical facility.

(35) "Protective capacity" means behavioral, cognitive, and emotional characteristics that can specifically and directly be associated with a person's ability and willingness to care for and keep a child safe.

(36) "Reasonable and prudent parent standard" means the standard, characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child or young adult while encouraging the emotional and developmental growth of the child or young adult, that a substitute care provider shall use when determining whether to allow a child or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.

(37) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by a public authority or a private person or agency, whether for placement with a state or local public authority or with a private agency or person.

(38) "Registered domestic partner" means an individual joined in a domestic partnership that is registered by a county clerk in accordance with ORS 106.300 to 106.340.

(39) "Reunification" means placement with a parent or guardian.

(40) "Safety threshold" means the point at which family behaviors, conditions, or circumstances are manifested in such a way that they are beyond being risk influences and have become an impending danger safety threat. In order to reach the "safety threshold" the behaviors, conditions, or circumstances must meet all of the following criteria: be imminent, be out of control, affect a vulnerable child, be specific and observable, and have potential to cause severe harm to a child. The "safety threshold" criteria are used to determine the presence of an impending danger safety threat.

(41) "SAIP" means Secure Adolescent Inpatient Program.

(42) "SCIP" means Secure Children's Inpatient Program.

(43) "Sending agency" means a party state or an officer or employee thereof; a subdivision of a party state or an officer or employee thereof; a court of a party state; or a person, corporation, association, charitable agency, or other entity that sends, brings, or causes to be sent or brought a child to another party state.

(44) "Sending state" means the state from which a proposed placement is made.

(45) "Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(46) "Substitute caregiver" means a relative caregiver, foster parent, or provider authorized to provide care to a child or young adult in the legal or physical custody of the Department.

(47) "Termination of parental rights" means that a court of competent jurisdiction has entered an order terminating the rights of the parent or parents, pursuant to ORS 419B.500 through 419B.530 or the statutes of another state. The date of the termination order determines the effective date of the termination even if an appeal of that order has been filed (ORS 419A.200).

(48) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 15-1998, f. & cert. ef. 7-27-98; CWP 31-2003, f. & cert. ef. 10-1-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 19-2015, f. & cert. ef. 10-1-15

413-040-0005
Purpose

The purpose of OAR 413-040-0000 to 413-040-0032 is to describe the activities required to:

(1) Complete a protective capacity assessment;
(2) Use the Family Decision-making Meeting;
(3) Develop a case plan;
(4) Develop an action agreement;
(5) Monitor the case plan;
(6) Review and revise the case plan;
(7) Determine when conditions for return have been met; and
(8) Close the ongoing safety plan and close the case.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005
Hist.: SCF 8-1996(Temp) , f. 11-27-96, cert. ef. 12-1-96; SCF 4-1997, f. 6-19-97, cert. ef. 6-28-97; SOSCF 15-1998, f. & cert. ef. 7-27-98; CWP 31-2003, f. & cert. ef. 10-1-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 18-2008, f. & cert. ef. 8-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-040-0006
Requirements for the Conditions for Return and the Protective Capacity Assessment

(1) The caseworker must determine conditions for return during the development of the ongoing safety plan.

(2) The conditions for return are documented in the ongoing safety plan and the case plan, and must describe:

(a) The specific behaviors, conditions, or circumstances that must exist before the Department may develop an in-home ongoing safety plan that assures a child's safety, as described in OAR 413-015-0450(2)(b)(A)(i)–(iii); and

(b) The actions, services, and time requirements of all participants in the in-home ongoing safety plan.

(3) The Department uses the protective capacity assessment to engage the parents or guardians of the child or young adult in a collaborative process to:

(a) Examine and understand the behaviors, conditions, or circumstances that made the child unsafe and the strengths of the parent or guardian that build protective capacity;

(b) Examine and understand how the behavioral, cognitive and emotional characteristics of the parents or guardians impact their ability to care for and keep the child safe;

(c) Determine the expected outcomes related to the behaviors, conditions, or circumstances of the parents or guardians that will increase protective capacity and reduce or eliminate the identified impending danger safety threat; and

(d) Identify services or activities that are likely to achieve the expected outcomes.

(4) Whenever possible, the Department and the parents or guardians should come to agreement on expected outcomes and the actions, services, and activities to achieve the expected outcomes.

(5) The caseworker must:

(a) Complete the following activities within five days of receipt of the case from the CPS worker or after replacing or adding an impending danger safety threat during ongoing case management:

(A) Review the Child Welfare case history, case documentation, and the actions and decisions of the most recent CPS assessment;

(B) Review and update as necessary the ongoing safety plan by contacting all participants in the safety plan to determine whether the ongoing safety plan assures the safety of the child;

(C) Review and update as necessary the conditions for return; and

(D) Document the review of the ongoing safety plan and conditions for return in the Department's electronic information system.

(b) Complete the following activities:

(A) Conduct reasonable inquiries for the purpose of identifying individuals who may contribute to the caseworker's understanding of the protective capacity of the parents or guardians and the safety of the child. Such individuals may include parents or guardians, grandparents, extended family, an Indian child's tribe, and any other family members, persons with significant attachments to the child, other professionals, substitute caregivers, neighbors, and friends of the family. Reasonable inquiries mean, as defined in ORS 417.371(4)(b), efforts that include reviewing the case file for relevant information, contacting the parents or guardians, and contacting additional sources of information for the purpose of ascertaining the whereabouts of family members, if necessary.

(B) Gather information from these individuals through individual interviews or meetings for the purpose of identifying and understanding the needs, concerns, strengths, and limitations associated with the protective capacity of parents or guardians and assessing the impact on the child's safety.

(C) Evaluate the relationship between --

(i) The existing protective capacities of parents or guardians that contribute to child safety;

(ii) The diminished protective capacities of parents or guardians that must change for the parents or guardians to care for and keep the child safe; and

(iii) The parents' or guardians' readiness to change.

(D) Whenever possible, collaboratively identify with the parents or guardians:

(i) Other family members, persons with significant attachments to the child, community members, and members of an Indian child's tribe who will contribute to meeting the conditions for return and actively participate in an ongoing safety plan or enhancing the protective capacity of the parents or guardians; and

(ii) Actions and services that will reduce or eliminate identified safety threats or enhance the protective capacity of the parents or guardians.

(E) Inform the parents or guardians of the Department's actions and decisions regarding identified impending danger safety threats, conditions for return, protective capacity, and the ongoing safety plan.

(F) Enter the findings of the protective capacity assessment, the information obtained by conducting the activities required in paragraphs (A) to (D) of this subsection, and the conditions for return in the Department's information system.

(6) The caseworker must document the findings of the protective capacity assessment and the conditions for return in the case plan.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 18-2008, f. & cert. ef. 8-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-040-0008
Requirements for a Family Decision-making Meeting

(1) When the child has been placed in substitute care for more than 30 days, the Department must consider scheduling an OFDM. When considered appropriate, the meeting is scheduled, whenever possible, between the 30th and 60th day of the out-of-home care placement.

(2) When a decision has been made by the Department and the family to use the OFDM, the Department will conduct and document reasonable inquiries to promptly locate and notify the parents, grandparents, an Indian child's tribe, and any other family member who has had significant, direct contact with the child in the year prior to the substitute care placement. Other participants in the meeting must include the child, if the child is 12 years of age or older, and for a child 14 years of age and older, at their option, up to two members of the case planning team who are chosen by the child. Other participants in the meeting may include a child younger than 12 when appropriate, other professionals, foster parents, neighbors, and family and friends of the family as appropriate.

(3) Family members or an Indian child's tribe who are located after reasonable inquiries will be notified by the Department of the OFDM in a timely manner to allow them the opportunity to prepare for and attend the meeting.

(4) Other participants will be jointly identified by the parents, guardians, Indian custodian of the child, and the Department, and the Department will notify identified participants in a timely manner to allow them the opportunity to prepare for and attend the meeting.

(5) To assist the family in developing the family's plan for the child, the Department must provide participants with information regarding the federal timeline for determining permanency for the child and the Oregon Administrative Rules that govern the sufficiency of a safety plan, conditions for return, and reunification.

(6) The located family members may attend the OFDM unless the other participants determine that a family member may threaten or place other participants at risk. The Department may exclude family members it determines are violent, unpredictable, or abusive or an alleged perpetrator of sexual abuse, domestic violence, or severe physical assault.

(7) Family members who are not invited or allowed to participate may submit written information and recommendations to the caseworker prior to the scheduled meeting concerning the subjects of the OFDM, including concerns regarding the placement of the child, permanency plan, concurrent permanent plan, and services.

(8) During the OFDM, family members will develop a family plan for the child.

(9) Any family member or tribal representative participating in an OFDM must sign a written acknowledgment of the content of the family plan developed at the meeting and of his or her attendance at the meeting.

(10) The Department will send a copy of the family plan developed at the OFDM within 21 days after the date of the meeting to family participants, including those who participated by submitting written information and recommendations.

(11) The Department will incorporate the family plan developed at the OFDM into the Department's case plan to the extent that the family plan protects the child, builds on family strengths, and focuses on achieving permanency for the child within a reasonable time. If the family's plan developed at the meeting cannot be incorporated into the Department's case plan, the reasons shall be documented in the Department's case plan.

(12) The Department is responsible for confirming that any family plan developed at an OFDM is sufficient to ensure the safety or permanency of the child before implementing a family plan developed at an OFDM.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: CWP 31-2003, f. & cert. ef. 10-1-03; Renumbered from 413-040-0031, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-040-0010
Requirements for the Case Plan

(1) The caseworker must analyze the information gathered during the protective capacity assessment to develop a case plan. The case plan must include all of the following information:

(a) Family composition, which includes the information identifying each child, each young adult, and each parent or guardian.

(b) Original impending danger safety threats identified in the CPS assessment as described in OAR 413-015-0425.

(c) The ongoing safety plan including any additional impending danger safety threats identified since the CPS assessment, as described in OAR 413-015-0450 and recorded in the Department's information system.

(d) The findings of the protective capacity assessment.

(e) Expected outcomes and actions that each parent or guardian is taking to achieve them.

(f) Services (if applicable) to the child or young adult that include:

(A) The identified needs of and services provided to any child or young adult placed in substitute care, including the results of the CANS screening, the personal care services provided to an eligible child or young adult under OAR 413-090-0100 to 413-090-0210, and other current assessments or evaluations of the child or young adult, and the reasons the substitute care placement is the least restrictive placement to meet the child or young adult's identified needs;

(B) The health information of the child or young adult, which documents the child's routine and specialized medical, dental, and mental health services;

(C) The education services of the child or young adult, the school or educational placement history of the child or young adult, high school credits earned for a child over 14 years of age or a young adult, and any special educational needs; and

(D) Services to transition the child or young adult to independent living in all cases when the child is 14 years of age or older.

(g) Services the Department will provide including:

(A) Case oversight and routine contact with the parents or guardians and the child or young adult;

(B) Appropriate and timely referrals to services and service providers suitable to address identified impending danger safety threats or strengthen parental protective capacity;

(C) Appropriate and timely referrals to services and service providers suitable to address the needs of the child or young adult as identified through the CANS screening and other current assessments or evaluations of the child or young adult; and

(D) Timely preparation of reports to the court or other service providers.

(h) The date that the progress of the parents or guardians in achieving expected outcomes will be reviewed. The case plan must be reviewed with the parents or guardians every 90 days; however, the caseworker and parents or guardians may agree on a review date at any time within the 90-day period.

(i) When the child or young adult is in substitute care, the case plan must also include:

(A) Current placement information including:

(i) The location of the child or young adult and the substitute caregiver of the child or young adult, except when doing so would jeopardize the safety of the child, young adult, or the substitute caregiver, or the substitute caregiver will not authorize release of the address; and

(ii) Documentation that shows that the child or young adult is receiving safe and appropriate care in the least restrictive environment able to provide safety and well-being for the child or young adult.

(B) The child or young adult's record of visits with his or her parents and siblings.

(C) The permanency plan.

(D) The conditions for return.

(E) The concurrent permanent plan and the progress the Department has made in implementing the concurrent permanent plan.

(j) The case plan for any child or young adult in foster care who has attained 14 years of age must include:

(A) A document that describes:

(i) The rights of the child or young adult with respect to education, health, visitation, and court participation;

(ii) The right to be provided with a copy of the young adult's birth certificate, social security card, health insurance information, medical records, and a driver's license or equivalent state-issued identification card when the child leaves foster care having attained age 18 or greater; and

(iii) The right to stay safe and avoid exploitation.

(B) A signed acknowledgment by the child or young adult that the child or young adult has been provided with a copy of the document and that the rights contained in the document have been explained to the child in an age-appropriate way.

(2) As applicable, the caseworker must also include in the case plan:

(a) The goals and activities required for an Indian child under OAR 413-010-0100 to 413-010-0260 or for a refugee child under OAR 413-070-0300 to 413-070-0380.

(b) Recommendations of expert evaluations requested by the Department whenever the recommendations may impact parental protective capacities or treatment services for the child or young adult. If the recommendations are not included in the case plan, the rationale must be documented in the Department's information system.

(c) Diligent efforts to place the child or young adult with relatives and with siblings who are also in substitute care, sibling connections, and the Department's efforts to keep siblings together.

(d) Orders of the court.

(3) The persons involved with the Department in the development of the case plan include:

(a) The parents or guardians, unless their participation threatens or places other participants at risk;

(b) The child who has obtained 14 years of age or the young adult; and

(c) At the option of the child or young adult, up to two members of the case planning team chosen by the child or young adult who are not:

(A) A foster parent;

(B) A caseworker for the child or young adult; or

(C) An individual the Department has good cause to believe would not act in the best interests of the child or young adult.

(d) One of the individuals in subsection (c) of this section may be designated to be the advisor of the child or young adult, and as needed, advocate for the child or young adult with respect to the application of the reasonable and prudent parent standard to the child or young adult.

(4) Additional persons involved with the Department in the development of the case plan may include the child regardless of age or young adult, adoptive parents, an Indian custodian when applicable, other relatives, persons with significant attachments to the child or young adult, the substitute caregiver, and other professionals when appropriate.

(5) The case plan must include the signature of the caseworker and each parent or guardian, unless subsections (7)(a) or (7)(b) of this rule apply.

(6) Approval and distribution of the case plan.

(a) The Child Welfare supervisor must approve and sign the case plan.

(b) The caseworker must give a copy of the case plan to the parents or guardians of the child or young adult, and the Indian child's tribe when applicable, as soon as possible but no later than seven working days after the case plan is approved by the supervisor, except when doing so would provide information that places another person at risk.

(7) Exceptions and exemptions to the required case plan.

(a) A court may authorize an exception to the involvement of the parents or guardians when it determines that reasonable efforts to return the child home are not required, as described in OAR 413-070-0515.

(b) When the Department has custody of a child or young adult in substitute care and is unable to obtain the signature of a parent or guardian, the caseworker must prepare and send a letter of expectations and a copy of the case plan to the parent or guardian within seven working days after the supervisor has approved and signed the case plan. A letter of expectations means an individualized written statement for the family of the child or young adult that identifies family behaviors, conditions, or circumstances that resulted in an unsafe child; the expected outcomes; and what the Department expects each parent or guardian will do to achieve safety, permanency, and well-being of the child or young adult in the parental home.

(c) A case plan as described in sections (1) to (5) of this rule is not required if a family, child, or young adult is eligible for Family Support Services as described in OAR 413-030-0000 to 413-030-0030.

(8) Timeline for case plan development. The caseworker must develop the case plan within 60 days of a child's removal from home or within 60 days of the completion of the CPS assessment, in cases where the child remains in the home of a parent or guardian.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 8-1996(Temp), f. 11-27-96, cert. ef. 12-1-96; SCF 4-1997, f. 6-19-97, cert. ef. 6-28-97; SOSCF 15-1998, f. & cert. ef. 7-27-98; SOSCF 4-2000(Temp), f. & cert. ef. 1-31-00 thru 7-28-00; SOSCF 19-2000, f. & cert. ef. 8-8-00; CWP 31-2003, f. & cert. ef. 10-1-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 18-2008, f. & cert. ef. 8-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-040-0013

Requirements for Monitoring the Case Plan

(1) The caseworker must:

(a) Make reasonable efforts to:

(A) Reduce the stay of a child or young adult in substitute care;

(B) Reunify the child or young adult with the parents or guardians whenever possible; and

(C) Achieve a permanency plan when reunification is no longer possible.

(b) Monitor the case plan; and

(c) Terminate Department intervention services in a timely manner.

(2) The caseworker is responsible for all of the following actions:

(a) Contacting and communicating with each parent or guardian through monthly face-to-face contact about progress toward achieving the conditions for return and the expected outcomes.

(b) Contacting and communicating with the child or young adult during the monthly face-to-face contact required under OAR 413-080-0054.

(c) Monitoring the child's or young adult's opportunities to participate in age-appropriate or developmentally appropriate activities, which include extracurricular, enrichment, cultural, and social activities.

(d) Monitoring the services provided through the case plan through contact with each service provider a minimum of once every 90 days.

(e) Monitoring the ongoing safety plan.

(f) Monitoring action agreements.

(g) Monitoring the visitation and contact plan when a child or young adult is in substitute care.

(h) Monitoring the parent or guardian's progress toward meeting the conditions for return when a child or young adult is in substitute care.

(i) Monitoring the parent or guardian's progress toward meeting the expected outcomes of the case plan.

(j) Ensuring completion of the actions and activities that are the responsibility of the Department.

(k) Reviewing the progress the parent or guardian has made in reducing or eliminating identified impending danger safety threats and enhancing parental protective capacity during each monthly review of the ongoing safety plan.

(l) Arranging for supervision or other services to address the child or young adult's strengths and needs identified through the most recent CANS screening as required by OAR 413-020-0200 to 413-020-0255.

(m) Responding immediately to issues that may impact the safety of the child or young adult which become known to the caseworker.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15

413-040-0014
Replacing or Adding Impending Danger Safety Threats During Ongoing Case Management

(1) A caseworker may replace an identified impending danger safety threat or add a new impending danger safety threat to an ongoing safety plan during ongoing case management.

(a) A caseworker may replace an identified impending danger safety threat when:

(A) The Department determines the incorrect impending danger safety threat was identified during the CPS assessment in error; or

(B) After completing a protective capacity assessment, receiving evaluations, or based on other new information, the Department determines there is an impending danger safety threat that more accurately describes the family behaviors, conditions, or circumstances.

(b) A caseworker may add an impending danger safety threat to an ongoing safety plan during ongoing case management when a change occurs in the family behaviors, conditions, or circumstances that is not a new allegation of abuse or neglect, but indicates a new impending danger safety threat is present.

(2) Prior to adding a new impending danger safety threat, the caseworker must:

(a) Apply the safety threshold criteria as outlined in OAR 413-015-0425(2)(a) to (e), assure all five criteria are met and, if so, document in the Department's electronic information system the application of the safety threshold criteria and how the impending danger safety threat is occurring; and

(b) Review and update as necessary the ongoing safety plan, conditions for return, and protective capacities and complete the activities outlined in OAR 413-040-0006.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005
Hist.: CWP 19-2015, f. & cert. ef. 10-1-15

413-040-0016
Requirements for Review of the Case Plan

(1) The case plan is reviewed a minimum of every 90 days. This review must take place in a face-to-face meeting with the parents or guardians, unless excluded under section (3) of this rule. The meeting may include the child at any age if developmentally appropriate, service providers, safety plan participants, substitute caregivers, attorneys, a child or young adult's CASA, persons with significant attachments to the child or young adult, and family members. The meeting must include the child 14 years of age or older or young adult and, at the option of the child or young adult, up to two members of the case planning team who are chosen by the child or young adult as described in OAR 413-040-0010(3)(c).

(2) During the case plan review, the caseworker assesses and determines the progress that has been made in achieving the expected outcomes of the case plan, and, when the child or young adult is in substitute care, the progress toward meeting the conditions of return.

(3) Exceptions to the face-to-face case plan review. If a parent or guardian is not available for the review, the caseworker must document the reason the parent or guardian was unavailable and the efforts that were made to involve the parent or guardian in the review.

(4) During a case plan review, the caseworker must consider input received from the child or young adult, the service providers, safety plan participants, substitute caregivers, attorneys, a child or young adult's CASA, persons with significant attachments to the child or young adult, and family members.

(5) Subsequent to the face-to-face meeting, the caseworker documents all of the following in the Department's information system:

(a) The services provided and the progress of the parents or guardians in achieving expected outcomes or, when a child is in substitute care, meeting the conditions of return.

(b) Observations of improved parent or guardian protective capacity based on specific behaviors, conditions, or circumstances that have measurably changed.

(c) Input received from service providers, substitute caregivers, attorneys, the child or young adult's CASA, persons with significant attachments to the child or young adult, and family members.

(d) The addition, reduction, or elimination of the identified impending danger safety threats.

(e) The actions the Department has taken to develop and implement the concurrent permanent plan for the child or young adult in substitute care if a parent or guardian has not demonstrated progress in achieving the conditions for return in a timely manner including:

(A) A review of the child or young adult's education, health, and mental health services to ensure the needs of the child or young adult are being met;

(B) A review of other services provided to address the identified needs of the child or young adult, including those identified through the CANS screening;

(C) An assessment of the need of the child or young adult for a safe and permanent home; and

(D) An assessment of the capacity of the substitute caregiver to meet the identified needs of the child or young adult as described in OAR 413-070-0640.

(E) A review of the participation by, the child or young adult in age-appropriate or developmentally appropriate activities, and any identified barriers to participation in extracurricular, enrichment, social, and cultural activities that are of interest to the child or young adult; and

(F) An assessment of the capacity of the substitute caregiver to apply the reasonable and prudent parent standard.

(6) Within 30 days of receiving an expert evaluation requested by the Department, the caseworker must consider revising the case plan to include recommendations that will improve parent or guardian protective capacity related to the identified impending danger safety threats. If the recommendations are not included in the case plan, the rationale must be documented in the Department's information system.

(7) The Child Welfare supervisor must review the caseworker's documentation of the case plan review, and document completion of the review in the Department's information system every 90 days. The supervisor must review, approve, and sign the six-month case plan review submitted for required administrative review.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 8-1996(Temp), f. 11-27-96, cert. ef. 12-1-96; SCF 4-1997, f. 6-19-97, cert. ef. 6-28-97; SOSCF 15-1998, f. & cert. ef. 7-27-98, Renumbered from 413-040-0030; CWP 31-2003, f. & cert. ef. 10-1-03, Renumbered from 413-040-0045; Renumbered from 413-040-0063, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13: CWP 19-2015, f. & cert. ef. 10-1-15

413-040-0017
Requirements for Return and Reunification

(1) The caseworker recommends returning the child or young adult to a parent or guardian after the caseworker has reviewed the impending danger safety threats identified in the CPS assessment that required an out-of-home ongoing safety plan and verified that:

(a) The conditions for return in the case plan have been met;

(b) The identified impending danger safety threats can be managed with an ongoing safety plan;

(c) The parents or guardians are willing and able to accept responsibility for the care of the child or young adult with an ongoing safety plan;

(d) The parents or guardians are willing and able to continue participating in case plan services;

(e) Service providers who are currently working with the child, young adult, parents or guardians, and other involved persons including the child or young adult's CASA and attorneys have been informed, in writing, of the plan to return the child or young adult with an in-home ongoing safety plan; and

(f) No safety concerns for the child or young adult are raised in the caseworker's review of the criminal history records and child welfare protective service records of all persons currently residing in a parent or guardian's home.

(2) When the child or young adult is returning to a parent living in a residential treatment facility, an alcohol and drug free housing program, or a residential domestic violence program, the Department does not review the criminal history records and child welfare protective service records of persons living in the state funded facilities and programs.

(3) If the caseworker cannot confirm that identified impending danger safety threats can be managed if the child or young adult is returned to a parent or guardian with an in-home ongoing safety plan, the child or young adult must remain in substitute care.

(4) The caseworker's supervisor must review and concur that conditions for return have been met, and that any disagreement with the plan to return the child or young adult has been reviewed and considered in the development of the in-home ongoing safety plan prior to the caseworker recommending to the court that a child or young adult be returned to a parent or guardian.

(5) The in-home ongoing safety plan must specifically document the planned caseworker and safety service provider contacts with the child or young adult and the parent or guardian, when the child or young adult is returned to the parent or guardian.

(6) The caseworker must revise, as necessary, and confirm the sufficiency of an in-home ongoing safety plan that will manage impending danger safety threats as they are uniquely occurring within a particular family prior to the child or young adult's physical return.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005
Hist.: CWP 31-2003, f. & cert. ef. 10-1-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 18-2008, f. & cert. ef. 8-1-08; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13: CWP 19-2015, f. & cert. ef. 10-1-15

413-040-0024
Requirements for an In-home Ongoing Safety Plan Prior to Return and Next Day Contact

(1) When the caseworker determines the conditions for return have been achieved and identified impending danger safety threats can be managed when a child or young adult is returned to a parent or guardian, the caseworker must develop an in-home ongoing safety plan. The caseworker's supervisor must:

(a) Approve the proposed in-home ongoing safety plan during the five working days prior to the return of a child or young adult to the home of a parent or guardian of the child or young adult; and

(b) Document the approval in the Department's information system.

(2) After a proposed in-home ongoing safety plan returning a child or young adult to the parent or guardian's home is approved by the caseworker's supervisor, the caseworker must complete all of the following activities:

(a) Visit the child or young adult, outside the presence of a parent or guardian, at least once during the five days prior to the return of the child or young adult to the home to confirm the readiness of and prepare the child or young adult for the return home.

(b) Visit the parent or guardian in the home of the parent or guardian, at least once during the five days prior to the return of the child or young adult to the home, to verify:

(A) The behaviors, conditions, and circumstances in the home are safe for the return of the child or young adult;

(B) Confirmation of all persons living in the household;

(C) The parent or guardian is ready for the return of the child or young adult;

(D) The parent or guardian is willing and able to participate in the ongoing safety plan; and

(E) The parent or guardian is willing and able to continue in case plan services.

(c) If necessary, revise the proposed in-home ongoing safety plan to ensure that it is able to manage impending danger safety threats as they are uniquely occurring within the family prior to the child or young adult's physical return.

(d) Confirm the in-home ongoing safety plan with the parent or guardian, and obtain the signature of the parent or guardian.

(e) Document the revised in-home ongoing safety plan in the Department's information system.

(3) After a proposed in-home ongoing safety plan returning a child or young adult to the parent or guardian's residential treatment facility, an alcohol and drug free housing program, or residential domestic violence program is approved by the caseworker's supervisor, the caseworker must complete all of the following activities:

(a) Visit the child or young adult, outside the presence of a parent or guardian, at least once during the five days prior to the return of the child or young adult to the home to confirm the readiness of and prepare the child or young adult for the return.

(b) Contact the parent or guardian at least once during the five days prior to the return of the child or young adult to the home, to verify:

(A) The parent or guardian is ready for the return of the child or young adult;

(B) The parent or guardian is willing and able to participate in the ongoing safety plan;

(C) The parent or guardian is willing and able to continue to participate in case plan services.

(c) Verify that the residential treatment facility, an alcohol and drug free housing program, or residential domestic violence program is a safe environment for the child or young adult.

(d) If necessary, revise the proposed in-home ongoing safety plan to ensure that it is able to manage the impending danger safety threats as they are uniquely occurring prior to the child or young adult's physical return.

(e) Confirm the in-home ongoing safety plan with the parent or guardian and obtain the signature of the parent or guardian.

(f) Document the revised ongoing safety plan in the Department's information system.

(4) In the event a court orders the return of a child or young adult to a parent or guardian of the child or young adult before an in-home ongoing safety plan can be developed and approved in accordance with the criteria in OAR 413-015-0450 and this rule:

(a) The caseworker must complete the activities described in this rule as soon as practicable, but not later than seven working days following the court order; and

(b) If the caseworker disagrees with the order of the court, the caseworker must immediately consult with his or her supervisor.

(5) The caseworker must visit the child or young adult in the residence of the parent or guardian the day following the return home of the child or young adult. The caseworker must:

(a) Monitor the safety of the child or young adult by completing the activities required by OAR 413-080-0055(2);

(b) Follow the requirements of OAR 413-080-0055(4)-(6), as appropriate; and

(c) Document observations and the conditions of the residence in the Department's information system within seven business days of the visit.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 18-2008, f. & cert. ef. 8-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13: CWP 19-2015, f. & cert. ef. 10-1-15

413-040-0032
Requirements for Closing the In-Home Ongoing Safety Plan and Closing the Case

(1) When a child or young adult is in the home of the parent or guardian and the parent or guardian can sustain the safety of the child or young adult, the caseworker must assess when the in-home ongoing safety plan should close.

(2) When assessing whether the in-home ongoing safety plan can be closed, the caseworker must determine whether:

(a) The parent or guardian has demonstrated capacity to sustain the safety of the child or young adult based upon:

(A) Observations of the child or young adult and the parent or guardian in the home;

(B) Expert evaluations and reports from service providers;

(C) Reports from participants in the in-home ongoing safety plan;

(D) The extent to which the achievement of expected outcomes supports the ability of the parent or guardian to sustain the safety of the child or young adult; and

(E) Consultation with other individuals participating with the parent or guardian to sustain the safety of the child or young adult.

(b) The child or young adult is safe in the home based upon:

(A) The elimination of the identified impending danger safety threats or the protective capacity of the parent or guardian is sufficient to manage identified impending danger safety threats;

(B) The willingness and ability of the parent or guardian to protect the child or young adult; and

(C) Caseworker confidence in the ability of the parent or guardian to sustain the safety of the child or young adult over time.

(3) The caseworker must document the determination that the in-home ongoing safety plan can be closed and the facts supporting the ability of the parent or guardian to provide safety for the child or young adult and to sustain the safety of the child or young adult.

(4) The caseworker's supervisor must review the caseworker's documentation to ensure the criteria in section (2) of this rule are met, and concur that the in-home ongoing safety plan can be closed prior to approving the closure of the safety plan.

(5) The caseworker closes the in-home ongoing safety plan and the case when the court dismisses the commitment of the child or young adult to the Department or the court's wardship over the child terminates.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 418.005
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 21-2009, f. & cert. ef. 12-29-09; CWP 1-2013, f. & cert. ef. 1-15-13: CWP 19-2015, f. & cert. ef. 10-1-15

413-040-0100
Purpose

An outline of the required review process to maintain a child or young adult who is in the legal custody of the Department and placed in substitute care. These rules emphasize that child safety, permanency and well-being are the paramount concerns guiding the review process for providing and maintaining services to children in Department custody.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 419A.090 – 419A.122, 419B.440 – 419B.476, 419C.623 – 419C.656
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 24-1999, f. & cert. ef. 12-14-99; SOSCF 8-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-6-00; SOSCF 22-2000, f. 9-6-00, cert. ef. 9-7-00; CWP 23-2003, f. & cert. ef. 5-22-03; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0306
Definitions

(1) "Age-appropriate or developmentally appropriate activities" means:

(a) Activities or items that are generally accepted as suitable for children or young adult of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child or young adult based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(b) In the case of a specific child or young adult, activities or items that are suitable for the child or young adult based on the developmental stages attained by the child or young adult with respect to the cognitive, emotional, physical, and behavioral capacities of the child or young adult.

(2) "Approved provider parent" means an individual who a foster care agency, Oregon Youth Authority (OYA), or a governmental agency other than the Department has approved to provide care to children in the home of the individual.

(3) "Certified provider home" means the home of at least one approved provider parent or foster parent that a foster care agency has approved for this individual to provide care to children placed by the foster care agency.

(4) "Criminal history check" means compliance with the Department's criminal records history rules (OAR 407-007-0200 to 407-007-0370). To comply with these rules, the agency must appoint a Contact Person (CP) who is designated to receive and process criminal history and child abuse check forms. Final fitness determinations will be made by the Department.

(5) "Department" means the Department of Human Services, Child Welfare.

(6) "Foster care agency" means a private child-caring agency (defined in OAR 413-215-0006) that offers to place children by taking physical custody of and then placing the children in homes certified by the agency.

(7) "Foster parent" means an individual who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(8) "Reasonable and prudent parent standard" means the standard, characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child or young adult while encouraging the emotional and developmental growth of the child or young adult, that a substitute care provider shall use when determining whether to allow a child or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.325
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0410, CWP 31-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0311
License Requirements

(1) A foster care agency (defined in OAR 413-215-0306) must be licensed by the Department to certify a home as a certified provider home (defined in OAR 413-215-0306).

(2) A foster care agency must be licensed by the Department before the foster care agency accepts physical custody of a child for placement in the home of a foster parent (defined in OAR 413-215-0306) or approved provider parent (defined in OAR 413-215-0306).

(3) To be licensed by the Department, a foster care agency must:

(a) Have a current, written program statement that describes:

(A) The type of provider and foster care provided.

(B) The children served.

(C) The services provided to the children, their families, their foster families, or their approved provider families.

(D) The geographical area covered.

(b) Have an ongoing recruitment and retention program to ensure an adequate number of suitable certified provider homes based on the written program statement of the foster care agency.

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.325
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0470, CWP 31-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0313
Personal Qualifications Required for Approved Provider Parents

(1) To be approved by a foster care agency as an approved provider parent (defined in OAR 413-215-0306), the applicant must:

(a) Be at least 21 years of age.

(b) Possess the ability to exercise sound judgment and demonstrate responsible, stable, emotionally mature behavior.

(c) Possess the ability to manage the applicant's home and personal life.

(d) Possess the ability to apply the reasonable and prudent parent standard when determining whether to allow a child or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.

(e) Maintain conditions in the home that provide safety and well-being for the child.

(f) Have supportive relationships with adults and children living in the household and with others in the community.

(g) Have a lifestyle and personal habits free of criminal activity and abuse or misuse of alcohol or other drugs.

(h) Have the physical and mental capacity to care for a child or young adult. A foster care agency or the Department may, by request, require an applicant to:

(A) Provide copies of medical reports from a health care professional.

(B) Complete an expert evaluation with a report provided to the foster care agency.

(2) A foster care agency may only approve an applicant as an approved provider parent if the applicant meets the requirements of section (1) of this rule.

(3) A foster care agency may only use a certified provider home (defined in OAR 413-215-0306) if each approved provider parent or foster parent (defined in OAR 413-215-0306) meets the requirements of section (1) of this rule.

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.325
Hist.: CWP 31-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0316
Orientation for Certified Provider Home Applicants

(1) To be approved by a foster care agency (defined in OAR 413-215-0306) to operate a certified provider home (defined in OAR 413-215-0306), an applicant must complete orientation training.

(2) The orientation training required by section (1) of this rule must, at a minimum, include all of the following:

(a) The policies and procedures of the foster care agency.

(b) The needs and characteristics of children needing placement.

(c) Attachment, separation, and loss issues for children and families.

(d) The importance of cultural identity to the child and ways to foster this identity.

(e) The impact of foster care on the child and family.

(f) The rights and responsibilities of the foster parent (defined in OAR 413-215-0306) or approved provider parent (defined in OAR 413-215-0306) and the foster care agency.

(g) The resources available to the foster parent or approved provider parent.

(h) Legal responsibility to report suspected child abuse.

(i) Confidentiality.

(j) Rights of families and children.

(k) Copies of all of the following documents:

(A) The program statement.

(B) The requirements for certified provider homes.

(C) The policies of the foster care agency governing certified provider homes.

(D) The training requirements of the foster care agency for certified provider homes.

(E) The licensing rules for foster care agencies.

(F) Expectations for working with the foster care agency.

(3) The foster care agency must document in the file of each applicant:

(a) Whether the applicant has received the orientation described in section (2) of this rule;

(b) Whether the foster care agency has provided the notification described in OAR 413-215-0321(4); and

(c) Whether the applicant is approved and a certificate has been issued by the foster care agency to operate a certified provider home. If a certificate is issued, the foster care agency must document the number of children and the age range of children the home is certified to serve, and any specific gender or other restrictions and limitations.

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.325
Hist.: CWP 31-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0326
Training for Parents in Certified Provider Homes

(1) The foster care agency (defined in OAR 413-215-0306) must have and follow a written training plan that:

(a) Provides each parent in a certified provider home (defined in OAR 413-215-0306) a minimum of 15 hours of training before the foster care agency places a child in the home.

(b) Provides each parent in a certified provider home a minimum of 15 hours of training annually prior to the issuance of the annual approval required by OAR 413-215-0331.

(c) The training plan must include all of the following topics:

(A) Characteristics and needs of children who may be placed with the family.

(B) Ways to effectively parent children who are placed by the foster care agency, including application of the reasonable and prudent parent standard.

(C) Positive behavior management, non-punitive discipline.

(D) The importance of the family of the child and working with the family of the child.

(E) The importance of age-appropriate or developmentally appropriate extracurricular, enrichment, cultural, and social activities.

(F) Preparation of the child for independence based on the age, stage of development, and needs of the child.

(G) Legal responsibility to report suspected child abuse.

(2) The foster care agency must document in parent records the training received by each parent.

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.325
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0440, CWP 31-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0336
Complaints about Certified Provider Homes

(1) Employees of the foster care agency (defined in OAR 413-215-0306) are covered by the requirements to report suspected child abuse in ORS 419B.010 and, in addition to any other requirements of law, must refer a complaint of suspected child abuse to the local branch of the Department for investigation.

(2) If the foster care agency receives information alleging a certified provider home (defined in OAR 413-215-0306) is not in compliance with the certification requirements of the foster care agency, the foster care agency must initiate an on-site assessment of the home as soon as is appropriate, based on the nature of the complaint.

(a) As part of the assessment, the foster care agency must prepare a detailed written investigation report that includes all of the following information:

(A) The name of the foster care agency employee who received the complaint, date the complaint was received, name of complainant, and the allegations.

(B) Dates and places of contacts, the names of persons interviewed or observed, and the names of the interviewers.

(C) Findings, summary, and conclusions regarding compliance or noncompliance and recommendations regarding corrective action.

(b) The foster care agency must complete the assessment in a timely manner following the receipt of the complaint.

(c) The foster care agency must provide the foster parent (defined in OAR 413-215-0306) or approved provider parent (defined in OAR 413-215-0306) with a copy of the report of the assessment once it is complete, and must inform this parent in writing that he or she has a right to have his or her response included in an attachment to the report.

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.325
Hist.: CWP 31-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0341
Closures of Certified Provider Homes

If a foster care agency (defined in OAR 413-215-0306) decertifies a certified provider home (defined in OAR 413-215-0306) or withdraws approval of an approved provider parent (defined in OAR 413-215-0306), the foster care agency must provide the parent or parents a written notice of the specific reasons for the action and must retain a copy of the notification in the record of the certified provider home.

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.325
Hist.: CWP 31-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0349
Notifications Required of Parents

A foster care agency (defined in OAR 413-215-0306) must require parents in a certified provider home (defined in OAR 413-215-0306) to notify the foster care agency of each of the following:

(1) Any physical or structural changes in the home in which they live.

(2) Any arrests or court convictions of any member of the household. A parent of the certified provider home must notify the foster care agency within one working day of learning about the arrest or conviction.

(3) Any allegation of child abuse or neglect perpetrated by any member of the household or any individual who regularly visits the home. A parent of the certified provider home must notify the foster care agency on the day he or she learns of the allegation.

(4) The suspension of a driver's license of any adult on the Certificate of Approval or any member of the household.

(5) Any change in the physical or mental health of a member of the household that reasonably could affect the ability of the family to meet the safety needs of the child.

(6) Any time a member of the household applies to become an in-home child care provider, an adult foster care, or in-home adult day care provider, including the approval of the foster care agency to provide such care.

(7) Any other circumstance that could reasonably affect the safety or well-being of a child.

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.325
Hist.: CWP 31-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0351
Records of Certified Provider Homes

(1) A foster care agency (defined in OAR 413-215-0306) must safely and consistently maintain a record for each certified provider home (defined in OAR 413-215-0306) it approves. Such records must be separate from records the foster care agency maintains on the children and families it serves.

(2) The record for each certified provider home must contain all of the following:

(a) All documents pertaining to approval of the certified provider home.

(b) All documents pertaining to formal complaints about the certified provider home.

(c) The contract between the foster care agency and the parents in the certified provider home.

(d) A list of all children placed in the certified provider home that includes identifying and placement information.

(e) Documentation that the foster care agency conducted a minimum of one home visit every 180 days to assure compliance with certification standards.

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.325
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0450, CWP 31-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0356
Placement of a Child by a Foster Care Agency

(1) A foster care agency (defined in OAR 413-215-0306) may place a child in a certified provider home (defined in OAR 413-215-0306).

(2) The placement of a child in a certified provider home must be consistent with the recommendations for the use of the home as identified in the current home assessment.

(3) The foster care agency may not issue a certification for a certified provider home that allows the home to exceed any of the following subsections:

(a) A total of four children to one foster parent or approved provider parent living in the home;

(b) A total of seven children to two foster parents or approved provider parents living in the home; or

(c) A total of two children under the age of three.

(4) The foster care agency may only place or supervise a child in a certified provider home approved by another foster care agency, or with a foster parent, or with an approved provider parent approved by the Oregon Youth Authority (OYA) or another governmental agency (other than the Department), without prior approval from the parent as well as the foster care agency or governmental agency. Before placing the child, the foster care agency must obtain copies of pertinent documents from the file of the foster parent or approved provider parent to determine the safety and appropriateness of the home for the child.

(5) The foster care agency must base each placement on an assessment of the individual needs of the child and an assessment of the ability of the home provider to meet those needs. The foster care agency must document the basis for the selection in the file of the foster parent or approved provider parent.

(6) Before or at the time of placement of a child in a certified provider home, or within two working days after placement if the placement is an emergency placement, the foster care agency must have a written contract signed by the foster parent or approved provider parent and by the foster care agency. The contract must contain all of the following:

(a) The rights and responsibilities of the foster care agency and the parents regarding placement and an acknowledgment that the parents agree to follow the policies and procedures of the foster care agency for certified provider homes and services.

(b) Language that requires the parents to notify the foster care agency immediately of any circumstances in their home that reasonably could affect the safety or well-being of a child in care, including injury, illness, an emotional or mental health issue, communicable disease, an accident, or an arrest.

(7) Sleeping Arrangements.

(a) Children and adults must be housed in separate bedrooms, except that a child and the parent of the child may be housed in the same room if the parent is the caretaker of the child. If a youth is 18 years of age or older and is to share a bedroom with a child less than 18 years of age, written approval must be obtained from the Department licensing coordinator.

(b) The foster care agency must consider the age, gender, special needs, behavior, and history of abuse or neglect of the child in determining appropriate sleeping arrangements.

(c) Unrelated foster children may not share a bed.

(8) The foster care agency must provide to the parent a copy of the signed contract and maintain a copy in the parent file.

(9) At the time of placement of each child in a certified provider home, the foster care agency must provide the parents with all of the following information and authorizations:

(a) The name and date of birth of the child, and the reason for placement.

(b) The name of the assigned worker and a telephone number to contact the foster care agency.

(c) Information about the health, behavioral characteristics, and needs of the child.

(d) Authorization and clear written instructions for obtaining medical, dental, and other professional care, and authorization for emergency medical care.

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.325
Hist.: CWP 31-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0371
Training of Foster Care Agency Staff

In addition to the orientation requirements in OAR 413-215-0061(4), a foster care agency (defined in OAR 413-215-0306) must meet all of the following training requirements with respect to its employees:

(1) Staff of the foster care agency must be provided with orientation training prior to or within 30 days of hire. The orientation must include training on all of the following:

(a) Behavior management protocols including de-escalation skills training, crisis prevention skills, positive behavior management, and disciplinary techniques that are non-punitive in nature and are focused on helping children build positive personal relationships and self-control.

(b) If restraint and seclusion are utilized by the program, the approved techniques and monitoring procedures. The training must be clear in the policy of the foster care agency that restraint or seclusion is used as an intervention of last resort.

(2) Staff of the foster care agency must receive ongoing training at least annually on all of the following:

(a) Mandatory child abuse reporting.

(b) Procedures for handling environmental emergencies.

(c) Universal precautions (infection control guidelines designed to protect workers from exposure to diseases spread by blood and certain body fluids) and hygiene.

(d) Behavior management.

(3) Staff of the foster care agency must receive training in cardiopulmonary resuscitation and first aid sufficient to retain a current certification.

(4) Staff of the foster care agency must receive training related to the reasonable and prudent parent standard, and age-appropriate or developmentally appropriate activities.

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.325
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0430, CWP 31-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0391
Consents, Disclosures, and Authorizations

(1) Consents. For each child taken into the physical custody of a foster care agency (defined in OAR 413-215-0306), the foster care agency must ensure that a parent or legal guardian signs a consent that authorizes the foster care agency to undertake each of the following, as applicable:

(a) To provide routine and emergency medical care. If a foster care agency relies on prayer or spiritual means for healing in accordance with the creed or tenets of a well-recognized religion or denomination, the foster care agency may not require medical, psychological or rehabilitative procedures. The foster care agency must have policies and procedures for this practice, which are reviewed and approved by the parent or legal guardian of the child.

(b) To use the behavior management system of the foster care agency, including the point, level, or other behavior management techniques utilized by the foster care agency.

(c) To use restraint or seclusion in the management of the child. The consent must specify the reasons such interventions are used by the foster care agency and how the employees of the foster care agency, approved provider parents, or foster parents are trained and supervised in the use of restraint or seclusion.

(d) To restrict the child's contact with persons outside the foster care agency and the certified provider home (defined in OAR 413-215-0306), including visits, telephone communication, electronic mail, and postal mail.

(e) To exclude or limit the child's possession of personal items.

(f) To impose a dress code.

(g) To apply the reasonable and prudent parent standard to determine whether the child or young adult is allowed to participate in age-appropriate or developmentally appropriate activities, including extracurricular, enrichment, cultural, and social activities.

(2) Disclosures. At admission, the foster care agency must ensure that each parent or legal guardian of the child receives and acknowledges in writing the receipt of each of the following:

(a) Mandatory child abuse reporting requirements.

(b) Information regarding any personal or room searches and protocols for confiscation of contraband items, including the notification of law enforcement if illegal contraband is discovered. This information will include the procedures and rationales of the foster care agency for any program-initiated room or body search.

(c) A statement concerning the rights of children and parents or legal guardians served by the foster care agency. The statement must be written in a manner that is easy to understand, and the foster care agency must ensure that the child and the parent or legal guardian understand the statement. The statement must explain all of the following:

(A) The child's right to communicate with parents, legal guardians, legal representatives, or other persons approved for communication by the parent or legal guardian.

(B) The child's right to privacy.

(C) The child's right to participate in service planning.

(D) The child's right to fair and equitable treatment.

(E) The child's right to file a grievance if the child or family feels that they are treated unfairly, or, if they are not in agreement with the services provided.

(F) The child's right to have personally exclusive clothing.

(G) The child's right to personal belongings.

(H) The child's right to an appropriate education.

(I) The child's right to participate in recreation and leisure activities.

(J) The child's right to have timely access to physical and behavioral health care services.

(d) The grievance policies and procedures of the foster care agency.

(e) The foster care agency will make any written policy or procedure pertaining to program services available for review by the child, parent, or legal guardian, upon request.

(3) Authorizations.

(a) Authorization to disclose information from other service providers must be filled out prior to signatures being requested and be specific to one other provider. Information may only be requested on a need-to-know basis.

(b) All child-specific visitors must be approved or authorized by the parent or legal guardian, except court appointed special advocates (CASA) and attorneys appointed to represent the child.

(c) Visitation resources must be pre-approved by the parent or legal guardian of the child and the identity of these resources verified by the foster care agency.

(d) Activity-specific authorizations must be pre-approved by the parent or legal guardian of the child to allow children to participate in potentially hazardous activities, such as using motorized yard equipment, swimming, and horseback riding.

(e) All other required authorizations must be pre-approved by the parent or legal guardian of the child.

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.325
Hist.: CWP 31-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0506
Definitions

When used in OAR 413-215-0501 to 413-215-0586:

(1) "Age-appropriate or developmentally appropriate activities" means:

(a) Activities or items that are generally accepted as suitable for children or young adults of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child or young adult, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(b) In the case of a specific child, activities or items that are suitable for the child or young adult based on the developmental stages attained by the child or young adult with respect to the cognitive, emotional, physical, and behavioral capacities of the child or young adult.

(2) "Care" means services provided to meet the needs of a child, such as food, shelter, clothing, medical care, schooling, protection, and supervision.

(3) "Child" means an unmarried person under 18 years of age.

(4) "Employee" means an individual holding a paid position with a residential care agency.

(5) "Facility" means the physical setting, buildings, administration, staff, equipment, and program of a residential care agency.

(6) "Family" means related members of a household, among whom at least one adult functions as a parent to one or more minor children.

(7) "Medication" means any drug, chemical, compound, suspension, or preparation in suitable form for use as a curative or remedial substance either internally or externally by any person.

(8) "Reasonable and prudent parent standard" means the standard, characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child or young adult while encouraging the emotional and developmental growth of the child or young adult, that a substitute care provider shall use when determining whether to allow a child or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.

(9) "Resident" means any child residing in a residential care agency other than an infant who resides with an adolescent parent.

(10) "Residential" means care or treatment services provided on a 24 hour per day basis to children. For the purpose of these rules, "residential care or treatment" does not include services provided in family foster homes or adoptive homes.

(11) "Residential care agency" means a private child-caring agency (defined in OAR 413-215-0006) that provides services to children 24 hours a day.

(12) "Staff" means employees of the residential care agency who are responsible for providing direct care or treatment to residents.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327
Stats. Implemented: ORS 418.205 - 418.327
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0010, CWP 33-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0554
Extracurricular, Enrichment, Cultural, and Social Activities

The residential care agency (defined in OAR 413-215-0506) must:

(1) Support the child or young adult in his or her interests to participate in age-appropriate or developmentally appropriate activities, including extracurricular, enrichment, cultural, and social activities.

(2) Ensure the child or young adult has ongoing opportunities to participate in at least one age-appropriate or developmentally appropriate activity.

(3) Apply the reasonable and prudent parent standard when determining whether to allow a child or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.

(4) Designate at least one on-site employee to be the caregiver who is authorized to apply the reasonable and prudent parent standard to decisions involving participation in age-appropriate or developmentally appropriate activities with respect to any child or young adult placed at the residential care agency. When applying the reasonable and prudent parent standard, the designated caregiver must consider:

(a) The age, maturity, and developmental level of a child or young adult.

(b) The nature and inherent risks of harm.

(c) The best interest of the child or young adult based on information known by the caregiver.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327
Stats. Implemented: ORS 418.205 - 418.327
Hist.: CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0556
Staff Training

In addition to the orientation requirements in OAR 413-215-0061(4), a residential care agency (defined in OAR 413-215-0506) must meet all of the following training requirements with respect to its staff (defined in OAR 413-215-0506):

(1) Staff of the residential care agency must be provided with orientation training prior to or within 30 days of hire. The orientation must include training on all of the following:

(a) Behavior management protocols including de-escalation skills training, crisis prevention skills, positive behavior management, and disciplinary techniques that are non-punitive in nature and are focused on helping children build positive personal relationships and self-control.

(b) If restraint and seclusion are utilized by the residential care agency, which techniques are approved by the residential care agency and how use of these procedures is monitored. The training must be clear that the policy of the residential care agency is that restraint or seclusion is used as an intervention of last resort.

(2) Staff of the residential care agency must receive ongoing training at least annually on all of the following:

(a) Mandatory child abuse reporting.

(b) Procedures for handling environmental emergencies.

(c) Universal precautions (infection control guidelines designed to protect workers from exposure to diseases spread by blood and certain body fluids) and hygiene.

(d) Behavior management.

(3) Staff providing direct care of children of the residential care agency must receive training in cardiopulmonary resuscitation and first aid sufficient to retain a current certification.

(4) Staff designated as the caregiver authorized to apply the reasonable and prudent parent standard must receive training related to the reasonable and prudent parent standard and age-appropriate or developmentally appropriate activities.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327
Stats. Implemented: ORS 418.205 - 418.327
Hist.: CWP 33-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0561
Minimum Staffing Requirements

A residential care agency (defined in OAR 413-215-0506) must meet all of the following requirements:

(1) Minimum staffing patterns. The residential care agency must establish staff-to-child ratios that will provide adequate supervision and protection for children. The ratios must be adequate for the type of program, location of program, the age and type of children served, physical plant design, location and ability of the supervisor to respond, electronic backup systems, and other means available to ensure a high standard of supervision and protection. The minimum staffing ratios are as follows:

(a) For residents (defined in OAR 413-215-0506) who are under 30 months of age — one direct care staff (defined in OAR 413-215-0506) for each four residents.

(b) For residents who are 30 months of age or older and either less than six years of age or non-ambulatory, one direct care staff for each six residents.

(c) For residents who are six years of age or older, one direct care staff for each seven residents.

(2) Overnight staffing requirements.

(a) A residential care agency must have policies and procedures regarding overnight supervision of residents. The procedures must describe how staff must monitor and ensure the safety of residents during sleeping hours. If the residential care agency houses more than one child (defined in OAR 413-215-0506) to a bedroom or uses dormitory-type sleeping arrangements, the procedure must specifically address those living arrangements.

(b) During normal sleeping hours, the minimum staffing requirement is one awake direct care staff on duty in the facility (defined in OAR 413-215-0506) for each 10 children.

(3) At least one staff member of each shift must have current certification in cardiopulmonary resuscitation and first aid.

(4) Additional staffing requirements for emergency response.

(a) When there is only one employee (defined in OAR 413-215-0506) of the residential care agency on duty in the facility, there must be additional staff immediately available in the event of an emergency, with a maximum response time of 30 minutes. The names of additional staff who are available for immediate response must be listed on the schedule for each time period when only one staff person is on duty in the facility.

(b) One employee who is age 18 or over and capable of taking appropriate action in an emergency must be on site at all times when one or more residents are present on the residential facility premises.

(5) Staffing requirements for reasonable and prudent parent standard. There must be at least one on-site employee designated to be the caregiver who is authorized to apply the reasonable and prudent parent standard to decisions involving participation in age-appropriate or developmentally appropriate activities with respect to any child placed at the residential care agency.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327
Stats. Implemented: ORS 418.205 - 418.327
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; Renumbered from 413-210-0080, CWP 33-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

413-215-0576
Consents, Disclosures, and Authorizations

(1) Consents. For each child in placement with a residential care agency (defined in OAR 413-215-0506), the residential care agency must ensure that a parent or legal guardian signs a consent that authorizes the residential care agency to undertake each of the following:

(a) To provide routine and emergency medical care. However, if the parent or legal guardian relies on prayer or spiritual means for healing in accordance with the creed or tenets of a well-recognized religion or denomination, the residential care agency is not required to use medical, psychological or rehabilitative procedures, unless the child is old enough to consent to these procedures and does so. The residential care agency must have policies and procedures for this practice, which are reviewed and approved by the child's parent or legal guardian.

(b) To use the behavior management system of the residential care agency, including the point, level, or other behavior management techniques utilized by the residential care agency.

(c) To use restraint or seclusion in the management of the child. The consent must specify the reasons such interventions are used by the residential care agency and how the employees of the residential care agency are trained and supervised in the use of restraint or seclusion.

(d) To restrict the child's contact with persons outside the residential care agency, including visits, telephone communication, electronic mail, and postal mail.

(e) To exclude or limit the child's possession of personal items.

(f) To impose a dress code.

(g) To apply the reasonable and prudent parent standard to determine whether the child or young adult is allowed to participate in age-appropriate or developmentally appropriate activities, including extracurricular, enrichment, cultural, and social activities.

(2) Disclosures to parent or legal guardian. At the time a residential care agency takes a child into placement, the residential care agency must ensure that each parent or legal guardian of the child receives and acknowledges in writing the receipt of each of the following:

(a) Information regarding any personal or room searches and protocols for confiscation of contraband items, including the notification of law enforcement if illegal contraband is discovered. This information will include the procedures and rationales of the residential care agency for any program-initiated room or body search.

(b) A statement concerning the rights of children and parents or legal guardians served by the residential care agency. The statement must be written in a manner that is easy to understand, and the residential care agency must ensure that the child and the parent or legal guardian understand the statement. The statement must explain all of the following:

(A) The child's right to communicate with parents, legal guardians, legal representatives, or other persons approved for communication by the parent or legal guardian.

(B) The child's right to privacy.

(C) The child's right to participate in service planning.

(D) The child's right to fair and equitable treatment.

(E) The right of the child or guardian to file a grievance if the child or family (defined in OAR 413-215-0506) feels that they are treated unfairly, or, if they are not in agreement with the services provided.

(F) The child's right to have personally exclusive clothing.

(G) The child's right to personal belongings.

(H) The child's right to a free and appropriate education.

(I) The child's right to participate in recreation and leisure activities.

(J) The child's right to have timely access to physical and behavioral health care services

(c) The residential care agency will make any written policy or procedure pertaining to program services available for review by the child, parent, or legal guardian, upon request.

(3) Authorizations.

(a) Written authorizations to exchange information with others must be filled out prior to signatures being requested.

(b) All child-specific visitors must be approved or authorized by the parent or legal guardian, except CASAs and attorneys appointed to represent the child.

(c) Visitation resources must be pre-approved by the child's parent or legal guardian and the identity of these resources verified by the residential care agency.

(d) Activity-specific authorizations must be pre-approved by the child's parent or legal guardian to allow children to participate in potentially hazardous activities, such as using motorized yard equipment, swimming, and horseback riding.

(e) All other required authorizations must be pre-approved by the child's parent or legal guardian.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327
Stats. Implemented: ORS 418.205 - 418.327
Hist.: CWP 33-2008, f. & cert. ef. 10-17-08; CWP 19-2015, f. & cert. ef. 10-1-15

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Rule Caption: Adopting, amending, and repealing rules relating to children and young adults in substitute care

Adm. Order No.: CWP 20-2015
Filed with Sec. of State: 10-1-2015
Certified to be Effective: 10-1-15
Notice Publication Date: 9-1-2015
Rules Adopted: 413-200-0260, 413-200-0275, 413-200-0298, 413-200-0356
Rules Amended: 413-200-0270, 413-200-0272, 413-200-0274, 413-200-0276, 413-200-0278, 413-200-0281, 413-200-0283, 413-200-0285, 413-200-0287, 413-200-0289, 413-200-0292, 413-200-0294, 413-200-0296, 413-200-0305, 413-200-0306, 413-200-0308, 413-200-0314, 413-200-0335, 413-200-0348, 413-200-0352, 413-200-0354, 413-200-0358, 413-200-0362, 413-200-0371, 413-200-0377, 413-200-0379, 413-200-0383, 413-200-0386, 413-200-0388, 413-200-0390, 413-200-0393, 413-200-0394, 413-200-0396, 413-200-0404, 413-200-0414, 413-200-0419, 413-200-0424
Rules Repealed: 413-200-0395, 413-200-0409
Subject: The Department of Human Services, Office of Child Welfare Programs, is amending rules in division 200 relating to substitute care certification standards and responsibilities. The amendments do the following:

- Establish the "reasonable and prudent parent" standard to guide caregivers in making decisions about whether to allow foster youth to engage in typical and appropriate childhood activities:

-- Require training in applying the reasonable and prudent parent standard (OAR 413-200-0274).

-- Require applicants to possess the ability to apply the reasonable and prudent parent standard (OAR 413-200-0308).

-- Adopt a new rule to require certified families to support the child or young adult in his or her interests to participate in age-appropriate or developmentally appropriate activities and apply the reasonable and prudent parent standard when determining whether to allow a child or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities (OAR 413-200-0356).

- Adopt an overarching definitions rule (OAR 413-200-0260) for division 200 which consolidates existing definitions and adds new terms:

-- Age-appropriate or developmentally appropriate activities.
-- Babysitting (new).
-- Child care (new).
-- Criminal records check (expanded).
-- Day care facility (new).
-- Disqualifying condition (new).
-- Impending danger safety threat (new).
-- Listed DHS child care provider (new).
-- Other person in the household (new).
-- Present danger safety threat (new).
-- Reasonable and prudent parent standard (new).
-- Subject individual (new and incomplete).
-- Temporary Certificate of Approval.

- Replace "expedited Child-Specific Certificate of Approval" with "Temporary Certificate of Approval" throughout.

- Amend OAR 413-200-0281 to require a criminal records check and a fingerprint-based criminal offender records check, and fitness determination for child care providers who are not day care providers.

- Amend OAR 413-200-0283 to add requirement to follow the requirements of 413-200-0404 to 413-200-0424 during and at the conclusion of a CPS assessment regarding a certified family.

- Amend OAR 413-200-0285 to require certifier to determine if the placement support plan should be updated or ended.

- Amend OAR 413-200-0287 to further delineate the activities that must be completed by a supervisor prior to renewal of a certificate of approval. Provides that a certificate does not expire if the department does not complete its assessment on a timely application.

- Amend OAR 413-200-0289 to delineate supervisor responsibilities regarding a request by a certified family to change their certification type, and to provide that no child may remain in a home that is not certified or that is having its certification revoked.

- Amend 413-200-0292 adds language about what to do when a member of the household is the perpetrator or potential perpetrator of abuse or neglect, further delineates supervisor responsibilities regarding a recertification of a previously certified family.

- Amend OAR 413-200-0294 to clarify that when requested by the certified family, inactive referral status ends: At the request of the certified family, or when the Certificate of Approval terminates or expires, unless the Department has renewed the certificate.

- Adopt OAR 413-200-0298 relating to the confidentiality of applicant and certified family information.

- Amend OAR 413-200-0352 to require certified families to immediately report when a child or young adult placed with the family is missing.

- Restructure rules throughout the division and adds new rules to highlight the differences between the assessment processes and make the rule easier to read.

- Make additional updates throughout division 200 consistent with current Department practice.

Rules Coordinator: Kris Skaro—(503) 945-6067

413-200-0260
Definitions

The following definitions apply to OAR chapter 413, division 200.

(1) "Adoptive resource" means an individual or individuals selected by the Department, another public child welfare agency, or a licensed adoption agency as the adoptive family for a child where no administrative review was requested within the timeframe allowed for such a request, or if a review was requested, the selection has been sustained by that review and the review is complete.

(2) "Age-appropriate or developmentally appropriate activities" means:

(a) Activities or items that are generally accepted as suitable for children or young adults of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child or young adult, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(b) In the case of a specific child or young adult, activities or items that are suitable for the child or young adult based on the developmental stages attained by the child or young adult with respect to the cognitive, emotional, physical, and behavioral capacities of the child or young adult.

(3) "Applicant" means any individual who applies:

(a) For a Certificate of Approval, Child-Specific Certificate of Approval, Temporary Certificate of Approval, to renew certification, or for a change of status; or

(b) For approval through the Department as a potential adoptive resource.

(4) "Babysitting" means the provision of temporary care for a child or young adult that is:

(a) Ten consecutive hours or less; and

(b) Not overnight care.

(5) "CANS screening" means Child and Adolescent Needs and Strengths screening, a process of gathering information on the needs and strengths of a child or young adult used for one or more of the following purposes:

(a) Identifying case planning, service planning, and supervision needs of the child or young adult in substitute care with a certified family;

(b) Determining the level of care payment while in substitute care with a certified family; and

(c) Determining the level of care payment included in an adoption assistance agreement or guardianship assistance agreement.

(6) "Certificate of Approval" means a document the Department issues to a certified family to approve the operation of a home to provide care for a child or young adult in the care or custody of the Department.

(7) "Certification supervisor" means an employee of the Department, designated as a supervisor, supervising staff responsible for certification, training, and monitoring homes certified by the Department.

(8) "Certified family" means an individual or individuals who hold a current Certificate of Approval from the Department to operate a home to provide care, in the home in which the individual or individuals reside, to a child or young adult in the care or custody of the Department.

(9) "Certifier" means a Department employee who:

(a) Conducts assessments of applicants and homes;

(b) Determines whether or not to recommend approval of a potential adoptive resource or that a Certificate of Approval be approved or renewed; and

(c) Monitors the compliance of a certified family and home with OAR 413-200-0301 to 413-200-0396.

(10) "Child" means a person under 18 years of age.

(11) "Child care" means regularly scheduled care, supervision, and guidance of a child by an individual other than the parent, guardian, foster parent, or relative caregiver during any time that the parent, guardian, foster parent, or relative caregiver works or attends school.

(12) "Child protective services assessment" (CPS assessment) means an investigation into a report of child abuse pursuant to ORS 419B.020, that includes activities and interventions to identify and analyze threats to child safety, determine if there is reasonable cause to believe child abuse or neglect occurred, and assure child safety through protective action plans, initial safety plans, or ongoing safety planning.

(13) "Child protective services supervisor" (CPS supervisor) means an employee of the Department trained in child protective services and designated as a supervisor.

(14) "Child protective services worker" (CPS worker) means an employee of the Department who has completed the mandatory Department training for child protective service workers.

(15) "Child-Specific Certificate of Approval" means a document the Department issues to a certified family to approve the operation of a home to provide care for a specific child or young adult in the care or custody of the Department and for whom the Department determines a placement is needed.

(16) "Cohabitating" means the act of two adults, unmarried to each other, living together in an intimate relationship as if married.

(17) "Consulting foster parent or relative caregiver" means an individual who maintains or has held a Certificate of Approval to operate a foster or relative caregiver home, received Department approved training on the role of a "consulting foster parent or relative caregiver", and agrees to serve in this role.

(18) "Criminal records check" means obtaining and reviewing criminal records as required by these rules and includes any or all of the following:

(a) An Oregon criminal records check where criminal offender information is obtained from the Oregon State Police (OSP) using the Law Enforcement Data System (LEDS). The Oregon criminal records check may also include a review of other criminal records information obtained from other sources.

(b) A national criminal records check where records are obtained from the Federal Bureau of Investigation (FBI) through the use of fingerprint cards sent to OSP and other identifying information. The national criminal records check may also include a review of other criminal records information.

(c) A state-specific criminal records check where records are obtained from law enforcement agencies, courts, or other criminal records information sources located in, or regarding, a state or jurisdiction outside Oregon.

(19) "Day Care Facility" means each of the following:

(a) A Registered Family Child Care Home, which is the residence of a provider who has a current Family Child Care Registration at that address and who provides care in the family living quarters.

(b) A Certified Family Child Care Home, which is a child care facility located in a building constructed as a single family dwelling that has certification to care for a maximum of 16 children at any one time.

(c) A Certified Child Care Center, which is certified to care for 13 or more children, or a facility that is certified to care for twelve or fewer children and located in a building constructed as other than a single family dwelling.

(d) A Listed Facility, which is a child care provider that is exempt from Office of Child Care licensing and that receives subsidy payments for child care on behalf of clients of the Department of Human Services.

(20) "Denial" means the refusal of the Department to approve an application for certification and issue or renew a certification.

(21) "Department" means the Department of Human Services, Child Welfare.

(22) "Discipline" means a training process to help a child or young adult develop the self-control and self-direction necessary to assume responsibilities, make daily living decisions, and learn to conform to accepted levels of social behavior.

(23) "Disqualifying condition" means any information or circumstance related to a person or to the home that does not meet one or more of the requirements in OAR 413-200-0301 to 413-200-0396.

(24) "Electronic monitoring" means the use of video monitoring or listening devices to monitor or record the behavior of a child or young adult. "Electronic monitoring" does not include:

(a) Door monitors;

(b) Window alarms;

(c) Motion detectors;

(d) Audio or video baby monitors used for a child five years and under; or

(e) Monitors approved by a medical provider for medical purposes.

(25) "Enhanced supervision" means the additional support, direction, observation, and guidance necessary to promote and assure the safety and well-being of a child or young adult when the child or young adult qualifies for a level of care payment.

(26) "Foster parent" means a person who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(27) "Home study" means a document containing an analysis of the ability of the applicant to provide safe and appropriate care of a child or young adult.

(28) "Impending danger safety threat" means a family behavior, condition, or circumstance that meets all five safety threshold criteria. A threat to a child that is not immediate, obvious, or occurring at the onset of the CPS intervention. This threat is identified and understood more fully by evaluating and understanding individual and family functioning.

(29) "Inactive Referral Status" means a period of time, not to exceed 12 months, during which neither the Department nor any other agency may place an additional child or young adult with a certified family.

(30) "Initial contact" means the first face-to-face contact between a CPS worker and a family. The "initial contact" includes face-to-face contact with the alleged child victim, his or her siblings, parent or caregiver, other children and adults living in the home; accessing the home environment; and gathering sufficient information on the family conditions and functioning to determine if present danger safety threats or impending danger safety threats exist.

(31) "Level of care payment" means the payment provided to an approved or certified family, a guardian, a pre-adoptive family, or an adoptive family based on the need for enhanced supervision of the child or young adult as determined by applying the CANS algorithm to the results of the CANS screening.

(32) "Listed DHS child care program provider" means a child care provider who has been approved by DHS Self-Sufficiency Program to provide child care to DHS clients.

(33) "Member of the household" means any adult or child living in the home, including the applicant and any caregiving employee or volunteer.

(34) "Personal care services plan" means a written plan to provide personal care services for the child or young adult documenting:

(a) The determination that the individual is a qualified provider;

(b) The frequency or intensity of each personal care service to be provided; and

(c) The date personal care services begin.

(35) "Physical restraint" means the act of restricting the voluntary movement of a child or young adult as an emergency measure in order to manage and protect the child, young adult, or others from injury when no alternate actions are sufficient to manage the behavior of the child or young adult. "Physical restraint" does not include temporarily holding a child or young adult to assist him or her or assure his or her safety, such as preventing a child from running onto a busy street.

(36) "Placement support plan" means a documented set of actions or resources that is developed to assist a relative caregiver or foster parent to maintain conditions that provide safety and well-being for a child or young adult in the home.

(37) "Present danger safety threat" means an immediate, significant, and clearly observable family behavior, condition, or circumstance occurring in the present tense, already endangering or threatening to endanger a child. The family behavior, condition, or circumstance is happening now and it is currently in the process of actively placing a child in peril.

(38) "Psychotropic medication" means medication, the prescribed intent of which is to affect or alter thought processes, mood, or behavior, including but not limited to antipsychotic, antidepressant, and anxiolytic medication and behavior medications. The classification of a medication

depends upon its stated intended effect when prescribed because it may have many different effects.

(39) "Punishment" means the intentional infliction of emotional or physical pain or suffering.

(40) "Reasonable and prudent parent standard" means the standard, characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child or young adult while encouraging the emotional and developmental growth of the child or young adult, that a substitute care provider shall use when determining whether to allow a child or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.

(41) "Referral" means a report that has been assigned for the purpose of CPS assessment.

(42) "Relative caregiver" means a person defined as a "relative" under OAR 413-070-0000 who operates a home that has been approved by the Department to provide care for a related child or young adult placed in the home by the Department.

(43) "Report" means an allegation of child abuse or neglect provided to the Department that the screener evaluates to determine if it constitutes a "report" of child abuse or neglect as defined in ORS 419B.005.

(44) "Respite care" means a formal planned arrangement to relieve a certified family's responsibilities by a person temporarily assuming responsibility for the care and supervision of a child or young adult in the home of the person or certified family. "Respite care" must be less than 14 consecutive days.

(45) "Revocation" means an administrative act by the Department that rescinds an existing Certificate of Approval, Child-Specific Certificate of Approval, or Temporary Certificate of Approval.

(46) "Screener" means a Department employee with training required to provide screening services.

(47) "Surrogate" means an individual who has been appointed to safeguard a child's rights in the special education decision-making process. The individual may be appointed pursuant to applicable Department of Education administrative rules and statutes or by the juvenile court.

(48) "Temporary Certificate of Approval" means a document the Department issues to a certified family to approve the operation of a home to provide care for a specific child or young adult in the care and custody of the Department. The "Temporary Certificate of Approval" is valid for up to 180 days unless an extension is granted under OAR 413-200-0276(3).

(49) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 409.050, 418.005, 418.640
Stats. Implemented: ORS 409.010, 409.050, 418.005, 418.015, 418.027, 418.285, 418.315, 418.470, 418.625 - 418.648
Hist.: CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0270
Purpose

(1) The purpose of OAR 413-200-0270 to 413-200-0298 is to describe the activities of the Department related to:

(a) Certification of a relative caregiver or foster parent, and assessment of a potential adoptive resource;

(b) Monitoring compliance of a certified family with the certification standards in OAR 413-200-0301 to 413-200-0396; and

(c) Renewal of a certified family and reopening of a previously certified family.

(2) Regardless of the nature of the relationship between an applicant and a child or young adult, an applicant must be assessed and certified prior to placement of the child or young adult in the home.

(3) Unless otherwise indicated, a child or young adult refers to an individual in the care or custody of the Department.

(4) The following do not apply to a potential adoptive resource: OAR 413-200-0276, 413-200-0278, 413-200-0281, 413-200-0283, 413-200-0285, 413-200-0287, 413-200-0289, 413-200-0292, 413-200-0294, and 413-200-0296.

Stat. Auth.: ORS 409.050, 418.005, 418.640
Stats. Implemented: ORS 409.010, 418.005, 418.625 - 418.645
Hist.: SOSCF 17-1999, f. & cert. ef. 8-12-99; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 18-2007, f. & cert. ef. 11-1-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 2-2009, f. & cert. ef. 2-2-09; CWP 36-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0272
Responsibilities for Assessment and Certification

(1) Except as provided in sections (2) and (3) of this rule, the Department must conduct an assessment to determine if the applicant and the home of the applicant meet the standards in OAR 413-200-0301 to 413-200-0396 as follows:

(a) For the approval of a potential adoptive resource or issuance of a Certificate of Approval or Child-Specific Certificate of Approval, the Department must conduct the activities described in OAR 413-200-0274. The Certificate of Approval and Child-Specific Certificate of Approval expire two years from the date of issuance unless OAR 413-200-0276(2)(b), OAR 413-200-0287(7), or OAR 413-200-0296(6) applies.

(b) For issuance of a Temporary Certificate of Approval, the Department must conduct the activities described in OAR 413-200-0275. A Temporary Certificate of Approval expires 180 days from the date of issuance unless an extension is granted, and may only be issued to a qualified applicant seeking to provide care only for specific children or young adults in the care or custody of the Department.

(c) For issuance of a Certificate of Approval or Child-Specific Certificate of Approval to a certified family that has been issued a Temporary Certificate of Approval, the Department must conduct the activities described in OAR 413-200-0276. In this circumstance, the Certificate of Approval or Child-Specific Certificate of Approval expires two years from the date of issuance of the Temporary Certificate of Approval.

(2) The Department is not required to assess an applicant and may deny the application if:

(a) The applicant has had a previous application for certification denied or if certification has been revoked during the five years prior to the date on the application;

(b) The applicant is seeking to care for a specific child or young adult who is not in the care or custody of the Department;

(c) The applicant is seeking to care for a specific child or young adult the Department has determined does not require placement change; or

(d) The applicant is seeking to care for a specific child or young adult for whom the Department has not received a request for a home study under the Interstate Compact for the Placement of Children (ICPC).

(3) The Department is not required to assess an applicant who has an accepted assessment or home study from a licensed adoption agency under OAR 413-120-0830(4).

(4) The Department may terminate the assessment process at any time and proceed to issue a proposed and final order denying certification for one or more of the reasons in OAR 413-200-0296 or, if the application is for approval to be a potential adoptive resource, for the reasons in OAR 413-120-0225(2).

(5) Any certificate issued under OAR 413-200-0270 to 413-200-0298 must include all of the following information:

(a) The name of each applicant approved as the certified family.

(b) The address to which the certificate applies.

(c) The age range (birth to 20) of the children or young adults for whom the certified family is approved to provide care.

(d) The maximum number of children or young adults who can be placed in the home.

(e) The provider number that the Department has given the home.

(f) The effective and expiration dates of the certificate.

(g) The signature of the Child Welfare Program Manager or designee.

Stat. Auth.: ORS 409.050, 418.005, 418.640
Stats. Implemented: ORS 409.010, 418.005, 418.625 - 418.645
Hist.: SOSCF 17-1999, f. & cert. ef. 8-12-99; Renumbered from 413-200-0280, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 11-2007(Temp), f. & cert. ef. 6-1-07 thru 11-27-07; Suspended by CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 24-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 2-2009, f. & cert. ef. 2-2-09; CWP 36-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0274
Assessment for Approval of an Adoptive Resource or Issuance of a Certificate of Approval or Child-Specific Certificate of Approval

(1) To complete an assessment of an applicant and approve an adoptive resource or issue a Certificate of Approval or Child-Specific Certificate of Approval, the certifier must:

(a) Review the completed application.

(b) Have face-to-face contact with the applicant and each member of the household.

(c) Explain to the applicant the process and requirements for certification of a relative caregiver or foster parent and approval of a potential adoptive resource.

(d) Discuss with the applicant the role and responsibilities of the Department.

(e) Assess the applicant's motivation for and interest in caring for a child or young adult.

(f) Assure the applicant possesses a valid driver license and auto insurance if the applicant will transport a child or young adult.

(g) Determine, with input from the applicant, the gender, ages, and maximum number of children and young adults who may be placed in the home by the Department.

(h) When appropriate, obtain the approval of the Child Welfare Program Manager when the number of children or young adults placed in the home will exceed the maximum number of children or young adults as described in OAR 413-200-0276.

(i) When appropriate, obtain approval from the Child Welfare Program Manager or designee on a form approved by the Department under any of the following circumstances:

(A) The applicant or a member of the household is an in-home child care provider or a foster care provider licensed by another child-caring agency.

(B) The applicant or a member of the household is an adult foster care or in-home adult day care provider.

(C) An applicant applying to become a relative caregiver is 18, 19, or 20 years of age.

(D) An applicant is married, in a domestic partnership, or cohabitating but the spouse or partner is not an applicant.

(j) When appropriate, obtain approval from the Child Welfare Program Manager or designee on a form approved by the Department when the applicant applies for a Certificate of Approval or Child-Specific Certificate of Approval through a Department office other than the office in the county in which the family resides.

(k) Complete a minimum of two home visits.

(A) Observe and assess the safety of the physical environment;

(B) Walk through each room in the primary residence and each surrounding building and structure on the property, unless the building or residence is a self-contained, separate-entry residence rented to or owned by another individual;

(C) Complete a safety assessment of the home and surroundings using a form approved by the Department; and

(D) Provide an age-appropriate statement of rights under ORS 418.201 and OAR 413-010-0170 to 413-010-0185.

(l) Gather personal, family, and social history information through a series of questionnaires approved by the Department, interviews, and observations in which the Department staff gathers personal information about the applicant and the household. Analyze information as it relates to each applicant's personal qualifications and assess the conditions that appear to exist in the home that affect safety, health, and well-being for a child or young adult.

(m) Assure completion of a criminal records check and a fingerprint-based criminal records check of national crime information databases on each adult member of the household and, at the Department's discretion, on any child under 18, as outlined in OAR 413-120-0400 to 413-120-0475.

(A) Assess the fitness of the applicant or member of the household pursuant to OAR 413-120-0450 and 413-120-0455;

(B) If appropriate, request an exception pursuant to OAR 413-120-0450(7) to complete certification of the applicant despite the criminal offender history of an applicant or member of the household; and

(C) If the applicant or a member of the household has a disqualifying conviction under OAR 413-120-0450(3) or (4) or the authorized designee makes a negative fitness determination with respect to the individual, the Department will proceed under OAR 413-120-0460 and issue a proposed and final order denying certification.

(n) At the Department's discretion and when there is reason to believe a child, not in the care or custody of the Department and living in the home, may pose a risk to a child or young adult placed in the home, initiate a fingerprint-based criminal offender records check of national crime information databases as outlined in OAR 413-120-0400 to 413-120-0475.

(o) Assure completion of child abuse history background checks for each adult member of the household.

(A) If the applicant or an adult member of the household has lived outside the state of Oregon and within the United States in the previous five years, obtain a child abuse history background check from each state where the individual resided in the five years preceding the date on the application for certification from the Department;

(B) If the applicant or an adult member of the household has lived outside of the United States in the previous five years, a child abuse history background check must be requested from each country where the individual lived within the five years preceding the date on the application for certification from the Department;

(C) Assess any safety concerns regarding the applicant or member of the household raised by information learned from the child abuse history background check; and

(D) When the applicant or a member of the household has been identified as the perpetrator or possible perpetrator of abuse or neglect in a child protective services assessment founded disposition, unable to determine disposition, or a similar disposition from another state, do all of the following:

(i) Consult with the certification supervisor about whether to seek approval from the District Manager or designee to continue the certification assessment and regardless of the decision document the information considered on a form approved by the Department.

(ii) If the decision in subparagraph (i) of this paragraph is to proceed with the certification assessment, the District Manager or designee may approve or deny, and documents the decision on a form approved by the Department.

(p) Gather information from at least four personal references for the applicant, no more than two of which may be provided by the applicant's relatives.

(q) Except as provided in subsection (s) of this rule, verify the applicant has completed Orientation and Foundations training before or within 12 months after the issuance of a certificate under this rule, or has written documentation of completion of equivalent training content from another licensed child-caring agency within two years of the date on the current application for certification from the Department.

(r) For purposes of a Child-Specific Certificate of Approval, as appropriate, verify the applicant has a written, individualized training plan, approved by a supervisor, specific to meeting the needs of the child or young adult placed with the certified family. The individualized training plan must:

(A) Include training on the mental, emotional, and physical impacts of abuse and neglect, including sexual abuse and rape of a child; and

(B) Be developed within 90 days after the Temporary Certificate of Approval is issued by the Department.

(s) An applicant is exempt from subsection (q) of this rule if the applicant is applying to become a potential adoption resource and has approval under OAR 413-120-0246.

(t) Discuss and develop a training plan with each applicant, which must include knowledge and skills related to applying the reasonable and prudent parent standard for the participation of the child or young adult in age-appropriate or developmentally appropriate activities.

(u) Document the assessment of the ability of the applicant to provide safety, health, and well-being for the child or young adult in a home study on a form approved by the Department when the recommendation is to issue a Certificate of Approval.

(2) If the certifier has completed all of the activities in section (1) of this rule and the supervisor has approved the documented assessment of the applicant's qualifications and ability to provide safety, health, and well-being to a child or young adult, the Department may:

(a) In the case of an applicant seeking certification, either:

(A) Issue a Certificate of Approval or Child-Specific Certificate of Approval for a two-year period, as applicable; or

(B) Issue a proposed and final order denying certification.

(b) In the case of an applicant seeking to be an adoptive resource, send written notice of the status of the application pursuant to OAR 413-120-0240.

(3) The Department must assess an applicant and determine whether to approve the application or deny the application within 180 days of Department receipt of a completed application unless:

(a) The application is withdrawn by the applicant; or

(b) The District Manager or designee extends the assessment period.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.625 - 418.645

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 24-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 2-2009, f. & cert. ef. 2-2-09; CWP 36-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0275

Assessment for Issuance of a Temporary Certificate of Approval

(1) The Department may only use the assessment described in this rule for the purpose of issuing a Temporary Certificate of Approval.

(2) To complete an assessment of an applicant and issue a Temporary Certificate of Approval, the certifier must:

(a) Complete the activities in subsections (a) to (j) of section (1) of OAR 413-200-0274.

(b) Gather information from at least two personal references for the applicant within 24 hours of receipt of a completed application.

(c) Complete a home visit:

(A) Observe and assess the safety of the physical environment;

(B) Walk through each room in the primary residence and each surrounding building and structure on the property, unless the building or residence is a self-contained, separate-entry residence rented to or owned by another individual;

(C) Complete a safety assessment of the home and surroundings using a form approved by the Department; and

(D) Provide a copy of the Oregon Foster Children's Bill of Rights as provided in ORS 418.201 and OAR 413-010-0170 to 413-010-0185.

(d) Gather and analyze information, through interview and observation, as it relates to each applicant's personal qualifications and assess the conditions that appear to exist in the home that affect safety, health, and well-being for a child or young adult.

(e) Assure completion of a criminal records check through LEDS on each adult member of the household and initiate a fingerprint-based criminal offender records check of national crime information as outlined in OAR 413-120-0400 to 413-120-0475.

(A) Assess the fitness of the applicant or member of the household pursuant to OAR 413-120-0450 and 413-120-0455;

(B) If appropriate, request an exception pursuant to OAR 413-120-0450(7) to complete certification of the applicant despite the criminal offender history of an applicant or member of the household; and

(C) If the applicant or a member of the household has a disqualifying conviction under OAR 413-120-0450(3) or (4) or the authorized designee makes a negative fitness determination with respect to the individual, the Department will proceed under OAR 413-120-0460 and issue a proposed and final order denying certification.

(f) At the Department's discretion and when there is reason to believe a child, not in the care or custody of the Department and living in the home, may pose a risk to a child or young adult placed in the home, initiate a fingerprint-based criminal offender records check of national crime information databases as outlined in OAR 413-120-0400 to 413-120-0475.

(g) Assure completion of a child abuse history background check in the state of Oregon for each adult member of the household and initiate a child abuse history background check from any other state where the individual has resided in the last five years;

(h) Assess any safety concerns raised by information learned from the child abuse history background check;

(i) Complete all of the following activities when a member of the household has been identified as a perpetrator or possible perpetrator of abuse or neglect in a child protective services assessment founded disposition, unable to determine disposition, or a similar disposition from another state:

(A) Consult with the certification supervisor about whether to seek approval from the District Manager or designee to continue the certification assessment and regardless of the decision document the information considered on a form approved by the Department; and

(B) If the decision in paragraph (A) of this subsection is to proceed with the certification assessment, the District Manager or designee must approve or deny, and document the decision on a form approved by the Department.

(j) Document the assessment of the certified family's ability to provide safety, health, and well-being for the child or young adult on a form approved by the Department.

(k) Obtain supervisor review and approval of the assessment of the ability of the applicant to provide safety, health, and well-being for the specific child or young adult in the care or custody of the Department.

(L) Upon completion of the activities in section (2) of this rule, and based on the assessment, either:

(A) Proceed to the assessment described in OAR 413-200-0276;

(B) Issue a Temporary Certificate of Approval; or

(C) Issue a proposed and final order denying certification.

Stat. Auth.: ORS 409.050, 418.005, 418.016, 418.640
Stats. Implemented: ORS 409.010, 418.005, 418.016, 418.625 - 418.648
Hist.: CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0276
Assessment to Move from a Temporary Certificate of Approval to a Certificate of Approval or Child-Specific Certificate of Approval

(1) To complete the assessment of an applicant that already has been issued a Temporary Certificate of Approval and issue a Certificate of Approval or Child-Specific Certificate of Approval, the certifier must complete the following activities as soon as possible, but no later than 180 days from the date the Temporary Certificate of Approval is issued, unless the certificate has been extended under subsection (3) of this rule:

(a) Gather information from at least two additional references. No more than two of the four required references may be provided by the applicant's relatives.

(b) Contact the caseworker of the child or young adult placed in the home and gather information regarding the adjustment of the child or young adult to the home and the certified family's ability to meet the needs of the child or young adult.

(c) Conduct a home visit at least every 90 days, and when necessary, additional home visits. During each visit review and assess the certified family's compliance with certification standards and the conditions that appear to exist in the home that affect safety and well-being for the child or young adult; and document the certified family's compliance with the certification standards after each visit.

(d) Gather personal, family, and social history information sufficient to assess the conditions that appear to exist in the home that affect safety, health, and well-being of a child or young adult through a series of questionnaires and interviews completed by applicants, members of the household, and others.

(e) Assure completion of a criminal records check and a fingerprint-based criminal records check of national crime information databases on each adult member of the household and, at the Department's discretion, on any child under 18, as outlined in OAR 413-120-0400 to 413-120-0475.

(A) Assess the fitness of the applicant or member of the household pursuant to OAR 413-120-0450 and 413-120-0455;

(B) If appropriate, request an exception pursuant to OAR 413-120-0450(7) to complete certification of the applicant despite the criminal offender history of an applicant or member of the household; and

(C) If the applicant or a member of the household has a disqualifying conviction under OAR 413-120-0450(3) or (4) or the authorized designee makes a negative fitness determination with respect to the individual, the Department will proceed under OAR 413-120-0460 and issue a proposed and final order denying certification.

(f) At the Department's discretion and when there is reason to believe a child, not in the care or custody of the Department and living in the home, may pose a risk to a child or young adult placed in the home, initiate a fingerprint-based criminal offender records check of national crime information databases as outlined in OAR 413-120-0400 to 413-120-0475.

(g) Assure completion of the child abuse history background checks for each adult member of the household as required in OAR 413-200-0274(1)(o) and request a child abuse history background check for each adult member of the household who has lived in another country in the five years preceding the date on the current application for certification.

(h) Verify that the certified family --

(A) Has completed Orientation within 30 days after the Temporary Certificate of Approval was issued; and

(B) Has a plan --

(i) To complete Foundations training before or within 12 months after the date on which the Temporary Certificate of Approval was issued, unless the supervisor waives the training requirement based on the family's documented knowledge and skills in caring for a child or young adult; or

(ii) Has a written, individualized training plan, approved by a supervisor, specific to meeting the needs of the child or young adult placed with the certified family. The individualized training plan must:

(I) Include training on the mental, emotional, and physical impacts of abuse and neglect, including sexual abuse and rape of a child; and

(II) Be developed within 90 days after the Temporary Certificate of Approval is issued by the Department.

(i) Discuss and develop a training plan under OAR 413-200-0379(6) for each certified adult in the family.

(j) Document the assessment of the certified family's ability to provide safety, health, and well-being for the child or young adult in a home study on a form approved by the Department when the recommendation is to issue a Certificate of Approval or Child-Specific Certificate of Approval

(k) Obtain supervisor approval of the documented assessment of the certified family's qualifications and ability to provide safety, health, and well-being for the specific child or young adult in the care or custody of the Department.

(2) If the certifier has completed all of the activities in section (1) of this rule, the Department may issue a Certificate of Approval or Child-Specific Certificate of Approval.

(a) The Certificate of Approval or Child-Specific Certificate of Approval becomes effective no sooner than the date of issuance.

(b) The Certificate of Approval or Child-Specific Certificate of Approval expires two years from the date the Temporary Certificate of Approval was issued.

(3) When the activities described in sections (1) and (2) of this rule have not been completed within 180 days:

(a) The District Manager or designee may extend the Temporary Certificate of Approval on a form approved by the Department for no longer than 30 days; or

(b) The Child Well-Being Program Manager or designee may extend the Temporary Certificate of Approval for more than 30 days if an activity has not been completed due to circumstances beyond the control of the Department.

Stat. Auth.: ORS 409.050, 418.005, 418.640
Stats. Implemented: ORS 409.010, 418.005, 418.625 - 418.645
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 2-2009, f. & cert. ef. 2-2-09; CWP 36-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0278
Responsibility to Determine the Maximum Number of Children or Young Adults in a Certified Family Home

(1) Except as provide in subsection (3) of this rule, a supervisor may not issue a Certificate of Approval, a Child-Specific Certificate of Approval, or a Temporary Certificate of Approval if the fully-occupied home would exceed the following maximum number of children or young adults living in the home:

(a) A total of four children or young adults to one foster parent or relative caregiver living in the home;

(b) A total of seven children or young adults to two foster parents or relative caregivers living in the home; or

(c) A total of two children under the age of three.

(2) When counting the children or young adults in a home for purposes of a certification assessment a supervisor includes all children and young adults in the care and custody of the Department who are living in the home, and any other children living in the home.

(3) A Child Welfare Program Manager may approve placing an additional child or young adult in the home in special circumstances.

(a) Special circumstances include, but are not limited to:

(A) Placing siblings together; or

(B) Placing a child or young adult with special needs with a family that has demonstrated extraordinary ability in meeting the safety, health, and well-being needs of a child or young adult.

(b) In these special circumstances, the certifier must assess:

(A) The skills and abilities, willingness, and training of the certified family related to the quantity of services required for each child or young adult;

(B) The skills and abilities, safety, health, and well-being needs of each child or young adult;

(C) The amount of Departmental supervision and support the certified family requires to meet the needs of each child or young adult;

(D) The maximum safe physical capacity of the home, including sleeping arrangements; and

(E) The plan for each individual to escape from the home in case of fire or other emergency.

(4) The certifier must document the assessment described in subsection (b) of section (3) of this rule on a form approved by the Department, including the sustainability of the plan, and obtain Child Welfare Program Manager approval prior to permitting the home to exceed the maximum number of children or young adults specified in section (1) of this rule.

(5) When a Child Welfare Program Manager approves placing additional children or young adults in a certified home, the certifier must:

(a) Visit the home every 90 days;

(b) During each visit, review and assess the certified family's compliance with certification standards as outlined in OAR 413-200-0283 and the conditions that appear to exist in the home that affect safety and well-being for the child or young adult; and

(c) Document compliance of the certified family with the certification standards after each visit.

(6) The Department may at its discretion modify any certificate issued under OAR 413-200-0270 to 413-200-0298 to increase or decrease the maximum number of children or young adults or the age range of the children or young adults for whom the family is certified within the limits prescribed in this rule.

Stat. Auth.: ORS 409.050, 418.005, 418.640
Stats. Implemented: ORS 409.010, 418.005, 418.625 - 418.645
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 24-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 2-2009, f. & cert. ef. 2-2-09; CWP 36-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0281
Respite Care Providers, Child Care, and Babysitters

(1) The certifier must undertake all of the following activities when applicable:

(a) Discuss with the certified family the plan for providing care to a child or young adult when the certified family will be unavailable to provide care.

(b) Assure completion of a criminal records check through LEDS as outlined in OAR 413-120-0400 on any individual the certified family has identified as a prospective respite care provider or child care provider unless the provider is a day care facility.

(c) Assure the fitness of each prospective respite care provider or child care provider having a conviction described in OAR 413-120-0450 or an arrest described in OAR 413-120-0455 is determined by the appropriate authorized designee, in accordance with OAR 413-120-0450, 413-120-0455 and 413-120-0457.

(d) Assure initiation of a fingerprint-based criminal offender records check of national crime information databases as outlined in OAR 413-120-0400 to 413-120-0475 whenever:

(A) The criminal records check conducted under subsection (b) of this section indicates the prospective respite care or child care provider has a criminal history; or

(B) The prospective respite care or child care provider has lived in Oregon less than five years.

(e) Assure completion of a fingerprint-based criminal offender records check of national crime information databases described in subsection (d) of this section and, if previously unknown crimes or arrests are discovered, notwithstanding any fitness determination made under subsection (c) of this section, assure that the fitness of the respite care provider or child care provider is redetermined by the appropriate authorized designee, in accordance with OAR 413-120-0450, OAR 413-120-0455 and OAR 413-120-0457 based on the new information.

(f) Conduct child abuse history background checks on any individual the certified family has identified as a prospective respite care provider or child care provider unless the provider is a day care facility.

(g) When respite care or child care will be provided in the home of the respite care or child care provider, assure the activities described in subsections (b) through (f) of this section are complete for all adults living in the home of the respite care or child care provider.

(h) Analyze information gathered under subsections (a) to (g) of this section prior to determining the individual is safe and appropriate to provide respite care or child care and approving the individual to provide respite care or child care.

(i) Document the analysis under subsection (h) of this section in the provider record of the Department's electronic information system.

(j) Notify the certified family of the approval for the individual identified to provide respite care or child care within one business day of the approval.

(k) Verify that any certified family identified to provide respite care for another certified family has a current Certificate of Approval.

(l) When the analysis under subsection (g) of this section results in a determination that the individual is either not a safe or appropriate individual to provide respite care or child care, notify the certified family that the individual is not authorized to provide respite care or child care within one business day of the decision.

(m) The Department may disapprove a prospective respite care provider or child care provider even if the provider has a positive fitness determination.

(2) If the respite care provider or child care provider has a disqualifying conviction under OAR 413-120-0450(3) or (4) or the authorized designee makes a negative fitness determination with respect to the respite care provider or child care provider, the provider may not be approved to provide care.

(3) The Department has the discretion to request a criminal records check of a babysitter.

(4) When a certified family notifies the Department of their intent to provide respite care for another child or young adult, the certifier must approve the request prior to the certified family providing respite care.

Stat. Auth.: ORS 409.050, 418.005, 418.640
Stats. Implemented: ORS 409.010, 418.005, 418.625 - 418.645
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 24-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 2-2009, f. & cert. ef. 2-2-09; CWP 36-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0283
Responsibilities to Monitor Certification Compliance

(1) A certifier must conduct the following home visits:

(a) A minimum of one home visit every 90 days during the period a Temporary Certificate of Approval is effective;

(b) A minimum of one home visit every 90 days when a certified family has been approved to exceed the maximum number of children or young adults as prescribed in OAR 413-200-0278(1), as long as the approval is applicable; and

(c) A minimum of one home visit to any certified family every 180 days.

(2) To monitor a certified family's compliance with OAR 413-200-0301 to 413-200-0396, a certifier must complete the following activities when applicable:

(a) Assess the certified family's ability to maintain conditions in the home that provide safety, health, and well-being for the children and young adults whenever it becomes known that the certified family wishes to become an in-home child care, an adult foster care, or an in-home adult day care provider, and, when appropriate, obtain approval from the Child Welfare Program Manager or designee on a form approved by the Department.

(b) Obtain approval from the Child Welfare Program Manager or designee on a form approved by the Department whenever it becomes known that another agency wishes to place a child or young adult in a certified home, prior to placement of the child or young adult.

(c) Assure completion of a criminal records check and child abuse history background checks as outlined in OAR 413-120-0400 to 413-120-0475 whenever it becomes known that another adult is living in the household, the certified family identifies another potential respite care or child care provider, or the Department has reason to believe that a child, not in the custody of the Department, who lives in the home, a babysitter, or a person who frequents the home poses a risk to the children or young adults placed in the home.

(d) Before the home visit required under subsection (1)(b) of this rule, seek input from the caseworkers of each child and young adult placed or living in the home during the past 180 days and assess the conditions that appear to exist in the home that affect safety, health, and well-being for the child or young adult.

(e) Assess the information that the certifier learns from the home visit, the certified family, members of the household, and caseworkers to determine whether conditions appear to exist in the home that affect safety, health, and well-being for the child or young adult placed in the home by the Department.

(f) Complete the activities under OAR 413-200-0278 when a Child Welfare Program Manager has approved placing additional children or young adults in the certified home.

(g) Document the contacts with the certified family and the assessment information obtained under this rule in the provider record of the Department's electronic information system.

(3) During and at the conclusion of a child protective services assessment regarding an allegation of child abuse or neglect in a certified family, follow the requirements of OAR 413-200-0404 to 413-200-0424.

Stat. Auth.: ORS 409.050, 418.005, 418.640
Stats. Implemented: ORS 409.010, 418.005, 418.625 - 418.645
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 24-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 2-2009, f. & cert. ef. 2-2-09; CWP 36-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0285
Responsibilities When Developing a Placement Support Plan

(1) When a certifier determines that a certified family needs additional support to maintain conditions that provide safety, health, and well-being in the home, the certifier must develop a placement support plan. A placement support plan is appropriate when one or both of the following circumstances apply:

(a) The certified family needs additional training, instruction, or skills to improve their ability to meet the needs of children or young adults placed in the certified family's home.

(b) The certified family is not in compliance with one or more of the Department's certification standards, and the non-compliance does not result in either a present danger safety threat or an impending danger safety threat to a child or young adult.

(2) When a placement support plan is appropriate to support a certified family, the certifier must gather information regarding current circumstances from;

(a) The certified family;

(b) The children or young adults placed in the certified family's home, when appropriate;

(c) The caseworkers of the children or young adults currently placed in the home; and

(d) Other collateral contacts that may have information regarding the characteristics of the care provided in the certified family's home.

(3) The certifier must schedule a meeting with the certified family to discuss the current circumstances that require a placement support plan and the appropriate supports and services to assist the certified family.

(4) The certifier must prepare a written placement support plan that specifies all of the following:

(a) The actions or services in which the certified family will participate.

(b) The actions or services the Department will provide to support the certified family in maintaining conditions that provide safety, health, and well-being for the children or young adults placed in the home by the Department.

(c) Agreement that the certified family is willing and able to participate in the actions or services.

(d) Agreement to review the placement support plan on a specified date, which is within at least 90 days.

(e) The anticipated end date of the placement support plan.

(5) A supervisor must approve the placement support plan.

(6) When the placement support plan has been approved, the certifier must:

(a) Provide a copy to the certified family;

(b) Document the placement support plan in the Department's electronic information system; and

(c) Provide written notification to the caseworkers of each child or young adult placed in the home of the placement support plan.

(7) The certifier must maintain regular contact with the certified family to monitor the effectiveness of the placement support plan and assure activities and services are in place.

(8) The certifier must review the placement support plan on or before the date specified in subsection (4)(d) of this rule and determine, in consultation with the certification supervisor, whether the placement support plan should be updated or ended.

(9) If the placement support plan is updated or ended, the certifier must document the decision in the provider record and must notify the caseworkers of each child or young adult placed in the certified family's home.

Stat. Auth.: ORS 409.050, 418.005, 418.640
Stats. Implemented: ORS 409.010, 418.005, 418.015, 418.315, 418.625 - 418.648
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 36-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0287
Assessment for Renewal of Certification

(1) When an application for a certification renewal is received before the current certification expires, the Department must reassess the certified family to determine whether to renew the Certificate of Approval or Child-Specific Certificate of Approval for two additional years.

(2) The Department may terminate the assessment process at any time and issue a proposed and final order denying the certification renewal for one or more of the reasons in OAR 413-200-0296 or, if the application is for approval to be a potential adoptive resource, OAR 413-120-0225(2).

(3) To complete the assessment and renew a Certificate of Approval or Child-Specific Certificate of Approval, the certifier must:

(a) Conduct a minimum of one visit to the home of the certified family and:

(A) Have face-to-face contact with each member of the household.

(B) Complete the questionnaires and interviews necessary to complete a home study update.

(C) Observe and assess the safety of the physical environment.

(D) Walk through each room in the primary residence and each surrounding building and structure on the property, unless the building or residence is a self-contained, separate-entry residence rented to or owned by another individual.

(E) Complete a safety assessment of the home and surroundings using a form approved by the Department.

(F) Confirm that an age-appropriate statement of rights under ORS 418.201 and OAR 413-010-0170 to 413-010-0185 is posted.

(b) Review the completed Certified Family Certificate Renewal or Change of Status Application.

(c) Confirm completion of required hours of training, and develop a training plan for the new certification period.

(d) Contact and gather information from the caseworkers of children or young adults who have been placed with the certified family during the past 180 days.

(e) Assure completion of criminal records checks on each adult member of the household; and, at the Department's discretion, any child, when there is reason to believe the child may pose a risk to children placed in the home, as described in OAR 413-120-0400 to 413-120-0475. A fingerprint-based criminal offender records check of national crime information databases is not required for an application for renewal of a Certificate of Approval or Child-Specific Certificate of Approval, unless an applicant or member of the household has lived outside of Oregon for more than 60 consecutive days within the two-year certification period or has been arrested or convicted during the two-year certification period.

(A) Assess any safety concerns regarding the fitness of the applicant or member of the household pursuant to OAR 413-120-0450 and 413-120-0455; and

(B) If appropriate, request an exception pursuant to OAR 413-120-0450(7) to complete certification of the applicant despite the new criminal offender history of an applicant or member of the household.

(C) If the applicant or a member of the household has a disqualifying conviction under OAR 413-120-0450(3) or (4) or the authorized designee makes a negative fitness determination with respect to the individual, the Department will proceed under OAR 413-120-0460 and issue a proposed and final order denying certification.

(f) Assure completion of child abuse history background checks for each adult member of the household.

(A) When the applicant or an adult member of the household has lived outside the state of Oregon for more than 60 consecutive days during the two-year certification period, a child abuse history background check must be requested from each state or country where the individual resided during the two-year certification period.

(B) Assess any safety concerns regarding the applicant or adult member of the household raised by information learned from the child abuse history background check.

(C) When the applicant or adult member of the household has been identified as the perpetrator or possible perpetrator of abuse or neglect in a child protective services assessment founded disposition, unable to determine disposition, or a similar disposition from another state, do all of the following:

(i) Consult with the certification supervisor about whether to seek approval from the District Manager or designee to continue the certification assessment and regardless of the decision document the information considered on a form approved by the Department.

(ii) If the decision in subparagraph (i) of this paragraph is to proceed with the certification assessment, the District Manager or designee may approve or deny, and documents the decision on a form approved by the Department.

(g) Review and assess whether conditions appear to exist in the home that affect the safety, health, or well-being of the child or young adult.

(h) Review and analyze the certified family's skills and abilities in maintaining conditions in the home that provide safety, health, and well-being for the child or young adult, maintaining relationships with the community and the Department, and supporting the case plan of the child or young adult.

(i) When recommending renewal of the certification, update the home study on a form approved by the Department, including results of the assessment activities completed in subsections (a) to (h) of this section, and submit to the supervisor for approval.

(4) Before the Department may renew a certification, a supervisor must:

(a) Assure the certifier has completed all assessment activities required by subsections (3)(a) to (i) of this rule and review the certifier's assessment of the certified family; and

(b) Review the updated home study.

(5) If the supervisor reviews the certifier's completed assessment activities in subsections (3)(a) to (i) of this rule as documented in the updated home study and the supervisor decides to renew the certification based on the certified family's continued qualifications and ability to provide safety, health, and well-being to a child or young adult as documented in the home study, the Department may issue a new Certificate of Approval or Child-Specific Certificate of Approval, valid for two years.

(6) If the supervisor decides not to renew the certification, the Department must proceed to deny the application as outlined in OAR 413-200-0296(5), unless the certified family voluntarily withdraws their application as provided in OAR 413-200-0314(4). The current certificate continues until its expiration date unless the Department proceeds to revoke the certificate as outlined in OAR 413-200-0296 or the certified family requests to voluntarily terminate the certificate and the Department accepts the family's request.

(7) Pursuant to ORS 183.430, if the certified family has submitted a timely Renewal Application and the Department does not complete the activities in sections (3) to (5) of this rule before the stated expiration date on the certified family's Certificate of Approval, the certified family's Certificate of Approval may not be deemed to expire until the Department has issued a new Certificate of Approval or there is a final order denying renewal.

Stat. Auth.: ORS 409.050, 418.005, 418.016, 418.640
Stats. Implemented: ORS 409.010, 418.005, 418.015, 418.016, 418.625 - 418.648
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 24-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 2-2009, f. & cert. ef. 2-2-09; CWP 36-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0289
Responsibilities Regarding Withdrawal of an Application or Termination of a Certification

(1) When an applicant requests to withdraw his or her application for certification under OAR 413-200-0314(4), the certifier must document his or her communication regarding the applicant's request.

(2) When a certified family requests the Department terminate their certification, the certifier must:

(a) Terminate the certification on a date to be determined by the Department and the certified family, notify the certified family of the date the certificate was terminated and document the reasons for termination of the certificate; or

(b) If the Department has decided to take action to revoke the certification, determine with a Program Manager or designee whether to accept the request to terminate the certificate or continue with the revocation process, inform the certified family of the Department's decision, and document the Department's decision regarding the certified family's request.

(3) The Department must terminate a Temporary Certificate of Approval or Child-Specific Certificate of Approval 10 business days after the departure of the child or young adult from the home of the certified family, unless at least one of the following applies:

(a) The certified family submits a written request to change the type of certificate from a Child-Specific Certificate of Approval to a Certificate of Approval under section (5) of this rule within 10 business days of the departure of the child or young adult from the home.

(b) The certified family requests to voluntarily terminate the Temporary Certificate of Approval or Child-Specific Certificate of Approval, and the Department agrees to terminate the certificate; or

(c) The Department has taken action to revoke a Temporary Certificate of Approval or Child-Specific Certificate of Approval under OAR 413-200-0296.

(4) When a certified family with a Temporary Certificate of Approval or Child-Specific Certificate of Approval seeks to change the type of certificate to one that does not limit the family to care for a specific child or young adult, the certifier must:

(a) Provide the family with a "Certified Family Certificate Renewal or Change of Status Application" when the individuals caring for the child remain the same as those previously on the Temporary Certificate of Approval or Child-Specific Certificate of Approval;

(b) Assess the family's ability to meet the safety, health, and well-being needs of a non-specific child or young adult placed in the home pursuant to the requirements of OAR 413-200-0274;

(c) Document the assessment in the provider record; and

(d) If a fitness determination had previously been made under OAR 413-200-0274, assure completion of a new fitness determination.

(5) Before the Department may change the type of certificate under section (4) of this rule, a supervisor must:

(a) Assure the certifier has completed all activities required by section (4) of this rule;

(b) Review the certifier's assessment of the certified family; and

(c) Determine, upon completion of the review in subsection (b) of this section, whether to approve or not approve the certified family's application to change the Temporary Certificate of Approval or Child-Specific Certificate of Approval to a type of certificate that does not limit the family to care for a specific child or young adult

(6) If the supervisor decides to approve the certified family's application to change the Temporary Certificate of Approval or Child-Specific Certificate of Approval to a type of certificate that does not limit the family to care for a specific child or young adult, the Department must issue a

Certificate of Approval with the same end date as the current certificate to the family.

(7) If the supervisor decides not to approve the certified family's application to change the type of certificate to one that does not limit the family to care for a specific child or young adult, the Department must proceed to issue a proposed and final order to deny the application as outlined in OAR 413-200-0296(5), unless the certified family voluntarily withdraws the application as provided in OAR 413-200-0314(4).

(8) No child or young adult in the care or custody of the Department may remain in the home if there is not an active certification or the Department has taken an action to revoke certification.

Stat. Auth.: ORS 409.050, 418.005, 418.640
Stats. Implemented: ORS 409.010, 418.005, 418.015, 418.315, 418.625 - 418.648
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 36-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0292
Responsibilities Regarding a Previously Certified Family and When a Certified Family Moves

(1) The Department will conduct an assessment to reopen a previous certification when all of the following apply:

(a) The certification has been closed less than six months;

(b) The certification has not been revoked and would not have expired during the months the certification has been closed;

(c) The individual or group of individuals seeking to reopen the certification is the same individual or group of individuals who held the former certification; and

(d) The former certified family continues to live in the same residence.

(2) When a former certified family requests that the Department reopen the family's previous certification, and the requirements of section (1) of this rule are met, the certifier must undertake the following actions:

(a) Provide the former certified family with a Certified Family Certificate Renewal or Change of Status Application.

(b) Assure completion of criminal records checks on each adult member of the household; and, when there is reason to believe a child, not in the care or custody of the Department and living in the home, may pose a risk to a child or young adult placed in the home, initiate a fingerprint-based criminal offender records check of national crime information databases as described OAR 413-120-0400 to 413-120-0475. A fingerprint-based criminal offender records check of national crime information databases is required whenever an applicant or member of the household has lived outside of Oregon for more than 60 consecutive days or has been arrested or convicted during the two-year certification period.

(A) Assess any safety concerns regarding the fitness of the applicant, child, or member of the household pursuant to OAR 413-120-0450 and 413-120-0455; and

(B) If appropriate, request an approval pursuant to OAR 413-120-0450(7) to complete the process to reopen a previously certified family despite the new criminal offender information history of an applicant, child, or member of the household.

(c) Assure completion of a new child abuse history background check for each adult member of the household.

(A) If the applicant or an adult member of the household has lived outside the state of Oregon or the country since the last time the Department issued a Certificate of Approval, obtain a child abuse history background check from each state where the applicant or adult member of the household resided and request a child abuse history background check from any country in which they resided.

(B) Assess any safety concerns regarding the applicant or adult member of the applicant's household raised by information learned from the child abuse history background check.

(C) When a member of the household has been identified as the perpetrator or possible perpetrator of abuse or neglect in a child protective services assessment founded disposition, unable to determine disposition, or a similar disposition from another state, do all of the following:

(i) Consult with the certification supervisor about whether to seek approval from the District Manager or designee to continue certification.

(ii) Document the information considered on a form approved by the Department.

(iii) If the District Manager or designee approves, document the decision on a form approved by the Department.

(d) Conduct a home visit to identify and assess any changes in the environment or family:

(A) Have face-to-face contact with each applicant and other person in household;

(B) Observe and assess the safety of the physical environment;

(C) Walk through each room in the primary residence and each surrounding building and structure on the property, unless the building or residence is a self-contained, separate-entry residence rented to or owned by another individual;

(D) Complete a safety assessment of the home and surroundings using a form approved by the Department; and

(E) Confirm that an age-appropriate statement of rights under ORS 418.201 and OAR 413-010-0170 to 413-010-0185 is posted.

(e) Document in the provider record of the Department's electronic information system the circumstances under which the Department reopened the certification.

(3) Before the Department may reopen a previously certified family, a supervisor must assure that the certifier has completed the actions outlined in subsections (a) to (e) of section (2) of this rule and decide whether to approve or deny the family's request to reopen a certification.

(a) If the supervisor decides to approve the family's request, the Department will reopen the family for the time remaining on the certificate.

(b) If the supervisor decides not to approve the family's request, the Department will proceed to issue a proposed and final order to deny the application as outlined in OAR 413-200-0296(5), unless the previously certified family voluntarily withdraws their request.

(4) A family previously certified by the Department must complete Foundations training if the family has not been certified within the last two years unless the supervisor either:

(a) Approves an individualized training plan for a certified family who has been issued a Child-Specific Certificate of Approval; or

(b) Waives the training requirement based on the family's documented knowledge and skills in caring for a child or young adult placed in the home by the Department.

(5) When the certified family moves to another residence in the State of Oregon, the Department terminates the certification automatically. The Department may issue a new certification for the new residence after the activities described in this section have been completed. Within 10 business days, the certifier must complete the following actions:

(a) Conduct a home visit.

(A) Provide the certified family a Certified Family Certificate Renewal or Change of Status Application.

(B) Review the completed Certified Family Certificate Renewal or Change of Status Application.

(C) Observe and assess the safety of the physical environment;

(D) Walk through every room in the home and each surrounding building; and

(E) Complete a safety assessment of the home and surroundings using a form approved by the Department.

(b) Document in the provider record of the Department's electronic information system the circumstances of the family's relocation.

(6) When a certified family has been initially certified by the local Child Welfare office in the county in which the family resides and the family moves to another county:

(a) The Child Welfare Program Managers or designees in both counties must coordinate the transfer of the record and ongoing Department responsibilities for certification; and

(b) A certifier must complete the actions described in section (5) of this rule.

(7) When a certified family wishes to move outside the State of Oregon with a child or young adult, OAR 413-040-0200 to 413-040-0330 apply.

Stat. Auth.: ORS 409.050, 418.005, 418.016, 418.640
Stats. Implemented: ORS 409.010, 418.005, 418.015, 418.016, 418.315, 418.625 - 418.648
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 24-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 2-2009, f. & cert. ef. 2-2-09; CWP 36-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0294
Responsibilities Regarding Inactive Referral Status

(1) The certified family or the Department may initiate an Inactive Referral Status. When a certified family is on Inactive Referral Status, no additional child or young adult may be placed in the home.

(2) A certified family may ask the Department to place their home on Inactive Referral Status for any reason for up to 12 months. The Inactive Referral Status begins on the date requested by the certified family.

(3) When either a certified family or the Department initiates an Inactive Referral Status, the certifier must immediately notify Department staff responsible for placement that the certified family is unavailable for placement of a child or young adult and update the provider record.

(4) Within 30 days of a certified family requesting Inactive Referral Status, the certifier must send a letter to the certified family that documents the inactive status, the reasons for the status, and the length of the Inactive Referral Status.

(5) The Department may initiate Inactive Referral Status for one or more of the following reasons:

(a) The special needs of a child or young adult, who is currently in the home, require so much of the certified family's care and attention that no agency should place an additional child or young adult in the home.

(b) The family or members of the household are experiencing significant family or life stress.

(6) The Department must place a certified family on Inactive Referral Status when the Department is assessing an allegation of child abuse or neglect in the home.

(7) If the Department initiates Inactive Referral Status, the Department must:

(a) Within 14 business days, send a letter to the certified family that documents the beginning date of Inactive Referral Status, the reason for the Inactive Referral Status, specific certification standards that have been violated, if any, and what action the Department may take if the conditions that warranted the Inactive Referral Status are not resolved within the time frame of the Inactive Referral Status.

(b) Provide written notification to the certified family when inactive referral status ends.

(8) Inactive referral status, when requested by the certified family, ends:

(a) At the request of the certified family; or

(b) When the certification terminates or expires, unless the Department has renewed the certificate.

(9) If the certified family is not able or willing to end the inactive referral status, requested by the certified family, the Department may proceed to revoke the certificate as outlined in OAR 413-200-0296, unless the certified family requests to voluntarily terminate the certificate and the Department accepts the family's request.

(10) When the Department initiates Inactive Referral Status, the Department determines, within the time frame of the Inactive Referral Status, when the conditions that warranted the Inactive Referral Status have been resolved. The Department may revoke a certification if a certified family is unable to remedy a violation of a certification standard within the time frame of the Inactive Referral Status.

(11) When the Inactive Referral Status ends at the request of the family or because the conditions that warranted the inactive referral status have been resolved, the certifier must:

(a) Document removal of the Inactive Referral Status in the provider record of the Department's electronic information system; and

(b) Send written notification to the family within 30 days.

Stat. Auth.: ORS 409.050, 418.005, 418.015, 418.640
Stats. Implemented: ORS 409.010, 418.005, 418.015, 418.315, 418.625 - 418.648
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 36-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0296
Responsibilities Regarding Denial or Revocation of a Certification

(1) The Department may deny an application for certification if:

(a) The application is for a specific child or young adult who is not in the care or custody of the Department; or

(b) The applicant fails to provide requested information within 90 days of a written request from the Department.

(2) The Department may deny an application for a certification or revoke a certification when:

(a) The applicant or certified family does not meet or no longer meets one or more of the certification standards in OAR 413-200-0301 to 413-200-0396;

(b) The Department discovers an applicant or certified family has falsified information by act of commission or omission;

(c) An applicant or certified family fails to provide information to the Department or fails to inform the Department of any disqualifying condition, including a disqualifying condition that arises after the certification has been issued;

(d) An adult member of the household is found to have a disqualifying conviction under OAR 413-120-0450(3) or (4) or an authorized designee makes a negative fitness determination with respect to the adult member of the household;

(e) When an adult member of the household has been identified as the perpetrator or possible perpetrator of abuse or neglect in a child protective services assessment founded disposition, unable to determine disposition, or a similar disposition from another state; or

(f) The certified family fails to follow through with a placement support plan developed under OAR 413-200-0285.

(3) The Department must take action to revoke a certification when, at the conclusion of a child protective services assessment, the Department determines there is an impending danger safety threat in the certified family's home, unless:

(a) The certified family provides written request to voluntarily terminate the certification; and

(b) The Department agrees to accept the voluntary termination of the certification.

(4) The Department must inform the certified family of the Department's decision in section (2) of this rule

(5) If the Department decides to deny an application for a certificate, renewal of a certificate, or a Change of Status, or decides to revoke a certificate, the Department must provide an applicant or certified family a written notice of intent to deny the application or revoke the certificate, which must state the reasons for the action and comply with OAR 413-010-0510.

(6) When the Department has issued a written notice to revoke a certification before the stated expiration date on the certificate, the certificate will not expire until there is a final order on the notice to revoke the certification.

(7) The Department must remove from the home all children and young adults in the care or custody of the Department upon making the decision to revoke the certified family's certification.

(8) The Department may deny an application for certification if, during the five years prior to the date an application is received by the Department, the applicant has had a previous application for certification denied or revoked.

Stat. Auth.: ORS 409.050, 418.005, 418.640
Stats. Implemented: ORS 409.010, 418.005, 418.015, 418.315, 418.625 – 418.648
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 2-2009, f. & cert. ef. 2-2-09; CWP 36-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0298
Confidentiality of Applicant or Certified Family Information

(1) The name, address, and other identifying information about a certified family are not open to public inspection and the Department may not disclose the information, except in limited circumstances described in section (2) of this rule.

(2) The Department may disclose the name, address, or other identifying information about a certified family when:

(a) The Department determines disclosure is necessary or advisable to protect the best interest of a child or young adult;

(b) The Department determines disclosure is necessary to protect the safety of children or other vulnerable persons;

(c) The Department determines disclosure is necessary to comply with mandatory abuse reporting laws including, but not limited to, ORS 124.060 (elder abuse), 419B.010 (child abuse), 430.765 (adults with mental illness or developmental disabilities), and 441.640 (residents in long-term care facilities);

(d) The Department determines disclosure is necessary for the administration of child welfare laws; or

(e) The Department determines disclosure would allow an applicant or certified family to receive support, training, education, or other information regarding their role as a certified family.

(3) The Department may release information about an applicant or certified family to other individuals or organizations if the applicant or certified family authorizes the release in writing, unless the information is otherwise protected by state or federal law, such as drug and alcohol information, protected health information, criminal record information, juvenile court records, and information protected by the Public Records Law.

Stat. Auth.: ORS 409.050, 418.005, 418.642
Stats. Implemented: ORS 409.010, 409.050, 418.005, 418.642
Hist.: CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0301
Purpose and Applicability of Certification Standards

(1) The purpose of OAR 413-200-0301 to 413-200-0396 is to describe the criteria for approval as:

(a) A certified family; or

(b) A potential adoptive resource.

(2) These rules apply to any individual who:

(a) Has applied to become a certified family or potential adoptive resource;

(b) Is currently a certified family; or

(c) Has applied to renew certification.

(3) Unless otherwise indicated, child or young adult refers to an individual in the care or custody of the Department.

Stat. Auth.: ORS 409.050, 418.005, 418.016, 418.640, 418.642
Stats. Implemented: ORS 409.010, 418.005, 418.015, 418.016, 418.027, 418.285, 418.315, 418.470, 418.625-418.648
Hist.: SOSCF 29-2000(Temp), f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0305
Authorization

(1) Title IV-E, section 471(a)(10) of the Social Security Act, requires the State of Oregon to establish a state authority responsible for establishing and maintaining standards for foster family homes and child care institutions.

(2) ORS 418.005 gives the Department the authority and responsibility to approve homes for children and young adults in the care or custody of the Department. ORS 418.005 authorizes the Department to develop rules to approve these homes.

Stat. Auth.: ORS 409.050, 418.005, 418.640
Stats. Implemented: ORS 409.010, 418.005, 418.625 - 418.648
Hist.: SOSCF 29-2000(Temp), f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0306
Eligibility for Certified Families and Adoptive Resources

To qualify as a newly certified family or adoptive resource for a child or young adult in the custody of the Department, an individual must:

(1) Be a United States citizen, a qualified non-citizen, or a relative of the child for whom the individual is seeking to be a relative caregiver or adoptive resource, except when a certified family applies for renewal;

(2) Be at least 21 years of age, unless:

(a) Granted an exception by a Child Welfare program manage or designee, who may approve an applicant between 18 and 20 years of age to become a relative caregiver; or

(b) Otherwise specified in OARs governing the placement of Indian children, OAR 413-070-0100 to 413-070-0269;

(3) Submit a completed application on a form, and in the manner, prescribed by the Department;

(4) Participate in the applicant assessment processes prescribed by the Department, and provide additional information requested by the Department to support the assessment; and

(5) Be determined by the Department to meet the qualifications and standards required by OAR 413-200-0301 to 413-200-0396

Stat. Auth.: ORS 409.050, 418.005, 418.640
Stats. Implemented: ORS 409.010, 418.005, 418.625 - 418.645
Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 11-2007(Temp), f. & cert. ef. 6-1-07 thru 11-27-07; Suspended by CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 25-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0308
Personal Qualifications of Applicants and Certified Families

(1) An applicant has the burden of proving that he or she possesses the required qualifications to be approved as a certified family or as a potential adoptive resource.

(2) An applicant must, as determined by the Department pursuant to OAR 413-200-0274 to 413-200-0298:

(a) Possess the ability to exercise sound judgment and demonstrate responsible, stable, emotionally mature behavior;

(b) Possess the ability to manage the home and personal life of the applicant;

(c) Possess the ability to apply the reasonable and prudent parent standard when determining whether to allow a child or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.

(d) Maintain conditions in the home that provide safety, health, and well-being for the child or young adult;

(e) Have supportive relationships with adults and children living in the household and with others in the community;

(f) Have a lifestyle and personal habits free of criminal activity, and abuse or misuse of alcohol or drugs;

(g) Have adequate financial resources to support the household independent of the monthly family foster care payments;

(h) Be willing to participate in the assessment process that includes a comprehensive inquiry into the personal and family history of the applicant and his or her family dynamics;

(i) Have the physical and mental capacity to care for a child or young adult. Upon request, be willing to provide copies of medical reports from a health care professional, and be willing to participate in an expert evaluation and authorize the Department to obtain a report from the evaluator; and

(j) Assure that all adult members of the household:

(A) Possess the ability to exercise sound judgment and demonstrate responsible, stable, emotionally mature behavior, within the individual's developmental and cognitive abilities;

(B) Do not pose a risk to the safety, health, and well-being needs of a child or young adult;

(C) Have a lifestyle and personal habits free of criminal activity, and abuse or misuse of alcohol or drugs; and

(D) Cooperate with the Department's assessment of the household.

(3) To maintain certification, in addition to continuing to meet the personal qualifications listed in sections (2) of this rule, a certified family must:

(a) Learn and apply effective childrearing and behavior intervention practices focused on helping a child or young adult grow, develop, and build positive personal relationships and self-esteem;

(b) Incorporate into the family's care-giving practices positive non-punitive discipline and ways of helping a child or young adult build positive personal relationships, self-control, and self-esteem;

(c) Assure the child or young adult is taught age appropriate health and hygiene practices and is given the opportunity to practice good hygiene;

(d) Assure the child or young adult has regular, ongoing opportunities to engage in age-appropriate or developmentally-appropriate activities, including extracurricular, enrichment, cultural, and social activities.

(e) Respect and support the Department's efforts to develop and maintain the relationships of the child or young adult with the birth family, their relatives, and any other significant individual in the life of the child or young adult;

(f) Respect the spiritual beliefs, sexual orientation, gender identity and gender expression, disabilities, national origin, and cultural identities of each child or young adult, and provide opportunities to enhance the positive self-concept and understanding of the heritage of the child or young adult;

(g) Work in partnership with the Department to identify the strengths and meet the needs of each child or young adult;

(h) Follow Department direction and comply with prescribed services and activities in the case plan, including, but not limited to supervision plans, personal care services plans, visitation plans, transition plans, and restrictions for each child or young adult placed with the certified family, as applicable to that child or young adult;

(i) Follow through with any placement support plan; and

(j) Use reasonable efforts to prevent anyone from influencing the child or young adult regarding allegations in a judicial or administrative proceeding in which the family or legal guardian of the child or young adult, the child or young adult, or another individual may be involved.

Stat. Auth.: ORS 409.050, 418.005, 418.640
Stats. Implemented: ORS 409.010, 418.005, 418.015, 418.315, 418.625 - 418.648
Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0314
Initial Application Process to Become a Certified Family or Adoptive Resource

(1) An applicant must comply with all of the following requirements:

(a) Complete a Department application.

(b) Provide the names and contact information of at least four references, two of whom may be relatives of the applicant, who can attest to the applicant's character and ability to provide safe and protective care for a child or young adult.

(c) Provide names and contact information of at least two individuals with whom the applicant is likely to remain in contact if displaced due to a natural disaster.

(d) Complete all paperwork and written requests for information required by the Department in a timely manner and no later than 90 days after the initial request.

(e) Allow Department staff to conduct an in-home safety assessment of conditions that appear to exist in the home that affect health, safety, and well-being for the child or young adult by providing access to each room in the primary residence of the applicant and each surrounding building and

structure on the property of the applicant unless the building or residence is a self-contained, separate-entry residence rented to or owned by another individual.

(f) Allow Department staff to have face-to-face contact with all members of the applicant's household.

(g) Provide personal, family, and social history information to the Department.

(h) Provide information about any current or previous licenses, certifications, or applications for relative care, foster care, day care, adoption, or any other types of services for vulnerable individuals including adult care giving. Information must include the organization's name and any denials, suspensions, revocations, or terminations.

(i) Sign a Department Authorization for Use and Disclosure of Information as requested to allow the Department to contact an individual or an organization to complete a thorough background check of the applicant.

(j) Allow the Department, at its discretion, to gather information regarding juvenile court involvement or law enforcement contacts of any child, not in the care or custody of the Department, who lives in the household when there is reason to believe that child may pose a risk to children placed in the home and, if requested, authorize disclosure of the records regarding such information to the Department.

(2) Both individuals are required to apply when the two individuals are lawfully married, have a domestic partnership (as defined in ORS 106.310), or are cohabitating, unless:

(a) One individual is in the military and stationed out of the state; or

(b) There are unique circumstances in which one individual will not be responsible for any household management or the care of a child or young adult placed in the home. An exception must be approved by the Child Welfare Program Manager.

(3) The applicant and each adult member of the household must have face-to-face contact with a Department certifier and must provide:

(a) Information regarding criminal involvement, including arrests and convictions regarding any member of the household;

(b) Consent to a criminal records check, as outlined in OAR 413-120-0400 to 413-120-0475;

(c) Information regarding any previous allegations of child abuse and neglect; and

(d) Consent to a child abuse history background check, as outlined in OAR 413-200-0274.

(4) An applicant may voluntarily withdraw the application by:

(a) Completing a form provided by the Department;

(b) Submitting a written request to the Department in a format of his or her choice; or

(c) Making a verbal request to a certifier, adoption worker, or the supervisor of the certifier or adoption worker.

(5) An application will be considered withdrawn if, during the assessment process, the applicant fails to respond to a written request for contact from the certifier, the adoption worker, or the supervisor of the certifier or adoption worker within 30 days of the request.

Stat. Auth.: ORS 409.050, 418.005, 418.016, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.016, 418.315, 418.625 - 418.648

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; Renumbered from 413-200-0381, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 25-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0335

Standards Regarding the Home Environment

The applicant or certified family must allow Department staff access to each room in the primary residence and each surrounding building and structure on the property, unless the building or residence is a self-contained, separate-entry residence rented to or owned by another individual, and assure the home and surrounding environment comply with all of the following requirements:

(1) General Conditions.

(a) The home must be the primary residence of the applicant or certified family and the residence where the child or young adult will reside.

(b) The home must have adequate space, including space for safe and appropriate sleeping arrangements, for each member of the household.

(A) Department staff must consider the age, gender, special needs, behavior, and history of abuse or neglect of the child or young adult in determining appropriate sleeping arrangements.

(B) An unrelated child or young adult in the care or custody of the Department may not share a bed.

(c) The home may not use electronic monitoring.

(d) The certified family must post and comply with the Foster Children's Bill of Rights as required by OAR 413-010-0170 to 413-010-0185.

(e) The applicant or certified family must have access to a working telephone to make and receive phone calls.

(f) The applicant or certified family must consider the age, special needs, and capabilities of the child or young adult, and have necessary safeguards to assure that:

(A) Swimming pools, hot tubs, wading pools, ponds, and other water hazards are inaccessible to a child or young adult unless responsibly supervised, and safeguards comply with state and local ordinances;

(B) Outdoor tools and equipment, machinery, chemicals, flammables, and combustibles are stored in a safe manner;

(C) Animals are properly cared for and kept in compliance with local ordinances;

(D) Access of a child or young adult to potentially dangerous animals is restricted; and

(E) Hunting and sporting equipment, such as knives, spears, arrows, hunting sling shots, bows, and martial art weapons are stored in a safe and secure manner inaccessible to a child or young adult.

(g) The certified family must consider the age, special needs, and capabilities of the child or young adult when determining if an animal is a safe and appropriate pet.

(h) The certified family must receive authorization from the caseworker of the child or young adult or the caseworker's supervisor prior to the beginning of hunting or target practice by the child or young adult.

(2) Sanitation and Health.

(a) If there are potential hazards in or around the home, a plan to prevent the exposure of the child or young adult to the potential hazard must be developed and approved by the certification supervisor.

(b) The home must have the necessary equipment for the safe preparation, storage, serving, and clean-up of food.

(c) The home must have a safe, properly maintained, and operational heating system. Space heaters must be plugged directly into a wall outlet and must be equipped with tip-over protection.

(d) The home and furnishings must be clean and in good repair, and the grounds must be maintained.

(e) There must be no accumulation of garbage or debris.

(f) The home must have safe and adequate drinking water, and an adequate source of safe water to be used for personal hygiene.

(g) There must be provision for the safe storage and administration of all medications in the household, taking into consideration the child's age, developmental level, and need.

(h) There must be easily accessible first aid supplies, and a reasonable understanding of how to use such supplies.

(i) Smoking, tobacco and nicotine limitations:

(A) A child or young adult may not be exposed to any type of secondhand smoke in the family's home or vehicle; and

(B) A member of the household may not provide any form of tobacco, nicotine, or other product illegal for a minor to possess to a child or young adult.

(C) All products referenced in paragraph (B) of this subsection must be stored in a safe and secure manner inaccessible to a child or young adult.

(3) Fire and Carbon Monoxide Safety.

(a) The home must have all of the following:

(A) A working smoke alarm in each bedroom where a child or young adult sleeps within 24 hours of the time the applicant is certified or approved.

(B) A working carbon monoxide detector within 15 feet of each bedroom where a child or young adult sleeps and at least one on each floor within 24 hours of the time the applicant is certified or approved.

(C) At least one operable fire extinguisher rated 2-A:10-B-C or higher within 24 hours of the time the applicant is certified or approved.

(D) At least one means of emergency exit and at least one means of rescue from the home.

(E) An adequate safeguard around operating fireplaces, wood stoves, or other heating systems that may cause burns to a child or young adult developmentally unable to reasonably follow safety rules regarding such devices.

(F) A written, comprehensive home evacuation plan, shared with each child or young adult at the time of placement, and practiced at least every six months. The written, comprehensive home evacuation plan must include a provision for the safe exit of a child or young adult who is not capable of understanding or participating in the evacuation plan.

(G) Interior doors that lock must be operable from both sides of the door.

(b) Each bedroom used by a child or young adult must have:

(A) At least one unrestricted exit;

(B) At least one secondary means of exit or rescue;

(C) Smoke alarms required under paragraph (a)(A) of this section;

(D) Unrestricted, direct access at all times to hallways, corridors, living rooms, or other such common areas; and

(E) Quick release mechanisms on all barred windows.

(4) Travel and Transportation Safety.

(a) An applicant or certified family must have available, and be willing to use, a safe and reliable method of transportation.

(b) Any member of the household transporting a child or young adult must provide proof of a valid driver license and current insurance on any family-owned motorized vehicle by which a child or young adult might be transported, when a family has applied for certification or renewal of certification.

(c) The applicant or certified family must assure that, as required by current state law:

(A) Only a licensed and insured driver transports a child or young adult in motorized vehicles; and

(B) A child or young adult uses a seat belt or age and size appropriate safety seat when transported in motorized vehicles.

(d) Written authorization from the Department must be received by the certified family prior to transporting a child or young adult out of the State of Oregon or outside the United States.

(e) A certified family must request approval from the Department no less than 90 days prior to any international travel with a child or young adult. In an emergency, the certified family must request approval from the Department as soon as the need for international travel becomes known.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.315, 418.625 - 418.648

Hist.: SOSCF 29-2000(Temp), f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 11-2007(Temp), f. & cert. ef. 6-1-07 thru 11-27-07; Suspended by CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0348

Requirements Regarding the Number of Children and Young Adults in the Home

(1) Except as provided in section (3) of this rule, a certified family may not exceed the following maximum number of children and young adults in the home:

(a) A total of:

(A) Four children or young adults when one foster parent or relative caregiver lives in the home; or

(B) Seven children or young adults when two foster parents or relative caregivers live in the home.

(b) Two children under the age of three.

(2) The limits in section (1) of this rule include all children and young adults in the care or custody of the Department who are living in the home and any other children living in the home.

(3) Under special circumstances, a Child Welfare Program Manager may approve placement of an additional child or young adult in the home of a certified family that exceeds the maximum number of children and young adults specified in section (1) of this rule.

(4) A certified family may not accept a child or young adult for placement from another agency without prior approval of the Child Welfare Program Manager or designee.

(5) A certified family may not provide formal or informal adult foster care or child care without prior approval of the Child Welfare Program Manager or designee.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.625 - 418.645

Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0352

Requirements for the Care of Children and Young Adults

The certified family must comply with all of the following requirements related to the care of children and young adults:

(1) Work cooperatively with the Department, the child or young adult, and his or her family to support the case plan and meet the needs of the child or young adult including, but not limited to:

(a) Health, dental, and mental health care;

(b) Intellectual, emotional, social, and recreational needs, including participation in extracurricular, enrichment, cultural, and social activities;

(c) Continued contact or connection with family members, siblings, and relatives; and

(d) Adequate and appropriate clothing.

(2) Include the child or young adult as part of the certified family household.

(3) Assure that when a child or young adult leaves the certified family, the belongings of the child or young adult, both those brought with him or her and those obtained while living in the home, remain with the child or young adult.

(4) When a child or young adult placed with a certified family is missing, immediately report information about the missing child or young adult to the Department.

(5) Not subject any child to abuse, as described in ORS 419B.005.

(6) Not subject any young adult to abuse.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.015, 418.315, 418.625 - 418.648

Hist.: SOSCF 29-2000(Temp), f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 7-2001, f. & cert. ef. 3-23-01; Renumbered from 413-200-0375, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0354

Requirements Regarding the Education of a Child or Young Adult

(1) The certified family must comply with all of the following requirements related to the education of the child or young adult:

(a) Enroll the child or young adult in his or her school or educational placement as determined by the Department, unless the placement has been determined by the child's or young adult's Individualized Education Plan (IEP) team.

(b) Enroll the child or young adult in the Free and Reduced Lunch program, even if the services may not be used.

(c) Support the child or young adult in his or her school or educational placement, and respond to inquiries from the school or educational placement.

(d) Assure the child or young adult regularly attends the school or educational placement, monitor the educational progress of the child or young adult, and share all of the following information with the caseworker in a timely manner:

(A) The report cards of the child or young adult.

(B) Any reports received from the teacher, school, or educational placement.

(C) Any evaluations received as a result of educational testing or assessment, including the Individualized Education Plan (IEP) or Individualized Family Service Plan (IFSP).

(D) Any excused and unexcused absences.

(E) Disciplinary reports and notices of restraint or seclusion regarding the child or young adult.

(F) Ongoing progress toward high school graduation of a child or young adult, including number of credits earned.

(e) Monitor and share with the caseworker in a timely manner the educational successes, learning style, and potential learning difficulties of the child or young adult.

(f) Work with the caseworker of the child or young adult when referring the child or young adult for assessment of a possible disability.

(g) Inform the caseworker of and invite the caseworker to Individualized Education Plan (IEP) meetings, school conferences, and other school-related meetings.

(2) The certified family may consent to routine school-related activities, such as school enrollment, storage and administration of a child or young adult's medication at school, field trips within the state of Oregon, and extracurricular, enrichment, cultural, and social activities.

(3) When the certified family has been identified as the surrogate, the certified family may consent to evaluation for an Individualized Education Plan (IEP) or 504 plan and special education decisions.

(4) Unless the decision about the diploma type is being made by the child or young adult's Individualized Education Plan (IEP) team, the certified family must receive approval from the Department when considering a modified diploma.

Stat. Auth.: ORS 409.050, 418.005, 418.640

Stats. Implemented: ORS 409.010, 418.005, 418.015, 418.625 - 418.648

Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0356

Requirements Regarding Extracurricular, Enrichment, Cultural, and Social Activities

(1) The certified family must:

(a) Support the child or young adult in his or her interests to participate in age-appropriate or developmentally appropriate activities, including extracurricular, enrichment, cultural, and social activities.

(b) Assure the child or young adult has ongoing opportunities to participate in at least one age-appropriate or developmentally appropriate activity.

(c) Apply the reasonable and prudent parent standard when determining whether to allow a child or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.

(d) Periodically update the Department regarding participation by the child or young adult in extracurricular, enrichment, cultural, and social activities, including any barriers that may keep the child or young adult from participation in such activities.

(2) When applying the reasonable and prudent parent standard, the certified family must consider:

(a) The age, maturity, and developmental level of a child or young adult;

(b) The nature and inherent risks of harm; and

(c) The best interest of the child or young adult based on information known by the caregiver.

(3) The certified family must receive training related to applying the reasonable and prudent parent standard to decisions such as whether to allow a child or young adult to engage in extracurricular, enrichment, cultural, and social activities.

Stat. Auth.: ORS 409.050, 418.005, 418.640
Stats. Implemented: ORS 409.010, 418.005, 418.015, 418.625 - 418.648
Hist.: CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0358
Requirements Regarding the Discipline of a Child or Young Adult

(1) The certified family must demonstrate a willingness to understand the meaning of the behaviors of the child or young adult, and have the ability to develop and use appropriate discipline strategies to address challenging behaviors.

(2) When disciplining a child or young adult, the certified family may not do any of the following:

(a) Use or threaten physical force.

(b) Use threats or intimidation.

(c) Withhold food or other items essential to the protection, safety, or well-being of a child or young adult.

(d) Discipline all children or young adults in the household for the misbehavior of one child or young adult.

(e) Use any form of punishment, including, but not limited to:

(A) The deliberate infliction of physical force causing pain.

(B) Verbal abuse including derogatory remarks about the child or young adult, or the family characteristics, physical traits, culture, ethnicity, language, sexual orientation, gender identity and expression, or traditions of the child or young adult.

(C) Denying a child or young adult visits, telephone contact, or other types of contact with an individual authorized in a visit and contact plan.

(D) Assigning extremely strenuous exercise or work.

(E) Use of or threatened use of restraining devices.

(F) Imposing a sanction, penalty, consequence, or reprimand for bedwetting or during toilet training.

(G) Directing or permitting a child or young adult to punish another child or young adult.

(H) Threat of removal from the certified family home.

(I) Forcing or requiring a child or young adult to shower or bathe as a sanction, penalty, consequence, or reprimand.

(J) Extreme isolation as a means of punishment that restricts the ability of a child or young adult to talk with or associate with others.

(K) Locking a child or young adult in a room or outside of the home.

(3) The certified family may use a time-out only for the purpose of giving the child or young adult a short break to regain control, and not as a punishment. The certified family must take into consideration the age and developmental level of the child or young adult in determining the length of a time-out.

(4) Pursuant to OAR 413-020-0200 to 413-020-0255, only a foster parent or relative caregiver who has been trained to use a physical restraint may do so, unless a child, young adult, or others are at imminent risk of harm. Physical restraint may only be used if good judgment indicates a physical restraint may be safely implemented. Any time a physical restraint is used, the certified family must follow the reporting requirements in OAR 413-020-0236 and 413-020-0240.

(5) The certified family must notify and request assistance of the Department when the challenging behavior of a child or young adult may be beyond the ability of the certified family to discipline in a positive manner.

Stat. Auth.: ORS 409.050, 418.005, 418.640
Stats. Implemented: ORS 409.010, 418. 015, 418.315, 418.625 - 418.648
Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01, Renumbered from 413-200-0347, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0362
Requirements Regarding the Medical, Dental, and Mental Health Care of a Child or Young Adult

(1) In addressing the health care for a child or young adult, the certified family must:

(a) Work collaboratively with the Department in managing the health care needs of the child or young adult, which may include involving a parent of the child or young adult in medical, dental, and mental health appointments;

(b) Regularly exchange medical, dental, and mental health information of the child or young adult with the Department;

(c) Work collaboratively with providers in managing the medical, dental, and mental health needs of the child or young adult; and

(d) Maintain health care documentation for each child or young adult, including:

(A) Medical, dental, and mental health appointments;

(B) Medical, dental, and mental health information;

(C) Medical, dental, and mental health appointment follow-up reports; and

(D) Immunization records.

(2) A certified family must comply with the Department's direction on obtaining medical, dental, and mental health care for a child or young adult.

(3) A certified family may consent to routine examinations and laboratory tests.

(4) A certified family must follow the Department's direction regarding vaccination and immunization of a child or young adult in accordance with the case plan.

(5) Except as provided in section (6) of this rule, the certified family must contact the caseworker of a child or young adult to obtain appropriate prior consent from the Department before a child or young adult receives any medical care or undergoes a procedure, other than routine medical care.

(6) In an emergency, a certified family must notify the Department as soon as possible when emergency care is needed.

(7) Medication management requirements.

(a) The certified family must comply with all of the following requirements related to medication management:

(A) Administer prescription medications to a child or young adult only in accordance with the written prescription or authorization.

(B) Record the dosage, date, and time that each medication is administered to a child or young adult on a form approved by the Department. If medication is given in a location other than the certified home, such as at school or in daycare, the medication log of the institution or program must be attached to the Department form. The medication form, with any attachments, must be submitted monthly to the caseworker of the child or young adult.

(C) Take the medication log to each medical appointment and share with the medical provider.

(D) Inform the caseworker of the child or young adult or the supervisor of the caseworker within one business day when a child or young adult is prescribed a psychotropic medication or the dosage of any existing prescription for psychotropic medication is changed, as required by OAR 413-070-0470.

(E) Begin administration of any psychotropic medication only after authorization has been obtained from the Department pursuant to OAR 413-070-0470.

(F) Maintain the documentation received from the caseworker when a child is prescribed a psychotropic medication or when the dosage of any existing prescription for a psychotropic medication is changed.

(b) Except as provided in subsection (c) of this section, the certified family must provide for the safe storage and administration of all medications in the household, taking into consideration the child's age, development level, and needs.

(c) When a child or young adult is learning to manage his or her own medications, the certified family, the child or young adult, and the caseworker may develop an individualized, written plan for the child or young adult to access the medication. The child or young adult may not have access to medication that is not his or her own. The plan must state how the medication will be inaccessible to other children or young adults in the

home. The certified family, the child or young adult, and the caseworker must each retain a copy of the plan.

(8) The certified family must comply with the personal care services plan for any child or young adult placed in the certified family's home and eligible for personal care services pursuant to OAR 413-090-0100 to 413-090-0210.

Stat. Auth.: ORS 409.050, 418.005, 418.640
Stats. Implemented: ORS 409.010, 418.015, 418.315, 418.625 - 418. 648
Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; Renumbered from 413-200-0346, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0371
Responsibilities and Notification Requirements for Selection and Use of Respite Care Providers and Babysitters

(1) Respite Providers.

(a) The certified family is responsible for identifying a safe and responsible respite care providers for a child or young adult placed in the certified family's home and must take into consideration:

(A) The age, special needs, attachment, and individual behaviors of each child or young adult; and

(B) The length of time that the child or young adult will be with the respite care provider.

(b) When identifying respite care providers, the certified family must:

(A) Select respite care providers who;

(i) Are at least 18 years of age;

(ii) Are capable of assuming child care and supervision responsibilities, including meeting the safety, health, and well-being needs of each child or young adult in the certified family's care; and

(iii) Will comply with OAR 413-200-0358 regarding discipline.

(B) Provide to the certifier the names, addresses, and telephone numbers of the prospective respite care providers and receive Department approval under OAR 413-200-0281 prior to using the respite care provider.

(2) Babysitters.

(a) The certified family must use a responsible person 14 years of age or older for babysitting, and must:

(A) Assure the babysitter is capable of assuming care and supervision responsibilities required to meet the needs of each child or young adult, and will be present with the child or young adult for whom the babysitter is providing care at all times, and

(B) Have no reason to suspect that the babysitter;

(i) Has any criminal history or child abuse or neglect history; or

(ii) Poses any risk to the child or young adult for whom the babysitter will provide care.

(b) Unless requested by the Department, the certified family does not need to provide identifying information to the Department to complete a criminal records check for a babysitter.

(3) General Provisions for Respite Care and Babysitting.

(a) The certified family must have an available method through which the certified family may be contacted in an emergency any time the child or young adult is cared for by another individual.

(b) A certified family may use a licensed day care facility for a child or young adult, and must notify the Department in advance of using the day care facility.

(c) The certified family must notify the certifier or certifier's supervisor of any plans to provide respite care for another certified family; and obtain approval when the number of children or young adults in the home is expected to exceed the maximum number of children or young adults allowed under the family's Certificate of Approval.

Stat. Auth.: ORS 409.050, 418.005, 418.016, 418.640
Stats. Implemented: ORS 409.010, 418.015, 418.625 - 418.648
Hist.: SOSCF 29-2000(Temp), f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 7-2001, f. & cert. ef. 3-23-01; SOSCF 15-2002(Temp), f. & cert. ef. 12-19-02 thru 6-17-03; CWP 29-2003, f. 7-31-03 cert. ef. 8-1-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 25-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0377
Confidentiality

(1) The certified family must exercise good judgment in sharing personal information about the child or young adult and the family of the child or young adult. The certified family must store documents in a way that protects the privacy of the child or young adult and his or her family.

(2) The certified family may not disclose confidential information regarding a child or young adult or the family of a child or young adult, except when necessary to promote or to protect the health and welfare of the child, young adult, or the community.

Stat. Auth.: ORS 409.050, 418.005, 418.640
Stats. Implemented: ORS 409.010, 418.005, 418.625 - 418.645
Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0379
Education and Training for Applicants and Certified Families

(1) An applicant must participate in the Department's orientation prior to receiving a Certificate of Approval or Child-Specific Certificate of Approval, or within 30 days after the placement of a child or young adult in a home that has been issued a Temporary Certificate of Approval.

(2) Except as provided in sections (3), (4), or (5) of this rule, each applicant and certified family must complete Foundations training before or within 12 months after the date on which the certificate was issued, or provide written documentation of completion of equivalent training content from another licensed child-caring agency within two years of an applicant's dated application for certification.

(3) A certified family is exempt from section (2) of this rule if a written, individualized training plan, specific to the needs of the child or young adult has been approved by a supervisor and developed within 90 days after a Child-Specific Certificate of Approval or Temporary Certificate of Approval has been issued by the Department.

(4) An applicant is exempt from section (2) of this rule if the applicant has met the requirements to adopt a child under OAR 413-120-0246.

(5) Foundations training is required if an applicant previously certified by the Department has not been certified within the preceding two years unless:

(a) Alternative training has been approved under sections (3) or (4) of this rule; or

(b) The supervisor waives the training requirement based on the applicant's documented knowledge and skills in caring for a child or young adult placed in the home by the Department.

(6) The certified family and the certifier must develop a training plan for each foster parent or relative caregiver to complete at least 30 hours of training during each two-year certification period, unless a written individualized training plan is developed for a certified family with a Child-Specific Certificate of Approval. The written individualized training plan:

(a) Must be designed to strengthen the ability of the certified family to meet the safety, health, and well-being needs of the child or young adult;

(b) May be less than the required 30 hours required during a certification period; and

(c) Must be approved by a certification supervisor.

(7) An applicant or certified family with limited English proficiency or a hearing or visual impairment, who is unable to meet the training requirements outlined in sections (1) to (6) of this rule may be provided an individualized training plan prepared by the certifier and approved by the certification supervisor.

(8) The Department may require a certified family to complete more than the 30 hours of training for a two-year certification period based on the needs of the child or young adult placed in the home and the knowledge, skills, and abilities of the certified family.

Stat. Auth.: ORS 409.050, 418.005, 418.640
Stats. Implemented: ORS 409.010, 418.105, 418.625 - 418.648
Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; Renumbered from 413-200-0349, CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0383
Other Required Notifications

(1) A certified family must immediately notify the certifier or certifier's supervisor of the following information and events:

(a) Any anticipated change in address.

(b) Any physical or structural change in the home or surrounding property on which the certified family lives.

(c) Any known allegation of child abuse or neglect perpetrated by any member of the household or other person in the household, or any individual who frequents the home of the certified family.

(d) Any time another agency wishes to place a child or young adult in the home of the certified family home.

(e) Any other circumstance that reasonably could affect the safety, health, or well-being of a child or young adult in the home of the certified family.

(2) A certified family must notify the certifier or certifier's supervisor of the following information and events within one business day of the certified family learning of the information or event:

(a) Any individual joins or leaves the household, including any individual who frequents the home.

(b) The suspension of a driver license of any foster parent, relative caregiver, or any member of the household or other individual in the household.

(c) Any change in the physical health, mental health, or medication of a member of the household or other individual in the household that reasonably could affect the safety, health, and well-being of a child or young adult.

(d) Any time any member of the household or other individual in the household applies to become an in-home child care provider, an adult foster care, or in-home adult day care provider.

(e) Any arrest or court conviction for any member of the household or other individual in the household.

(3) A certified family must notify the caseworker or caseworker's supervisor of any suicidal ideation, significant behavioral changes, or significant injury or illness to a child or young adult as soon as the certified family learns of the information.

Stat. Auth.: ORS 409.050, 418.005, 418.640
Stats. Implemented: ORS 409.010, 418.105, 418.315, 418.625 - 418.648
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 25-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0386
Requirements Regarding Mandatory Reporting

Any certified family must report information required by ORS 419B.015 to the Department upon reasonable cause to believe that any child with whom the individual comes in contact has suffered abuse or neglect or that any adult with whom the individual comes in contact has abused or neglected a child.

Stat. Auth.: ORS 409.050, 418.005, 418.640
Stats. Implemented: ORS 409.010, 418.015, 418.315, 418.625 - 418.648
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0388
Requirements Regarding Visits in the Certified Family's Home

For purposes of assessing the conditions in the home that affect safety, health, and well-being of the child or young adult, a certified family must:

(1) Allow on-going in-home visits, both scheduled and unscheduled, by Department staff; and

(2) Allow Department staff unsupervised contact with a child or young adult.

(3) Allow Department staff access to each room in the primary residence and each surrounding building and structure on the property, unless the building or residence is a self-contained, separate-entry residence rented to or owned by another individual.

Stat. Auth.: ORS 409.050, 418.005, 418.640
Stats. Implemented: ORS 409.010, 418.015, 418.315, 418.625 - 418.648
Hist.: CWP 4-2007, f. & cert. ef. 3-20-07; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0390
Requirements Regarding Maintaining the Certificate of Approval

(1) The Department may issue a Temporary Certificate of Approval for no more than 180 days when assessment activities described in OAR 413-200-0275 have been completed.

(2) The Department may issue a Certificate of Approval or Child-Specific Certificate of Approval for up to two years when all assessment activities in OAR 413-200-0274 have been completed.

(3) To renew a Certificate of Approval or Child-Specific Certificate of Approval for up to two additional years, the certified family must submit a completed Application for Renewal or Change of Status. Upon receiving an application, the Department will assess the application under OAR 413-200-0287 and either renew the certification or issue a proposed and final order denying the application.

(4) When the certified family has submitted an application for renewal, the current certificate will not expire, despite any expiration date, until the Department has renewed the certification or there is a proposed and final order denying the application.

Stat. Auth.: ORS 409.050, 418.005, 418.640
Stats. Implemented: ORS 409.010, 418.015, 418.315, 418.625 - 418.648
Hist.: SOSCF 29-2000(Temp), f. & cert. ef. 9-27-00 thru 3-23-01; SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 12-2007(Temp), f. & cert. ef. 7-13-07 thru 11-27-07; CWP 19-2007, f. & cert. ef. 11-1-07; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0393
Requirements Regarding Inactive Referral Status

(1) The Certificate of Approval or Child-Specific Certificate of Approval remains in effect and the responsibilities of the Department and the certified family remain in effect during inactive referral status.

(2) A certified family may request that the Department place the home on inactive referral status for any reason for up to 12 months. The inactive referral status begins on the date requested by the certified family and while it is in effect:

(a) The Department will place no additional child or young adult in the home; and

(b) The certified family may not accept placement of any child or young adult from another agency.

(3) Inactive referral status, when requested by the certified family, ends:

(a) At the request of the certified family; or

(b) When the certification terminates or expires.

(4) The Department may initiate a certified family's inactive referral status under the conditions described in OAR 413-200-0294. When the Department initiates inactive referral status, the Department must:

(a) Provide written notification to the certified family of the inactive referral status within 14 business days after the inactive status is initiated.

(b) Provide written notification to the certified family when inactive referral status ends, unless subsection (c) of this section applies.

(c) If inactive referral status was initiated under OAR 413-200-0294 and the certified family does not meet one or more of the certification standards, provide written notification of intent to deny an application or revoke a Certificate of Approval.

(5) The Department may revoke certification if a certified family does not remedy a violation of a certification standard within the time frame of the inactive referral status.

Stat. Auth.: ORS 409.050, 418.005, 418.640
Stats. Implemented: ORS 409.010, 418.105, 418.315, 418.625 - 418.648
Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; ; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0394
Requirements Regarding Termination of a Certificate of Approval

(1) A certified family may voluntarily request that the Department terminate certification and close the home. The certified family must give the Department (ten business days) notice between the date of the request and the date of the certified family would like the certification to terminate.

(a) The Department may deny the certified family's request if the Department has decided to revoke the certification.

(b) When the Department accepts the certified family's request, the Department will notify the certified family of its decision to accept the voluntary termination and notify the certified family of the date the certification will terminate.

(2) When a child or young adult leaves a home that has a Child-Specific Certificate of Approval or Temporary Certificate of Approval, the certificate terminates 10 business days after the departure of the child or young adult, unless at least one of the following applies:

(a) The Child-Specific Certificate of Approval is a two-year certificate and the certified family submits a written request to change the type of certification under OAR 413-200-0289(5) within 10 business days of the departure of the child or young adult from the home.

(b) The certified family requests to voluntarily terminate their Child-Specific Certificate of Approval or Temporary Certificate of Approval and the Department agrees to terminate the certification.

(c) The Department has taken action to revoke the Child-Specific Certificate of Approval or Temporary Certificate of Approval.

(3) When a certified family moves to a different residence, the Department will terminate the certification. The Department may issue a new certification when the activities described in OAR 413-200-0292(4) have been completed.

Stat. Auth.: ORS 409.050, 418.005, 418.640
Stats. Implemented: ORS 409.0105 418.315, 418.625 - 418.648
Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0396
Requirements Regarding Contested Case Hearings

(1) When the Department denies an application for certification or revokes certification, the applicant or certified family has a right to request a contested case hearing under this rule.

(2) An applicant for certification, renewal of a certificate, or a Change of Status may request a contested case hearing when the Department has mailed a proposed and final order denying the application.

(3) A certified family may request a contested case hearing when the Department has mailed a proposed and final order revoking certification.

(4) A certified family, applicant for certification, renewal of a certificate, or a Change of Status, or applicant for consideration as a potential adoptive resource may request a contested case hearing, as provided in OAR 413-010-0505 and OAR 413-120-0460

(5) An applicant who is denied approval as a potential adoptive resource does not have a right to request a contested case hearing, and instead OAR 413-120-0225(2) applies.

(6) If the Department does not receive a request for a contested case hearing within 30 days of the date that the Department mailed the proposed and final order of denial or revocation, the certified family or applicant has waived the right to a hearing, except as provided in OAR 413-010-0505.

(7) Department actions when a contested case hearing is timely requested but such request is subsequently withdrawn are outlined in OAR 413-010-0530.

Stat. Auth.: ORS 409.050, 418.005, 418.640
Stats. Implemented: ORS 409.010, 418.005, 418.625 - 418.645
Hist.: SOSCF 7-2001, f. & cert. ef. 3-23-01; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 3-2009, f. & cert. ef. 2-2-09; CWP 37-2011, f. 12-27-11, cert. ef. 12-28-11; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0404
Purpose

(1) The purpose of these rules (OAR 413-200-0404 to 413-200-0424) is to describe Department responsibilities during the screening and assessment of a report of child abuse or neglect involving the home of a Department certified foster parent or relative caregiver. A report involves the home of a Department-certified foster parent or relative caregiver if the report alleges that someone in the home abused or neglected any child.

(2) When a report is received involving the home of a Department-certified foster parent or relative caregiver, these rules, OAR 413-015-0100 to 413-015-1230, 413-200-0301 to 413-200-0396, 413-200-0270 to 413-200-0298, and 413-080-0040 to 413-080-0067 apply.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.015, 419B.020
Hist.: CWP 33-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 15-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 17-2011(Temp), f. & cert. ef. 9-1-11 thru 2-28-12; CWP 38-2011, f. 12-27-11, cert. ef. 1-3-12; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0414
Department Actions During Screening

(1) Screener Actions.

(a) When a screener receives information involving the home of a certified family, the screener must--

(A) Refer to and follow OAR 413-015-0200 to 413-015-0225 to gather and share information;

(B) Consult with the CPS supervisor before determining the Department's response;

(C) Notify the assigned caseworker of each child or young adult placed in the home, each assigned caseworker's supervisor, the assigned certifier, and the certifier's supervisor of all information received; and

(D) If the information is closed at screening as described in OAR 413-015-0210(4):

(i) Document the information in provider case notes in the Department's information system; and

(ii) Notify the individuals listed in paragraph (C) of this subsection that the information was closed at screening.

(b) When a screener receives information alleging abuse or neglect of a young adult living in the home of a certified family, the screener must provide the information to the young adult's caseworker; and

(A) Provide the information to the Department's Aging and People with Disabilities Division local office, Community Developmental Disabilities Program, or Community Mental Health Program when the young adult is an individual with a diagnosed physical, developmental, or mental disability, respectively; or

(B) Provide the information to law enforcement.

(2) Certifier Actions. When the assigned certifier is notified by a screener that information involving the home of a certified family was closed at screening, the certifier must examine the information received and follow OAR 413-200-0270 to 413-200-0298.

(3) Assigned Caseworker Actions.

(a) When a report of information alleging abuse or neglect of a young adult has been shared with the Department's Aging and People with Disabilities Division local office, Community Developmental Disabilities Program, or Community Mental Health Program because the young adult is an individual with a diagnosed physical, developmental, or mental disability, the young adult's caseworker must coordinate the Department's response.

(b) When a report of information alleging abuse or neglect of a young adult has been shared with law enforcement, the young adult's caseworker must coordinate the Department's response with law enforcement.

(c) When a report is received alleging that a child or young adult in substitute care in the home of a certified family may have been subjected to abuse or neglect, and the screener determines that the report constitutes a report of child abuse or neglect as defined in ORS 419B.005, within three business days of the Department's receipt of the report, the caseworker of the child or young adult in substitute care who is the alleged victim must notify the following individuals that a report was received:

(A) The attorney for the child or young adult;

(B) The court appointed special advocate (CASA) for the child or young adult;

(C) The parents of the child or young adult;

(D) Any attorney representing the parents of the child or young adult; and

(E) If the disclosure is authorized by ORS 419B.035, others who are involved in the case plan as necessary.

(d) The notification of the parents of the child or young adult and any attorney representing the parents of the child or young adult in paragraphs (3)(c)(C) and (D) of this rule is not required if the notification may interfere with an investigation or assessment or jeopardize the safety of the child or young adult. The CPS supervisor, or the supervisor of a caseworker of the child or young adult may authorize an exception to the requirement to provide notification based on documentation that supports this conclusion.

Stat. Auth.: ORS 409.050 & 418.005
Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.015 & 419B.020
Hist.: CWP 33-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 15-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 17-2011(Temp), f. & cert. ef. 9-1-11 thru 2-28-12; CWP 38-2011, f. 12-27-11, cert. ef. 1-3-12; CWP 13-2014(Temp), f. & cert. ef. 7-1-14 thru 12-28-14; CWP 17-2014, f. & cert. ef. 12-24-14; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0419
Department Actions During the CPS Assessment

(1) CPS Worker and CPS Supervisor Actions.

(a) If the report involving the home of a certified family is referred for a CPS assessment, the assigned CPS worker must convene a staffing before making initial contact unless the timing of the staffing will compromise child safety. The purpose of the staffing is:

(A) To determine and coordinate the response to the referral;

(B) To notify the certifier assigned to the home, the caseworkers assigned to each child or young adult placed in the home, and their respective supervisors of the referral; and

(C) To share information known by the Department regarding the children or young adults placed in the home and the certified family.

(b) The CPS worker must assure that the following people are invited to the staffing:

(A) The assigned certifier or the certification supervisor; and

(B) The assigned caseworker of each child or young adult in the home or each caseworker's supervisor.

(c) The CPS supervisor or his or her designee must:

(A) Assure that the staffing discussed in subsection (a) of this section occurs prior to the initial contact unless the timing of the staffing will compromise child safety;

(B) Determine whether the Child Welfare Program Manager, CPS Consultant, and Foster Care Coordinator should be invited to the staffing; and

(C) If the staffing does not occur prior to the initial contact, assure the staffing occurs the next business day and that all persons identified in subsection (b) of this section share information known by the Department regarding children or young adults placed in the home, the certified family, and any other individuals living in the home.

(d) The CPS worker must complete the following activities during the CPS assessment:

(A) At initial contact, in addition to the requirements in OAR 413-015-0400 to 413-015-0485, provide the certified family with the appropriate "What you need to know about a Child Protective Service Assessment" pamphlet;

(B) Consult with a CPS supervisor before making the decision to remove any child or young adult from the home;

(C) Provide on-going information to the assigned certifier and to the caseworkers of each child or young adult placed in the home on the status of the CPS assessment; and

(D) Complete the CPS assessment.

(2) Certifier and Certification Supervisor Actions. When the assigned certifier is notified that information received by a screener involving the home of a certified family is referred for a CPS assessment;

(a) Within one business day after the CPS worker has made initial contact, the certifier must contact and notify the certified family and provide them with the following information:

(A) The certifier is available to answer questions related to certification but will not discuss the specifics of the CPS assessment;

(B) The certified family is immediately placed on inactive referral status pending the completion of the CPS assessment;

(C) The certified family has the option of having a consulting foster parent or relative caregiver available for support during the assessment; and

(D) The names of foster parents and relative caregivers who have agreed to serve as a consulting foster parent or relative caregiver.

(b) Within one business day, the certifier must document the initiation of a CPS assessment and the placement of the certified family on inactive referral status in provider case notes in the Department's information system.

(c) Within one business day, the certifier must notify Department staff responsible for placement that the certified family's home is on inactive referral status.

(d) Within 14 days of the notification required in paragraph (2)(a)(B) of this rule, the Department must provide written notification to the certified family that the home has been placed on inactive referral status and place a copy of the written notification in the certification file.

(e) The certifier must provide ongoing information regarding the certified family and any individuals living in the home to the assigned CPS worker and the caseworkers of each child or young adult placed in the home.

(f) The certification supervisor must assure that the actions required in subsections (a) through (e) of this section are completed if the certifier is unavailable.

Stat. Auth.: ORS 409.050 & 418.005
Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.015 & 419B.020
Hist.: CWP 33-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 15-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 17-2011(Temp), f. & cert. ef. 9-1-11 thru 2-28-12; CWP 38-2011, f. 12-27-11, cert. ef. 1-3-12; CWP 20-2015, f. & cert. ef. 10-1-15

413-200-0424
Department Actions at the Conclusion of the CPS Assessment

(1) CPS Worker and Supervisor Actions.

(a) In addition to the actions required in OAR 413-015-0400 to 413-015-0485, the CPS worker must convene a staffing within five business days of the completion of the CPS assessment to --

(A) Share information acquired during the CPS assessment, and the results of the CPS assessment;

(B) Discuss and determine whether any additional actions described in OAR 413-015-0400 to 413-015-0485 are appropriate;

(C) Determine who needs to be notified of the disposition of the CPS assessment and determine which staff will be responsible for providing notification;

(D) Discuss certification actions that have been taken and whether any additional actions described in OAR 413-200-0270 to 413-200-0298 are appropriate.

(b) The CPS worker must assure that the following staff members are invited to the staffing:

(A) The CPS supervisor;

(B) The assigned certifier or the certification supervisor; and

(C) The caseworkers assigned to each child or young adult placed in the home of the certified family or their respective supervisors.

(c) The CPS supervisor or his or her designee must:

(A) Assure that the staffing, discussed in subsection (a) of this section occurs;

(B) Determine whether the Child Welfare Program Manager, CPS Consultant, and Foster Care Coordinator should be invited to the staffing; and

(C) Approve notification of the following individuals of the disposition of the CPS assessment:

(i) The attorney for the child;

(ii) The court appointed special advocate (CASA) for the child;

(iii) The parents of the child;

(iv) Any attorney representing the parents of the child; and

(v) If the disclosure is authorized by ORS 419B.035, others who are involved in the case plan as necessary.

(D) The supervisor may authorize an exception to the notification of the parents of the child and any attorney representing the parents of the child required in paragraph (C) of this subsection if the notification may interfere with an investigation or assessment or jeopardize the safety of the child.

(d) At the conclusion of any CPS assessment, regardless of the disposition, the CPS supervisor must immediately notify the assigned caseworkers, the certifier, the CPS Consultant, and the Foster Care Coordinator that the CPS assessment has been completed and approved.

(2) Assigned Caseworker Actions.

(a) Within ten business days of the Department determining the disposition of a CPS assessment involving the alleged abuse of a child placed in the home of a certified family, the caseworker for the child must notify the individuals identified in paragraph (1)(c)(C) of this rule of the disposition unless an exception, described in paragraph (1)(c)(D) of this rule, is authorized by the CPS supervisor or his or her designee.

(b) Within ten business days of the conclusion of a law enforcement determination involving the alleged abuse of a young adult placed in the home of a certified family, the caseworker for the young adult must notify the individuals identified in paragraph (1)(c)(C) of this rule of the disposition, unless notification may interfere with an investigation or assessment or jeopardize the young adult's safety as authorized by the caseworker's supervisor.

(3) Certifier and Certification Supervisor Actions.

(a) At the conclusion of the CPS assessment, during or within five business days of the meeting required in subsection (1)(a) of this rule, the certifier and certification supervisor must:

(A) Staff the case and review all the information in the CPS assessment;

(B) Determine whether the information indicates certification actions described in OAR 413-200-0270 to 413-200-0298 should be taken; and

(C) Assure documentation of the results of the staffing in provider case notes in the Department's information system.

(b) After completing the staffing required in subsection (1)(a) of this rule, if the Department determines --

(A) That the Certificate of Approval for the certified family should be revoked, the assigned certifier must initiate revocation of the Certificate of Approval as described in OAR 413-200-0298.

(B) That inactive referral status should continue because one or more of the conditions in OAR 413-200-0294 are present, the assigned certifier must summarize the outcome of the assessment and the reasons for continuing inactive referral status in a letter delivered to the certified family within 10 days of the completed CPS assessment. The certifier must retain a copy of the letter in the certification file.

(C) That the certificate will not be revoked after a founded or unable to determine disposition, the assigned certifier must:

(i) Submit written documentation supporting the continued certification of the certified family to the District Manager or Child Welfare Program Manager for approval;

(ii) Upon receiving approval for continued certification from the District Manager or Child Welfare Program Manager, remove the certified family from inactive referral status;

(iii) Within ten business days of receiving approval from the District Manager or Child Welfare Program Manager, send written notification to the certified family that the home is no longer on inactive referral status and retain a copy of the written notification in the certification file; and

(iv) Notify Department staff responsible for placement that the certified family is no longer on inactive referral status.

(4) The CPS worker or supervisor, and the certifier or supervisor must meet with the certified family within ten business days of the completion of the CPS assessment to explain the disposition and any certification actions that will be taken unless the certified family declines the opportunity for a meeting.

Stat. Auth.: ORS 409.050 & 418.005
Stats. Implemented: ORS 409.185, 418.005, 418.015, 419B.015 & 419B.020
Hist.: CWP 33-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; CWP 15-2008, f. 6-27-08, cert. ef. 6-28-08; CWP 17-2008(Temp), f. & cert. ef. 7-17-08 thru 1-13-09; CWP 26-2008, f. & cert. ef. 10-1-08; CWP 17-2011(Temp), f. & cert. ef. 9-1-11 thru 2-28-12; CWP 38-2011, f. 12-27-11, cert. ef. 1-3-12; CWP 20-2015, f. & cert. ef. 10-1-15

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Subject: Division 120 relating to adoption placement selection and identification and consideration of potential adoptive resources is being amended to implement SB 741 (2015) which requires Department rules governing home studies and placement reports in adoption proceedings to give equal status and priority to relatives and current caretakers as is given to prospective adoptive parents with regard to child safety, attachment, and well-being.

Adoption Placement Selection 413-120-0016 to 413-120-0060.

OAR 413-120-0010 — Definitions.

- Modifies definition of current caretaker in section (8) to conform with statute.

OAR 413-120-0020 — Adoption Placement Selection Options.

- Modifies (1) to clarify the need to ensure there is no other identified relative or current caretaker who is being assessed as a potential adoptive resource.

- Modifies section (2) to clarify the local adoption committee does not make recommendation in cases involving a current caretaker.

- Modifies section (3) to remove (C) of subsection (a) since the scenario is no longer possible under the new SB 741 order of preference. Modifies new (C) to clarify that an exception to the order of preference may only be granted to a relative defined in 413-120-0010(16)(d) (and only when there is no current caretaker per modified 413-120-0760(4)).

OAR 413-120-0021 — Adoption Placement Selection by Caseworker.

- Adds current caretaker to section (6) regarding what to do when a new relative or current caretaker shows up after an adoption selection date has been scheduled.

- Adds new section (7) to provide that a program manager in consultation with the permanency manager make the determination whether to consider a relative or current caretaker under section (6).

OAR 413-120-0035 — Invitation to and Notification of Adoption Committee.

- Adds current caretaker to section (8) regarding what to do when a new relative or current caretaker shows up after an adoption committee has been scheduled and notice sent.

- Adds new section (9) to provide that a program manager in consultation with the permanency manager make the determination whether to consider a relative or current caretaker under section (8).

Foster Parent Request for Consideration as a Current Caretaker 413-120-0500 to 413-120-0595

- This section is repealed in its entirety; under the amendments described above, a foster parent will be considered a current caretaker when the foster parent is currently caring for a child who has a permanency plan or concurrent permanent plan of adoption and has cared for the child or a sibling for at least the past 12 months or for one-half of the child's or sibling's life if the child or sibling is younger than two years of age.

Identification and Consideration of Potential Adoptive Resources 413-120-0700 to 413-120-0760.

OAR 413-120-0720 — Department Efforts to Place with Relatives, Current Caretakers, and to Place Siblings Together.

- Amends (1) to declare that placement with current caretakers is a department preference.

- Amends (2) adding a requirement (c) to confirm there are no current caretakers being assessed as a potential adoptive resource.

OAR 413-120-0730 — Order of Preference for Identification of Potential Adoptive Resources.

- Amends section (1) to give current caretaker and relative equal standing, and prioritize relatives and current caretakers above general applicants.

- Adds section (4) limiting the authority of the Permanency Manager to grant exceptions to the order of preference to only cases that do not involve a current caretaker.

OAR 413-120-0760 — Identification of a Child's Potential Adoptive Resources

- Modifies (1) so it applies only to general applicants rather than all potential adoptive resources.

- Adds new provision in section (4) to permit a program manager to request an exception to increase the number of potential adoptive resources to be considered. (For example, if there are two current caretakers and two relatives).

- Deletes section (6) which provided an exception to the order of preference since it is no longer needed and is inconsistent with intent of SB 741

Makes additional non-substantive amendments to improve clarity and readability.

These changes make permanent temporary rules adopted September 1, 2015.

Rules Coordinator: Kris Skaro—(503) 945-6067

413-120-0000
Definitions

The following definitions apply to OAR chapter 413, division 120:

(1) "Adoption" means a legal or administrative process that establishes a permanent legal parent-child relationship between a child and an adult who is not already the child's legal parent and terminates the legal parent-child relationship between the adopted child and any former parent.

(2) "Adoption agency" means an organization providing the services under any one of the following subsections:

(a) Identifying a child for adoption and arranging an adoption.

(b) Securing the necessary consent to relinquishment of parental rights and to adoption.

(c) Performing a background study on a child or a home study on a prospective adoptive parent and reporting on such a study.

(d) Making determinations of the best interests of a child and the appropriateness of adoption placement for a child.

(e) Monitoring a case after placement until final adoption.

(f) When necessary because of disruption before final adoption, assuming custody and providing child care or other social services for a child pending an alternative placement.

(3) "Adoption committee" means a group of individuals convened by Department staff to make recommendations to an Adoption Decision Specialist (ADS) regarding adoptive resources for a child.

(4) "Adoption decree" means a decree which a court issues, pursuant to a petition for adoption, setting forth the facts of the case and ordering that from the date of the decree the child, to all legal intents and purpose, is the child of the petitioner.

(5) "Adoption home study" means a written report documenting the result of an assessment conducted by the Department, a licensed adoption agency, or another public agency to evaluate the suitability of an individual or individuals to adopt and make a lifelong permanent commitment to a child or children.

(6) "Adoption placement selection" means a decision made by the Department that an individual or individuals have been identified as the adoptive resource for the child.

(7) "Adoptive resource" means an individual or individuals selected by the Department, another public child welfare agency, or a licensed adoption agency as the adoptive family for a child where no administrative review was requested within the timeframe allowed for such a request or, if a review was requested, the selection was sustained by that review and the review is complete.

(8) "Adoption transition" means activities related to the placement of a child or sibling group under consideration in the home of the family selected as the adoptive resource.

(9) "ADS" means an Adoption Decision Specialist, who is a Department employee appointed by the Adoption Program Manager to attend an adoption committee and make an adoption placement selection for a child.

(10) "Authorized designee" means a Department employee who is designated and authorized by the Department to receive and process crim-

inal records check request forms from subject individuals, receive criminal records information from the Background Check Unit, and make fitness determinations as described in these rules.

(11) "Battery" means the use of physical force to injure, damage, or abuse or to cause offensive physical contact.

(12) "Birth Relatives" means birth parents, grandparents, siblings and other members of the child's birth family, pursuant to ORS 109.305.

(13) "Central authority" means the entity designated as such by a Convention country that is authorized to discharge the duties imposed on Convention countries.

(14) "Central authority functions" means any duty required to be carried out by a central authority or foreign authorized entity under the Convention.

(15) "Certified family" means an individual or individuals who hold a Certificate of Approval from the Department to operate a home to provide care, in the home in which they reside, to a child or young adult in the care or custody of the Department.

(16) "Child" means a person under 18 years of age.

(17) "Child welfare mediator" means a neutral third party who meets or exceeds Department qualifications to provide mediation services for mediation participants in the cooperative adoption mediation process, and has a legal assistance mediation contract with the Department.

(18) "Committee facilitator" means a Department staff member appointed as a member of the committee to facilitate a permanency committee or adoption committee meeting.

(19) "Concurrent permanent plan" means the alternate permanency plan whenever the child has been placed in substitute care when the goal of the permanency plan is to return the child to the parents. The "concurrent permanent plan" is developed simultaneously with the plan to return the child to the parents or legal guardians.

(20) "Consent to the Adoption": The "Consent to the Adoption" documents that the adoptive parents have been investigated and approved by the Department and gives permission for the adoption.

(21) "Contested case hearing" means a hearing conducted under ORS chapter 183 and applicable administrative rules.

(22) "Convention" means the Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoptions, concluded at The Hague, the Netherlands, on May 29, 1993, which went into effect in the United States on April 1, 2008.

(23) "Convention adoption" means an adoption of a child who is a habitual resident in a Convention country by an individual in another Convention country when the child has been, is being, or will be moved between the two Convention countries for the purpose of adoption.

(24) "Convention country" means a country that is a party to the Convention.

(25) "Cooperative adoption mediation" or "Mediation" means a process in which a trained neutral third party assists parties in voluntarily reaching mutually acceptable resolution of issues, as well as assisting the parties in establishing relationships built on mutual trust and respect. Throughout these rules, "cooperative adoption mediation" will be referred to as "mediation".

(26) "Current caretaker" means a foster parent who:

(a) Is currently caring for a child in the care and custody of the Department and has a permanency plan or concurrent permanent plan of adoption; and

(b) Has cared for the child or at least one sibling of the child for at least the past 12 consecutive months or for one-half of the child's or sibling's life if the child or sibling is younger than two years of age.

(27) "Criminal records check" means obtaining and reviewing criminal records as required by these rules and includes any or all of the following:

(a) An Oregon criminal records check where criminal offender information is obtained from the Oregon State Police (OSP) using the Law Enforcement Data System (LEDS). The Oregon criminal records check may also include a review of other criminal records information obtained from other sources.

(b) A national criminal records check where records are obtained from the Federal Bureau of Investigation (FBI) through the use of fingerprint cards sent to OSP and other identifying information. The national criminal records check may also include a review of other criminal records information.

(c) A state-specific criminal records check where records are obtained from law enforcement agencies, courts, or other criminal records information sources located in, or regarding, a state or jurisdiction outside Oregon.

(28) "Department" means the Department of Human Services, Child Welfare.

(29) "Disruption" means an approval by the Child Permanency Program Manager to end an adoption process after adoption placement selection but before the adoption is legally finalized.

(30) "Fitness determination" means the decision made by an authorized designee, with regard to information obtained through a criminal records check, to either approve or deny a subject individual under these rules. A subject individual who is approved following a criminal records based "fitness determination" may still be denied approval to be a relative caregiver, foster parent, adoptive resource or an other person in the household if the subject individual does not meet other requirements contained in Department rules governing relative care, foster care, and adoption.

(31) "Foreign authorized entity" means a foreign central authority or an accredited entity authorized by the foreign country to perform central authority functions in Convention adoption cases.

(32) "Foster parent" means an individual who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(33) "General applicant" means an individual who:

(a) Is neither a relative or current caretaker; and

(b) Has submitted a completed application to adopt a child.

(34) "Home Study" means a written evaluation of the prospective adoptive parent's suitability to adopt and parent a child who may be placed for adoption. The "home study" is completed prior to the filing of a petition to adopt, in accordance with the Department's reporting format and standards, and states whether or not the prospective adoptive parents meet the minimum standards for adoptive homes as set forth in OAR 413-0120-0190 to 413-120-0246.

(35) "Hague adoption certificate" means a certificate issued by the Secretary of State in an outgoing Convention adoption certifying that the child has been adopted in the United States in conformity with the Convention and IAA.

(36) "Hague custody declaration" means a declaration issued by the Secretary of State in an outgoing Convention adoption declaring that custody of the child for purposes of adoption has been granted in the United States in conformity with the Convention and IAA.

(37) "IAA" means the Intercountry Adoption Act of 2000, Public Law 106-279, 42 USC 14901 to 14954.

(38) "ICPC" means the Interstate Compact on the Placement of Children (see ORS 417.200).

(39) "Incoming Convention adoption" means a case in which a child who is a resident of another Convention country has been, is being, or will be moved to the United States for placement and adoption.

(40) "Indian child" means any unmarried person who is under 18 years of age and is either:

(a) A member of an Indian tribe; or

(b) Eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe.

(41) "Legal Assistance Mediation Program" means, for the purpose of these rules, services contracted through the Department Legal Assistance program to assist the birth family and the identified adoptive family to participate in a cooperative adoption process that may result in a Post Adoption Communication Agreement (PACA).

(42) "Legal Assistance Referral" means an attorney-client privileged document used to prepare the termination of parental rights petition and or trial preparation work.

(43) "Legal assistance specialist (LAS)" means a central office Department staff who provides a vital link in the execution of the technical and legal processes of the alternative permanent plans for children whose best interests are not served by returning to their families of origin.

(44) "Legalization" means the process of giving an adoptive placement legal validity.

(45) "Mediation communications" means, as defined in ORS 36.110(8):

(a) All communications that are made, in the course of or in connection with a mediation, to a mediator, a mediation program or a party to, or any other person present at, the mediation proceedings; and

(b) All memoranda, work products, documents and other materials, including any draft mediation agreement, that are prepared for or submitted in the course of or in connection with a mediation or by a mediator, a mediation program or a party to, or any other person present at, mediation proceedings.

(46) "Mediation participants" means persons who will be working directly with the mediator in the cooperative adoption mediation process

and who will be responsible for the creation and implementation of any PACA that results.

(47) "OSP" means the Oregon State Police.

(48) "Other criminal records information" means information obtained and used in the criminal records check process that is not criminal offender information from OSP. "Other criminal records information" includes but is not limited to police investigations and records, information from local or regional criminal records information systems, justice records, court records, information from the Oregon Judicial Information Network, sexual offender registration records, warrants, Oregon Department of Corrections records, Oregon Department of Transportation's Driver and Motor Vehicle Services Division information, information provided on the background check requests, disclosures by a subject individual, and any other information from any jurisdiction obtained by or provided to the Department for the purpose of conducting a fitness determination.

(49) "Other person in the household" means any individual described in one or more of the following subsections:

(a) An individual 18 years of age or older, who is not in the care and custody of the Department pursuant to ORS 418.015, who is living in the home of --

(A) An applicant to adopt a child in the custody of the Department as described in OAR 413-120-0190 to 413-120-0246; or

(B) An applicant to be a foster parent, relative caregiver, or adoptive resource as described in OAR 413-200-0301 to 413-200-0396.

(b) A respite care provider.

(c) A person who volunteers or is employed by a foster parent or relative caregiver to assist with the care of the children placed in the home.

(d) Any of the following individuals if there is reason to believe the individual may pose a risk to children placed in the home: A member of the household under 18 years of age, a babysitter, or a person who frequents the home.

(50) "Outgoing Convention adoption" means a case in which a child in the United States has been, is being, or will be moved to another Convention country for placement and adoption.

(51) "Parties" means those participants whose signatures are necessary for the PACA to be implemented and are subject to enforcement of ORS 109.305.

(52) "Permanency committee" means a group of individuals who are responsible for making a recommendation regarding a permanency plan or a potential permanency resource when the child or young adult likely is not returning to his or her parent.

(53) "Permanency plan" means a written course of action for achieving safe and lasting family resources for the child. Although the plan may change as more information becomes available, the goal is to develop safe and permanent family resources with the parents, relatives, or other individuals who will assume legal responsibility for the child during the remaining years of dependency and be accessible and supportive to the child in adulthood.

(54) "Petition for Adoption" means a petition, filed in circuit court by any person, for leave to adopt another person.

(55) "Placement Report" means a comprehensive written report and recommendation to the court prepared after the filing of a petition and after the child is placed for the purpose of adoption. The report is completed in accordance with the Department's prescribed reporting format and includes information about the child's background and placement; medical and genetic history; birth parents' history; status and adjustment of the child in the adoptive home; and status and adjustment of the child's prospective adoptive parents.

(56) "Post-adoption communication" means the manner and frequency of contact and communication between the birth family and the child and/or the birth family and the adoptive family.

(57) "Post Adoption Communication Agreement (PACA)" means a written agreement for post-adoptive communication, signed by birth parents and adoptive parents and is based on an informed decision-making process by the mediation participants. The content of the agreement is based on the best interest of the child.

(58) "Post-placement supervision" means the supervision of a child following placement with an adoptive resource.

(59) "Prospective adoptive parents" means the parents, family members, or other people who reside in the residence, or the physical home location of the family, who have been studied and approved by a foreign authorized entity to adopt a child in the legal and physical custody of the Department and with whom the Department has made an official decision to place the child in the family home for the purpose of adoption.

(60) "RCWAC" means the Refugee Child Welfare Advisory Committee.

(61) "Receiving Convention country" means a Convention country in which a child who is the subject of an outgoing adoption will be placed for the purpose of adoption.

(62) "Refugee child" has the meaning given that term under ORS 418.925.

(63) "Relative" means any of the following:

(a) An individual with one of the following relationships to the child or young adult through the parent of the child or young adult unless the relationship has been dissolved by adoption of the child, young adult, or parent:

(A) Any blood relative of preceding generations denoted by the prefixes of grand, great, or great-great.

(B) Any half-blood relative of preceding generations denoted by the prefixes of grand, great, or great-great. Individuals with one common biological parent are half-blood relatives.

(C) An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.

(D) A spouse of anyone listed in paragraphs (A) to (C) of this subsection, even if a petition for annulment, dissolution, or separation has been filed or the marriage is terminated by divorce or death. To be considered a "relative" under this paragraph, the child or young adult must have had a relationship with the spouse prior to the most recent episode of Department custody.

(b) An individual with one of the following relationships to the child or young adult:

(A) A sibling, also to include an individual with a sibling relationship to the child or young adult through a putative father.

(B) An individual defined as a relative by the law or custom of the tribe of the child or young adult if the child or young adult is an Indian child under the Indian Child Welfare Act or in the legal custody of a tribe.

(C) An individual defined as a relative of a refugee child or young adult under OAR 413-070-0300 to 413-070-0380.

(D) A stepparent or former stepparent if the child or young adult had a relationship with the former stepparent prior to the most recent episode of Department custody; a stepbrother; or a stepsister.

(E) A registered domestic partner of the parent of the child or young adult or a former registered domestic partner of the parent of the child or young adult if the child or young adult had a relationship with the former domestic partner prior to the most recent episode of Department custody.

(F) The adoptive parent or an individual who has been designated as the adoptive resource of a sibling of the child or young adult.

(G) An unrelated legal or biological father or mother of a half-sibling of the child or young adult when the half-sibling of the child or young adult is living with the unrelated legal or biological father or mother.

(c) An individual identified by the child or young adult or the family of the child or young adult, or an individual who self-identifies, as being related to the child or young adult through the parent of the child or young adult by blood, adoption, or marriage to a degree other than an individual specified as a "relative" in paragraphs (A) to (C) of subsection (a) of this section unless the relationship has been dissolved by adoption of the child, young adult, or parent.

(d) An individual meeting the requirements of at least one of the following:

(A) An individual not related to the child, young adult, or parent by blood, adoption, or marriage:

(i) Who is identified as a member of the family by the child or young adult or by the family of the child or young adult; and

(ii) Who had an emotionally significant relationship with the child or young adult or the family of the child or young adult prior to the most recent episode of Department custody.

(B) An individual who has a blood relationship to the child or young adult as described in paragraphs (A) to (C) of subsection (a) of this section through the birth parent of the child or young adult, but the prior legal relationship has been dissolved by adoption of the child, young adult, or birth parent, and who is identified as a member of the family by the child or young adult or who self-identifies as a member of the family.

(e) For eligibility for the guardianship assistance program:

(A) A stepparent is considered a parent and is not a "relative" for the purpose of eligibility for guardianship assistance unless a petition for annulment, dissolution, or separation has been filed, or the marriage to the adoptive or biological parent of the child has been terminated by divorce or death.

(B) A foster parent may only be considered a "relative" for the purpose of eligibility for guardianship assistance when:

(i) There is a compelling reason why adoption is not an achievable permanency plan;

(ii) The foster parent is currently caring for a child, in the care or custody of the Department or a participating tribe, who has a permanency plan or concurrent permanent plan of guardianship;

(iii) The foster parent has cared for the child for at least 12 of the past 24 months; and

(iv) The Department or tribe has approved the foster parent for consideration as a guardian.

(64) "Relative caregiver" means an individual who operates a home that has been approved by the Department to provide care for a related child or young adult who is placed in the home by the Department.

(65) "Respite care" means a formal planned arrangement to relieve a certified family's responsibilities by an individual temporarily assuming responsibility for the care and supervision of a child or young adult in the home of the respite provider or certified family. "Respite care" must be less than 14 consecutive days.

(66) "Secretary of State" means the Secretary of the United States Department of State, the central authority for the United States.

(67) "Sibling" means one of two or more children or young adults who are related, or would be related but for a termination or other disruption of parental rights, in one of the following ways:

(a) By blood or adoption through a common parent;

(b) Through the marriage of the legal or biological parents of the children or young adults; or

(c) Through a legal or biological parent who is the registered domestic partner of the legal or biological parent of the children or young adults.

(68) "Subject individual" means an individual who:

(a) Applies to adopt a child in the custody of the Department as described in OAR 413-120-0190 to 413-120-0246;

(b) Applies to be a foster parent, relative caregiver, or adoptive resource as described in OAR 413-200-0301 to 413-200-0396; or

(c) Is an other person in the household.

(69) "Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(70) "Substitute caregiver" means a relative caregiver, foster parent, or provider who is authorized to provide care to a child or young adult who is in the legal or physical custody of the Department.

(71) "U.S. State Department" means the United States Department of State.

(72) "Violence" means the use of physical force to injure, damage, or abuse.

(73) "Weighing test" means the process in which an authorized designee considers available information to make a fitness determination when a subject individual has potentially disqualifying convictions, arrests, or conditions.

(74) "Young adult" means an individual aged 18 through 20 years.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.280, 418.285

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07; CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0010
Purpose

The purpose of OAR 413-120-0010 to 413-120-0060 is to describe the responsibilities of the Department when making an adoption placement selection for a child or sibling group who is in the custody of the Department.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 409.050 & 418.005

Stats. Implemented: ORS 409.010, 418.005, 418.280, 418.285, 418.937, 419B.100 & 419B.192

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 7-1998, f. & cert. ef. 2-10-98; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 2-2001(Temp), f. & cert. ef. 1-24-01 thru 7-21-01; SOSCF 35-2001, f. 6-29-01 cert. ef. 7-1-01; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07; CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10; CWP 11-2014, f. & cert. ef. 6-3-14; CWP 16-2014(Temp), f. & cert. ef. 8-4-14 thru 1-31-15; CWP 6-2015, f. 1-29-15, cert. ef. 2-1-15; CWP 11-2015(Temp), f. & cert. ef. 5-22-15 thru 11-17-15; CWP 16-2015(Temp), f. & cert ef. 9-1-15 thru 2-27-16; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0016
Confidentiality

(1) To be considered as a potential adoptive resource, each applicant who is the subject of an adoption home study must provide a signed, valid release of information to release the adoption home study and associated documents to be considered in the adoption placement selection.

(2) When the Department considers written information in addition to the adoption home study concerning a potential adoptive resource during the adoption placement selection, the adoption worker must:

(a) Notify the potential adoptive resource of the additional written information; and

(b) Have the potential adoptive resource sign a release of information for the additional written information to be considered in the adoption placement selection.

(3) The Child Permanency Program Manager, at his or her discretion, may determine that any written information released under section (1) or (2) of this rule must be a summary or redacted copy when:

(a) An individual who is a subject of the adoption home study or additional information has requested that information be redacted or summarized; or

(b) There is a conflict of interest as described in OAR 413-120-0222.

(4) Any written information released under section (1), (2) or (3) of this rule must:

(a) Be kept confidential by the recipients;

(b) Be used only for the purpose of making the recommendation and selection of a child's adoptive resource;

(c) Not be redisclosed verbally or in writing;

(d) Not be copied; and

(e) Be returned to the Department when the adoption placement selection has been made.

Stat. Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.225, 418.005, 418.280, 418.285, 418.305, 419A.255

Hist.: SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07; CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; Renumbered from 413-120-0033, CWP 31-2010, f. & cert. ef. 12-29-10; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0020
Adoption Placement Selection Options

When a child or sibling group has a permanency plan of adoption, the Department uses one of the three options below to make an adoption placement selection:

(1) Selection by Caseworker. After considering the input from the child's team and following consultation with the supervisor, the caseworker may make the adoption placement selection for a child or sibling group using the process in OAR 413-120-0021 when the requirements of at least one of the following is met:

(a) An Indian child is being considered for adoption alone or as part of a sibling group and there is a single potential adoptive resource who:

(A) Meets the ICWA order of placement preference;

(B) Has been identified as the placement preference through tribal resolution; or

(C) Has been identified as the placement preference by a good cause order as provided in ICWA and OAR 413-070-0100 to 413-070-0260.

(b) The child is identified as a refugee child and the adoption placement selection complies with OAR 413-070-0300 to 413-070-0380.

(c) A relative of the child or sibling group is being considered alone as the potential adoptive resource unless subsections (c), (d), or (e) of section (3) of this rule apply. Prior to making a selection, ensure the Department has conducted a diligent search and there is no other identified relative who has expressed an interest in, or who is being assessed as a potential adoptive resource and there is no current caretaker who has expressed an interest in, or who is being assessed, as a potential adoptive resource.

(d) A current caretaker of the child or sibling group is being considered alone as a potential adoptive resource unless subsection (c), (d), or (e) of section (3) of this rule applies. Prior to making a selection, ensure the Department has conducted a diligent search and there is no relative who has expressed an interest in, or who is being assessed as, a potential adoptive resource, and there is no other current caretaker who has expressed an interest, or who is being assessed, as a potential adoptive resource.

(e) The child is under six years of age with no extraordinary needs and each potential adoptive resource is a general applicant, unless subsection (d) of section (2) of this rule or subsection (c), (d), or (e) of section (3) of this rule applies. Prior to making a selection, ensure the Department has conducted a diligent search and there is no relative who has expressed an interest in, or who is being assessed as, a potential adoptive resource, and there is no current caretaker who has expressed an interest, or who is being assessed, as a potential adoptive resource.

(2) Local Adoption Committee and ADS. The local adoption committee recommends an adoptive resource and the ADS makes the adoption

placement selection when section (3) of this rule does not apply and at least one of the following applies:

(a) The child is six years of age or older.

(b) The child has extraordinary needs.

(c) A sibling group is being placed together for the purpose of adoption and each potential adoptive resource is a general applicant.

(d) The identified potential adoptive resources include the child's current foster parent, who is not a current caretaker, being considered as a general applicant with other general applicants.

(3) Central Office Adoption Committee and ADS. The central office adoption committee recommends an adoptive resource, and the ADS makes the adoption placement selection when one of the following applies:

(a) The potential adoptive resources include:

(A) More than one relative as defined in OAR 413-120-0000(63)(a)-(c);

(B) A relative as defined in OAR 413-120-0000(63)(a)-(d) and a current caretaker; or

(C) A relative, as defined in OAR 413-120-0000(63)(d) for whom an exception to the order of preference has been granted under OAR 413-120-0760.

(b) The potential adoptive resources include more than one current caretaker being considered for siblings who will be placed together in adoption.

(c) A DHS staff member is a potential adoptive resource, and the requirements of the DHS-060-002, "Conflict of Interest Policy" and the "Conflict of Interest Policy Addendum for CAF Employees" apply.

(d) A non-DHS staff member with a potential conflict of interest with the Department is a potential adoptive resource.

(e) The potential adoptive resource is an individual living outside of the United States.

(4) The caseworker, following consultation with the supervisor, may request that the adoption placement selection be made by an ADS following an adoption committee recommendation based on the complexities or dynamics of a case. The request must be approved by:

(a) The Child Welfare Program Manager or designee for the use of a local adoption committee rather than a caseworker selection; or

(b) The Child Permanency Program Manager, Assistant Child Permanency Program Manager, or designee for the use of a central office adoption committee rather than a local adoption committee.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285, 419B.192

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; SCF 9-1997(Temp), f. & cert. ef. 8-15-97; SOSCF 7-1998, f. & cert. ef. 2-10-98; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 2-2007(Temp), f. & cert. ef. 2-26-07 thru 8-24-07; CWP 13-2007, f. & cert. ef. 8-1-07; Administrative correction 9-16-07; CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10; CWP 5-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 19-2011, f. & cert. ef. 9-19-11; CWP 16-2015(Temp), f. & cert ef. 9-1-15 thru 2-27-16; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0021

Adoption Placement Selection by Caseworker

(1) Before making an adoption placement selection, the child's caseworker must comply with the provisions of OAR 413-120-0700 to 413-120-0760.

(2) When the caseworker, after considering the input from the child's team and following consultation with the supervisor, has identified the potential adoptive resources to be considered for adoption placement selection, the caseworker must consult with the adoption worker for each of the identified families to --

(a) Provide the adoption worker with written information, redacted to remove identifying information, about the history and needs of each child under consideration for adoption; and

(b) Discuss the ability of the potential adoptive resource to meet the needs of each child under consideration for adoption.

(3) The adoption workers must complete all of the following:

(a) Provide the identified potential adoptive resources with the information described in subsection (2)(a) of this rule.

(b) Describe the adoption placement selection process to the potential adoptive resources to;

(A) Inform them of the individuals who will be reviewing their adoption home study or other information during the adoption placement selection process; and

(B) Assure all appropriate releases of information described in OAR 413-120-0016(1) and (2) have been obtained.

(c) Confirm with the caseworker for each child who is under consideration that the potential adoptive resource is willing and available to be considered for adoption.

(4) When the caseworker has been informed that the identified potential adoptive resources are available and appropriate to be considered, the caseworker must set a date for the adoption placement selection and notify the adoption worker for each of the identified potential adoptive resources.

(5) At least ten business days before the adoption placement selection, the caseworker must complete all of the following:

(a) Notify the following individuals of the potential adoptive resources to be considered and the date the adoption placement selection will occur:

(A) The CASA;

(B) The child's attorney;

(C) A tribal representative if the child is an Indian child; and

(D) A member of the RCWAC, if the child is a refugee child.

(b) Ensure that the individuals identified in subsection (a) of this section are sent copies of the adoption home study and any additional written information released under OAR 413-120-0016 for each potential adoptive resource, unless the individual has notified the caseworker that they do not want a copy of the materials.

(c) Notify the individuals identified in subsection (a) of this section that any input regarding the ability of a potential adoptive resource to meet the current and lifelong needs of the child or sibling group must be received at least two days before the date of the adoption placement selection to assure it will be considered.

(6) When the caseworker has provided the notifications in section (5) of this rule, an adoption selection date has been scheduled by the caseworker or committee, and a child's relative or current caretaker now expresses interest in being considered as a potential adoptive resource, the Child Welfare Program Manager must:

(a) If the newly expressed interest is from a relative, review the diligent efforts to identify a child's relatives required under OAR 413-070-0060 to 413-070-0063;

(b) If the newly expressed interest is from a current caretaker, review the efforts to determine if the current caretaker was given adequate and reasonable time to request consideration as the potential adoptive resource;

(c) Consider the impact of a delay in achieving permanency on the best interests of the child; and

(d) Make a determination whether it is in the best interest of the child for an adoption home study to be conducted with a relative or current caretaker despite the delay in achieving permanency.

(7) The Child Welfare Program Manager in consultation with the Child Permanency Program Manager makes the determination whether to consider a relative or current caretaker under section (6) of this rule.

(8) When a Child Welfare Program Manager informs the caseworker of the determination to consider a relative or current caretaker identified under section (6) of this rule, the caseworker must notify each individual in subsection (5)(a) of this rule and the adoption worker for each identified potential adoptive resource that the adoption selection process has been suspended.

(9) When the adoption selection process has been suspended, the adoption workers must notify each identified potential adoptive resource that the adoption selection process has been suspended.

(10) The timelines in this rule may be changed when the caseworker, the adoption worker for each of the identified potential adoptive resources, and each individual in section (5) of this rule agree on a new timeline.

(11) After considering the input from individuals in section (5) of this rule, the caseworker — following consultation with his or her supervisor — makes the adoption placement selection for a child or sibling group under consideration for adoption when OAR 413-120-0020(1) applies.

(12) On the day that the selection is made, the child's caseworker must notify the adoption workers for each of the identified potential adoptive resources who were considered for the adoption placement selection.

(13) By the end of the next business day following the adoption placement selection, the child's caseworker must send written notification of the adoption placement selection to each of the following individuals:

(a) The CASA;

(b) The child's attorney;

(c) A tribal representative if the child or young adult is an Indian child; and

(d) A member of the RCWAC, if the child is a refugee child.

(14) By the end of the next business day following the adoption placement selection, written notification on a form approved by the Department

must be sent to each identified potential adoptive resource of whether they were selected as the adoptive resource by the following individuals:

(a) A Department adoption worker; or

(b) The child's caseworker when the adoption worker is a private agency employee.

(15) Notifications in sections (12) and (13) of this rule must contain information on the Department's review process as described in OAR 413-120-0060, unless the identified potential adoptive resources were all general applicants.

(16) Within three days of the adoption placement selection, the caseworker must assure that:

(a) The adoption placement selection and the basis for that selection are documented on a Department-approved form; and

(b) The central office Adoption Program is notified of the adoption placement selection.

(17) Any individual who received a copy of an adoption home study or other written documents during the adoption selection process must return the materials to the Department within seven business days of the notice of the adoption placement selection.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005, 418.280, 418.285, 419B.192
Hist.: CWP 31-2010, f. & cert. ef. 12-29-10; CWP 5-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 19-2011, f. & cert. ef. 9-19-11; CWP 16-2015(Temp), f. & cert ef. 9-1-15 thru 2-27-16; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0025
Composition of an Adoption Committee

(1) An adoption committee must be composed of the following individuals:

(a) The caseworker of each child for whom adoption placement selection is being made;

(b) Three individuals appointed by the Child Welfare Program Manager or designee for a local adoption committee, and by the Child Permanency Program Manager, Assistant Child Permanency Program Manager, or designee for a central office adoption committee:

(A) The committee facilitator, who must be a Department staff person; and

(B) Two other individuals, who may be a community partner or a Department staff person.

(2) In addition to the committee members identified in section (1), the following individuals for each child for whom adoption placement selection is being made must be notified of the adoption committee and may be adoption committee members, if they so choose, under OAR 413-120-0053(1):

(a) The CASA;

(b) The child's attorney;

(c) A tribal representative if the child is an Indian child; and

(d) A member of the RCWAC, if the child is a refugee child.

(3) The adoption worker for each identified potential adoptive resource must attend the full adoption committee.

(4) With the approval of the committee facilitator, the following individuals may attend the adoption committee:

(a) The supervisor for an individual identified in section (1), (2), or (3) of this rule;

(b) Department staff who may have information about the child or sibling group under consideration for adoption or the potential adoptive resources being considered; and

(c) Department staff, for training or observation purposes.

(5) Committee members appointed under subsection (1)(b) of this rule must meet the following requirements:

(a) Be knowledgeable of adoption and permanency issues;

(b) Be knowledgeable of the importance of lifelong family and cultural connections; and

(c) Have no personal or current professional relationship to any of the children for whom adoption placement selection is being made or to the potential adoptive resources being considered.

(6) The committee facilitator appointed under paragraph (1)(b)(A) of this rule must comply with all of the following subsections:

(a) Hold the meeting in accordance with the requirements of Chapter 413 of the Oregon Administrative Rules;

(b) Inform each individual who is present of the responsibilities of the committee;

(c) Have each individual who is present sign a confidentiality agreement for the proceedings of the adoption committee meeting;

(d) Ensure the individuals who are invited to attend and present information to the committee as described in OAR 413-120-0035(5) are;

(A) Allowed to present information appropriate for consideration for each child for whom adoption placement selection is being made; and

(B) Excused in a timely manner.

(e) Give the committee recommendations to the ADS at the end of the adoption committee meeting.

(7) The ADS:

(a) Is appointed by the Child Permanency Program Manager or designee and must:

(A) Have significant expertise in the areas of adoption and permanency issues;

(B) Have experience with adoption placement planning;

(C) Be knowledgeable of the importance of lifelong family and cultural connections; and

(D) Have no personal or current professional relationship to the child, sibling group under consideration for adoption, or the potential adoptive resources being considered.

(b) Must attend the adoption committee and may ask clarifying questions, but does not participate in the deliberations or recommendations of the adoption committee.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005, 418.280, 418.285, 419B.192
Hist.: CWP 31-2010, f. & cert. ef. 12-29-10; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0035
Invitation to and Notification of Adoption Committee

(1) In preparation for and prior to scheduling an adoption committee, the caseworker for each child and the adoption worker for each potential adoptive resource must comply with the provisions of OAR 413-120-0700 to 413-120-0760.

(2) No later than ten business days before the scheduled adoption committee, the Department must send the ADS and each individual identified in OAR 413-120-0025(1), (2), and (3) all of the following:

(a) Notification of the date, time, and location of the adoption committee.

(b) A copy of each of the adoption home studies and the written information released under OAR 413-120-0016(1) and (2).

(c) Written information about the needs of each child under consideration.

(d) A notice that confidential information may not be re-released, under OAR 413-120-0016(4).

(e) A request to thoroughly review all of the information provided before the date of the adoption committee when the individual will be serving as a committee member.

(3) Information in subsections (b) to (e) of section (2) of this rule need not be provided again to the caseworker for each child under consideration for adoption and the adoption worker for each potential adoptive resource.

(4) Individuals identified in OAR 413-120-0025(1), (2), and (3) may request that the Department invite individuals to the adoption committee to present information regarding a child's needs.

(5) The Department has the discretion to invite the following individuals to attend and present information regarding the child's current and lifelong needs to an adoption committee:

(a) The child, on a case by case basis, when the child's caseworker determines the child's attendance is appropriate;

(b) The child's current or previous substitute caregiver, unless the individual is being considered as a potential adoptive resource for the child; and

(c) Any other individual who has significant information about the current and lifelong needs of the child relevant to the selection of an adoptive resource.

(6) Any individual invited to provide information related to the child's needs may present information to the adoption committee in person, by telephone, through electronic communication, or in writing.

(7) A potential adoptive resource may provide supplemental information regarding his or her ability to meet the current and lifelong needs of the child or sibling group under consideration for adoption through the adoption worker. An identified potential adoptive resource and his or her legal or personal advocate may not attend an adoption committee.

(8) When the notification in section (2) of this rule has been provided and a child's relative or current caretaker now expresses interest in being considered as a potential adoptive resource, the Child Welfare Program Manager must:

(a) If the newly expressed interest is from a relative, review the diligent efforts to identify a child's relatives under OAR 413-070-0060 to 413-070-0063;

(b) If the newly expressed interest is from a current caretaker, review the efforts to determine if the current caretaker was given adequate and reasonable time to request consideration as the potential adoptive resource;

(c) Consider the impact of a delay in achieving permanency on the best interests of the child; and

(d) Make a determination whether it is in the best interests of the child for an adoption home study to be conducted with the relative or current caretaker despite the delay in achieving permanency.

(9) The Child Welfare Program manager in consultation with the Child Permanency Program manager makes the determination whether to consider a relative or current caretaker under section (8) of this rule.

(10) When a Child Welfare Program Manager informs the caseworker of the determination to consider a relative or current caretaker identified under section (8) of this rule, the caseworker must notify each individual identified in OAR 413-120-0025(1), (2), and (3) that the adoption selection process has been suspended.

(11) When the adoption selection process has been suspended, the adoption workers must notify each identified potential adoptive resource that the adoption selection process has been suspended.

(12) The timelines in this rule may be changed by the committee facilitator when the individuals identified in OAR 413-120-0025(1), (2), and (3) agree on a new timeline.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005, 418.280, 418.285
Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 2-2001(Temp), f. & cert. ef. 1-24-01 thru 7-21-01; SOSCF 35-2001, f. 6-29-01 cert. ef. 7-1-01; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07; CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10; CWP 5-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 19-2011, f. & cert. ef. 9-19-11; CWP 16-2015(Temp), f. & cert ef. 9-1-15 thru 2-27-16; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0057
Adoption Placement Selection, Notification, and Documentation

(1) Adoption Placement Selection.

(a) The ADS must make a decision regarding the adoption placement selection no later than the end of the next business day following the scheduled adoption committee.

(b) The ADS may make one of the following adoption placement selection decisions from the identified potential adoptive resources presented at the adoption committee:

(A) Select one adoptive resource.

(B) Select an adoptive resource and identify a second adoptive resource as an alternate in the event that the selected adoptive resource is subsequently found to be unavailable or no longer deemed by the Department to meet the current and lifelong needs of the child under OAR 413-120-0800 to 413-120-0880.

(C) Select none of the potential adoptive resources.

(2) Notification of the Adoption Placement Selection.

(a) The ADS must send written notification to the child's caseworker, the adoption workers, and the committee facilitator of the adoption placement selection, and alternate if one was named, no later than the end of the next business day following the scheduled adoption committee.

(b) By the end of the next business day following the notice sent in subsection (a) of this section, written notification on a form approved by the Department must be sent as follows:

(A) Each potential adoptive resource who was presented at the adoption committee must be notified by the following individuals of whether they were selected:

(i) A Department adoption worker; or

(ii) The child's caseworker when the adoption worker is not a Department employee.

(B) The child's attorney, CASA, tribal representative, a member of the RCWAC, and the private adoption agency representing a potential adoptive resource, as applicable, must be notified of the adoption placement selection by the child's caseworker.

(C) Notices in paragraphs (A) and (B) of this subsection must contain information on the Department's review process as described in OAR 413-120-0060, except when the potential adoptive resources were all general applicants.

(3) The ADS must send written documentation on a form approved by the Department regarding the adoption placement selection, the alternate when one is named, and the basis for those decisions to the central office Adoption Program within two business days following the adoption committee.

Stat. Auth: ORS 418.005, 418.280, 418.285
Stats. Implemented: ORS 418.005, 418.280, 418.285
Hist.: CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0060
Review of the Adoption Placement Selection

(1) A review may not be requested of an adoption placement selection when each potential adoptive resource was a general applicant.

(2) Except as provided in section (1) of this rule:

(a) Each of the following individuals may request a review of the process and the adoption placement selection under OAR 413-120-0021(10) or 413-120-0057(1):

(A) The child.

(B) The child's attorney.

(C) The CASA.

(D) A tribal representative.

(E) A member of the RCWAC.

(F) The child's caseworker, with the approval of the caseworker's supervisor and the Child Welfare Program Manager or designee.

(G) A relative or current caretaker who was considered as the adoptive resource but was not selected.

(b) A request for review of the process and decision made in the adoption placement selection must be in writing and received by the Child Permanency Program Manager or designee within seven calendar days of the notification of the adoption placement selection under OAR 413-120-0021(12)-(13) or OAR 413-120-0057(2)(b).

(c) When a request for review has been received, the Child Permanency Program Manager, Assistant Child Permanency Program Manager, or designee must notify the Director of Child Welfare or designee and must send written notice of the request to the following individuals:

(A) Each of the potential adoptive resources considered by the caseworker or adoption committee and ADS;

(B) The child's caseworker;

(C) The adoption worker for each of the potential adoptive resources considered;

(D) The supervisors of the workers;

(E) The child's attorney;

(F) The child's CASA;

(G) The tribe, if the child is an Indian child;

(H) A member of the RCWAC, if the child is a refugee child; and

(I) The local Child Welfare Program Manager.

(d) The Director of Child Welfare or designee must decide whether to grant a review of the adoption placement selection within 14 calendar days after the notice of the adoption placement selection under OAR 413-120-0021(12)-(13) or OAR 413-120-0057(2)(b). Written notice of the decision whether or not to conduct a review must be sent to the individuals listed in subsection (c) of this section and to the Child Permanency Program Manager. This written notice is not required to be provided within the 14 calendar day timeline for the decision whether to grant a review.

(e) The Director of Child Welfare or designee may, on his or her initiative and without a request for a review, give notice of intent to review the adoption placement selection when the decision to review is made within seven calendar days following the date of the notice of the adoption placement selection in OAR 413-120-0021(12)-(13) or OAR 413-120-0057(2)(b).

(f) The Director of Child Welfare or designee may conduct the review by any of the following methods:

(A) Personally conduct a review of information considered in making the adoption placement selection and may consider additional, relevant information about the child or potential adoptive resource.

(B) Refer the adoption placement selection to a review committee appointed by and at the discretion of the Director of Child Welfare or designee to;

(i) Review the information considered in making the original adoption placement selection;

(ii) Consider additional relevant information about the child or potential adoptive resources; and

(iii) Issue a recommendation that the Director of Child Welfare or designee affirm or modify the original adoption placement selection of the caseworker or the ADS or recommend a different adoption placement selection.

(C) Appoint another individual to;

(i) Review the information considered in making the original adoption placement selection;

(ii) Consider additional relevant information about the child or potential adoptive resources; and

(iii) Issue a recommendation that the Director of Child Welfare or designee affirm or modify the original adoption placement selection of the

caseworker or the ADS, or recommend a different adoption placement selection.

(g) The Director of Child Welfare or designee must provide written notification of the decision affirming or changing the original adoption placement selection to the individuals identified in subsection (2)(c) of this rule and the Adoption Program Manager.

(3) Notwithstanding sections (1) and (2) of this rule, the Director of Child Welfare may reconsider a decision and require the actions in subsection (2)(f) of this rule to occur when the following conditions exist:

(a) The time to request review of an adoption placement selection under subsection (2)(b) of this rule has expired;

(b) There is no request for review pending; and

(c) The deadline set by statute for a person entitled to seek judicial review of an adoption placement selection entered under this rule has not expired.

(4) The adoption placement selection made by the Director of Child Welfare or designee under this rule is final.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005, 418.280, 418.285
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; SCF 9-1997(Temp), f. & cert. ef. 8-15-97; SOSCF 7-1998, f. & cert. ef. 2-10-98; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 2-2001(Temp), f. & cert. ef. 1-24-01 thru 7-21-01; SOSCF 35-2001, f. 6-29-01 cert. ef. 7-1-01; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07; CWP 23-2007(Temp), f. & cert. ef. 12-12-07 thru 6-9-08; CWP 4-2008, f. 5-30-08, cert. ef. 6-1-08; CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10; CWP 5-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 19-2011, f. & cert. ef. 9-19-11; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0220
Adoption Application Requirements

(1) A resident of Oregon applying to adopt a child in the legal custody of the Department must submit an application for an adoption home study to the Department or to a licensed adoption agency willing to contract with the Department or willing to allow another licensed adoption agency to contract with the Department for post placement supervision services as outlined in OAR 413-120-0830(2)(c).

(2) Applications.

(a) The Department accepts applications for an adoption home study from Oregon residents applying to adopt a child:

(A) In the custody of the Department;

(B) In the custody of a public child welfare agency in another state following receipt of an ICPC request from the agency in the other state; or

(C) In the custody of a public child welfare agency in another country following a request from the agency in the other country and in accordance, when applicable, with OAR 413-120-0900 to 413-120-0970.

(b) The Department accepts applications for an adoption home study for Oregon residents who have previously applied or are currently applying through another adoption agency. The applicant must:

(A) Sign a release of information allowing ongoing communication with the other adoption agency; and

(B) Sign a release of information allowing the Department to obtain a copy of the adoption file of the individual.

(3) An application submitted to the Department must include all of the following:

(a) An adoption application form;

(b) A signed, valid release of information from each applicant who is a subject of the adoption home study allowing the adoption home study to be released to the individuals and for the purposes described in OAR 413-120-0246(2);

(c) An Adoptive Family Information and Placement Preference form, unless the Department determines this is not required due to the existing relationship between the child and the applicant;

(d) Financial information, current within 12 months of application, demonstrating the ability of the applicant to meet the needs of the family and the child to be adopted;

(e) Medical information current within 24 months of application;

(f) When applicable, mental health information;

(g) When applicable, copy of marriage certificate, divorce verification, or death certificate of spouse;

(h) Consent to a criminal offender information records check for each applicant and all household members age 18 and older under Child Welfare Policy I-G.1.4, "Oregon Computerized Criminal History Checks and Nationwide Criminal History Checks through the FBI for Relative Caregivers, Foster Parents, Other Persons in the Household and Adoptive Parents for Children in the Care or Custody of DHS", OAR 413-120-0400 to 413-120-0470;

(i) Consent to a child abuse and neglect background check for each adoptive applicant and all household members age 18 and older; and

(j) Names and contact information of four references, two of whom may be relatives of the adoptive applicant, who can attest to the character and ability of the adoptive applicant to provide safe and protective care for a child.

(4) The Department may require additional information from an adoptive applicant to assess the ability of the applicant to meet the standards of an adoptive home.

(5) The adoptive applicant must be at least 21 years of age, unless one of the following subsections applies:

(a) The Child Welfare Program Manager or designee has approved a relative adoptive applicant between the ages of 18 through 20 years; or

(b) The child is an Indian child and the adoptive applicant is:

(A) A member of the child's extended family;

(B) Another member of the Indian child's tribe; or

(C) Another Indian family.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005, 418.280, 418.285
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 36-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 37-2008, f. & cert. ef. 11-3-08; CWP 15-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 33-2010, f. & cert. ef. 12-29-10; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0243
Prioritization of an Adoption Home Study Application

The Department has discretion to prioritize adoption home study applications received from the following individuals according to the needs of the child or children awaiting adoption rather than the date of receipt of an application;

(1) An individual applying to adopt a related child.

(2) An individual applying as a current caretaker for a child.

(3) An individual who is a general applicant when the Department has determined that further general recruitment is not required under OAR 413-120-0750.

(4) An individual who is a general applicant interested in adopting a child with special needs for whom there are few or no available approved homes.

(5) An individual who is a general applicant other than those described in sections (3) and (4) of this rule.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005, 418.280, 418.285
Hist.: CWP 15-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 33-2010, f. & cert. ef. 12-29-10; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0246
Standards for an Adoptive Home and Release of an Adoption Home Study

(1) Except to the extent provided otherwise in section (2) of this rule, to be approved to adopt a child in the legal custody of the Department, an individual must complete all of the following:

(a) Have an adoption home study recommending the applicant as a potential adoptive resource written, amended, or updated within the 12 months prior to the adoption placement selection, completed by:

(A) The Department under OAR 413-200-0301 to 413-200-0396;

(B) An Oregon licensed private agency for an Oregon resident when the home study is prepared by a private agency for an Oregon resident under OAR 413-215-0401 to 413-215-0481;

(C) An out-of-state agency under OAR 413-040-0200 to 413-040-0330; or

(D) An agency in another country under OAR 413-120-0900 to 413-120-0970.

(b) Meet the Department's standards for adoptive homes by demonstrating the knowledge, skills, and ability to meet, without agency oversight, the current and lifelong needs of the child for all of the following:

(A) Physical and emotional safety and well-being;

(B) Developing and maintaining connections to the child's family;

(C) Continuity and familiarity;

(D) Appropriate social, educational, developmental, emotional, and physical support;

(E) Integration into the family;

(F) Stability and permanency; and

(G) Maintaining his or her identity, cultural, religious, and spiritual heritage.

(c) Provide evidence of successful completion of a training program approved by the Department, unless the Adoption Program Manager has approved an alternate training program.

(2) In the case of an individual or individuals residing in a state that does not complete an adoption home study prior to a child being placed with the individual or individuals or prior to the child being legally free for adoption:

(a) The Child Permanency Program may approve a foster home study or a relative study as an adoption home study for the purpose of adoption placement selection only as long as all other requirements of subsections (1)(a), (b), and (c) of this rule are met.

(b) An approved adoption home study must be completed prior to designation of the child's placement for the purpose of adoption.

(3) Release of an adoption home study. An adoption home study is considered confidential information and, when released under this rule must have a signed, valid release of information from each applicant who is a subject of the adoption home study.

(a) The Department may release a copy of the adoption home study to:

(A) An adoption applicant who is a subject of the adoption home study;

(B) Individuals involved in the adoption placement selection process, under OAR 413-120-0021 and 413-120-0035;

(C) The court for the purposes of finalizing an adoption; and

(D) A public agency upon the written request of an applicant who is a subject of the adoption home study.

(b) A Child Welfare Program Manager must approve the release of an adoption home study requested for a purpose other than those listed in subsection (a) of this rule.

(c) An individual receiving a copy of an adoption home study must keep the information contained therein confidential.

(d) Before releasing an adoption home study, the Department must redact or summarize information, when necessary, to prevent the identification of individuals, other than the applicants, who provided information for the adoption home study.

(e) When an agency or entity other than the Department completes the adoption home study, the Department must receive approval from the agency or entity that completed the adoption home study before release.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

Hist.: CWP 15-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 33-2010, f. & cert. ef. 12-29-10; CWP 5-2013, f. & cert. ef. 10-1-13; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0635

Cooperative Adoption Planning Through Legal Assistance Mediation Services

(1) Department will provide information on an ongoing basis to birth and adoptive families, Department staff, and other interested persons in the child's life: Information regarding the value and benefits of cooperative adoption planning; the use of mediation as a tool to achieve a cooperative adoption; and, the roles of all mediation participants in the cooperative adoption process. This concurrent planning education will take place early and often throughout the case. (See Flow Chart Box 1 & 2)

(2) The birth parents, identified adoptive parents, CASA, child, attorneys of record, Citizen Review Boards and other persons interested in the child's need for permanency, safety and well-being may request that the case be referred for cooperative adoption mediation services. (See Flow Chart Box 3.)

(3) The Department will obtain input from interested persons, prior to or during the cooperative adoption planning process, regarding the appropriateness of cooperative adoption planning to address the child's permanency, safety and well-being. (See Flow Chart Box 4.)

(4) On an ongoing basis, Department staff will explore the willingness of the birth and adoptive parents to engage in the cooperative adoption planning process through mediation. (See Flow Chart Box 5.)

(5) A Mediation Referral Form must not be submitted until a committee has selected the adoptive parents for a child, either at the preliminary current caretaker or adoption committee, and until the case has been staffed and approved for mediation by a LAS. See OAR 413-120-0010 to 413-120-0060.

(6) To support the development of a cooperative adoption planning process through mediation, the Department has the following responsibilities:

(a) After a Legal Assistance Referral has been approved, the caseworker must consult with the LAS and the assigned legal assistance attorney. Consultation must address whether the birth parents present a continuing threat to their child or adoptive parents, and whether a plan for openness in adoption will meet the needs of the child;

(b) If parents want to plan cooperatively and there is no approval for a legal assistance referral an exception can be made to allow for a referral for mediation using the criteria provided in OAR 413-120-0628.

(c) The child's caseworker must obtain from the birth parent(s) and from the adoptive parents, if no adoption worker is assigned, a signed DHS 2098 Authorization for Use and Disclosure of Non-Health Information and DHS 2099 Authorization for Use and Disclosure of Health Information to the mediator;

(d) To request mediation services funded through the Legal Assistance program, the child's caseworker, or in some cases, the adoptive parents' worker must make referrals for cooperative adoption mediation on the CF 0437 Mediation Referral Form. The child's caseworker, in consultation with the adoptive parents worker, if assigned, must list on the Mediation Referral Form, benefits specific to the individual case and safety concerns that, if an agreement is reached, must be met in a written PACA. The form should be prepared with the understanding that the birth parents and adoptive parents will be receiving a copy of the form.

(e) The child's caseworker, and in some cases, the adoptive parents' worker, must provide to the mediator, on the CF 437b Contact Information Form, information of the mediation participants, and other collateral resources when applicable.

(7) In order to allow for informed decision-making by the adoptive parents in the cooperative adoption mediation process, the adoption worker must:

(a) Provide the adoptive parents with the case materials itemized on the Form CF 963;

(b) Review with the adoptive parents the statement of benefits to the child for cooperative adoption planning listed on the Cooperative Adoption Mediation Referral Form CF 0437;

(c) Obtain from the adoptive parents a signed Authorization of Use and Disclosure of Non-Health Information Form DHS 2098 and a signed Authorization for Use and Disclosure of Health Information Form DHS 2099 authorizing release of information to the mediator;

(d) Be responsible to contact the mediator if the adoption worker is assigned after the cooperative adoption mediation process has already begun.

(8) The Cooperative Adoption Mediation Referral form must be forwarded to the central office LAS assigned to the local Department office for approval of funds disbursement. If funds are approved, Central office staff must notify the mediator that funds have been approved and that the mediation service may begin. (See Flow Chart Box 6.)

(9) A child welfare mediator contracted to provide cooperative adoption mediation must have the following responsibilities:

(a) The mediator must keep confidential all mediation communications. (ORS 36.220-25.238);

(b) The mediator must accept referrals from the Department on the Cooperative Mediation Referral Form CF 0437;

(c) Within two weeks of receiving the CF 0437, the mediator must contact the child's worker and the adoption worker of the selected adoptive family for additional information on the case and further discussion of the Department's safety concerns, if needed (See Flow Chart Box 7.);

(d) After contacting the child's worker and the adoption worker, but within the two week of receiving the CF 0437, the mediator must contact the birth parent(s) and adoptive parent(s) to begin mediation services,

(e) The beginning of the mediation process, the mediator must inform the mediation participants about the mediation process, explain their role and responsibilities during the process, provide them with a copy of ORS 109.305, review the mediation referral form with the mediation participants and provide them with a copy, and if the mediation participants choose to continue in mediation, obtain their signature on the Agreement to Mediate Form (See Flow Chart 8a.);

(f) The mediator must make collateral contact with professionals involved in the case including, but not limited to, children's attorney, CASA, and birth and adoptive parent(s)' attorneys. If requested, the mediator must also keep informed, the Assistant Attorney General or Deputy District Attorney assigned to the case;

(g) If the mediation participants reach agreement and the mediation participants desire it, the mediator must draft a PACA. The PACA must address the mediation participant's issues and the documented safety concerns as set forth in the Mediation Referral Form (See Flow Chart 9.);

(h) The mediator must provide the draft PACA to the mediation participants and must encourage the mediation participants to review the draft with legal counsel;

(i) Once the mediation participants have approved the draft, the mediator must provide the child's worker with the proposed PACA for the review and concurrence that it meets the safety needs of the child.

(10) The Department has the following additional responsibilities:

(a) The child's caseworker must review the draft PACA solely for the purpose of assessing whether it will meet the safety needs of the child, as set forth in the Mediation Referral Form (See Flow Chart Box 9.);

(b) If the child's caseworker concludes that the PACA meets the safety needs of the child, the child's caseworker or other agency representative must sign the final PACA. (Flow Chart Box 11(b).)

(c) If the child's caseworker concludes that the PACA may not meet the safety needs of the child, the child's caseworker must notify the LAS. The LAS must inform the mediation participants in the form of written communication sent to the mediator ("LAS Notice"). The LAS Notice must state the continued safety concerns for the child. (See Flow Chart Box 11(a).)

(11) A contracted mediator has the following additional responsibilities:

(a) If the mediator is informed through a LAS Notice (see Flow Chart, Box 11) that the PACA does not meet the safety needs of the child, the mediator must set another mediation session with the mediation participants, and an agency representative, if requested by the mediation participants. The mediator may consult with the child's caseworker for clarification about the LAS Notice before setting the additional mediation session.

(b) If the additional mediation session results in a revised draft PACA, the mediator will repeat the processes outlined in (9)(g) through 10(c) in this rule.

(c) After the Department determines that the revised draft PACA meets the safety needs of the child, the mediator must arrange for the mediation participants and an agency representative to sign the agreement (See Flow Chart 11(b));

(d) If no agreement can be reached, the mediator must send a letter summarizing the situation to Central Office with the final invoice.

[ED. NOTE: Forms and Flow Charts referenced are available from the agency.]

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.305

Hist.: CWP 33-2003, f. & cert. ef. 10-3-03; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0700
Purpose

(1) The purpose of OAR 413-120-0700 to 413-120-0760 is to describe the responsibilities of the Department to ---

(a) Identify the potential adoptive resources for a child or sibling group under consideration for adoption to best meet the current and lifelong needs of each child for safety, attachment, and well-being; and

(b) Establish an order of preference for assessment and consideration of potential adoptive resources.

(2) The term "sibling group" means siblings in the care and custody of the Department who are under consideration for adoption together.

Stat. Auth.: ORS 109.309, 409.050, 418.005

Stats. Implemented: ORS 109.309, 409.010, 418.005, 418.280, 418.285, 418.937, 419B.090, 419B.100, 419B.192

Hist.: CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 35-2010, f. & cert. ef. 12-29-10; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0720
Department Efforts to Place with Relatives, Current Caretakers and to Place Siblings Together

(1) The Department's preference for placement of a child is to place siblings together for the purpose of adoption with relatives or current caretakers.

(2) Prior to pursuing a general applicant as a potential adoptive resource, the caseworker and the caseworker's supervisor must comply with all of the following requirements:

(a) Review the diligent efforts of the Department to identify, contact, and place a child with relatives and to place siblings together as required by OAR 413-070-0060 to 413-070-0087.

(b) Confirm there are no current Department actions to identify or assess a relative who has expressed an interest in being assessed as a potential adoptive resource for the child or sibling group.

(c) Confirm there are no Department actions to identify or assess a current caretaker who has expressed an interest in being assessed as a potential adoptive resource for the child or sibling group.

Stat. Auth.: ORS 109.309, 418.005

Stats. Implemented: ORS 109.309, 418.005, 418.285, 419B.090, 419B.192

Hist.: CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 35-2010, f. & cert. ef. 12-29-10; CWP 16-2015(Temp), f. & cert ef. 9-1-15 thru 2-27-16; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0730
Order of Preference for Identification of Potential Adoptive Resources

(1) Except as provided in sections (2) and (3) of this rule, when identifying potential adoptive resources for a child or sibling group, the caseworker must consider the needs and the best interest of each child, and assess the knowledge, skills, and abilities of each potential adoptive resource in the following order of preference:

(a) Except when (c) of this section applies, a relative as defined in OAR 413-120-0000(63)(a)-(c).

(b) Except when (c) of this section applies, a relative as defined in OAR 413-120-0000(63)(d).

(c) When a child or sibling group has a current caretaker as defined in OAR 413-120-0000(26), the current caretaker and a relative as defined in OAR 413-120-0000(63)(a)-(d).

(d) A general applicant.

(e) When an individual would otherwise meet the definition of current caretaker, except for being a relative as defined in OAR 413-120-0000(d), the individual is considered a current caretaker for purposes of this section.

(2) For an Indian child, the caseworker must comply with ICWA and OAR 413-070-0100 to 413-070-0260.

(3) For a refugee child, the caseworker must comply with OAR 413-070-0300 to 413-070-0380.

(4) When no current caretaker is being considered as a potential adoptive resource, and when it is determined in the best interest of the child, the Child Permanency Program Manager, upon receipt of a written request from the Child Welfare Program Manager, may grant an exception to the order of preference to a relative as defined in OAR 413-120-0000(63)(d). Within 30 days of receipt of the written request, the Child Permanency Program Manager must review the request and determine whether to grant the exception.

Stat. Auth.: ORS 109.309, 418.005

Stats. Implemented: ORS 109.309, 418.005, 418.285, 419B.192

Hist.: CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 35-2010, f. & cert. ef. 12-29-10; CWP 4-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 20-2011, f. & cert. ef. 9-19-11; CWP 16-2015(Temp), f. & cert ef. 9-1-15 thru 2-27-16; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0750
Recruitment Efforts

(1) The Department must begin recruitment for the child or sibling group in a timely manner that is appropriate to each child's permanency and concurrent permanent plans.

(2) The Department may consider up to three general applicants as adoptive resources for a child or sibling group.

(3) Except as provided in section (4) of this rule, the Department's recruitment efforts may not consider the race, color, or national origin of a potential adoptive resource or a child.

(4) When recruiting potential adoptive resources for an Indian child, the Department may consider the cultural heritage of a potential adoptive resource or the child under OAR 413-070-0100 to 413-070-0260.

(5) When a child is not fully free for adoption, the legal assistance specialist must:

(a) Determine when recruitment may begin;

(b) Determine whether recruitment may begin for a child with extraordinary needs before the Department initiates the process to free the child for adoption; and

(c) Notify the caseworker to begin recruitment efforts.

(6) As part of the identification of general applicants who will be considered in the adoption placement selection process, the child's caseworker must conduct recruitment activities including, at a minimum, ensuring a Waiting Child Bulletin has been posted, for at least 30 days, unless one or more of the following subsections applies:

(a) An exception to this timeline has been approved by the Assistant Child Permanency Program Manager or designee.

(b) The Department has determined, under OAR 413-070-0516, an individual known to the child or sibling group should be assessed as a potential adoptive resource, based upon all of the following:

(A) The best interest of each child.

(B) The strength of the relationship between each child and the individual.

(C) The likelihood the individual will have a positive adoption home study and meet the requirements of OAR 413-120-0246(1).

(D) The demonstrated knowledge, skills, abilities, and commitment of the individual to raise each child.

(E) The capacity of the individual to meet the current and lifelong safety, attachment, and well-being needs of the child as required by OAR 413-070-0640.

(7) Recruitment activities under section (6) of this rule are not required when:

(a) The Department has planned for the child or sibling group to be adopted by a relative of at least one of the siblings;

(b) The Department has planned for the child or sibling group to be adopted by a current caretaker; or

(c) In the case of an Indian child, alone or as part of a sibling group, the Department has planned for adoption by an identified potential adoptive resource meeting the order of placement preference in ICWA.

(8) The recruitment efforts of the Department for a child or sibling group must be documented in the Department's electronic information system.

Stat. Auth.: ORS 109.309, 418.005
Stats. Implemented: ORS 109.309, 418.005, 418.285, 419B.090, 419B.192
Hist.: CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 35-2010, f. & cert. ef. 12-29-10; CWP 4-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 20-2011, f. & cert. ef. 9-19-11; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0760
Identification of a Child's Potential Adoptive Resources

(1) When identifying potential general applicant adoptive resources for a child or sibling group, the caseworker may:

(a) After discussion with his or her supervisor and on a case-by-case basis, consult with a birth parent to identify one to three potential adoptive resources; and

(b) Provide a birth parent with non-identifying information from the adoption home study of a potential adoptive resource who is a general applicant not known to the parent or child.

(2) When more than one relative is interested in being an adoptive resource for a child or sibling group, the Department must consult with the interested relatives to facilitate agreement on the most appropriate potential adoptive resource.

(a) When agreement cannot be reached, the Department considers relatives among both maternal and paternal family members who have expressed an interest, and may choose up to three relatives for adoption home studies.

(b) When an adoption home study has been initiated and the potential adoptive resource is not approved or withdraws, the Child Welfare Program Manager or designee decides whether the Department will initiate adoption home studies with additional relatives based upon:

(A) The best interest of the child or sibling group; and

(B) The impact on timeliness to achieving permanency.

(c) For an Indian child alone or part of a sibling group, the Department must identify potential adoptive resources and initiate adoption home studies as necessary to comply with ICWA.

(3) The child's caseworker must comply with the requirements of all of the following subsections:

(a) Make reasonable efforts to identify and place the child or sibling group with an adoptive resource in a timely manner.

(b) Request input about the knowledge, skills, abilities, and commitment a potential adoptive resource needs to best meet the current and lifelong needs of the child from;

(A) Professionals who have worked closely with the child, when applicable; and

(B) The child's attorney, CASA, tribal representative, RCWAC representative, and substitute caregiver, when applicable.

(c) Receive and review adoption home studies in a timely manner.

(d) Unless section (4) of this rule applies, following consultation with his or her supervisor, identify up to three potential adoptive resources following the order of preference in OAR 413-120-0730 to be considered for adoption placement selection who:

(A) Meet the standards of an adoptive home in OAR 413-120-0246;

(B) Have the knowledge, skills, abilities, and commitment to raise each child; and

(C) Have the capacity to meet the current and lifelong safety, attachment, and well-being needs of the child or sibling group under OAR 413-070-0640.

(4) Upon the recommendation of a caseworker and supervisor, and when it is determined in the best interest of the child, the Child Welfare Program Manager may submit a written request to the Child Permanency Program Manager for an exception to subsection (d) of section (3) of this rule to increase the number of potential adoptive resources to be considered for adoption placement who are in the order of preference as described in 413-120-0730(1)(c).

(5) In consultation with the supervisor, the caseworker must determine the appropriate adoption selection process pursuant to OAR 413-120-0020.

(6) The caseworker must consult with the adoption worker for each of the identified potential adoptive resources pursuant to OAR 413-120-0021(2).

(7) The caseworker must document the actions taken under this rule in the Department's electronic information system.

Stat. Auth.: ORS 109.309, 418.005
Stats. Implemented: ORS 109.309, 418.005, 419B.192
Hist.: CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 35-2010, f. & cert. ef. 12-29-10; CWP 4-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 20-2011, f. & cert. ef. 9-19-11; CWP 16-2015(Temp), f. & cert ef. 9-1-15 thru 2-27-16; CWP 21-2015, f. & cert. ef. 10-1-15

413-120-0800
Purpose

The purpose of OAR 413-120-0800 to 413-120-0880 is to describe;

(1) Department responsibilities following the selection of an adoptive resource pursuant to OAR 413-120-0010 to 413-120-0060 for:

(a) Adoption transition and placement of the child with the adoptive resource;

(b) Supervision of the adoptive placement;

(c) Support for the child and adoptive family after placement; and

(d) Actions required by the Department when a disruption of an adoptive placement of a child in the legal custody of the Department is likely or has occurred.

(2) The actions required by the Department when concerns arise regarding the appropriateness of an adoptive resource for a child or children in the legal custody of another public child welfare agency that the Department is supervising.

(3) The additional requirements for an international adoption of a child in the legal custody of the Department pursuant to OAR 413-120-0900 to 413-120-0970.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; CWP 14-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10; CWP 21-2015, f. & cert. ef. 10-1-15

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Rule Caption: Amending rules relating to children and young adults in substitute care
Adm. Order No.: CWP 22-2015
Filed with Sec. of State: 10-6-2015
Certified to be Effective: 10-6-15
Notice Publication Date: 9-1-2015
Rules Amended: 413-010-0000, 413-020-0000, 413-030-0000, 413-070-0000
Rules Repealed: 413-030-0205
Subject: The Department of Human Services is amending rules to make minor corrections to rules filed on August 4, 2015, and October 1, 2015. Specifically:

OAR 413-010-0000 is being amended to clarify that in addition to an adoptive parent, a designated adoptive resource is considered a relative. This is consistent with the definition used in other divisions of chapter 413.

OAR 413-020-0000 and 413-070-0000 are being amended to add "young adult" to the definition of "age-appropriate and developmentally appropriate activities." This clarifies that the term applies to both children and young adults in substitute care and aligns with how the term is defined in other divisions of chapter 413.

OAR 413-030-0000 is being amended to remove "such as the death of a parent" from the definition of "sibling" to align with the definition used in other divisions of chapter 413.

OAR 413-030-0205 is being repealed because these definitions are now consolidated into the overarching definitions rule, OAR 413-030-0000.

Rules Coordinator: Kris Skaro—(503) 945-6067

413-010-0000
Definitions

The following definitions apply to OAR chapter 413, division 10.

(1) "Adoption assistance" means assistance provided on behalf of an eligible child or young adult to offset the costs associated with adopting and meeting the ongoing needs of the child or young adult. "Adoption assistance" may be in the form of payments, medical coverage, reimbursement of nonrecurring expenses, or special payments.

(2) "Adoption records, papers, and files" means all documents, writings, information, exhibits, and other filings retained in the court's record of an adoption case pursuant to ORS 109.319 and includes but is not limited to the Adoption Summary and Segregated Information Statement described in ORS 109.317 and exhibits attached to the statement, the petition and exhibits attached to the petition pursuant to ORS 109.315, and any

other motion, judgment, document, writing, information, exhibit, or filing retained in the court's record of the adoption case.

(3) "Adoptive family" means an individual or individuals who have legalized a parental relationship to the child who joined the family through a judgment of the court.

(4) "Adult" means a person 18 years of age or older.

(5) "Base rate payment" means a payment to the foster parent or relative caregiver at a rate established by the Department for the costs of providing the child or young adult with the following:

(a) Food, including the special or unique nutritional needs of the child or young adult;

(b) Clothing, including purchase and replacement;

(c) Housing, including maintenance of household utilities, furnishings, and equipment;

(d) Daily supervision, including teaching and directing to ensure safety and well-being at a level appropriate for the chronological age of the child or young adult;

(e) Personal incidentals, including personal care items, entertainment, reading materials, and miscellaneous items; and

(f) Transportation, including gas, oil, and vehicle maintenance and repair costs for local travel associated with providing the items listed above, and transportation to and from extracurricular, child care, recreational, and cultural activities.

(6) "Case plan" means a written, goal oriented, and time-limited individualized plan for the child and the child's family, developed by the Department and the parents or guardians, to achieve the child's safety, permanency, and well-being.

(7) "Central Office CPS Founded Disposition Review" means a process wherein a Central Office CPS Founded Disposition Review Committee reviews a founded disposition, makes recommendations to the CPS Program Manager or designee, and the CPS Program Manager or designee makes a decision to uphold, overturn, or change the abuse type of the founded disposition.

(8) "Central Office CPS Founded Disposition Review Committee" means a group of two child welfare employees who make a recommendation or recommendations to the Child Protective Services Program Manager or designee regarding the CPS founded disposition. No one may serve on the "Central Office CPS Founded Disposition Review Committee" who participated in or observed the Local Child Welfare Office CPS Founded Disposition Review or had a role in the CPS assessment, including having participated in a staffing, that resulted in the CPS founded disposition under review. Further requirements of the "Central Office CPS Founded Disposition Review Committee" are found in OAR 413-010-0745 and 413-010-0746. The two child welfare staff on the committee must include any two of the following:

(a) Either the Program Manager for CPS or a designee;

(b) A CPS program coordinator;

(c) A CPS consultant; or

(d) A Department supervisor.

(9) "Certificate of Approval" means a document that the Department issues to approve the operation of a child-specific relative caregiver home, child-specific foster home, pre-adoptive home, or a regular foster home.

(10) "Certified family" means an individual or individuals who hold a current Certificate of Approval from the Department to operate a home to provide care, in the home in which they reside, to a child or young adult in the care or custody of the Department.

(11) "Child" means a person under 18 years of age.

(12) "Child Protective Services (CPS)" means a specialized social service program that the Department provides on behalf of children who may be unsafe after a report of child abuse or neglect is received.

(13) "Client" means any individual receiving services from the Department, including the parent or legal guardian of a child or young adult, or the custodian of an unemancipated minor client.

(14) "Client file" means an electronic or paper file that the Department marks with the names of one or more clients, into which the Department places all of the named clients' records. A "client file" may contain confidential information about other clients and persons who are not clients.

(15) "Client information" means confidential information about a client or identified with a client.

(16) "Client record" means any record that includes client information and is created, requested, or held by the Department. A "client record" does not include general information, policy statements, statistical reports, or similar compilations of data which are not identified with an individual child, family or other recipient of services.

(17) "Confidential information" means information that is unavailable to the public by statute, rule, or court order.

(18) "Contract Provider" means any individual or organization that provides services to a Child Welfare client pursuant to a contract or agreement with Child Welfare.

(19) "Court Appointed Special Advocate (CASA)" means a volunteer who is appointed by the court, is a party to the juvenile proceeding, and advocates for the child pursuant to ORS 419A.170.

(20) "CPS Disposition" means a determination that completes a CPS assessment. Dispositions are discussed in OAR 413-015-1000 and include founded, unfounded, and unable to determine.

(21) "Department" means the Department of Human Services, Child Welfare.

(22) "Discipline" means a training process a family uses to help a child or young adult develop the self-control and self-direction necessary to assume responsibilities, make daily living decisions, and learn to conform to accepted levels of social behavior.

(23) "Disclose" means reveal or provide client information to a person, agency, organization, or other entity outside of the Department of Human Services. Disclosing includes, but is not limited to:

(a) Showing or providing a client record or copy of a client record; and

(b) Orally transmitting client information.

(24) "Foster parent" means an individual who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(25) "Guardian" means an individual who has been granted guardianship of a child through a judgment of the court.

(26) "Guardianship assistance" means assistance provided by the Department to the guardian on behalf of an eligible child or young adult to offset costs associated with meeting the ongoing needs of the child or young adult. "Guardianship assistance" may be in the form of a payment, medical coverage, or reimbursement of guardianship expenses.

(27) "Indian child" means an unmarried person who is under 18 years of age and who is either a member of an Indian tribe or is eligible for membership in an Indian tribe and who is the biological child of a member of an Indian tribe.

(28) "Juvenile" means a person younger than the age of 18 years who is identified as a perpetrator. OAR 413-010-0716 provides specific requirements regarding application of these rules to juveniles.

(29) "Legal finding" means a court or administrative finding, judgment, order, stipulation, plea, or verdict that determines who was responsible for the child abuse that is the subject of a CPS founded disposition.

(30) "Legal proceeding" means a court or administrative proceeding that may result in a legal finding.

(31) "Legally emancipated " means a person under 18 years of age who is married or has been emancipated by the court in accordance with the requirements of ORS 419B.558.

(32) "Level of care payment" means the payment provided to an approved or certified family, a guardian, a pre-adoptive family, or an adoptive family based on the need for enhanced supervision of a child or young adult as determined by applying the CANS algorithm to the results of the CANS screening.

(33) "Level of personal care payment" means the payment to a qualified provider for performing the personal care services for an eligible child or young adult based on the child's or young adult's need for personal care services as determined by applying the personal care services algorithm to the results of the personal care services rating scale.

(34) "Licensee" means a private child-caring agency or an organization or school that offers a residential program for children (regulated pursuant to ORS 418.327) and holds a license issued by the Department.

(35) "Local Child Welfare Office CPS Founded Disposition Review" means a process wherein a Local Child Welfare Office CPS Founded Disposition Review Committee reviews a founded disposition, makes recommendations to a Child Welfare program manager or designee, and the Child Welfare program manager or designee makes a decision to uphold, overturn, or change the abuse type of the founded disposition.

(36) "Local Child Welfare Office CPS Founded Disposition Review Committee" means a group of two child welfare employees who make a recommendation or recommendations to a Child Welfare Program Manager or designee regarding a CPS founded disposition. One of the members must be a manager and one must be staff trained in CPS assessment and dispositions. No one may serve on the "Local Child Welfare Office CPS Founded Disposition Review Committee" in the review of an assessment in which he or she had a role in the CPS assessment, including having participated

in a staffing, that resulted in the CPS founded disposition under review. Further requirements of the "Local Child Welfare Office CPS Founded Disposition Review Committee" are found in OAR 413-010-0735 and 413-010-0738.

(37) "Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, 416.400 to 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the child by assuming or attempting to assume responsibilities normally associated with parenthood unless a court finds that the putative father is not the legal father.

(38) "Participating tribe" means a federally recognized Indian tribe in Oregon with a Title IV E agreement with the Department.

(39) "Party" means a person entitled to a contested case hearing under these rules.

(40) "Perpetrator" means the person the Department has reasonable cause to believe is responsible for child abuse in a CPS founded disposition.

(41) "Person Requesting Review" or "Requestor" means a perpetrator, his or her attorney, or, if a juvenile is identified as the perpetrator, the person who may request a review on behalf of the juvenile, who requests a review of the founded disposition.

(42) "Potential guardian" means an individual who:

(a) Has been approved by the Department or participating tribe to be a child's guardian; and

(b) Is in the process of legalizing the relationship to the child through the judgment of the court.

(43) "Pre-adoptive family" means an individual or individuals who:

(a) Has been selected to be a child's adoptive family; and

(b) Is in the process of legalizing the relationship to the child through the judgment of the court.

(44) "Private child-caring agency" is defined by the definitions in ORS 418.205, and means a "child-caring agency" that is not owned, operated, or administered by any governmental agency or unit.

(a) A "child-caring agency" means an agency or organization providing:

(A) Day treatment for children with emotional disturbances;

(B) Adoption placement services;

(C) Residential care, including, but not limited to, foster care or residential treatment for children;

(D) Outdoor youth programs (defined at OAR 413-215-0911); or

(E) Other similar services for children.

(b) A child-caring agency does not include residential facilities or foster care homes certified or licensed by the Department under ORS 443.400 to 443.455, 443.830, and 443.835 for children receiving developmental disability services.

(45) "Record" means a record, file, paper, or communication and includes, but is not limited to, any writing or recording of information including automated records and printouts, handwriting, typewriting, printing, photostating, photographing, magnetic tapes, videotapes, or other documents. "Record" includes records that are in electronic form.

(46) "Registered domestic partner" means an individual joined in a domestic partnership that has been registered by a county clerk in accordance with ORS 106.300 to 106.340.

(47) "Relative" means any of the following:

(a) An individual with one of the following relationships to the child or young adult through the parent of the child or young adult unless the relationship has been dissolved by adoption of the child, young adult, or parent:

(A) Any blood relative of preceding generations denoted by the prefixes of grand, great, or great-great.

(B) Any half-blood relative of preceding generations denoted by the prefixes of grand, great, or great-great. Individuals with one common biological parent are half-blood relatives.

(C) An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.

(D) A spouse of anyone listed in paragraphs (A) to (C) of this subsection, even if a petition for annulment, dissolution, or separation has been filed or the marriage is terminated by divorce or death. To be considered a "relative" under this paragraph, the child or young adult must have had a relationship with the spouse prior to the most recent episode of Department custody.

(b) An individual with one of the following relationships to the child or young adult:

(A) A sibling, also to include an individual with a sibling relationship to the child or young adult through a putative father.

(B) An individual defined as a relative by the law or custom of the tribe of the child or young adult if the child or young adult is an Indian child under the Indian Child Welfare Act or in the legal custody of a tribe.

(C) An individual defined as a relative of a refugee child or young adult under OAR 413-070-0300 to 413-070-0380.

(D) A stepparent or former stepparent if the child or young adult had a relationship with the former stepparent prior to the most recent episode of Department custody; a stepbrother; or a stepsister.

(E) A registered domestic partner of the parent of the child or young adult or a former registered domestic partner of the parent of the child or young adult if the child or young adult had a relationship with the former domestic partner prior to the most recent episode of Department custody.

(F) The adoptive parent or an individual who has been designated as the adoptive resource of a sibling of the child or young adult.

(G) An unrelated legal or biological father or mother of a half-sibling of the child or young adult when the half-sibling of the child or young adult is living with the unrelated legal or biological father or mother.

(c) An individual identified by the child or young adult or the family of the child or young adult, or an individual who self-identifies, as being related to the child or young adult through the parent of the child or young adult by blood, adoption, or marriage to a degree other than an individual specified as a "relative" in paragraphs (A) to (C) of subsection (a) of this section unless the relationship has been dissolved by adoption of the child, young adult, or parent.

(d) An individual meeting the requirements of at least one of the following:

(A) An individual not related to the child, young adult, or parent by blood, adoption, or marriage:

(i) Who is identified as a member of the family by the child or young adult or by the family of the child or young adult; and

(ii) Who had an emotionally significant relationship with the child or young adult or the family of the child or young adult prior to the most recent episode of Department custody.

(B) An individual who has a blood relationship to the child or young adult as described in paragraphs (A) to (C) of subsection (a) of this section through the birth parent of the child or young adult, but the prior legal relationship has been dissolved by adoption of the child, young adult, or birth parent, and who is identified as a member of the family by the child or young adult or who self-identifies as a member of the family.

(e) For eligibility for the guardianship assistance program:

(A) A stepparent is considered a parent and is not a "relative" for the purpose of eligibility for guardianship assistance unless a petition for annulment, dissolution, or separation has been filed, or the marriage to the adoptive or biological parent of the child has been terminated by divorce or death.

(B) A foster parent may only be considered a "relative" for the purpose of eligibility for guardianship assistance when:

(i) There is a compelling reason why adoption is not an achievable permanency plan;

(ii) The foster parent is currently caring for a child, in the care or custody of the Department or a participating tribe, who has a permanency plan or concurrent permanent plan of guardianship;

(iii) The foster parent has cared for the child for at least 12 of the past 24 months; and

(iv) The Department or tribe has approved the foster parent for consideration as a guardian.

(48) "Relative caregiver" means an individual who operates a home that has been approved by the Department to provide care for a related child or young adult placed in the home by the Department.

(49) "Request for a Central Office CPS Founded Disposition Review" means a written request for a Central Office CPS Founded Disposition Review from a requestor who has received a Local Child Welfare Office CPS Founded Disposition Review Decision (Form CF 314) to retain a founded disposition. The specific requirements for a request for review by Central Office are described in OAR 413-010-0740.

(50) "Safety service provider" means a participant in a protective action plan, initial safety plan, or ongoing safety plan whose actions, assistance, or supervision help a family in managing a child's safety.

(51) "Service" means assistance that the Department provides clients.

(52) "Sibling" means one of two or more children or young adults who are related, or would be related but for a termination or other disruption of parental rights, in one of the following ways:

(a) By blood or adoption through a common parent;

(b) Through the marriage of the legal or biological parents of the children or young adults; or

(c) Through a legal or biological parent who is the registered domestic partner of the legal or biological parent of the children or young adults.

(53) "Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(54) "Substitute caregiver" means a relative caregiver, foster parent, or provider authorized to provide care to a child or young adult in the legal or physical custody of the Department.

(55) "Voluntary services" means services that the Department provides at the request of a person or persons and there is no open and related juvenile court proceeding.

(56) "Young adult" means a person 18 through 20 years of age.

Stat Auth.: ORS 409.050, 418.005

Stats. Implemented: ORS 409.010, 409.225, 419A.255

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 9-1999, f. 5-24-99, cert. ef. 6-1-99; CWP 18-2011, f. & cert. ef. 9-2-11; CWP 12-2013, f. 12-31-13, cert. ef. 1-1-14; CWP 13-2015, f. & cert. ef. 8-4-15; CWP 22-2015, f. & cert. ef. 10-6-15

413-020-0000
Definitions

The following definitions apply to OAR chapter 413, division 20.

(1) "Adoption assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the pre-adoptive family or adoptive family of an eligible child or young adult, setting forth the assistance the Department is to provide on behalf of the child or young adult, the responsibilities of the pre-adoptive family or adoptive family and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

(2) "Adoptive family" means an individual or individuals who have legalized a parental relationship to the child through a judgment of the court.

(3) "Age-appropriate or developmentally appropriate activities" means:

(a) Activities or items that are generally accepted as suitable for children or young adults of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child or young adult, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(b) In the case of a specific child or young adult, activities or items that are suitable for the child based on the developmental stages attained by the child or young adult with respect to the cognitive, emotional, physical, and behavioral capacities of the child or young adult.

(4) "BRS" means Behavior Rehabilitation Services, a Medicaid-funded program that provides behavioral intervention, counseling, or skill building services in a professional, shelter, or residential (including therapeutic foster care formerly referred to as proctor care) placement setting.

(5) "CANS screener" means an individual, who performs CANS screenings under the supervision of the Level of Care Manager, under a contract with the Department, and who annually completes the training in the use of the Oregon CANS Comprehensive Screening Tool with a documented reliability score of 0.70 or greater.

(6) "CANS screening" means Child and Adolescent Needs and Strengths screening, a process of gathering information on the needs and strengths of a child or young adult used for one or more of the following purposes:

(a) To identify case planning, service planning, and supervision needs of the child or young adult in substitute care with a certified family;

(b) To determine the level of care payment while in substitute care with a certified family; and

(c) To determine the level of care payment included in an adoption assistance agreement or guardianship assistance agreement.

(7) "Caseworker" means the agency staff person assigned primary responsibility for a child or young adult served by the Department.

(8) "Certified family" means an individual or individuals who hold a current Certificate of Approval from the Department to operate a home to provide care, in the home in which he or she resides, to a child or young adult in the care or custody of the Department.

(9) "Certifier" means a Child Welfare employee who conducts assessments of applicants interested in providing relative or foster care to a child or young adult in the care or custody of the Department, determines whether or not to recommend approval of the operation of a relative care or foster care home, and monitors the compliance of a relative care or foster care home with Child Welfare certification rules.

(10) "Child" means a person under 18 years of age.

(11) "Department" means the Department of Human Services, Child Welfare.

(12) "Designated Consultant Neonatologist" means a neonatologist whose services are available to Child Welfare to review medical information and consult with Child Welfare and other experts deemed necessary in cases of suspected medical neglect.

(13) "Designated hospital liaison" means an individual, usually the hospital administrator, designated by each respective hospital to assist Child Welfare with coordination, consultation, and prompt notification of suspected cases of medical neglect.

(14) "Disabled infant" means a child of less than one year of age having a physical or mental impairment which may substantially limit one or more major life functions such as breathing, seeing, hearing, walking, caring for one's self, performing manual tasks, learning, and working.

(15) "Enhanced supervision" means the additional support, direction, observation, and guidance necessary to promote and ensure the safety and well-being of a child or young adult when the child or young adult qualifies for a level of care payment.

(16) "Foster parent" means an individual who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(17) "Guardian" means an individual who has been granted guardianship of the child through a judgment of the court.

(18) "Guardianship assistance" means assistance provided on behalf of an eligible child or young adult to offset the costs associated with establishing the guardianship and meeting the ongoing needs of the child or young adult. "Guardianship assistance" may be in the form of payments, medical coverage, or reimbursement of nonrecurring guardianship expenses.

(19) "Guardianship assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the guardian of an eligible child or young adult setting forth the assistance the Department is to provide on behalf of the child or young adult, the responsibilities of the guardian and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

(20) "Hospital Review Committee (HRC)" is a committee established by a medical facility or hospital to offer counsel and review in cases involving a disabled infant with life-threatening conditions.

(21) "Legal custodian" means a person, agency, or institution with legal custody of a child and all of the following duties and authority:

(a) To have physical custody and control of a child.

(b) To supply the child with food, clothing, shelter, and incidental necessities.

(c) To provide the child with care, education, and discipline.

(d) To authorize ordinary medical, dental, psychiatric, psychological, and other remedial care or treatment for the child and, in an emergency where the child's safety appears urgently to require it, to authorize surgery or other extraordinary care.

(e) To make such reports and to supply such information as the court may require.

(f) To apply for any benefits to which the child is entitled and to use them to pay for the child's care.

(22) "Legal custody" means that a person or agency has legal authority:

(a) To have physical custody and control of a child;

(b) To supply the child with food, clothing, shelter and other necessities;

(c) To provide the child with care, education and discipline;

(d) To authorize medical, dental, psychiatric, psychological, hygienic or other remedial care or treatment for the child, and in any emergency where the child's safety appears urgently to require it, to authorize surgery or other extraordinary care; and

(e) "Legal custody" includes temporary custody of a child under an order of a court.

(23) "Level of care payment" means the payment provided to an approved or certified family, a guardian, a pre-adoptive family or an adoptive family based on the child or young adult's need for enhanced supervision as determined by applying the CANS algorithm to the results of the CANS screening.

(24) "Mechanical restraint" means the use of any physical device to involuntarily restrain the movement of all or a portion of a child's body as

a means of controlling his or her physical activities in order to protect the child or other persons from injury. "Mechanical restraint" does not apply to movement restrictions stemming from medicinal, dental, diagnostic, or surgical procedures which are based on widely accepted, clinically appropriate methods of treatment by qualified professionals operating within the scope of their licensure.

(25) "Medical neglect" means the failure to provide adequate medical care, including the withholding of medically indicated treatment, from a disabled infant with life-threatening conditions.

(26) "Medical Neglect Investigator" means Child Welfare staff designated and trained to provide consultation and complete investigations of alleged medical neglect reports.

(27) "Medically indicated treatment" means treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician's reasonable medical judgment, is most likely to be effective in amelioration or correcting a life-threatening condition. It does not include the failure to provide treatment other than nutrition, hydration, or medication to an infant when, in the treating physician's reasonable medical judgment, any of the following circumstances apply:

(a) The infant is chronically irreversibly comatose.

(b) The provision of such treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of survival of the infant.

(c) The provisions of treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

(28) "Participating tribe" means a federally-recognized Indian tribe in Oregon with a Title IV-E agreement with the Department.

(29) "Permanent custody" means legal custody of a child:

(a) Who has been permanently committed to the Department by the juvenile court after parental rights have been terminated under ORS 419B.527; or

(b) Who has been released and surrendered to the Department by the parents under ORS 418.270.

(30) "Physical custodian" means a person or agency, including a child's legal or biological parent, a relative, foster parent, adoptive parent, or a licensed child-caring agency who is authorized by the Department to provide a residence and day-to-day care for a child who is in the legal custody of the Department.

(31) "Physical restraint" means the act of restricting a child or young adult's voluntary movement as an emergency measure to manage and protect the child or young adult or others from injury when no alternate actions are sufficient to manage the child or young adult's behavior. "Physical restraint" does not include temporarily holding a child or young adult to assist him or her or assure his or her safety, such as preventing a child from running onto a busy street.

(32) "Potential guardian" means an individual who:

(a) Has been approved by the Department or participating tribe to be a child's guardian; and

(b) Is in the process of legalizing the relationship to the child through the judgment of the court.

(33) "Pre-adoptive family" means an individual or individuals who:

(a) Has been selected to be a child's adoptive family; and

(b) Is in the process of legalizing the relationship to the child through the judgment of the court.

(34) "Reasonable and prudent parent standard" means the standard, characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child or young adult while encouraging the emotional and developmental growth of the child or young adult, that a substitute care provider shall use when determining whether to allow a child or young adult to participate in extracurricular, enrichment, cultural, and social activities.

(35) "Reasonable medical judgment" means a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

(36) "Relative caregiver" means an individual who operates a home that has been approved by the Department to provide care for a related child or young adult placed in the home by the Department.

(37) "Seclusion" means the involuntary confinement of a child alone in a specifically designed room from which the child is physically prevented from leaving.

(38) "Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(39) "Supervision plan" means a documented set of strategies that is developed to assist a relative caregiver or foster parent in providing the additional support, observation, direction, and guidance necessary to promote and ensure the safety and well-being of a child or young adult.

(40) "Voluntary custody" means legal custody given to the Department, by written agreement, by a parent or guardian of a child.

(41) "Voluntary Custody Agreement" means a written agreement between the Department and the parent or guardian of a child, which transfers legal custody to the Department; the Department assumes all parental authority and responsibilities that the agreement does not specifically reserve to the parents or guardians, as permitted by state law; and the Department provides the child substitute care or treatment, or both, if the family falls within a circumstance described in OAR 413-020-0010(2)(a)-(c).

(42) "Voluntary Placement Agreement" means a binding, written agreement between the Department and the parent or guardian of a child that does not transfer legal custody to the Department but that specifies, at a minimum, the legal status of the child and the rights and obligations of the parent or guardian, the child, and the Department while the child is in placement.

(43) "Withholding of medically indicated treatment" means the failure to respond to an infant's life-threatening condition.

(44) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 109.056, 418.015, 418.270, 418.275, 418.280, 418.285

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 3-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 2-2003, f. & cert. ef. 1-7-03; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 19-2015, f. & cert. ef. 10-1-15; CWP 22-2015, f. & cert. ef. 10-6-15

413-030-0000
Definitions

The following definitions apply to OAR chapter 413, division 30:

(1) "APPLA" means Another Planned Permanent Living Arrangement, a permanency plan for a stable secure living arrangement for a child who has reached the age of 16 or young adult that includes building relationships with significant people in the child or young adult's life that may continue after substitute care. APPLA is the least preferred permanency plan of the five permanency plans for a child or young adult and is appropriate only after the permanency plans of reunification, adoption, guardianship, and placement with a fit and willing relative have been determined not in the best interest of a child or young adult.

(a) "Planned" means the arrangement is intended, designed, and deliberate.

(b) "Permanent" means enduring and stable.

(2) "Case plan" means a written, goal-oriented, time-limited individualized plan for the child and the child's family, developed by the Department and the parents or guardians, to achieve the child's safety, permanency, and well-being.

(3) "Chafee housing" means a payment to assist in covering the costs of room and board made to an eligible individual between 18 and 20 years of age who was discharged from the care and custody of the Department or one of the federally recognized tribes on or after reaching 18 years of age.

(4) "Child" means a person under 18 years of age.

(5) "Department" means the Department of Human Services, Child Welfare.

(6) "Expert evaluation" means a written assessment prepared by a professional with specialized knowledge of a particular subject matter such as physical health, psychological health, mental health, sexual deviancy, substance abuse, and domestic violence. The assessment provides information regarding an individual's functioning in the area of the professional's specialized knowledge and when the expert is evaluating a parent or guardian, whether the individual's functioning impacts his or her protective capacity.

(7) "Family support services case plan" means a goal-oriented, time-limited, individualized plan for a child and the child's family or a former foster child. The Department and the family or former foster child jointly develop a "family support services case plan" that addresses the service goals and the identified needs of the child and the child's family or the former foster child.

(8) "Former foster child" means a person under 21 years of age who was in substitute care at or after 16 years of age, including substitute care provided by federally recognized tribes, and had been in substitute care for at least 180 cumulative days after 14 years of age.

(9) "GED" means a General Educational Development certificate issued pursuant to ORS 351.768.

(10) "Guardian" means an individual who has been granted guardianship of a child through a judgment of the court.

(11) "ILP" means the Independent Living Program services provided by the Department to an eligible foster child or former foster child.

(12) "Independent living housing subsidy" means a payment to assist in covering the cost of room, board, or other monthly expenses made to an eligible individual who is at least 16 years of age and is in the care and custody of the Department and living independently.

(13) "Legal custody" means a legal relationship between a person, agency, or institution and a child that imposes on the person, agency, or institution the duties and authority of the child's legal custodian.

(14) "Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, ORS 416.400 to 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the child by assuming or attempting to assume responsibilities normally associated with parenthood unless a court finds that the putative father is not the legal father.

(15) "Permanency plan" means a written course of action for achieving safe and lasting family resources for the child or young adult. Although the plan may change as more information becomes available, the goal is to develop safe and permanent resources with the parents, relatives, or other people who may assume responsibility for the child or young adult during the remaining years of dependency and be accessible and supportive to the child in adulthood.

(16) "Registered domestic partner" means an individual joined in a domestic partnership that is registered by a county clerk in accordance with ORS 106.300 to 106.340.

(17) "Service Agreement" means a written document between the Department and a parent, guardian, or former foster child that identifies one or more of the service goals in a family support services case plan, and the services and activities that are necessary for the parent, guardian, or former foster child to achieve the goal.

(18) "Service goal" means the observable, sustained change in behavior, condition, or circumstance that, when accomplished, achieves the desired effect.

(19) "Short term services" mean actions or activities that are limited in duration to a maximum of 180 days.

(20) "Sibling" means one of two or more children or young adults who are related, or would be related but for a termination or other disruption of parental rights, in one of the following ways:

(a) By blood or adoption through a common parent;

(b) Through the marriage of the legal or biological parents of the children or young adults; or

(c) Through a legal or biological parent who is the registered domestic partner of the legal or biological parent.

(21) "Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(22) "Substitute caregiver" means a relative caregiver, foster parent, or provider authorized to provide care to a child or young adult in the legal or physical custody of the Department.

(23) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 418.005
Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; CWP 4-2007, f. & cert. ef. 3-20-07; CWP 1-2013, f. & cert. ef. 1-15-13; CWP 19-2015, f. & cert. ef. 10-1-15; CWP 22-2015, f. & cert. ef. 10-6-15

413-070-0000
Definitions

The following definitions apply to OAR chapter 413, division 70.

(1) "Adoption" means a legal or administrative process that establishes a permanent legal parent-child relationship between a child and an adult who is not already the child's legal parent and terminates the legal parent-child relationship between the adopted child and any former parent.

(2) "Adoptive resource" means an individual or individuals selected by the Department, another public child welfare agency, or a licensed adoption agency as the adoptive family for a child where no administrative review was requested within the timeframe allowed for such a request, or if a review was requested, the selection has been sustained by that review and the review is complete.

(3) "Affected family members" means biological and legal parents, extended family members, and any person within the fifth degree of consanguinity to the child.

(4) "Age-appropriate or developmentally appropriate activities" means:

(a) Activities or items that are generally accepted as suitable for children or young adults of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child or young adult, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(b) In the case of a specific child or young adult, activities or items that are suitable for the child or young adult based on the developmental stages attained by the child or young adult with respect to the cognitive, emotional, physical, and behavioral capacities of the child or young adult.

(5) "Antipsychotic medication" means a medication, specified in class 28:16:08 by the American Hospital Formulary Service, used to treat psychosis and other conditions.

(6) "APPLA" means Another Planned Permanent Living Arrangement, a permanency plan for a stable secure living arrangement for a child who has reached the age of 16 or young adult that includes building relationships with significant people in the child's life that may continue after substitute care. APPLA is the least preferred permanency plan of the five permanency plans for a child or young adult and is appropriate only after the permanency plans of reunification, adoption, guardianship, and placement with a fit and willing relative have been determined not in the best interests of a child or young adult.

(a) "Planned" means the arrangement is intended, designed, and deliberate.

(b) "Permanent" means enduring and stable.

(7) "Assessment" means the determination of a child or young adult's need for mental health services through interviewing the child or young adult and obtaining all pertinent medical and psychosocial history information from the individual, family, and collateral sources. The "assessment":

(a) Addresses the current complaint or condition presented by the child or young adult;

(b) Determines a diagnosis; and

(c) Provides treatment direction and individualized services and supports.

(8) "Base rate payment" means a payment to the foster parent or relative caregiver for the costs of providing the child or young adult with the following:

(a) Food, including the special or unique nutritional needs of the child or young adult;

(b) Clothing, including purchase and replacement;

(c) Housing, including maintenance of household utilities, furnishings, and equipment;

(d) Daily supervision, including teaching and directing to ensure safety and well-being at a level appropriate for the age of the child or young adult;

(e) Personal incidentals, including personal care items, entertainment, reading materials, and miscellaneous items; and

(f) Transportation, including gas, oil, and vehicle maintenance and repair costs for local travel associated with providing the items listed above, and transportation to and from extracurricular, child care, recreational, and cultural activities.

(9) "CANS screening" means Child and Adolescent Needs and Strengths screening, a process of gathering information on the needs and strengths of a child or young adult for one or more of the following purposes:

(a) To identify case planning, service planning, and supervision needs of the child or young adult in substitute care with a certified family;

(b) To determine the level of care payment while in substitute care with a certified family; and

(c) To determine the level of care payment included in an adoption assistance agreement or guardianship assistance agreement.

(10) "Caregiver relationship" means a relationship between a person and a child or young adult that meets all of the following requirements:

(a) The relationship has existed for the 12 months immediately preceding the initiation of a dependency proceeding, for at least six months during a dependency proceeding, or for half of the child's life if the child is less than six months of age. A "caregiver relationship" does not include a relationship between a child or young adult and a person who is an unrelated foster parent of the child or young adult unless the relationship continued for a period of at least twelve consecutive months.

(b) The person had physical custody of the child or young adult or resided in the same household as the child or young adult and provided the child or young adult on a daily basis with the love, nurturing, and other

necessities required to meet the psychological and physical needs of the child or young adult.

(c) The child or young adult depended on the relationship to meet the needs of the child or young adult.

(11) "CASA" means a court appointed special advocate: a volunteer who is appointed by the court, is a party to the juvenile proceeding, and advocates for the child pursuant to ORS 419B.112.

(12) "Certificate of Approval" means a document that the Department issues to approve the operation of a child-specific relative caregiver home, child-specific foster home, pre-adoptive home, or a regular foster home.

(13) "Child" means a person under 18 years of age.

(14) "Child-family contact" means communication between the child or young adult and family and includes, but is not limited to, visitation with the child or young adult, participation in the child or young adult's activities, and appointments, phone calls, e-mail, and written correspondence.

(15) "Child's home" means the home from which the child is removed under the provisions of ORS 419B.150.

(16) "Committee facilitator" means a Department staff member appointed as a member of the committee to facilitate a permanency or adoption committee meeting.

(17) "Concurrent permanent plan" means the alternate permanency plan whenever the child has been placed in substitute care when the goal of the permanency plan is to return the child to the parents. The "concurrent permanent plan" is developed simultaneously with the plan to return the child to the parents or legal guardians.

(18) "Conditions for return" means a written statement of the specific behaviors, conditions, or circumstances that must exist within a child's home before a child can safely return and remain in the home with an in-home ongoing safety plan.

(19) "Cultural heritage" means the language, customary beliefs, social norms, and material traits including, but not limited to, the dress, food, music, and dance of a racial, religious, or social group that are transmitted from one generation to another.

(20) "Current caretaker" means a foster parent who:

(a) Is currently caring for a child in the care and custody of the Department and who has a permanency plan or concurrent permanent plan of adoption; and

(b) Has cared for the child or at least one sibling of the child for at least the past 12 consecutive months or for one-half of the child's or sibling's life if the child or sibling is younger than two years of age.

(21) "Department" means the Department of Human Services, Child Welfare.

(22) "Designee" means a person who the designator directly and immediately supervises or a person with equal or greater management responsibility than the designator.

(23) "Diligent search" means that, at a minimum, there will be contact with the child's tribal social service program, a search of all county or state listings of available Indian homes, and contact with local, regional, and national Indian programs that have placement resources available for Indian children.

(24) "Enhanced supervision" means the additional support, direction, observation, and guidance necessary to promote and ensure the safety and well-being of the child or young adult when the child or young adult qualifies for a level of care payment.

(25) "Entity" means any organization or agency including, but not limited to a private child placing agency, that is separate and independent of the Department, performs functions pursuant to a contract or subcontract with the Department, and receives federal funds.

(26) "Extended family" has the meaning given by the law or custom of the Indian child's tribe. In the absence of law or custom, "extended family" means a person 18 or over who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.

(27) "Extended family member" means a person ordinarily recognized as the refugee child's parent by the custom of the child's culture, or a person 18 years of age or older who is the child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.

(28) "Family member" means any person related to the child or young adult by blood, marriage, or adoption, including, but not limited to the parents, grandparents, stepparents, aunts, uncles, sisters, brothers, cousins, and great-grandparents. "Family member" also includes the registered domestic partner of a person related to the child, a child 12 years of age or older, and when appropriate, a child younger than 12 years of age. Under the Indian Child Welfare Act (ICWA), "family member" has the meaning given by the law or custom of the child's tribe.

(29) "Fit and willing relative" means an individual who meets the eligibility criteria in OAR 413-070-1010.

(30) "Foster care agency" means a private child-caring agency that offers to place children by taking physical custody of and then placing the children in a home certified by the agency.

(31) "Foster care placement" means any action removing, or which could result in the removal of, a child from his or her parent or Indian custodian, such as court-ordered supervision in the home, for placement in foster care, with a guardian, or in an institution where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated.

(32) "Foster parent" means an individual who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.

(33) "General applicant" means an individual who:

(a) Is neither a relative or current caretaker; and

(b) Has submitted a completed application to adopt a child.

(34) "Grandparent" for purposes of visitation, contact, or communication ordered by the court under ORS 419B.876 means the legal parent of the child or young adult's legal parent, as defined in ORS 109.119.

(35) "Guardian" means an individual who has been granted guardianship of a child through a judgment of the court.

(36) "Guardianship assistance" means assistance provided by the Department to the guardian on behalf of an eligible child or young adult to offset costs associated with meeting the ongoing needs of the child or young adult. "Guardianship assistance" may be in the form of a payment, medical coverage, or reimbursement of guardianship expenses.

(37) "Guardianship assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the potential guardian or guardian setting forth the assistance the Department is to provide on behalf of the child or young adult, the responsibilities of the guardian and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

(38) "Guardianship assistance agreement only" means a written agreement, binding on the parties to the agreement, between the Department and the potential guardian or guardian of an eligible child or young adult, when the potential guardian or guardian is not receiving a guardianship assistance payment or medical coverage at the time of the agreement but may request it at a later date.

(39) "Guardianship assistance base rate" means the portion of the guardianship assistance payment that is negotiated with the potential guardian or guardian and cannot exceed the amount of the Oregon foster care base rate payment for the child or young adult's age.

(40) "Guardianship assistance payment" means a monthly payment made by the Department to the guardian on behalf of the eligible child or young adult.

(41) "Guardianship Assistance Review Committee" means a committee composed of local and central office Department staff with expertise in the area of guardianship.

(42) "ICWA" means the Indian Child Welfare Act.

(43) "Impending danger safety threat" means a family behavior, condition, or circumstance that meets all five safety threshold criteria. A threat to a child that is not immediate, obvious, or occurring at the onset of the CPS intervention. This threat is identified and understood more fully by evaluating and understanding individual and family function.

(44) "Incapacity" means a physical or mental illness, or impairment that reduces substantially or eliminates the individual's ability to support, care for, or meet the needs of the child and is expected to be permanent.

(45) "Independent living housing subsidy" means a payment to assist in covering the cost of room, board, or other monthly expenses made to an eligible individual who is at least 16 years of age and is in the care and custody of the Department and living independently.

(46) "Indian" means any person who is a member of or eligible for membership in an Indian tribe or who is an Alaskan native and a member of a Regional Corporation as defined in 43 USC section 1606.

(47) "Indian child" means an unmarried person under 18 years of age who is either a member of a federally-recognized Indian tribe or is eligible for membership in a federally-recognized Indian tribe and who is the biological child of a member of an Indian tribe.

(48) "Indian Child Welfare Act Manager" ("ICWA Manager") means staff who monitors Department policy and procedures towards compliance with the Indian Child Welfare Act; investigates complaints of non-compli-

ance from tribes; provides consultation to caseworkers relating to law and administrative rules; and provides ICWA materials and training.

(49) "Indian child's tribe" means the Indian tribe in which an Indian child is a member or eligible for membership. In the case of an Indian child who is a member or eligible for membership in more than one Indian tribe, it is the Indian tribe with which the Indian child has the most significant contacts.

(50) "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control has been transferred by the parent of such child.

(51) "Indian organization" means any group, association, partnership, corporation, or legal entity owned or controlled by Indians or a majority of whose members are Indians, such as an Indian Child Welfare Committee.

(52) "Indian tribe" means any "Indian tribe", band, nation, or organized group or community of Indians who are recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaska native village as defined in 43 USC section 1606, and any tribe whose federal relationship has been terminated by congressional action.

(53) "Interethnic Adoption Provisions of the Small Business Job Protection Act of 1996" ("IEPA") means section 1808 of the act which is entitled "Removal of Barriers to Interethnic Adoption", and affirms and strengthens the prohibition against discrimination in adoption or foster care placements, and is codified in 42 USC section 671(a)18.

(54) "Involuntary proceeding" means any action removing a child from a parent or Indian custodian and such parent or Indian custodian cannot have the child returned upon demand.

(55) "Judicial hours" means the number of hours a court is available to hold a hearing. Legal holidays and weekends do not count as "judicial hours".

(56) "Legal assistance specialist" means an Adoption Program staff member who provides consultation on the technical and legal processes to achieve a permanency plan for a child in the legal custody of the Department.

(57) "Level of care payment" means the payment provided to an approved or certified family, a guardian, a pre-adoptive family, or an adoptive family based on the need for enhanced supervision of a child or young adult determined by applying the CANS algorithm to the results of the CANS screening.

(58) "Licensed medical professional" means an individual who meets the criteria of both of the following subsections:

(a) The individual holds at least one of the following valid licensures or certifications:

(A) Physician licensed to practice in the State of Oregon;

(B) Nurse practitioner certified by the Oregon State Board of Nursing under ORS 678.375; or

(C) Physician assistant licensed to practice in the State of Oregon.

(b) The individual's training, experience, and competence demonstrate expertise in children's mental health, the ability to conduct a mental health assessment, and the ability to provide psychotropic medication management for children and young adults.

(59) "Medically accepted indication," defined in ORS 418.517, means any use for a covered outpatient drug that is approved under the Federal Food, Drug and Cosmetic Act, or recommended by the Pharmacy and Therapeutics Committee, or the use of which is supported by one or more citations included or approved for inclusion in any of the following compendia:

(a) American Hospital Formulary Services drug information;

(b) United States Pharmacopoeia drug information or any successor publication;

(c) The DRUGDEX Information System; or

(d) Peer-reviewed medical literature.

(60) "Multiethnic Placement Act of 1994" means federal statutes which prohibit discrimination based on race, color, or national origin as considerations in adoption and foster placements.

(61) "Nonrecurring guardianship assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the potential guardian of an eligible child for a one-time payment to reimburse the guardian for the reasonable and necessary expenses incurred in legally finalizing the guardianship.

(62) "Nonrecurring guardianship expenses" means a one-time payment of up to $2,000 per child that the Department will make to a guardian to assist with the reasonable and necessary expenses associated with obtaining legal guardianship of an eligible child.

(63) "Office of Developmental Disabilities Services" means the Department of Human Services, Office of Developmental Disabilities Services.

(64) "Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, ORS 416.400 to 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the child by assuming or attempting to assume responsibilities normally associated with parenthood, unless a court finds that the putative father is not the legal father.

(65) "Participating tribe" means a federally-recognized Indian tribe in Oregon with a Title IV-E agreement with the Department.

(66) "Permanency committee" means a group of individuals who are responsible for making a recommendation regarding a permanency plan or a potential permanency resource when the child or young adult likely is not returning to his or her parent.

(67) "Permanency plan" means a written course of action for achieving safe and lasting family resources for the child or young adult. Although the plan may change as more information becomes available, the goal is to develop safe and permanent family resources with the parents, relatives, or other people who will assume responsibility for the child or young adult during the remaining years of dependency and be accessible and supportive to the child or young adult in adulthood.

(68) "Permanent foster care" means the out of home placement of a child or young adult in which there is a long-term foster care agreement between each substitute caregiver and the Department approved by the juvenile court under which the substitute caregiver commits to raise a child in substitute care until the age of majority and be accessible to and supportive of the child into adulthood, until the court determines that APPLA - "permanent foster care" is no longer the appropriate permanency plan for the child or young adult.

(69) "Potential guardian" means an individual who:

(a) Has been approved by the Department or participating tribe to be the guardian of a child; and

(b) Is in the process of legalizing the relationship to the child through the judgment of the court.

(70) "Provider" means an individual approved by a licensed private child-caring agency to provide care for a child or young adult, or an employee of a licensed private child-caring agency approved to provide care for a child or young adult.

(71) "Psychotropic medication," defined in ORS 418.517, means medication, the prescribed intent of which is to affect or alter thought processes, mood, or behavior, including, but not limited to antipsychotic, antidepressant, and anxiolytic medication and behavior medications. The classification of a medication depends upon its stated, intended effect when prescribed because it may have many different effects.

(72) "Qualified mental health professional" means an individual who meets the requirements of both of the following subsections:

(a) Holds at least one of the following educational degrees:

(A) Graduate degree in psychology;

(B) Bachelor's degree in nursing and is licensed by the state of Oregon;

(C) Graduate degree in social work;

(D) Graduate degree in a behavioral science field;

(E) Graduate degree in recreational, art, or music therapy; or

(F) Bachelor's degree in occupational therapy and is licensed by the State of Oregon.

(b) Whose education and experience demonstrates the competencies to --

(A) Identify precipitating events;

(B) Gather histories of mental and physical disabilities, alcohol and drug use, past mental health services, and criminal justice contacts;

(C) Assess family, social, and work relationships;

(D) Conduct a mental status examination;

(E) Document a multiaxial DSM diagnosis;

(F) Develop and supervise a treatment plan;

(G) Conduct a mental health assessment; and

(H) Provide individual, family, or group therapy within the scope of his or her practice.

(73) "Race" means American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, White.

(74) "RCWAC" means the Refugee Child Welfare Advisory Committee.

(75) "Reasonable and prudent parent standard" means the standard, characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child or young adult while encouraging the emotional and developmental growth of the child or young adult, that a substitute care provider shall use when determining whether to allow a child or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.

(76) "Refugee child" has the meaning given the term in ORS 418.925.

(77) "Registered domestic partner" means an individual joined in a domestic partnership that is registered by a county clerk in accordance with ORS 106.300 to 106.340.

(78) "Relative" means any of the following:

(a) An individual with one of the following relationships to the child or young adult through the parent of the child or young adult unless the relationship has been dissolved by adoption of the child, young adult, or parent:

(A) Any blood relative of preceding generations denoted by the prefixes of grand, great, or great-great.

(B) Any half-blood relative of preceding generations denoted by the prefixes of grand, great, or great-great. Individuals with one common biological parent are half-blood relatives.

(C) An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.

(D) A spouse of anyone listed in paragraphs (A) to (C) of this subsection, even if a petition for annulment, dissolution, or separation has been filed or the marriage is terminated by divorce or death. To be considered a "relative" under this paragraph, the child or young adult must have had a relationship with the spouse prior to the most recent episode of Department custody.

(b) An individual with one of the following relationships to the child or young adult:

(A) A sibling, also to include an individual with a sibling relationship to the child or young adult through a putative father.

(B) An individual defined as a relative by the law or custom of the tribe of the child or young adult if the child or young adult is an Indian child under the Indian Child Welfare Act or in the legal custody of a tribe.

(C) An individual defined as a relative of a refugee child or young adult under OAR 413-070-0300 to 413-070-0380.

(D) A stepparent or former stepparent if the child or young adult had a relationship with the former stepparent prior to the most recent episode of Department custody; a stepbrother; or a stepsister.

(E) A registered domestic partner of the parent of the child or young adult or a former registered domestic partner of the parent of the child or young adult if the child or young adult had a relationship with the former domestic partner prior to the most recent episode of Department custody.

(F) The adoptive parent or an individual who has been designated as the adoptive resource of a sibling of the child or young adult.

(G) An unrelated legal or biological father or mother of a half-sibling of the child or young adult when the half-sibling of the child or young adult is living with the unrelated legal or biological father or mother.

(c) An individual identified by the child or young adult or the family of the child or young adult, or an individual who self-identifies, as being related to the child or young adult through the parent of the child or young adult by blood, adoption, or marriage to a degree other than an individual specified as a "relative" in paragraphs (A) to (C) of subsection (a) of this section unless the relationship has been dissolved by adoption of the child, young adult, or parent.

(d) An individual meeting the requirements of at least one of the following:

(A) An individual not related to the child, young adult, or parent by blood, adoption, or marriage:

(i) Who is identified as a member of the family by the child or young adult or by the family of the child or young adult; and

(ii) Who had an emotionally significant relationship with the child or young adult or the family of the child or young adult prior to the most recent episode of Department custody.

(B) An individual who has a blood relationship to the child or young adult as described in paragraphs (A) to (C) of subsection (a) of this section through the birth parent of the child or young adult, but the prior legal relationship has been dissolved by adoption of the child, young adult, or birth parent, and who is identified as a member of the family by the child or young adult or who self-identifies as a member of the family.

(e) For eligibility for the guardianship assistance program:

(A) A stepparent is considered a parent and is not a "relative" for the purpose of eligibility for guardianship assistance unless a petition for annulment, dissolution, or separation has been filed, or the marriage to the adoptive or biological parent of the child has been terminated by divorce or death.

(B) A foster parent may only be considered a "relative" for the purpose of eligibility for guardianship assistance when:

(i) There is a compelling reason why adoption is not an achievable permanency plan;

(ii) The foster parent is currently caring for a child, in the care or custody of the Department or a participating tribe, who has a permanency plan or concurrent permanent plan of guardianship;

(iii) The foster parent has cared for the child for at least 12 of the past 24 months; and

(iv) The Department or tribe has approved the foster parent for consideration as a guardian.

(79) "Relative caregiver" means an individual who operates a home that has been approved by the Department to provide care for a related child or young adult placed in the home by the Department.

(80) "Relative search" means the efforts of the Department to identify, locate, and document the contact with a child or young adult's relatives.

(81) "Reservation" means Indian country as defined in 18 USC section 1151, and any lands not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation.

(82) "Safety service provider" means a participant in a protective action plan, initial safety plan, or ongoing safety plan whose actions, assistance, or supervision help a family in managing a child's safety.

(83) "Secretary" means the Secretary of the Interior.

(84) "Sibling" means one of two or more children or young adults who are related, or would be related but for a termination or other disruption of parental rights, in one of the following ways:

(a) By blood or adoption through a common parent;

(b) Through the marriage of the legal or biological parents of the children or young adults; or

(c) Through a legal or biological parent who is the registered domestic partner of the legal or biological parent of the children or young adults.

(85) "Special immigrant juvenile status" means a legal process to obtain lawful permanent resident status for a child who does not have lawful permanent resident status because he or she entered the United States without inspection and who meets the other criteria required by federal law.

(86) "Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(87) "Substitute caregiver" means a relative caregiver, foster parent, or provider authorized to provide care to a child or young adult in the legal or physical custody of the Department.

(88) "Successor legal guardian" means an individual who has been named in the guardianship assistance agreement, including any amendments to the agreement, as a replacement legal guardian in the event of the death or incapacity of the guardian.

(89) "Supervised visit" means a child-family contact that includes a designated third party to protect the emotional and physical safety of a child or young adult.

(90) "Termination of parental rights" means an action which results in the termination of the parent-child relationship.

(91) "Title VI of Civil Rights Act of 1964" prohibits discrimination on the basis of race, color or national origin under programs receiving federal assistance through the United States Department of Health and Human Services.

(92) "Tribal court" means the court which holds jurisdiction over Indian child custody proceedings and is either a Court of Indian Offenses, a court established and operated under code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings.

(93) "Urgent medical need" means the onset of psychiatric symptoms requiring professional attention within 48 hours to prevent a serious deterioration in a child or young adult's mental or physical condition.

(94) "Visit" means planned, in-person contact between the child or young adult and one or more family members.

(95) "Voluntary proceeding" means any action in which a parent or Indian custodian has voluntarily given custody of his or her child to another and such voluntary action does not prohibit the parent or Indian custodian from regaining custody of the child at any time.

(96) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419A.004

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 13-2000, f. & cert. ef. 7-7-00; CWP 12-2015, f. & cert. ef. 7-17-15; CWP 17-2015, f. 9-28-15, cert. ef. 10-1-15; CWP 22-2015, f. & cert. ef. 10-6-15

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Rule Caption: Specifying Differential Response implementation dates for additional counties

Adm. Order No.: CWP 23-2015(Temp)

Filed with Sec. of State: 10-12-2015

Certified to be Effective: 10-12-15 thru 4-8-16

Notice Publication Date:

Rules Amended: 413-015-9000

Subject: The Department of Human Services, Office of Child Welfare Programs, is adopting temporary amendments to OAR 413-015-9000 relating to Oregon's Differential Response (DR) system. DR is an approach to child protection that promotes partnering with parents, family, communities, and neighborhoods to keep children safe. Oregon began implementation of DR on a county-by-county basis in May 2014. The temporary amendments specify DR implementation dates for additional counties, specifically:

- November 2, 2015 for Jackson and Josephine;
- November 16, 2015, for Coos and Curry;
- December 1, 2015, for Clackamas .

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 (l) 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) Clackamas County, effective December 1, 2015.

(c) Coos County, effective November 16, 2015.

(d) Curry County, effective November 16, 2015.

(e) Jackson, effective November 2, 2015.

(f) Josephine, effective November 2, 2015.

(g) Klamath County, effective May 27, 2014.

(h) Lake County, effective May 27, 2014.

(i) Lane County, effective May 29, 2014.

(j) Lincoln County, effective April 6, 2015.

(k) Linn County, effective April 6, 2015.

(l) 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, 409.027, 409.050, 409.185, 418.005, 418.015, 418.580, 418.598, 419B.020

Hist.: CWP 10-2014, f. 5-20-14, cert. ef. 5-27-14; CWP 10-2015, f. & cert. ef. 4-1-15; CWP 23-2015(Temp), f. & cert. ef. 10-12-15 thru 4-8-16

Department of Human Services, Self-Sufficiency Programs
Chapter 461

Rule Caption: Amending rules relating to the Employment Related Day Care (ERDC) program

Adm. Order No.: SSP 23-2015

Filed with Sec. of State: 9-28-2015

Certified to be Effective: 10-1-15

Notice Publication Date: 8-1-2015

Rules Amended: 461-135-0400, 461-135-0415, 461-140-0110, 461-150-0060, 461-155-0150, 461-155-0180, 461-170-0011, 461-170-0101, 461-170-0102, 461-170-0103, 461-170-0104, 461-175-0280, 461-180-0006

Subject: The Department of Human Services, Office of Self-Sufficiency Programs, is amending rules to implement provisions of the Child Care Development Block Grant (CCDBG) Act of 2014 and Oregon Laws 2015, chapter 698 (HB 2015). Specifically:

OAR 461-135-0400 relating to specific ERDC requirements is being amended to allow child care eligibility for families who receive self-employment income and to state that a filing group who is not willing to provide verification of immunization is eligible for a child care payment for not more than twelve months, unless child care continues due to loss of employment under OAR 461-160-0040(5).

OAR 461-135-0415 about the requirement to make copayments or satisfactory arrangements in the ERDC program is being amended to state that the caretaker is responsible for paying the copayment to the primary child care provider unless the Child Care Billing form was sent to the provider showing no copayment.

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

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

OAR 461-155-0150 about child care eligibility standards, payment rates, and copayments is being amended to:

- State that at initial certification, the eligibility standard is less than 185 percent of the federal poverty level (FPL);
- State that during the certification period and at recertification, the eligibility standard is 85 percent of the state median income (SMI) or 250% of the FPL, whichever is higher;
- Allow employed caretakers to add education hours to the authorized work hours;
- Amend subsection (8)(b) which states that for a client who earns less than minimum wage, the total number of payable child care hours may not exceed 125 percent of the anticipated earnings divided by the state minimum wage. This limitation will no longer be waived for the first three months of the client's employment; and
- Allow a client to obtain child care in excess of 215 hours per month if necessary to perform training required to keep current employment.

OAR 155-0180 about income standards is being amended to add a monthly income standard set at 250 percent of the 2015 federal poverty level and 85 percent of the 2015 state median income.

OAR 461-170-0011 about changes that must be reported is being amended to update reporting requirements for clients in the ERDC program.

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

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

- OAR 461-170-0102, Required Reports for the Simplified Reporting System (SRS) — Interim Change Report; ERDC, SNAP
- OAR 461-170-0103, Actions Resulting From Changes in Household Circumstances; Simplified Reporting System (SRS); ERDC, SNAP Notice Situations
- OAR 461-170-0104, Failure to Submit Interim Change Report; Simplified Reporting System (SRS); ERDC, SNAP
- OAR 461-175-0280, Notice Situation; Failure to Submit Report for SRS or ERDC Reapplication
- OAR 461-180-0006, Effective Dates; Changes in the Simplified Reporting System (SRS); ERDC, SNAP

Other non-substantive edits were made to update statutory and rule references; correct formatting and punctuation; improve ease of reading; and clarify Department rules and processes.

Rules Coordinator: Kris Skaro—(503) 945-6067

461-135-0400
Specific Requirements; ERDC

(1) The Department makes payments for child care, including care covered by the ERDC program, subject to the provisions of division 165 of this chapter of rules.

(2) To be eligible for ERDC, a filing group (see OAR 461-110-0350) must meet the requirements of all of the following subsections:

(a) At least one caretaker (see OAR 461-001-0000) must receive income from employment. This includes self-employment (see OAR 461-145-0910) and employment through a work study program.

(b) The filing group must include a child (see OAR 461-001-0000) who needs child care.

(c) The filing group must have an allowable child care need as described in OAR 461 160 0040. If there are two adults required to be in the filing group, and one of the adults is unemployed, the unemployed adult is considered available to provide child care, making the filing group ineligible, except in the following situations:

(A) The unemployed adult is physically or mentally unable to provide adequate child care. This must be verified (see OAR 461-125-0830).

(B) The unemployed adult is unavailable to provide child care while participating in the requirements of a case plan (see OAR 461-001-0025) other than requirements associated with post-secondary education.

(d) The filing group must use a child care provider who meets the requirements in OAR 461-165-0160 and 461-165-0180.

(e) The child needing child care must meet the citizenship or alien status requirements of OAR 461-120-0110.

(3) A filing group not willing to obtain a Certificate of Immunization Status for the child is not eligible for a child care payment for more than twelve calendar months, or longer if child care continues under OAR 461-160-0040(5).

(4) The child care must be necessary to enable the caretaker to remain employed, including self-employed.

(5) A filing group is not eligible for child care when the caretaker or parent (see OAR 461-001-0000) in the filing group receives a grant for child care from the Oregon Student Assistance Commission for any month the grant is intended to cover, regardless of when the grant is received.

Stat. Auth.: ORS 409.050, 411.060, 411.070, OL 2015, ch. 698
Stats. Implemented: ORS 409.010, 409.050, 409.610, 411.060, 411.070, 411.122, 411.141, 418.485, OL 2015 ch. 698
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 35-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 4-2009(Temp), f. 3-11-09, cert. ef. 4-1-09 thru 9-28-09; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 27-2009, f. & cert. ef. 9-29-09; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 34-2010(Temp), f. & cert. ef. 10-1-10 thru 3-30-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 7-2011(Temp), f. & cert. ef. 2-16-11 thru 8-15-11; SSP 9-2011(Temp), f. & cert. ef. 3-22-11 thru 8-15-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15

461-135-0415
Requirement to Make Copay or Satisfactory Arrangements; ERDC

In the ERDC program:

(1) The caretaker is responsible for paying the copayment to the primary provider of child care unless the Child Care Billing form was sent to the provider showing no copayment.

(2) If the client has only one provider during a month, that provider is the primary provider. If the client uses more than one provider, the client must designate one as the primary provider. Notwithstanding any designation by the client, the Department considers a provider having the copayment amount (not to exceed the client's established copayment amount) deducted from its valid billing statement the primary provider for that period.

(3) If the copayment exceeds the amount billed by the primary provider, the Department may treat a different provider as the primary provider or split the copayment among the providers who bill for care.

(4) The copayment amount due from the caretaker to the provider is the lesser of:

(a) The copayment amount determined by the Department based on family size and income.

(b) The total amount allowed by the Department on a provider claim.

(5) A client who fails to pay a copayment to or to make satisfactory arrangements with the primary provider is ineligible for ERDC if the provider notifies the Department of an overdue copayment within 60 days after the Department issues payment for the month at issue. The period of ineligibility ends under any of the following circumstances:

(a) On the first day of the month in which the client makes the copayment or makes satisfactory arrangements with the provider.

(b) On the first day of the month after three years have lapsed from the date the client failed to make the copayment.

(c) On the first day of the month in which the client provides verification that the copayment debt was discharged by a bankruptcy filing.

(6) The Department will make the payment to a provider if a Child Care Billing form is mailed to the provider prior to the notification described in section (5) of this rule.

Stat. Auth.: ORS 409.050, 409.610, 411.060, 411.070, 411.122
Stats. Implemented: ORS 409.050, 409.610, 411.060, 411.070, 411.122
Hist.: AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15

461-140-0110
Treatment of Periodic Income

(1) For SNAP and TANF clients in a filing group (see OAR 461-110-0310) that includes at least one member who is working under a TANF JOBS Plus agreement, periodic income (see OAR 461-001-0000) is excluded.

(2) For REF, REFM, SNAP, and TANF clients not covered under section (1) of this rule, periodic income is averaged over the applicable period.

(3) In the ERDC program, periodic income is averaged over the applicable period.

(4) In the OSIP-EPD and OSIPM-EPD programs, periodic income received during a certification period (see OAR 461-001-0000) is averaged among the months in the certification period.

(5) In all programs not covered under sections (1) to (4) of this rule, periodic income is counted in the month received.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685
Stats. Implemented: ORS 409.010, 409.050, 409.610, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15

461-150-0060
Prospective or Retrospective Eligibility and Budgeting; ERDC, REF, REFM, SNAP, TANF

In the ERDC, REF, REFM, SNAP, and TANF programs, the Department determines how and when to use prospective or retrospective eligibility (see OAR 461-001-0000) and budgeting (see OAR 461-001-0000) as follows:

(1) For the initial month (see OAR 461-001-0000):

(a) In the ERDC program, income is budgeted so the anticipated amount is the same for each month, including the initial month.

(b) For a SNAP case in CRS, the Department uses "actual income" (see subsection (h) of this section) in the initial month.

(c) For a SNAP program case in SRS, "actual income" is used in the initial month if that income is not reflective of ongoing monthly income

due to a new or terminated source or a significant change in ongoing income. All other income is processed under section (3) of this rule.

(d) In the REF and TANF programs, ongoing income, processed under section (2) of this rule, is used in the initial month, except when the source of income is a new or terminated source. When there is a new or terminated source of income, "actual income" is used in the initial month.

(e) In the REFM program, the Department uses only the initial month for eligibility and budgeting.

(f) The Department uses prospective eligibility and budgeting under OAR 461-150-0020 for cases not covered under subsections (a) to (e) of this section, including for an individual who leaves a filing group (see OAR 461-110-0310) because of domestic violence (see OAR 461-001-0000) and enters a domestic violence shelter (see OAR 461-001-0000) or safe home (see OAR 461-001-0000).

(g) No supplement is issued based on incorrectly anticipated information.

(h) "Actual income" means income already received in the initial month plus all the income that reasonably may be expected to be received within the initial month.

(2) Income is budgeted so that the anticipated amount is the same for each month. The type of income is determined and calculated as follows:

(a) Income that must be annualized is calculated under OAR 461-150-0090 to arrive at a monthly figure.

(b) Educational income (see OAR 461-145-0150) is assigned to the months it is intended to cover, regardless of when it is received. The income is prorated over these months.

(c) Ongoing stable income (see OAR 461-001-0000) is anticipated under OAR 461-150-0070.

(d) Ongoing variable income (see OAR 461-001-0000) is anticipated under OAR 461-150-0080.

(e) Periodic income (see OAR 461-001-0000) is anticipated under OAR 461-140-0110.

(f) Lump-sum income (see OAR 461-001-0000) is anticipated under OAR 461-140-0120.

(3) For an ongoing month (see OAR 461-001-0000):

(a) For a benefit group (see OAR 461-110-0750), the Department uses prospective eligibility and budgeting. The type of income is determined and calculated under section (2) of this rule.

(b) If the budgeting method changes from prospective to retrospective, the Department treats income from a terminated source that was counted prospectively as follows:

(A) If the actual amount received was less than or equal to the anticipated amount, the income is excluded.

(B) If the actual amount received was greater than the anticipated amount, the Department counts the difference between actual and anticipated amounts.

(4) When an individual is added to an ongoing filing and benefit group, prospective budgeting is used to determine eligibility.

(5) In the SNAP program, income reported on the Interim Change Report form under OAR 461-170-0011 and 461-170-0102 is used to determine eligibility and benefit level. Income for the fifth month of the SNAP program certification period (see OAR 461-001-0000) is used to determine the income for the seventh and following months in the certification period if the individual anticipates the income will remain the same throughout the period. If the individual anticipates the income will change, the individual and the Department jointly estimate the income for the remaining months of the certification period. For an individual who had self-employment income annualized, no change is made unless there is a substantial change in the revenue of the business.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.049

Stats. Implemented: ORS 409.010, 409.050, 409.610, 411.060, 411.070, 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 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 13-2013, f. & cert. ef. 7-1-13; 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 23-2015, f. 9-28-15, cert. ef. 10-1-15

461-155-0150

Child Care Eligibility Standard, Payment Rates, and Copayments

The following provisions apply to child care in the ERDC, JOBS, JOBS Plus, and TANF programs:

(1) The following definitions apply to the rules governing child care rates:

(a) Infant: For all providers other than licensed (registered or certified) care, a child aged newborn to 1 year. For licensed care, an infant is a child aged newborn to 2 years.

(b) Toddler: For all providers other than licensed (registered or certified) care, a child aged 1 year to 3 years. For licensed care, a toddler is a child aged 2 years to 3 years.

(c) Preschool: A child aged 3 years to 6 years.

(d) School: A child aged 6 years or older.

(e) Special Needs: A child who meets the age requirement of the program (ERDC or TANF) and who requires a level of care over and above the norm for his or her age due to a physical, behavioral, or mental disability. The need for a higher level of care must be determined by the provider and the disability must be verified by one of the following:

(A) A physician, nurse practitioner, clinical social worker, or any additional sources in OAR 461-125-0830.

(B) Eligibility for Early Intervention and Early Childhood Special Education Programs, or school-age Special Education Programs.

(C) Eligibility for SSI.

(2) The following definitions apply to the types of care specified in the child care rate charts in subsections (4)(a) through (4)(c) of this rule:

(a) The Standard Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider does not qualify for the enhanced rate allowed by subsection (b) of this section.

(b) The Enhanced Family Rate applies to child care provided in the provider's own home or in the home of the child when the provider meets the training requirements of the Oregon Registry, established by the Oregon Center for Career Development in Childhood Care and Education.

(c) The Registered Family Rate applies to child care provided in the provider's own home when the provider meets criteria established by the Office of Child Care.

(d) The Certified Family Rate applies to child care provided in a residential dwelling that is certified by the Office of Child Care as a Certified Family Home. To earn this designation, the facility must be inspected, and both provider and facility are required to meet certain standards not required of a registered family provider.

(e) The Standard Center Rate applies to child care provided in a facility that is not located in a residential dwelling and is exempt from Office of Child Care Certification rules (see OAR 414-300-0000).

(f) The Enhanced Center Rate applies to child care provided in an exempt center whose staff meet the training requirements of the Oregon Registry established by the Oregon Center for Career Development in Childhood Care and Education. Eligibility to receive the enhanced center rate for care provided in an exempt center is subject to the following requirements:

(A) A minimum of one staff member for every 20 children in care must meet the Oregon Registry training requirements noted in subsection (b) of this section.

(B) New staff must meet the Oregon Registry training requirements within 90 days of hire, if necessary to maintain the trained staff-to-children ratio described in paragraph (A) of this subsection.

(C) There must be at least one person present where care is provided who has a current certificate in infant and child CPR and a current American Red Cross First Aid card or an equivalent.

(g) An enhanced rate will become effective not later than the second month following the month in which the Department receives verification that the provider has met the requirements of subsection (b) or (f) of this section.

(h) The Certified Center Rate applies to child care provided in a center that is certified by the Office of Child Care.

(3) The following provisions apply to child care payments:

(a) Providers not eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 158 hours per month subject to the maximum full-time monthly rate.

(b) Providers eligible for the enhanced or licensed rate will be paid at an hourly rate for children in care less than 136 hours a month, unless the provider customarily bills all families at a part-time monthly rate subject to the maximum full-time monthly rate and is designated as the primary provider for the case.

(c) At their request, providers eligible for the enhanced or licensed rate may be paid at the part-time monthly rate if they provide 63 or more hours of care in the month, customarily bill all families at a part-time monthly rate, and are designated as the primary provider for the case.

(d) Unless required by the circumstances of the client or child, the Department will not pay for care at a part-time monthly or a monthly rate to more than one provider for the same child for the same month.

(e) The Department will pay at the hourly rate for less than 63 hours of care in the month subject to the maximum full-time monthly rate.

(f) The Department will pay for up to five days each month the child is absent if:

(A) The child was scheduled to be in care and the provider bills for the amount of time the child was scheduled to be in care; and

(B) It is the provider's policy to bill all families for absent days.

(g) The Department will not pay for more than five consecutive days of scheduled care for which the child is absent.

(4) The following are the child care rates based on the type of provider, the location of the provider (shown by zip code), the age of the child, and the type of billing used (hourly or monthly):

(a) [Tables not included. See ED. NOTE.]

(b) [Tables not included. See ED. NOTE.]

(c) [Tables 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) At initial certification, the ERDC eligibility standard is met for a need group (see OAR 461-110-0630) of eight or less if monthly countable income (see OAR 461-001-0000) for the need group is less than 185 percent of the federal poverty level (FPL), as described in OAR 461-155-0180(6). The eligibility standard for a need group of eight applies to any need group larger than eight.

(b) During the certification period (see OAR 461-001-0000) and at recertification the ERDC eligibility standard is met for a need group of eight or less if monthly countable income for the need group during the 12 month period is less than 85 percent state median income (SMI) or 250 percent FPL, whichever is higher, as described in OAR 461-155-0180(8) and (9). The eligibility standard for a need group of eight applies to any need group larger than eight.

(c) The minimum monthly ERDC copay is $25.

(d) For a filing group (see OAR 461-110-0310) whose countable income is at or below 50 percent of the 2007 FPL, the copay is $25 or 1.5 percent of the filing group's monthly countable income, whichever is greater.

(e) For a filing group whose countable income is over 50 percent of the 2007 FPL, the copay amount is determined with the following percentage of monthly income:

(A) Divide the filing group's countable income by the 2007 FPL, drop all digits beyond two decimal points, subtract 0.5, and multiply this difference by 0.12.

(B) Add .015 to the amount in paragraph (A) of this subsection. This sum is the percentage of monthly income used to determine the copay amount. Multiply this sum by the filing group's countable income and round to the nearest whole dollar.

(f) The 2007 federal poverty level used to determine copay amounts under subsections (d) and (e) 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 the amounts in paragraphs (A) or (B) of this subsection:

(A) 125 percent of the number of child care hours authorized:

(i) Under OAR 461-160-0040(2) and (5); or

(ii) 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.

(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).

(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.

(d) In the ERDC program, employed caretakers eligible under OAR 461-135-0400 may have education hours added to the authorized work hours. Education hours may not exceed authorized work hours and combined hours may not exceed 215 hours per month. Education hours are hours required to participate in coursework that leads to a certificate, degree, or job-related knowledge or skills attainment at an institution of higher education approved to receive federal financial aid.

(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 required to keep current employment, not including self-employment. 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.

(11) The payment available for care of a child who meets the special needs criteria described in subsection (e) of section (1) of this rule is increased in accordance with OAR 461-155-0151 if the requirements of both of the following subsections are met:

(a) The child requires significantly more direct supervision by the child care provider than normal for a child of the same age.

(b) The child is enrolled in a local school district Early Intervention or Early Childhood Special Education program or school-age Special Education Program. The enrollment required by this subsection is waived if determined inappropriate by a physician, nurse practitioner, licensed or certified psychologist, clinical social worker, or school district official.

(12) Starting May 1, 2012:

(a) The minimum monthly ERDC copay is $27.

(b) Except as stated in subsection (a) of this section, the Department adds 10 percent to the monthly client copay amount set under section (5) of this rule by multiplying the copay amount by 1.1 and rounding down to the nearest whole dollar.

(13) A provider caring for a child in a contracted child care slot with the Department will be paid the lesser of the monthly rate provided in section (4) of this rule or the amount charged by the provider.

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

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.049, OL 2015, ch. 698

Stats. Implemented: ORS 409.010, 409.050, 409.610, 411.060, 411.070, 411.122, 411.141, 412.006, 412.049, 418.485, OL 2015, ch. 698

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 4-1992, f. 2-28-92, cert. ef. 3-1-92; AFS 14-1992, f. & cert. ef. 6-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 10-1993, f. & cert. ef. 6-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 9-1994, f. 4-29-94, cert. ef. 5-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 23-1995, f. 4-20-95, cert. ef. 10-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 4-2000(Temp), f. 2-29-00, cert. ef. 3-1-00 thru 8-25-00; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 2-2003(Temp); f. & cert. ef. 2-7-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 24-2003(Temp), f. & cert. ef. 10-1-03 thru 12-31-03; SSP 35-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 35-2003(Temp), f. 12-31-03 cert. ef. 1-1-04 thru 3-31-04; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 7-2006(Temp), f.

3-31-06, cert. ef. 4-1-06 thru 9-28-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 4-2009(Temp), f. 3-11-09, cert. ef. 4-1-09 thru 9-28-09; SSP 27-2009, f. & cert. ef. 9-29-09; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 13-2012(Temp), f. & cert. ef. 4-10-12 thru 10-7-10; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 31-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 35-2013, f. & cert. ef. 11-1-13 thru 3-30-14; SSP 8-2014, f. & cert. ef. 3-31-14; SSP 14-2015(Temp), f. & cert. ef. 3-23-15 thru 9-18-15; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15

461-155-0180
Income Standards; Not OSIP, OSIPM, QMB

(1) A Department program may cite this rule if the program uses a monthly income standard based on the federal poverty level or state median income.

(2) A monthly income standard set at 100 percent of the 2014 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(3) A monthly income standard set at 133 percent of the 2014 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(4) A monthly income standard set at 150 percent of the 2014 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(5) A monthly income standard set at 163 percent of the 2014 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(6) A monthly income standard set at 185 percent of the 2015 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(7) A monthly income standard set at 200 percent of the 2014 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(8) A monthly income standard set at 250 percent of the 2015 federal poverty level is set at the following amounts: [Table not included. See ED. NOTE.]

(9) A monthly income standard set at 85 percent of the 2015 state median income is set at the following amounts: [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.
Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.014, 412.049
Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.816, 412.014, 412.049
Hist.: SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 1-2007, f. & cert. ef. 1-24-07; SSP 1-2008(Temp), f. & cert. ef. 1-24-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 1-2009, f. & cert. ef. 1-27-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 4-2010, f. & cert. ef. 3-31-10; SSP 25-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 1-2011(Temp), f. & cert. ef. 1-20-11 thru 7-19-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 2-2012, f. & cert. ef. 1-25-12; SSP 3-2013, f. & cert. ef. 1-30-13; SSP 5-2013(Temp), f. & cert. ef. 2-1-13 thru 7-31-13; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 22-2013(Temp), f. & cert. ef. 8-23-13 thru 2-19-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 2-2014, f. 1-31-14, cert. ef. 2-1-14; SSP 7-2015, f. 1-30-15, cert. ef. 2-1-15; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15

461-170-0011
Changes That Must Be Reported

(1) A change in employment status is considered to occur as follows:

(a) For a new job, the change occurs the first day of the new job.

(b) For a job separation, the change occurs on the last day of employment.

(2) A change in source of income is considered to occur as follows:

(a) For earned income, the change occurs upon the receipt by the individual of the first paycheck from a new job or the first paycheck reflecting a new rate of pay.

(b) For unearned income, the change occurs the day the individual receives the new or changed payment.

(3) An individual must report, orally or in writing, the following changes:

(a) In the ERDC program, an individual must report the following changes within 10 days of occurrence:

(A) A change in child care provider.

(B) A change in employment status.

(C) A change in mailing address or residence.

(D) A change in membership of the filing group (see OAR 461-110-0350).

(E) A member of the filing group is discharged from the U.S. military and returning from active duty in a military war zone.

(F) A change in income above the ERDC income limit as defined in OAR 461-155-0150(5)(b) that is expected to continue.

(b) In the SNAP program:

(A) An individual assigned to CRS must report any of the following changes within 10 days of occurrence:

(i) A change in earned income of more than $100.

(ii) A change in unearned income of more than $50.

(iii) A change in source of income.

(iv) A change in membership of the filing group (see OAR 461-110-0370) and any resulting change in income.

(v) A change in residence and the shelter costs in the new residence.

(vi) A change in the legal obligation to pay child support.

(vii) When the sum of cash on hand, stocks, bond, and money in a bank or savings institution account reaches or exceeds program resource limits.

(viii) Acquisition or change in ownership of a non-excluded vehicle.

(B) An individual assigned to SRS must report when the monthly income of the filing group exceeds the SNAP countable (see OAR 461-001-0000) income limit by the tenth day of the month following the month of occurrence.

(C) An individual assigned to TBA is not required to report any changes.

(c) For JPI (see OAR 461-135-1260), an individual must follow the same reporting requirements as a SNAP client assigned to CRS, SRS, or TBA reporting systems (see OAR 461-170-0010).

(d) In the GA, GAM, OSIP, OSIPM, and QMB programs, an individual must report all changes that may affect eligibility (see OAR 461-001-0000) within 10 days of occurrence, including any of the following changes:

(A) A change in employment status.

(B) A change in health care coverage.

(C) A change in membership of the household group (see OAR 461-110-0210).

(D) A change in marital status.

(E) A change in residence.

(F) A change in resources.

(G) A change in source or amount of income.

(e) In the REF, SFPSS, and TANF programs, an individual assigned to CRS must report any of the following changes within 10 days of occurrence:

(A) Acquisition or change in ownership of a non-excluded vehicle.

(B) A change in earned income more than $100.

(C) A change in employment status.

(D) A change in membership of the household group (see OAR 461-110-0210).

(E) A change in marital status or other changes in membership of the filing group.

(F) A change in mailing address or residence.

(G) A change in pregnancy status of any member of the filing group.

(H) A change in source of income.

(I) A change in unearned income more than $50.

(J) A change in who pays the shelter costs if the costs will be paid by a non-custodial parent.

(K) Sale or receipt of a resource that causes total resources to exceed program resource limits.

(f) In the REFM program, an individual must report the following changes within 10 days of occurrence:

(A) A change in membership of the household group (see OAR 461-110-0210).

(B) A change in residence.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.081, 411.404, 411.704, 411.706, 411.816, 411.825, 412.014, 412.049, 413.085, 414.685, 414.826
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1992, f. & cert. ef. 5-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-18-98, cert. ef. 1-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 24-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03; SPP 20-2003, f. & cert. ef. 8-15-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; Renumbered from 461-170-0015, 461-170-0020, 461-170-0025, 461-170-0030, 461-170-0035 by SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 7-2010(Temp), f. & cert. ef. 4-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12;

SSP 10-2012, f. 3-29-12, cert. ef. 3-30-12; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 14-2014(Temp), f. & cert. ef. 6-26-14 thru 12-23-14; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15

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

In the SNAP program:

(1) OAR 461-170-0101 to 461-170-0104 establish and explain the Simplified Reporting System (SRS).

(2) A filing group (see OAR 461-110-0370) certified to receive SNAP program benefits for less than six months may not participate in SRS.

(3) A filing group with a member working under a JOBS Plus agreement may not participate in SRS.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.049
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 412.049
Hist.: SSP 20-2003, f. & cert. ef. 8-15-03; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 1-2015(Temp), f. & cert. ef. 1-1-15 thru 6-29-15; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15

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

In the SNAP program:

(1) During the sixth month of a certification period (see OAR 461-001-0000), an individual participating in SRS and certified for benefits for longer than six months must submit to the Department, on a form designated by the Department, an Interim Change Report of household circumstances, unless the household has no earned income and each adult member is elderly (see OAR 461-001-0015) or an individual with a disability (see OAR 461-001-0015).

(2) The required Interim Change Report form is considered complete when it is received by the Department by the last day of the sixth month of the certification period and:

(a) The individual completely and accurately answers all questions necessary to determine eligibility (see OAR 461-001-0000) and benefit amounts;

(b) The individual provides all required verification; and

(c) The form contains the signature of the primary person (see OAR 461-001-0015) or the authorized representative (see OAR 461-001-0000 and 461-115-0090).

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.081, 411.087, 411.816
Hist.: SSP 20-2003, f. & cert. ef. 8-15-03; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15

461-170-0103
Actions Resulting From Changes in Household Circumstances; Simplified Reporting System (SRS); SNAP

In the SNAP program, benefits may be changed for an individual using SRS — based on information obtained other than through the Interim Change Report — only as follows:

(1) The benefit level is increased if the information demonstrates the individual is eligible for greater benefits.

(2) The benefits are closed or reduced if any of the following subsections apply:

(a) The household requests a closure of benefits.

(b) The action is based on information that is verified upon receipt. Information is considered verified upon receipt if:

(A) It is not questionable and the individual making the report has first-hand knowledge of the information reported; or

(B) Verification is provided with the reported change in accordance with OAR 461-115-0651.

(c) The individual reports information that results in loss of eligibility (see OAR 461-001-0000).

(d) The individual reports financial group (see OAR 461-110-0530) income exceeding the SNAP program countable (see OAR 461-001-0000) income limit.

(3) The Department acts on information reported through computer matches when the Interim Change Report is processed, when the individual is recertified, or when the monthly match with the Department of Corrections indicates a member is incarcerated.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.081, 411.816, 411.825, 411.837
Hist.: SSP 20-2003, f. & cert. ef. 8-15-03; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15

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

In the SNAP program:

(1) If the Department does not receive a complete Interim Change Report by the last day of the sixth month of the certification period (see OAR 461-001-0000), benefits for the seventh month of the certification period are suspended. If the Interim Change Report is not received during the month of suspension, the individual is ineligible for that month.

(2) If a completed Interim Change Report is received by the last day of the seventh month, it is used to determine eligibility (see OAR 461-001-0000) and benefit level for the seventh and remaining months of the certification period.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.081, 411.816, 411.825, 411.837
Hist.: SSP 20-2003, f. & cert. ef. 8-15-03; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15

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

(1) In the ERDC program, the Department sends a continuing benefit decision notice (see OAR 461-001-0000) to close benefits when the benefit group (see OAR 461-110-0750) fails to return the reapplication form. The case is closed on the last day of the last month of the certification period (see OAR 461-001-0000).

(2) In the SNAP program, the Department sends a continuing benefit decision notice when a benefit group in Simplified Reporting System (SRS) fails to return the Interim Change Report by the 10th day of the sixth month of the certification period. The notice informs the benefit group that:

(a) The report was not received by the Department by the 10th day of the sixth month in the certification period.

(b) The benefit group has until the end of the sixth month of the certification period to provide the report to receive benefits for the seventh month of the certification period.

(c) If the report is not received by the Department by the last day of the sixth month of the certification period, SNAP program benefits will be suspended effective the last day of the sixth month.

(d) The SNAP program case remains in suspended status for a month and then is closed.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.095, 411.816
Stats. Implemented: ORS 409.010, 409.050, 409.610, 411.060, 411.070, 411.087, 411.095, 411.816, 411.825, 411.837
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1992, 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 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15

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

In the SNAP program:

(1) The effective date of a change based on an Interim Change Report is:

(a) The first day of the seventh month of the certification period (see OAR 461-001-0000); or

(b) If the change causes benefits to close, the last day of the sixth month of the certification period.

(2) The effective date of a change not based on an Interim Change Report is as follows:

(a) For a change resulting in an increase in benefits, the effective date is determined in accordance with OAR 461-180-0010 and 461-180-0020.

(b) For a change resulting in a decrease in benefits, the effective date for reducing benefits is the first of the month following the month in which the decision notice period ends.

(c) For a change resulting in a closure of benefits, the effective date is the last day of the month in which the notice period ends.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837
Hist.: SSP 20-2003, f. & cert. ef. 8-15-03; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15

Rule Caption: Amending rules relating to the REF (Refugee) and REFM (Refugee Medical) programs
Adm. Order No.: SSP 24-2015
Filed with Sec. of State: 9-29-2015
Certified to be Effective: 10-1-15
Notice Publication Date: 8-1-2015
Rules Amended: 461-110-0530, 461-115-0050, 461-115-0071, 461-115-0150, 461-115-0430, 461-120-0010, 461-130-0310, 461-130-0328, 461-130-0335, 461-135-0900
Subject: Rules governing the Refugee (REF) and Refugee Medical (REFM) programs are being amended throughout chapter 461 to update program requirements and make amendments to comply with an Office of Refugee Resettlement (ORR) review of Oregon's REF program. Specifically:

- OAR 461-110-0530 about financial groups is being amended to remove the caretaker relative language as it relates to REF and REFM financial groups;
- OAR 461-115-0050 about when an application must be filed is being amended to remove REF and REFM from the section relating to the application process for newborns;
- OAR 461-115-0071 about who must sign and complete the application process is being amended to create a new section for the REF and REFM programs that does not include language relating to caretaker relatives;
- OAR 461-115-0150 about where clients must apply is being amended to require refugees who meet certain requirements to apply for REF and REFM at local refugee resettlement agencies;
- OAR 461-115-0430 about periodic redeterminations is being amended to state that, as a limited-duration program, there are no periodic redeterminations required in the REF and REFM programs;
- OAR 461-120-0010 about residency requirements is being amended to state that in the REF program, an individual is considered a resident if the individual entered Oregon with a job commitment or is looking for work, and is not receiving benefits from another state;
- OAR 461-130-0310 about participation classifications is being amended to remove REF from programs that include a caretaker relative who is mandatory to participate in the JOBS program;
- OAR 461-130-0328 about the effect of strikes is being amended to separate REF from the reference to a parent;
- OAR 461-130-0335 about removing disqualifications and effect on benefits is being amended to state that in the REF program, a filing group is not subject to the impact of a disqualification when a disqualified member has left the household group and that if that disqualified member joins another filing group, that group is subject to the member's most recent disqualification; and
- OAR 461-135-0900 about requirements in the REF and REFM programs is being amended to allow a benefit group who is receiving REFM benefits, but no longer meets the filing group definition of REFM, to continue to receive REFM for the remainder of their eight months if a newborn is added and the group was determined ineligible for any of the medical programs administered by OHA.

In addition, non-substantive edits were made to: ensure consistent terminology throughout self-sufficiency program rules and policies; make general updates consistent with current Department practices; update statutory and rule references; correct formatting and punctuation; remove unnecessary language; improve ease of reading; and clarify Department rules and processes.
Rules Coordinator: Kris Skaro—(503) 945-6067

461-110-0530
Financial Group

(1) Except as provided in section (4) of this rule, the "financial group" consists of the filing group (see OAR 461-110-0310) members whose income and resources the Department considers in determining eligibility (see 461-001-0000) and benefits.

(2) In the ERDC, GA, OSIPM-EPD, QMB, and SNAP programs, the "financial group" consists of each individual in the filing group.

(3) In the REF and REFM programs, the "financial group" consists of each individual in the filing group, except an individual who is eligible for and receives an SSI cash payment.

(4) In the OSIPM (except OSIPM-EPD) program:

(a) For the purposes of this section of this rule, "ineligible" means an individual not eligible to receive either SSI or TANF program benefits.

(b) When an individual lives in a standard living arrangement (see OAR 461-001-0000):

(A) Except as provided in paragraph (B) of this subsection, each member of the filing group is in the "financial group".

(B) When an individual, whose eligibility is not determined under certain protected groups (see OAR 461-135-0771 to 461-135-0830), is married, not assumed eligible (see 461-135-0010) for OSIPM, and the individual's spouse (see 461-001-0000) is considered "ineligible" (see subsection (a) of this section):

(i) If the individual's adjusted income (see OAR 461-001-0000) using the deductions allowed under 461-160-0550(4) is greater than the OSIPM program adjusted income standard for a need group of one under 461-155-0250, the individual is in his or her own "financial group" and not eligible for OSIPM.

(ii) When there are children in the home, if the ineligible spouse's remaining countable (see OAR 461-001-0000) income after allocation (see 461-160-0551) to each ineligible child is equal to or less than the difference between the couple and the individual SSI standards: the spouse is not included in the "financial group" when determining income eligibility; however, the spouse is included in the "financial group" when determining resource eligibility.

(iii) When there are no children in the home, if the ineligible spouse's countable income is less than the difference between the couple and the individual SSI standards: the spouse is not included in the "financial group" when determining income eligibility; however, the spouse is included in the "financial group" when determining resource eligibility.

(c) When an individual lives in a nonstandard living arrangement (see OAR 461-001-0000), the "financial group" consists only of the individual applying for benefits, except that the community spouse (see OAR 461-001-0030) is included in the "financial group" to determine initial eligibility. At initial eligibility, the resources of the community spouse are considered and the provisions of 461-160-0580 apply. The income of the community spouse is not considered in determining initial eligibility, and the community spouse is not included in any other eligibility group.

(5) In the TANF program, the "financial group" consists of each individual in the filing group except the following:

(a) A caretaker relative, other than a parent, who chooses not to be included in the need group and has income less than the non-needy countable income limit standard (see OAR 461-155-0030) for the filing group of the caretaker relative;

(b) The spouse of a caretaker relative, when the caretaker relative meets the requirements under subsection (a) of this section;

(c) A dependent child of a caretaker relative when the caretaker relative meets the requirements under subsection (a) of this section;

(d) An individual in the filing group solely due to the requirements of OAR 461-110-0310(2)(b); and

(e) An individual who is eligible for and receives an SSI cash payment.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.049, 412.064, 412.124, 414.712
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 412.064, 412.124, 414.712, 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 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; 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 17-2008, f. & cert. ef. 7-1-08; SSP 8-2009(Temp), f. 4-20-09, cert. ef. 5-1-09 thru 10-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 14-2009(Temp), f. & cert. ef. 7-1-09 thru 10-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; 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 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 16-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 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 24-2015, f. 9-29-15, cert. ef. 10-1-15

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 OAR 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 OAR 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 TANF program:

(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 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, 411.706, 411.816, 412.049, 413.085, 414.025, 414.685

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.117, 411.404, 411.704, 411.706, 411.816, 412.049, 413.085, 414.025, 414.041, 414.231, 414.685, 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; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15

461-115-0071
Who Must Sign the Application and Complete the Application Process

(1) In the ERDC and TANF programs, the following individuals must sign the application and complete the application process:

(a) In the ERDC program, a caretaker (see OAR 461-001-0000).

(b) In the TANF program, at least one caretaker relative (see OAR 461-001-0000).

(2) In the EA program:

(a) A caretaker relative must sign the application and complete the application process for a child (see OAR 461-001-0000). If the child is not living with a caretaker relative, another adult may act on behalf of the child.

(b) If the caretaker relative lives with a spouse (see OAR 461-001-0000), both must sign the application.

(c) A dependent child 18 years of age who applies must sign the application and complete the application process.

(3) In the GA, GAM, OSIPM, and QMB programs, at least one adult requesting assistance must complete the application process and sign the application, if able. If there is no adult who is able to sign the application and complete the application process, this may be done by the authorized representative (see OAR 461-115-0090). If the applicant dies prior to the determination of eligibility for OSIPM, the application may be processed if the Department receives the required verification.

(4) In the REF and REFM programs, at least one adult member of the filing group (see OAR 461-110-0430) must sign the application.

(5) In the SNAP program, the primary person (see OAR 461-001-0015), the spouse of the primary person, or another adult member of the filing group (see 461-110-0370) must sign the application and complete the application process.

(6) An individual required to sign the application but unable to sign may sign with a mark, witnessed by an employee of the:

(a) Branch office (see OAR 461-001-0000); or

(b) Public institution (see OAR 461-135-0950), when the individual applying is an inmate (see 461-135-0950) and is applying for benefits under the OSIPM program.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.087, 411.400, 411.404, 411.816, 412.049

Hist.: SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 23-2010(Temp), f. & cert. ef. 7-15-10 thru 1-11-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; 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 19-2014(Temp), f. & cert. ef. 7-16-14 thru 1-12-15; SSP 4-2015, f. & cert. ef. 1-1-15; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15

461-115-0150
Offices Where Clients Apply

(1) For all programs, applicants must apply at the branch office (see OAR 461-001-0000) serving the area in which they live or work. Applicants temporarily in another area of the state should apply at the branch office serving that area. Applicants may also apply at other locations for the following programs:

(a) Homeless clients may apply with a Community Action Agency for the Housing Stabilization program.

(b) Applicants may apply for health coverage by:

(A) Calling the Cover Oregon toll-free number;

(B) Applying through the Cover Oregon online portal; or

(C) Contacting a federally qualified health center, a qualified hospital, a disproportionate-share hospital, or another entity authorized by rule.

(2) The Department has designated liaison branch offices for some groups of applicants (such as patients in state medical institutions and refugees). Those applicants must apply at the designated liaison branch office.

(3) REF and TANF applicants who meet the following requirements must apply through one of the local contracted refugee resettlement agencies:

(a) Have been in the US for eight months or less according to OAR 461-135-0900(4);

(b) Reside in Multnomah, Washington, or Clackamas County; and

(c) Meet the alien status requirements of OAR 461-120-0125(8)(a)–(h).

(4) SNAP applicants may apply at an office of the Social Security Administration if all members of the filing group (see OAR 461-110-0370) are applying for or are receiving SSI, and the filing group has not applied for or received SNAP benefits during the previous 30 days.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.404, 411.816

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; 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 24-2015, f. 9-29-15, cert. ef. 10-1-15

461-115-0430
Periodic Redeterminations; Not EA, ERDC, SNAP, or TA-DVS

The Department periodically redetermines the eligibility (see OAR 461-001-0000) of clients for benefits and assigns a redetermination date by which the next determination is required. The Department selects the redetermination date based on the client's circumstances and according to the following requirements:

(1) In the GA and GAM programs, the Department determines eligibility each 12 months.

(2) In the OSIP and OSIPM programs, the Department determines eligibility each 12 months for clients who are not eligible for SSI. No redetermination is required for clients who are eligible for SSI.

(3) In the QMB program, the Department determines eligibility each 12 months for clients who are not eligible for SSI. For QMB recipients who are also eligible for OSIPM, a redetermination for QMB is completed with the redetermination of OSIPM.

(4) The REF and REFM programs are time limited programs; therefore, no periodic redeterminations are made.

(5) In the SFPSS program, the Department redetermines eligibility at least once every 12 months. The Department redetermines program eligibility by redetermining eligibility for the TANF program.

(6) In the TANF program, benefits will end the last day of the certification period (see OAR 461-001-0000). The Department redetermines eligibility according to the following schedule:

(a) At least once every six months for each of the following:

(A) Clients not participating in an activity (see OAR 461-001-0025) of an open case plan (see 461-001-0025).

(B) Clients who are currently serving a JOBS disqualification.

(b) At least once every 12 months for all other clients.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 412.014, 412.049, 413.085, 414.685, 414.826, 414.839

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 412.014, 412.049, 413.085, 414.685, 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 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; 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 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 7-2010(Temp), f. & cert. ef. 4-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 16-2014, f. & cert. ef. 7-1-14; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15

461-120-0010
Residency Requirements

(1) To be eligible for benefits, an individual must be a resident of Oregon.

(2) Except as provided otherwise in OAR 461-120-0030 and this rule, an individual is a resident of Oregon if the individual lives in Oregon.

(3) There is no minimum amount of time an individual must live in Oregon to be a resident. However, the individual must intend to remain in Oregon except in the following situations:

(a) EA may be issued to help an individual return to a former state of residence.

(b) In the OSIPM, QMB, and REFM programs, when an individual is presumed incapable of forming an intent to reside under OAR 461-120-0050.

(c) In the REF and TANF programs, an individual is considered a resident if the individual entered Oregon with a job commitment or looking for work, and is not receiving benefits from another state.

(d) The SNAP program does not require intent to remain to establish residency.

(e) In the TA-DVS program, to the extent permitted under OAR 461-135-1200.

(4) An individual is not a resident if the individual is in Oregon solely for a vacation.

(5) An individual continues to be a resident of Oregon during a temporary period of absence if the individual intends to return when the purpose of the absence is completed; and, in the TANF program, the individual remains in the household group under OAR 461-110-0210.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.117, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 413.085, 414.025, 414.033, 414.685, 414.826, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15

461-130-0310
Participation Classifications: Exempt, Mandatory, and Volunteer

(1) In the Post-TANF, Pre-TANF, REF, SNAP, and TANF programs:

(a) The Department assigns an individual to one or more employment program participation classifications — exempt, mandatory, and volunteer (see OAR 461-130-0305 for definitions of all three terms).

(b) In the Post-TANF program, an individual is classified as a volunteer.

(2) In the Pre-TANF, REF, and TANF programs:

(a) An individual is exempt from employment program participation and disqualification if the individual meets the requirements of at least one of the following paragraphs. The individual is:

(A) Pregnant and in the month before the month in which the due date of the pregnancy falls.

(B) A parent (see OAR 461-001-0000) during the first six months after the birth of the parent's dependent child (see 461-001-0000) except that the Department may require the parent to participate in parenting classes or a family stability activity (see 461-001-0000). An exemption allowed

under this paragraph may apply only to one mandatory participant in each filing group (see 461-110-0310, 461-110-0330, and 461-110-0430).

(C) Under 20 years of age during the first 16 weeks after giving birth except that the individual may be required to participate in suitable activities with a preference for educational activities, parenting classes, and family stability activity.

(D) A parent providing care for a family member who is an individual with a disability (see OAR 461-001-0000) and is in the household group (see 461-110-0210) with the parent. Medical documentation to support the need for the care is required.

(E) An REF client 65 years of age or older.

(F) A TANF client 60 years of age or older.

(G) A noncitizen who is not authorized to work in the United States.

(H) An individual who is eligible for and receives supplemental security income (SSI) from the Social Security Administration.

(I) A caretaker relative (see OAR 461-001-0000) who is non-needy.

(J) An individual whose participation is likely to cause undue hardship or is contrary to the best interests of the dependent child or needy caretaker relative.

(K) A pregnant individual who participates more than 10 hours per week during the two months before the month in which the pregnancy due date falls.

(L) A VISTA volunteer.

(b) A caretaker relative of a dependent child or unborn who receives TANF program benefits is mandatory if the caretaker relative is in the same filing group with the dependent child or unborn (even if the caretaker relative is not in the TANF program benefit group under OAR 461-110-0750), unless the caretaker relative is otherwise exempt from participation under subsection (a) of this section.

(3) In the SNAP program:

(a) An individual is exempt from employment program participation and disqualification if the individual meets the requirements of one of the following paragraphs. The individual is:

(A) Working a minimum of 30 hours a week or earning money equal to at least the federal minimum wage multiplied by 30 hours per week multiplied by 4.3 weeks. An individual who is self-employed with allowable costs must meet the earnings threshold after allowing the 50 percent deduction. This includes migrant and seasonal farm workers (see OAR 461-001-0015) who are under contract or similar agreement with an employer or crew chief to begin employment within 30 days.

(B) An individual with a physical or mental condition that prevents performance of any work.

(C) Responsible for the care of a child (see OAR 461-001-0000) in the household under 6 years of age or an individual in the household with a disability (see 461-001-0015) that substantially reduces or eliminates the individual's ability to care for himself or herself.

(D) Providing care for at least 30 hours a week for an individual in another household with a disability that substantially reduces or eliminates the individual's ability to care for himself or herself.

(E) Enrolled at least half-time, as defined by the school, in any high school or equivalent program recognized by a school district or enrolled at least half-time in any school, training program, or institution of higher education. An individual remains exempt during normal periods of class attendance, vacation, and recess but no longer qualifies for the student exemption when a break in enrollment occurs due to graduation, suspension or expulsion, or when the student drops out of school or does not enroll in classes for the next regular school term (excluding summer term).

(F) Receiving REF or TANF program benefits.

(G) In receipt of unemployment insurance benefits, has completed an application for unemployment insurance benefits and is waiting for an initial decision on the claim, or is participating in at least one of the following Employment Department training programs:

(i) The Trade Readjustment Allowance (TRA) program serving displaced workers under the Trade Act.

(ii) The Training Unemployment Insurance (TUI) program.

(iii) The Self-Employment Insurance (SEA) program.

(iv) The Apprenticeship Program (APT).

(H) Participating in a drug or alcohol treatment and rehabilitation program.

(I) Pregnant.

(J) Lacking adequate dependent care.

(K) Without adequate transportation available.

(L) Experiencing a barrier to employment, such as being homeless or having a short-term physical or mental limitation or a serious family problem.

(b) A mandatory client is an individual in the need group (see OAR 461-110-0630); who is 16 or 17 years of age and a primary person (see 461-001-0015), or 18 years of age and older and 59 years of age and younger; and who is not exempt under subsection (a) of this section.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.006, 412.009, 412.014, 412.049
Stats. Implemented: ORS 409.010, 409.750, 411.060, 411.070, 411.816, 412.006, 412.009, 412.014, 412.049
Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 12-2000(Temp), f. 5-1-00, cert. ef. 5-1-00 thru 9-30-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15

461-130-0328
Effect of Strikes

(1) For the purposes of this rule, "striker" means anyone participating in a strike or concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective-bargaining agreement) or any concerted slowdown or other concerted interruption of operations by employees. An individual is not a "striker" if the individual is:

(a) An employee affected by a lockout;

(b) An individual who goes on strike but who is exempt (see OAR 461-130-0305) from participating in an employment program under this division of rules the day prior to the strike, unless exempt solely on the ground that the individual is employed; or

(c) An individual who is not part of a bargaining unit on strike and does not want to cross a picket line due to fear of personal injury or death.

(2) In the EA and TANF programs, a filing group (see OAR 461-110-0310) is ineligible for program benefits during any month in which a parent (see 461-001-0000) in the filing group is a striker (see section (1) of this rule). If any other member of the filing group is a striker, only that individual is ineligible.

(3) In the REF program, a filing group (see OAR 461-110-0430) is ineligible for program benefits during any month in which a member of the filing group is a striker.

(4) In the SNAP program:

(a) A household containing a striker is not eligible to participate in the program unless the household was eligible for benefits the day prior to the date the member became a striker.

(b) An eligible household is not entitled to an increased allotment as the result of a decrease in the income of a need group (see OAR 461-110-0630) member on strike.

(c) The eligibility (see OAR 461-001-0000) of a filing group (see 461-110-0370) containing a striker is determined by adding to the income of the filing group members who are not strikers the greater of the current income of the striker or the income of the striker immediately before the strike. Deductions used to determine benefits and eligibility for a household subject to the net income eligibility standard are calculated for the month of application as for any other household.

(d) A striker is subject to the registration requirements of this division of rules unless exempt from participating in an employment program on the day of application.

Stat. Auth.: ORS 409.050, 411.060, 411.404, 411.816, 412.049
Stats. Implemented: ORS 409.050, 411.060, 411.404, 411.816, 412.049
Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; 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 24-2015, f. 9-29-15, cert. ef. 10-1-15

461-130-0335
Removing Disqualifications and Effect on Benefits

(1) An applicant who would be subject to an employment program disqualification under OAR 461-130-0330 but withdraws the application before benefits are approved is not subject to disqualification.

(2) In the REF, SNAP, and TANF programs, a filing group (see 461-110-0330, 461-110-0370, and 461-110-0430) is not subject to the impact of a disqualification for a disqualified member who has left the household group (see 461-110-0210). If the member joins another filing group, that group is subject to the member's most recent disqualification.

(3) In the REF and TANF programs, an individual disqualified for failure to meet the requirements of an employment program under division 190 of these rules:

(a) At the first level of disqualification must cooperate for two consecutive weeks with each activity (see OAR 461-001-0025) specified in the individual's current or revised case plan (see 461-001-0025) before the Department may remove the disqualification. Cash benefits are restored

effective the date the individual completes the two consecutive week cooperation period.

(b) When the second level of disqualification ends, TANF program benefits are closed for two consecutive months, unless the individual begins two consecutive weeks of cooperation with each activity specified in the individual's current or revised case plan before the end of the second level. If the individual completes the two consecutive weeks of cooperation, cash benefits are restored effective the date the individual completes the two consecutive week cooperation period.

(c) Cash benefits are restored effective the date it is determined, by the Department, there are no appropriate activities or support services (see OAR 461-001-0025) necessary to support the activity available in order for the individual to demonstrate participation.

(4) In the REF and TANF programs, a disqualification ends when:

(a) The Department changes the participation classification of the disqualified individual to exempt (see 461-130-0305);

(b) The individual complies with the requirements of the employment program (see section (3) of this rule); or

(c) REF or TANF program benefits are closed for a reason other than described in OAR 461-130-0330(3)(d).

(5) In the SNAP program, the disqualification ends the first day of the month following the month in which information is provided to the Department justifying the change in the individual's participation classification, even if the date falls within the disqualification period provided in OAR 461-130-0330(4).

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.009, 412.049

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837, 412.009, 412.049

Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 37-2012, f. 12-28-12, cert. ef. 1-1-13; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15

461-135-0900

Specific Requirements; REF, REFM

(1) In addition to the eligibility (see OAR 461-001-0000) requirements in other rules in OAR chapter 461, an individual must meet all of the requirements in this rule to be eligible for the REF and REFM programs.

(2) An individual must meet the alien status requirements of OAR 461-120-0125, except a child (see 461-001-0000) born in the United States to an individual in the REF or REFM program meets the alien status requirements for the REF and REFM programs as long as each parent (see 461-001-0000) in the household group (see 461-110-0210) meets the alien status requirements of 461-120-0125.

(3) An individual is not eligible to receive REF and REFM program benefits if the individual is a full-time student of "higher education", unless such education is part of a cash assistance case plan. Any education or training allowable under an approved case plan must be less than one year in length. For the purposes of this rule, "higher education" means education that meets the requirements of one of the following subsections:

(a) Public and private universities and colleges and community colleges that offer degree programs regardless of whether a high school diploma is required for the program. However, GED, ABE, ESL, and high school equivalency programs at these institutions are not considered "higher education".

(b) Vocational, technical, business, and trade schools that normally require a high school diploma or equivalency certificate for enrollment in the curriculum or in a particular program at the institution. However, programs at those institutions that do not require the diploma or certificate are not considered "higher education".

(4) Eligibility for REF and REFM program benefits is limited to the first eight months in the United States:

(a) For an individual who meets the alien status requirements of OAR 461-120-0125(8)(a), (c), (d), or (e), the month that the individual enters the U.S. counts as the first month.

(b) For an individual who meets the alien status requirements of OAR 461-120-0125(8)(b), (f), or (g), the month that the individual was granted the individual's status counts as the first month.

(c) For an individual who meets the alien status requirements of OAR 461-120-0125(8)(h):

(A) If the individual enters the U.S. with the special immigrant status, the month that the individual enters the U.S. counts as the first month.

(B) If the individual is granted special immigrant status after the individual has already entered the U.S., then the month in which the special immigrant status was granted counts as the first month.

(d) Months in the United States are counted as whole months. There is no prorating of months, except as described in OAR 461-193-0320.

(5) For an individual who meets the requirements of section (4) of this rule:

(a) When the individual resides in Clackamas, Multnomah, or Washington County:

(A) The individual is not eligible to receive REF, TANF, or TANF-related employment services through the Department. To receive benefits, the individual is required to participate in the Refugee Case Service Project (RCSP) program. This individual is referred to the individual's local resettlement agency to be enrolled in the RCSP program and receives all other Department services through the individual's local Department office.

(B) An individual who no longer meets the requirements of section (4) of this rule is no longer eligible to receive cash or case management services through the RCSP program. If this individual has been in the United States for 12 months or less, the individual is referred to the New Arrival Employment Services (NAES) program contractor for employment services.

(b) When the individual resides in a county other than Clackamas, Multnomah, and Washington, the RCSP program is not available. The individual is served at the individual's local Department office.

(6) Except for QMB, eligibility for all Medicaid and CHIP programs must be determined prior to determining eligibility for the REFM program.

(7) Eligibility for the TANF program must be determined prior to the REF program.

(8) An individual in the REF program may not participate in the Pre-TANF program.

(9) An REFM benefit group (see OAR 461-110-0750) may continue to receive REFM for the remainder of the eight months, as stated in (4) of this rule, if:

(a) A newborn is born to a benefit group member while the benefit group member was receiving REFM; and

(b) The benefit group applied for OCCS Medical and was denied.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 412.049, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.878, 412.049, 414.685

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 19-1991(Temp), f. & cert. ef. 10-1-91; AFS 4-1992, f. 2-28-92, cert. ef. 3-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 40-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 33-1996(Temp), f. 9-26-96, cert. ef. 10-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 3-2008(Temp), f. & cert. ef. 1-30-08 thru 7-28-08; SSP 4-2008(Temp), f. & cert. ef. 2-22-08 thru 7-28-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 9-2009(Temp), f. & cert. ef. 5-1-09 thru 10-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 13-2010(Temp), f. & cert. ef. 5-17-10 thru 11-13-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 24-2015, f. 9-29-15, cert. ef. 10-1-15

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Rule Caption: Amending rules relating to medical and public assistance programs

Adm. Order No.: SSP 25-2015

Filed with Sec. of State: 9-29-2015

Certified to be Effective: 10-1-15

Notice Publication Date: 8-1-2015

Rules Adopted: 461-145-0089, 461-145-0252, 461-145-0915, 461-150-0095

Rules Amended: 461-001-0000, 461-115-0230, 461-115-0700, 461-120-0310, 461-140-0020, 461-140-0040, 461-145-0010, 461-145-0088, 461-145-0120, 461-145-0130, 461-145-0250, 461-145-0440, 461-145-0600, 461-145-0910, 461-145-0920, 461-150-0090, 461-195-0310

Subject: The Department of Human Services, Office of Self Sufficiency Programs, is adopting, amending, and repealing rules in chapter 461 to align with federal policy regarding how income and resources are treated and budgeted in Aging and People with Disabilities (APD) programs and update policy regarding submitting required notices to the Department's Personal Injury Liens Unit. Specifically:

OAR 461-001-0000 about definitions is being amended to change the definition of income-producing property to make a clearer distinction between income producing property, property used in self-employment, and various other property types that previously could

be addressed in more than one rule (such as animals or rooms or buildings for rent which are part of the home).

OAR 461-115-0230 about interviews is being amended to clarify that interviews are required for APD medical programs at initial application for assumed eligible individuals. The current rule suggests that no interview is needed for this population at either initial application or annual redetermination. This corrects a previous amendment which was effective July 1, 2014. The rule is also being amended to allow REF and REFM interviews to be conducted by telephone or home visit when the applicant has a hardship.

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

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

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

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

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

OAR 461-145-0088 about income and resources of corporations and business entities is being amended to remove APD medical programs from this rule. Income and resources of corporations and business entities will be addressed in a new rule, OAR 461-145-0089, which is being adopted to align with federal policy regarding how income and resources of corporations and business entities are treated in the OSIP, OSIPM, and QMB programs. Individuals who incorporate businesses will not be considered self-employed; furthermore, other types of business arrangements will now be clearly addressed, including when owning a business constitutes self-employment and how to count income and resources when it does not.

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

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

OAR 461-145-0250 about income-producing property is being amended to remove APD medical programs as it will be addressed in a new rule, OAR 461-145-0252, which is being adopted to clarify what constitutes income-producing property in the OSIP, OSIPM, and QMB programs and how it should be treated. This new rule will create a much clearer distinction between income-producing property and work-related assets, which is not present in the current versions of these rules.

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

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

OAR 461-145-0910 about self-employment income generally is being amended to remove APD medical programs as they will now be addressed in a new rule, OAR 461-145-0915 which is being adopted to align Department policy with federal policy regarding how self-employment is recognized and treated and to clarify that those who own or form corporations are not self-employed.

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

OAR 461-150-0090 about prospective budgeting of self-employment income is being amended to remove APD medical programs as they will be addressed in a new rule, OAR 461-150-0095, which is being adopted to align with federal policy regarding how self-employment income is budgeted. The budgeting sections formerly found in 461-145-0910 have been moved to this new rule. Also, the association between self-employment and contract income has been removed as it has caused confusion in the past. An individual is either self-employed or working for another as an employee; there is no third category just because the employment may be contractual.

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

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

Rules Coordinator: Kris Skaro—(503) 945-6067

461-001-0000
Definitions for Chapter 461

Defined terms are often italicized throughout this chapter of rules. If a defined term is accompanied by a cross-reference to a rule defining the term, subsequent usages of that term in the same rule refer to the same definition cross-referenced earlier in the rule. In this chapter of rules, unless the context indicates otherwise:

(1) A reference to Division, Adult and Family Services Division (or AFS), Senior and Disabled Services Division (or SDSD), or any other agency formerly part of the Department of Human Services means the Department of Human Services (DHS), except:

(a) The rule in which reference occurs only regulates programs covered by OAR chapter 461.

(b) OCCS medical program eligibility rules are in OAR chapter 410, division 200.

(2) "Address Confidentiality Program" (ACP) means a program of the Oregon Department of Justice, which provides a substitute mailing address and mail forwarding service for ACP participants who are victims of domestic violence (see section (25) of this rule), sexual assault, or stalking.

(3) "Adjusted income" means the amount determined by subtracting income deductions from countable (see section (18) of this rule) income (see OAR 461-140-0010). Specific rules on the deductions are in OAR chapter 461, division 160.

(4) "Adoption assistance" means financial assistance provided to families adopting children with special needs. "Adoption assistance" may

be state or federally funded. Federal adoption assistance is authorized by the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. No. 96-272, 94 Stat. 500 (1980)). State adoption assistance is authorized by ORS 418.330 to 418.335.

(5) "Assets" mean income and resources.

(6) "Basic decision notice" means a decision notice (see section (21) of this rule) mailed no later than the date of action given in the notice.

(7) "Branch office" means any Department or AAA (Area Agency on Aging) office serving a program covered by this chapter of rules.

(8) "Budgeting" means the process of calculating the benefit level.

(9) "Budget month" means the calendar month from which nonfinancial and financial information is used to determine eligibility (see section (28) of this rule) and benefit level for the payment month (see section (50) of this rule).

(10) "Cafeteria plan" means a written benefit plan offered by an employer in which:

(a) All participants are employees; and

(b) Participants may choose, cafeteria-style, from a menu of two or more cash or qualified benefits. In this context, qualified benefits are benefits other than cash that the Internal Revenue Service does not consider part of an employee's gross income. Qualified benefits include, but are not limited to:

(A) Accident and health plans (including medical plans, vision plans, dental plans, accident and disability insurance);

(B) Group term life insurance plans (up to $50,000);

(C) Dependent care assistance plans; and

(D) Certain stock bonus plans under section 401(k)(2) of the Internal Revenue Code (but not 401(k)(1) plans).

(11) "Capital asset" means property that contributes toward earning self-employment income, including self-employment income from a microenterprise (see section (43) of this rule), either directly or indirectly. A "capital asset" generally has a useful life of over one year and a value, alone or in combination, of $100 or more.

(12) "Caretaker" means an individual who is responsible for the care, control, and supervision of a child (see section (15) of this rule). The status of "caretaker" ends once the individual no longer exercises care, control, and supervision of the child for 30 days.

(13) "Caretaker relative" means:

(a) In the Pre-TANF, SFPSS, and TANF programs, a dependent child's father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece who lives in a residence maintained by one or more of the relatives as the child's or the relative's own home.

(b) In all programs not covered under subsection (a) of this section, a caretaker (see section (12) of this rule) who meets the requirements of one of the following paragraphs:

(A) Is one of the following relatives of the dependent child (see section (23) of this rule):

(i) Any blood relative, including those of half-blood, and including first cousins, nephews, or nieces, and individuals of preceding generations as denoted by prefixes of grand, great, or great-great.

(ii) Stepfather, stepmother, stepbrother, and stepsister.

(iii) An individual who legally adopts the child and any individual related to the individual adopting the child, either naturally or through adoption.

(B) Is or was a spouse (see section (62) of this rule) of an individual listed in paragraph (A) of this subsection.

(C) Met the definition of "caretaker relative" under paragraph (A) or (B) of this subsection before the child was adopted (notwithstanding the subsequent adoption of the child).

(14) "Certification period" means the period for which an individual is certified eligible for a program.

(15) "Child" includes natural, step, and adoptive children. The term "child" does not include an unborn.

(a) In the ERDC program, a "child" need not have a biological or legal relationship to the caretaker but must be in the care and custody of the caretaker, must meet the citizenship or alien status requirements of OAR 461-120-0110, and must be:

(A) Under the age of 18; or

(B) Under the age of 19 and in secondary school or vocational training at least half time.

(b) In the GA, GAM, and OSIP programs, a "child" is an individual under the age of 18.

(c) In the OSIPM and QMB programs, "child" means an unmarried individual living with a parent (see section (49) of this rule) who is:

(A) Under the age of 18; or

(B) Under the age of 22 and attending full-time secondary, postsecondary or vocational-technical training designed to prepare the individual for employment.

(d) In the REF and REFM programs, a "child" is:

(A) An individual under the age of 18; or

(B) An individual who is 18 years of age and attending secondary school full-time or pursuing a GED full-time.

(16) "Community based care" is any of the following:

(a) Adult foster care — Room and board and 24 hour care and services for the elderly or for people with disabilities 18 years of age or older. The care is contracted to be provided in a home for five or fewer clients.

(b) Assisted living facility — A program approach, within a physical structure, which provides or coordinates a range of services, available on a 24-hour basis, for support of resident independence in a residential setting.

(c) In-home Services — Individuals living in their home receiving services determined necessary by the Department.

(d) Residential care facility — A facility that provides residential care in one or more buildings on contiguous property for six or more individuals who have physical disabilities or are socially dependent.

(e) Specialized living facility - Identifiable services designed to meet the needs of individuals in specific target groups which exist as the result of a problem, condition, or dysfunction resulting from a physical disability or a behavioral disorder and require more than basic services of other established programs.

(f) Independent choices — In-Home Services program wherein the participant is given cash benefits to purchase self-directed personal assistance services or goods and services provided pursuant to a written service plan (see OAR 411-030-0020).

(17) "Continuing benefit decision notice" means a decision notice that informs the client of the right to continued benefits and is mailed in time to be received by the date benefits are, or would be, received.

(18) "Countable" means that an available asset (either income or a resource) is not excluded and may be considered by some programs to determine eligibility.

(19) "Cover Oregon" means Oregon Health Insurance Exchange Corporation.

(20) "Custodial parents" mean parents who have physical custody of a child. "Custodial parents" may be receiving benefits as dependent children or as caretaker relatives for their own children.

(21) "Decision notice" means a written notice of a decision by the Department regarding an individual's eligibility for benefits in a program.

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

(23) "Dependent child" in the TANF program means the following:

(a) An individual who is not a caretaker relative (see section (13) of this rule) of a child in the household, is unmarried or married but separated, and is under the age of 18, or 18 years of age and a full time student in secondary school or the equivalent level of vocational or technical training; or

(b) A minor parent (see section (44) of this rule) whose parents have chosen to apply for benefits for the minor parent. This does not apply to a minor parent who is married and living with his or her spouse.

(24) "Disability" means:

(a) In the SNAP program, see OAR 461-001-0015.

(b) In the REF, SFPSS, TA-DVS, and TANF programs, for purposes other than determining eligibility:

(A) An individual with a physical or mental impairment that substantially limits the individual's ability to meet the requirements of the program; or

(B) An individual with a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or who is regarded as having such an impairment as defined by the Americans with Disabilities Act (42 USC 12102; 28 CFR 35.104).

(25) "Domestic violence" means the occurrence of one or more of the acts described in subsections (a) to (d) of this section between family members, intimate partners, or household members:

(a) Attempting to cause or intentionally, knowingly, or recklessly causing physical injury or emotional, mental, or verbal abuse.

(b) Intentionally, knowingly, or recklessly placing another in fear of imminent serious physical injury.

(c) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427.

(d) Using coercive or controlling behavior.

(e) As used in this section, "family members" and "household members" mean any of the following:

(A) Spouse;

(B) Former spouse;

(C) Individuals related by blood, marriage (see section (42) of this rule), or adoption;

(D) Individuals who are cohabitating or have cohabited with each other;

(E) Individuals who have been involved in a sexually intimate or dating relationship; or

(F) Unmarried parents of a child.

(26) "Domestic violence shelters" are public or private nonprofit residential facilities providing services to victims of domestic violence. If the facility serves other people, a portion must be used solely for victims of domestic violence.

(27) "Electronic application" is an application electronically signed and submitted through the Internet.

(28) "Eligibility" means the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits.

(29) "Equity value" means fair market value (see section (30) of this rule) minus encumbrances.

(30) "Fair market value" means the amount an item is worth on the open market.

(31) "Family stability" in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means the characteristics of a family that support healthy child development, including parental mental health, drug and alcohol free environment, stable relationships, and a supportive, flexible, and nurturing home environment.

(32) "Family stability activity" in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means an action or set of actions taken by an individual, as specified in a case plan, intended to promote the ability of one or both parents to achieve or maintain family stability (see section (31) of this rule).

(33) "Financial institution" means a bank, credit union, savings and loan association, investment trust, or other organization held out to the public as a place receiving funds for deposit, savings, checking, or investment.

(34) "Income producing property" means:

(a) In all programs except OSIP, OSIPM, and QMB, real or personal property that generates income for the financial group (see OAR 461-110-0530). Examples of "income producing property" are:

(A) Livestock, poultry, and other animals.

(B) Farmland, rental homes (including a room or other space in the home or on the property of a member of the financial group), vacation homes, and condominiums.

(b) In the OSIP, OSIPM, and QMB programs, "income-producing property" means any real or personal property not used in self-employment (see OAR 461-145-0600 and 461-145-0915) that produces income for the financial group. "Income-producing property" includes:

(A) Livestock, poultry, or other animals that produce marketable products sold by the financial group.

(B) Farmland not excluded under OAR 461-145-0220 that is farmed or rented out by the financial group.

(C) Real property other than the home (including vacation homes and condominiums), that is rented out.

(c) In the OSIP, OSIPM, and QMB programs, "income-producing property" does not include:

(A) Rooms or other space for rent in the home (see OAR 461-145-0220).

(B) Livestock, poultry, or other animals kept for resale (see OAR 461-145-0010).

(35) "Initial month" of eligibility means any of the following:

(a) In all programs, the first month a benefit group (see OAR 461-110-0750) is eligible for a program benefit in Oregon after a period during which the group is not eligible.

(b) In all programs except the SNAP program, the first month a benefit group is eligible for a program benefit after there has been a break in the program benefit of at least one full calendar month. If benefits are suspended for one month, that is not considered a break.

(c) In the SNAP program:

(A) The first month for which the benefit group is certified following any period during which they were not certified to participate, except for migrant and seasonal farm workers (see OAR 461-001-0015).

(B) For migrant and seasonal farmworkers, the first month for which the benefit group is certified following any period of one month or more during which they were not certified to participate.

(d) For a new applicant to the GA, GAM, OSIP, or OSIPM program applying for care in a nonstandard living arrangement (see section (45) of this rule), for the purposes of calculating the correct divisor in OAR 461-140-0296, the month in which the individual would have been eligible had it not been for the disqualifying transfer of assets (see section (5) of this rule).

(e) For a current recipient of the GA, GAM, OSIP, or OSIPM program receiving or applying for care in a nonstandard living arrangement, for the purpose of calculating the correct divisor in OAR 461-140-0296, the later of the following:

(A) The month the disqualifying transfer occurred.

(B) The month of application for long-term care (see section (40) of this rule) services if the individual would have been eligible had it not been for the disqualifying transfer of assets.

(36) "In-kind income" means income in a form other than money (such as food, clothing, cars, furniture, and payments made to a third party).

(37) "Legally married" means a marriage uniting two individuals according to:

(a) The statutes of the state where the marriage occurred;

(b) Except in the SNAP program, the common law of the state in which the two individuals previously resided while meeting the requirements for common law marriage in that state; or

(c) The laws of a country in which the two individuals previously resided while meeting the requirements for legal or cultural marriage in that country.

(38) "Life estate" means the right to property limited to the lifetime of the individual holding it or the lifetime of some other individual. In general, a "life estate" enables the owner of the "life estate" to possess, use, and obtain profits from property during the lifetime of a designated individual while actual ownership of the property is held by another individual. A "life estate" is created when an individual owns property and then transfers ownership to another individual while retaining, for the rest of the individual's life, certain rights to that property. In addition, a "life estate" is established when a member of the financial group purchases a "life estate" interest in the home of another individual.

(39) "Lodger" means a member of the household group (see OAR 461-110-0210) who:

(a) Is not a member of the filing group (see OAR 461-110-0310); and

(b) Pays the filing group:

(A) In all programs except the GA, GAM, OSIP, OSIPM, and QMB programs, for room and board.

(B) In the GA, GAM, OSIP, OSIPM, and QMB programs, for room with or without board.

(40) "Long term care" means the system through which the Department provides a broad range of social and health services to eligible adults who are aged, blind, or have disabilities for extended periods of time. This includes nursing homes and state hospitals (Eastern Oregon and Oregon State Hospitals).

(41) "Lump-sum income" means income received too infrequently or irregularly to be reasonably anticipated, or received as a one-time payment. "Lump-sum income" includes:

(a) Retroactive benefits covering more than one month, whether received in a single payment or several payments.

(b) Income from inheritance, gifts, winnings, and personal injury claims.

(42) "Marriage" means the union of two individuals who are legally married (see section (37) of this rule).

(43) "Microenterprise" means a sole proprietorship, partnership, or family business with fewer than five employees and capital needs no greater than $35,000.

(44) "Minor parent" in the ERDC and TANF programs means a parent under the age of 18.

(45) "Nonstandard living arrangement" is defined as follows:

(a) In the GA, GAM, OSIP, OSIPM, and QMB programs, an individual is considered to be in a "nonstandard living arrangement" when the individual is applying for or receiving services in any of the following locations:

(A) A nursing facility in which the individual receives long-term care services paid with Medicaid funding, except this subsection does not apply to a Medicare client in a skilled-stay nursing facility.

(B) An intermediate care facility for the mentally retarded (ICF/MR).

(C) A psychiatric institution, if the individual is not yet 21 years of age or has reached the age of 65.

(D) A community based care (see section (16) of this rule) setting, except a State Plan Personal Care (SPPC) setting is not considered a "nonstandard living arrangement".

(b) In all programs except GA, GAM, OSIP, OSIPM, and QMB, "nonstandard living arrangement" means each of the following locations:

(A) Foster care.

(B) Residential Care facility.

(C) Drug or alcohol residential treatment facility.

(D) Homeless or domestic violence shelter.

(E) Lodging house if paying for room and board.

(F) Correctional facility.

(G) Medical institution.

(46) "OCCS" is the Office of Client and Community Services, part of the Medical Assistance Programs under the Oregon Health Authority responsible for OCCS medical program eligibility policy, community outreach, OCCS Medical Program eligibility determinations, and the OHA Customer Service Call Center.

(47) "OCCS Medical Programs" refers to programs for which eligibility policy can be found in OAR chapter 410, division 200, and includes CEC, CEM, MAA, MAF, EXT, OHP, Substitute Care, BCCTP, and MAGI Medicaid/CHIP programs, including:

(a) MAGI Adult;

(b) MAGI Child;

(c) MAGI Parent or Other Caretaker Relative;

(d) MAGI Pregnant Woman; and

(e) MAGI CHIP.

(48) "Ongoing month" means one of the following:

(a) For all programs except the SNAP program, any month following the initial month (see section (35) of this rule) of eligibility, if there is no break in the program benefit of one or more calendar months.

(b) For the SNAP program, any month in the certification period (see section (14) of this rule) following the initial month of eligibility.

(49) "Parent" for all programs except the JPI and SNAP programs, means the biological or legal mother or father of an individual or unborn child. For the SNAP program, a "parent" means the biological or legal mother or father of an individual. For the JPI program, a "parent" means the biological or legal mother or father of a child under the age of 18.

(a) If the mother lives with a male and either she or the male claims that he is the father of the child or unborn, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established.

(b) A stepparent relationship exists if:

(A) The individual is legally married to the child's biological or adoptive parent; and

(B) The marriage has not been terminated by legal separation, divorce, or death.

(c) A legal adoption erases all prior legal and blood relationships and establishes the adoptive parent as the legal parent. However, the biological parent is also considered a "parent" if both of the following are true:

(A) The child lives with the biological parent; and

(B) The legal parent has given up care, control, and supervision of the child.

(50) "Payment month" means, for all programs except EA, the calendar month for which benefits are issued.

(51) "Payment period" means, for EA, the 30-day period starting with the date the first payment is issued and ending on the 30th day after the date the payment is issued.

(52) "Periodic income" means income received on a regular basis less often than monthly.

(53) "Primary person" for all programs except the SNAP program, means the filing group member who is responsible for providing information necessary to determine eligibility and calculate benefits. The "primary person" for individual programs is as follows:

(a) For the TANF program, the parent or caretaker relative.

(b) For the ERDC program, the caretaker.

(c) For SNAP, see OAR 461-001-0015.

(d) For the GA, GAM, OSIP, OSIPM, QMB, REF, and REFM programs: the client or client's spouse.

(54) "Qualified Partnership Policy" means a long-term care insurance policy meeting the requirements of OAR 836-052-0531 that was either:

(a) Issued while the individual was a resident in Oregon on January 1, 2008 or later; or

(b) Issued in another state while the individual was a resident of that state on or after the effective date of that state's federally approved State Plan Amendment to issue qualified partnership policies.

(55) "Real property" means land, buildings, and whatever is erected on or affixed to the land and taxed as "real property".

(56) "Reimbursement" means money or in-kind compensation provided specifically for an identified expense.

(57) "Safe homes" mean private homes that provide a few nights lodging to victims of domestic violence. The homes must be recognized as such by the local domestic violence agency, such as crisis hot lines and shelters.

(58) "Shelter costs" mean, in all programs except the SNAP program, housing costs (rent or mortgage payments, property taxes) and utility costs, not including cable TV or non-basic telephone charges. In the SNAP program, see OAR 461-160-0420.

(59) "Shelter in kind" means an agency or individual outside the financial group provides the shelter of the financial group, or makes a payment to a third party for some or all of the shelter costs (see section (58) of this rule) of the financial group. "Shelter-in-kind" does not include temporary shelter provided by a domestic violence shelter, homeless shelter, or residential alcohol and drug treatment facilities or situations where no shelter is being provided, such as sleeping in a doorway, park, or bus station.

(60) "Sibling" means the brother or sister of an individual. "Blood related" means they share at least one biological or adoptive parent. "Step" means they are not related by blood, but are related by the marriage of their parents.

(61) "Spousal support" means income paid (voluntarily, per court order, or per administrative order) by a separated or divorced spouse to a member of the financial group.

(62) "Spouse" means an individual who is legally married to another individual.

(63) "Stable income" means income that is the same amount each time it is received.

(64) "Standard living arrangement" means a location that does not qualify as a nonstandard living arrangement.

(65) "Teen parent" means, for TANF and JOBS, a parent under the age of 20 who has not completed a high school diploma or GED.

(66) "Timely continuing benefit decision notice" means a decision notice that informs the individual of the right to continued benefits and is mailed no later than the time requirements in OAR 461-175-0050.

(67) "Trust funds" mean money, securities, or similar property held by an individual or institution for the benefit of another individual.

(68) "USDA meal reimbursements" mean cash reimbursements made by the Oregon Department of Education for family day-care providers who serve snacks and meals to children in their care.

(69) "Variable income" means earned or unearned income that is not always received in the same amount each month.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 411.837, 412.001, 412.006, 412.014, 412.049, 413.085, 414.685

Hist.: AFS 28-1978, f. & ef. 7-13-78; AFS 54-1984, f. 12-28-84, ef. 1-1-85; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 15-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; Administrative correction 4-21-10; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 22-2013(Temp), f. & cert. ef. 8-23-13 thru 2-19-14; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 29-2013(Temp), f. & cert. ef. 10-1-13 thru 2-19-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 39-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; SSP 9-2014, f. & cert. ef. 4-1-14; SSP 14-2014(Temp), f. & cert. ef. 6-26-14 thru 12-23-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 18-2014(Temp), f. & cert. ef. 7-1-14 thru 12-23-14; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 11-2015, f. 3-13-15, cert. ef. 4-1-15; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-115-0230
Interviews

(1) In the REF, REFM, and TANF programs, the Department may conduct a required face-to-face interview by telephone or home visit if an authorized representative (see OAR 461-001-0000 and 461-115-0090) has not been appointed, and participating in a face-to-face interview is a hardship (see section (2) of this rule) for the household.

(2) For the purposes of this rule, "hardship" includes, but is not limited to:

(a) Care of a household member;

(b) An individual's age, disability (see OAR 461-001-0000), or illness;

(c) A commute of more than two hours from the individual's residence to the nearest branch office (see OAR 461-001-0000);

(d) A conflict between the individual's work or training schedule and the business hours of the branch office; and

(e) Transportation difficulties due to prolonged severe weather or financial hardship.

(3) In the SNAP program:

(a) An interview must be scheduled so that the filing group (see OAR 461-110-0370) has at least ten days to provide any needed verification before the deadline under OAR 461-115-0210.

(b) A face-to-face interview must be granted at the applicant's request.

(c) When an applicant misses the first scheduled interview appointment, the Department must inform the applicant by regular mail of the missed interview.

(d) An applicant who fails to attend a scheduled interview must contact the Department no later than 30 days following the filing date (OAR 461-115-0040) to be eligible for benefits.

(e) An adult (see OAR 461-001-0015) in the filing group or the authorized representative of the filing group is interviewed once every 12 months.

(4) In the ERDC program:

(a) Except as provided otherwise in subsection (c) of this section, an interview with an adult in the filing group (see OAR 461-110-0350) or the authorized representative of the filing group is required to process an initial application and a renewal of benefits.

(b) A phone interview is preferred; however, a face-to-face interview must be granted at the applicant's request.

(c) An interview is not required when the Department has implemented the Child Care Reservation List and it is determined that a decision notice of ineligibility will be sent under OAR 461-115-0016.

(5) In the OSIPM and QMB programs, the Department must complete an interview face-to-face in the branch office, by telephone, or during a home visit with at least one applicant who is 18 years of age or older or an applicant's authorized representative:

(a) At initial application.

(b) At redetermination except individuals who are assumed eligible (see OAR 461-135-0010).

Stat. Auth.: ORS 409.050, 411.060, 411.404, 411.706, 411.816, 412.049, 414.826, 414.839
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 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 20-1990, f. 8-17-90, cert. ef. 9-1-90; 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 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 9-2001, f. & cert. ef. 6-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 7-2010(Temp), f. & cert. ef. 4-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 22-2011(Temp), f. & cert. ef. 7-22-11 thru 1-18-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 7-2012(Temp), f. & cert. ef. 2-29-12 thru 8-27-12; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-115-0700
Required Verification; GA, GAM, OSIP, OSIPM, QMB

In the GA, GAM, OSIP, OSIPM, and QMB programs:

(1) Except as provided in section (2) of this rule, all eligibility (see OAR 461-001-0000) factors must be verified at initial application, when there is a change to any factor, and whenever eligibility for benefits becomes questionable.

(2) If the total reported value of gross "liquid resources" of the financial group (see OAR 461-110-0530) is less than $400, verification of the value of "liquid resources" is only required if questionable. For the purposes of this rule, "liquid resources" include cash as well as other resources that can be converted to cash within 20 business days, except that the cash surrender value of a life insurance policy is not considered a liquid resource.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 413.085, 414.685
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.706, 413.085, 414.685, 414.839
Hist.: AFS 19-1993, f. & cert. ef. 10-1-93; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-120-0310
Assignment of Support Rights; Not SNAP

In all programs except the SNAP program:

(1) To be eligible for any program funded in whole or in part with federal grants under Title IV-A (TANF) of the Social Security Act, the filing group (see OAR 461-110-0310) must assign to the state its right to receive, from any other person, child support that accrues during any time period that the group receives assistance, not to exceed the total amount of assistance paid.

(2) To be eligible for any program funded in whole or in part with federal grants under Title IV-E of the Social Security Act, the filing group must assign to the state its right to receive, from any other person, child support that has accrued or that accrues during any time period that the group receives assistance, not to exceed the total amount of assistance paid.

(3) To be eligible for the OSIPM program, a filing group (see OAR 461-110-0410) must assign to the state the right of any Medicaid-eligible child (see OAR 461-001-0000) in the filing group to receive any cash medical support that accrues while the group receives assistance, not to exceed the total amount of assistance paid.

(4) Cash medical support received by the Department is retained by the Department as is necessary to reimburse the Department for OSIPM program medical assistance payments made on behalf of an individual with respect to whom such assignment was executed. To allow adequate time for reporting and payment of incurred medical services, the Department initiates reconciliation 12 months after termination of OSIPM benefits and subsequently issues any resulting refund to the individual or the individual's legal guardian.

(5) When the Department provides benefits or services for the support of a child who is in a filing group in any program funded in whole or in part with a federal grant under Title IV-A (TANF) or IV-E of the Social Security Act, the right to child support for that child that any individual may have is deemed to be assigned to the state by operation of law.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 412.024, 412.049, 413.085, 414.685
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 412.001, 412.024, 412.049, 413.085, 414.025, 414.685
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 12-2007(Temp), f. 11-30-07, cert. ef. 12-1-07 thru 3-29-07; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 12-2009(Temp), f. 6-23-09, cert. ef. 7-1-09 thru 12-28-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-140-0020
Availability of Resources

(1) Except as provided in sections (2) to (4) of this rule:

(a) In the SNAP program, a resource owned jointly by a client and another individual is available in its entirety to the client.

(b) In all other programs, jointly-owned resources are available to members of a financial group (see OAR 461-110-0530) only to the extent they own the resource; except that in the OSIPM and QMB programs, jointly-owned "liquid resources" (including bank and other financial institution accounts) are assumed to be available in their entirety to the client. The client has the right to provide evidence rebutting the ownership assumption. For the purposes of this rule, "liquid resources" means cash as well as other resources that can be converted to cash within 20 business days.

(2) A resource is not available to a client in each of the following situations:

(a) The client has a legal interest in the resource, but the resource is not in the client's possession and the client is unable to gain possession of it. In the REF and REFM programs, if a resource remains in the applicant's country of origin, it is not available.

(b) The resource is jointly owned with others not in the financial group who are unwilling to sell their interest in the resource, and the client's interest is not reasonably saleable.

(c) The client verifiably lacks the competence to gain access to or use the resource and there is no legal representative available to act on the client's behalf.

(d) The client is a victim of domestic violence (see OAR 461-001-0000) and:

(A) Attempting to use the resource would subject the client to risk of domestic violence; or

(B) The client is using the resource to avoid the abusive situation.

(e) Except as provided in OAR 461-145-0540, the resource is included in an irrevocable or restricted trust and may not be used to meet the basic monthly needs of the financial group.

(f) In the OSIP, OSIPM, and QMB programs, there is a legal bar to the sale of the resource.

(3) A resource is not considered available during the time the owner does not know he or she owns the resource.

(4) If a resource is subject to an early withdrawal penalty, the amount of the penalty is not available.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685, 414.839
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; 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 12-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

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).

(g) In the OSIP, OSIPM, and QMB programs, except for self-employment (see OAR 461-145-0915), wages that are earned in one period of time but paid in another are considered available when they are received, such as a teacher who works for nine months but is paid over twelve.

(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 paragraph (5)(e)(A) of this rule.

(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 OAR 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, 411.070, 411.404, 411.816, 412.049, 413.085, 414.685
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.117, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685, 414.839
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; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-145-0010
Animals

(1) Animals that are kept as pets or raised as food for the filing group (OAR 461-110-0310) are excluded.

(2) The treatment of an animal considered income-producing property (see OAR 461-001-0000) is covered by the income-producing property rules (see OAR 461-145-0250 and 461-145-0252).

(3) In the OSIP, OSIPM, and QMB programs:

(a) The fair market value (see OAR 461-001-0000) of animals that are kept or retained for sale or resale is a countable (see OAR 461-001-0000) resource.

(b) If an animal is a source of both food and income for the filing group:

(A) The fair market value of the animal remains excluded.

(B) The proceeds of any sales of the animal or its products are counted as unearned income.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.083, 411.404, 411.816, 412.049, 413.085, 414.685
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.083, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685, 414.839
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-145-0088
Corporations and Business Entities; Income and Resources; Not OSIP, OSIPM, or QMB

(1) The value of stocks or other ownership interest in a corporation is a resource.

(2) Assets of the corporation essential to the employment of an individual are excluded. For instance, if the corporation owns equipment used by the individual to produce income for the corporation, the equipment is an excluded resource. If an individual must own stock in the corporation as a condition of working for the corporation, the stock is an excluded resource.

(3) Except as provided in OAR 461-140-0040(2) and section (4) of this rule, income of a corporation is not income of an individual with an ownership interest in the corporation until the income is distributed to the individual.

(4) In the REF, REFM, and SNAP programs:

(a) An expenditure by a business entity or corporation that benefits a principal (see subsection (b) of this section) — such as a car or housing payment — is considered available when the expenditure is made.

(b) For purposes of this rule, a "principal" means an individual with significant authority in a business entity or corporation, including a sole proprietor, a self-employed person (see OAR 461-145-0910), a partner in a partnership, a member or manager of a limited liability company, and an officer or principal stockholder of a closely held corporation.

(c) See OAR 461-145-0130, 461-145-0280, and 461-145-0470 for the treatment of earned in-kind income.

(5) In the SNAP program:

(a) Income from business entities and corporations is treated as follows:

(A) If an individual is actively working in a corporation, the income is treated as earned income.

(B) If an individual is actively working in an unincorporated business entity, refer to OAR 461-145-0910 to determine if the income is treated as earned or as self-employment.

(C) If an individual is no longer actively working to produce the income, the income is treated as unearned.

(b) Income from a limited liability company is treated as follows:

(A) If an individual is a member or a manager member, the income is treated as self-employment income.

(B) If an individual is a manager but not a member, the income is treated as earned income.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.049
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 412.049
Hist.: AFS 11-1999, f. & cert. ef. 10-1-99; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2015, f. 3-13-15, cert. ef. 4-1-15; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-145-0089
Corporations and Other Business Entities; Income and Resources, Not Self-Employment; OSIP, OSIPM, QMB

(1) For purposes of this rule:

(a) "Business entity" includes a sole proprietorship, a partnership, and an unincorporated limited liability company.

(b) "Principal" means an individual with significant authority in and responsibility for the success or failure of a corporation or "business entity" (see subsection (a) of this section), including:

(A) A sole proprietor.

(B) A general partner in a partnership.

(C) A member or manager of a limited liability company.

(D) An officer or stockholder with controlling shares in a closely-held corporation.

(2) This rule applies to an individual who has an ownership interest in:

(a) A corporation; or

(b) A business entity, but is not considered self-employed (see OAR 461-145-0915).

(3) For an individual with an ownership interest in and actively working for a corporation:

(a) The individual cannot be considered self-employed, regardless of whether or not the individual is a principal (see subsection (1)(b) of this rule). Income from actively working for the corporation is treated as earned income as provided in OAR 461-145-0130.

(b) Dividends or profits are treated as unearned income.

(c) Income not paid to an individual but retained by the corporation is not considered income of the individual.

(d) Property and resources owned by the corporation are excluded.

(e) If maintaining an ownership interest in a corporation is required for employment, the equity value (see OAR 461-001-0000) of the ownership interest is excluded; otherwise it is counted as provided in subsection (6)(a) of this rule.

(f) Except as provided in OAR 461-145-0280, a non-business expenditure — including, but not limited to, a car or housing payment — paid by the corporation that benefits the individual is treated as earned income of the individual.

(4) If the individual has an ownership interest in a business entity, is considered a principal, and is actively working in the business entity, the individual is considered self-employed (see OAR 461-145-0915).

(5) If the individual has an ownership interest in a business entity, is not considered a principal, and is actively working in the business entity:

(a) The individual's income, not including dividends or profits from the business entity, is treated as earned income as provided in OAR 461-145-0130.

(b) Dividends or profits are treated as unearned income.

(c) If maintaining an ownership in the business entity is required for employment, the equity value of the ownership interest is excluded; otherwise it is counted as provided in subsection (6)(a) of this rule.

(d) Except as provided in OAR 461-145-0280, a non-business expenditure — including, but not limited to, a car or housing payment — paid by a business entity that benefits the individual is treated as earned income of the individual.

(6) If the individual has an ownership interest in a corporation or business entity, but is not actively working in the corporation or business entity:

(a) Except as provided in OAR 461-140-0020, the equity value of an ownership interest in a corporation or business entity, such as stock in the corporation, is treated as a resource. See OAR 461-145-0520 for how to treat stock.

(b) Except as provided in OAR 461-140-0040, income of the individual from a corporation or business entity is treated as unearned income of the individual.

(c) Except as provided for in OAR 461-145-0280, a non-business expenditure — including, but not limited to, a car or housing payment — paid by a corporation or business entity that benefits the individual is treated as unearned income of the individual.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.083, 411.404, 411.706, 413.085, 414.685
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.083, 411.404, 411.706, 413.085, 414.685, 414.839
Hist.: SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

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 SNAP program, expenditure by a business entity that substantially benefits a principal (see OAR 461-145-0088).

(10) In the OSIP, OSIPM, and QMB programs, except as provided in OAR 461-145-0280, a non-business expenditure — including, but not limited to, a personal car or housing payment — paid by an individual's corporation or business entity (see OAR 461-145-0089) that benefits the individual.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 413.085, 414.685, 414.839
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; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-145-0130
Earned Income; Treatment

(1) Earned income (see OAR 461-145-0120) is countable (see OAR 461-001-0000) in determining eligibility (see OAR 461-001-0000) for programs, subject to the provisions in sections (2) to (10) of this rule.

(2) JOBS Plus income is earned income and is treated as follows:

(a) In the SNAP program:

(A) JOBS Plus income earned by a TANF-PLS (see OAR 461-101-0010(12)(a)) client:

(i) Is counted in determining initial SNAP program eligibility.

(ii) Is excluded in determining ongoing eligibility.

(B) JOBS Plus wages received after the individual's last month of work under a TANF-PLS JOBS Plus agreement are counted.

(b) In the TANF program:

(A) JOBS Plus income earned by an NCP-PLS (see OAR 461-101-0010(12)(c)) client is counted in determining initial TANF eligibility.

(B) When determining the need for a TANF supplement for a TANF-PLS client, the income is treated as follows:

(i) It is excluded in determining the countable income limit and in calculating the benefit equivalency standards.

(ii) It is counted in calculating the wage supplement.

(C) JOBS Plus wages received after the individual's last month of work under a JOBS Plus agreement are counted.

(c) In the OSIPM and QMB programs, JOBS Plus wages received after the individual's last month of work under a TANF-PLS JOBS Plus agreement are counted.

(d) In all programs not covered under subsections (a) to (c) of this section, TANF-PLS income is counted as earned income.

(e) In all programs other than the TANF program, NCP-PLS income is counted as earned income.

(f) In all programs, wages received under the Tribal TANF JOBS programs are counted as earned income.

(3) Welfare-to-Work work experience income is treated as follows:

(a) In the REF, REFM, and TANF programs, the income is earned income, and the first $260 is excluded each month.

(b) In the SNAP program, the income is earned income.

(4) In the ERDC program, earned income of a child (see OAR 461-001-0000) is excluded.

(5) In the OSIP, OSIPM, and QMB programs:

(a) Documented net losses from a self-employment business (see OAR 461-150-0095) are excluded from any other source of earned income of the financial group (see OAR 461-110-0530).

(b) The income a principal (see OAR 461-145-0089) earns working for a corporation is countable as earned income.

(6) In the REF and REFM programs:

(a) Income remaining after the month of receipt is a resource.

(b) Earned in-kind income is excluded (see OAR 461-145-0280 and 461-145-0470).

(7) In the TANF program:

(a) Earned income of the following children is excluded:

(A) Dependent children under the age of 19 years, and minor parents under the age of 18 years, who are full-time students in grade 12 or below (or the equivalent level of vocational training, in GED courses), or in home schooling approved by the local school district.

(B) Dependent children under the age of 18 years who are attending school part-time (as defined by the institution) and are not employed full-time.

(C) Dependent children too young to be in school.

(b) Income remaining after the month of receipt is a resource.

(c) Earned in-kind income is excluded (see OAR 461-145-0280 and 461-145-0470).

(8) In the SNAP program:

(a) If a cafeteria plan (see OAR 461-001-0000) benefit that the employee may not elect to receive as a cash payment is designated and used to pay for child care, medical care, or health insurance, the benefit is excluded unless it is reimbursed by the Department. If reimbursed, the Department counts it as earned income.

(b) The following types of income are excluded:

(A) The earned income of an individual under the age of 18 years who is under the parental control of another member of the household and is:

(i) Attending elementary or high school;

(ii) Attending GED classes recognized by the local school district;

(iii) Completing home-school elementary or high school classes recognized by the local school district; or

(iv) Too young to attend elementary school.

(B) Earned in-kind income, except as provided in section (9) of this rule.

(C) Deductions from base pay for future educational costs under Pub. L. No. 99-576, 100 Stat. 3248 (1986), for an individual on active military duty.

(D) Income remaining after the month of receipt is a resource.

(9) In the SNAP program, earned in-kind income (see OAR 461-145-0280) is excluded unless it is an expenditure by a business entity that benefits a principal (see OAR 461-145-0088).

(10) In all programs except in the OSIPM program, for an individual in a nonstandard living arrangement (see OAR 461-001-0000), the income of a temporary employee of the U.S. Census Bureau employed to assist in taking the census is excluded.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.083, 411.404, 411.706, 411.816, 411.892, 412.014, 412.049, 413.085, 414.685
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.083, 411.404, 411.706, 411.816, 411.892, 412.014, 412.049, 413.085, 414.685, 414.839
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 9-1990, f. & cert. ef. 3-2-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 17-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 7-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 9-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 17-2001(Temp), f. 8-31-01, cert. ef. 9-1-01 thru 9-30-01; AFS 22-2001, f. & cert. ef. 10-1-01; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 31-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 14-2010(Temp), f. & cert. ef. 5-19-10 thru 11-15-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 11-2015, f. 3-13-15, cert. ef. 4-1-15; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-145-0250
Income-Producing Property; Not OSIP, OSIPM, or QMB

(1) Income from income producing property (see OAR 461-001-0000) is counted as follows:

(a) If a member of the financial group (see OAR 461-110-0530) actively manages the property 20 hours or more per week, the income is treated in the same manner as self-employment income (see OAR 461-145-0910, 461-145-0920, and 461-145-0930).

(b) If a member of the financial group does not actively manage the property 20 hours or more per week, the income is counted as unearned income with exclusions allowed only in accordance with OAR 461-145-0920. In the SNAP program, if the financial group owns more than one property, the exclusions for one property may not be used to offset income from a different property.

(2) The equity value (see OAR 461-001-0000) of income-producing property is treated as follows:

(a) In the EA and ERDC programs, it is excluded.

(b) In the SNAP program, it is counted as a resource except to the extent described in each of the following situations:

(A) If the property produces an annual countable (see OAR 461-001-0000) income similar to other properties in the community with comparable market value, the equity value of the property is excluded.

(B) The property is excluded under OAR 461-145-0600.

(C) The equity value of income-producing livestock, poultry, and other animals is excluded.

(D) If selling the resource would produce a net gain to the financial group of less than $1,500, the equity value is excluded.

(c) In the GA and GAM programs, it is counted as a resource, except:

(A) If the non-business income-producing property (including houses or apartments for rent and land other than the primary residence) produces an annual countable income of at least six percent of its equity value, the value of the property is excluded up to a maximum of $6,000.

(B) If the annual countable income drops below six percent of the non-business property's equity value due to circumstances beyond the client's control, the client has up to 24 months from the end of the tax year in which the earnings dropped below six percent to meet the six percent requirement.

(C) The total equity value is excluded (regardless of value or rate of return) if either all the requirements of subparagraphs (i), (ii), and (iii) or subparagraph (iv) or subparagraph (v) are met:

(i) The property is used in the trade or business of a member of the financial group, as evidenced by two or more of the following:

(I) The good-faith intention of making a profit.

(II) Its use is part of a regular occupation for a member of the financial group.

(III) Holding out to others as being engaged in the selling of goods or services.

(IV) Continuity of operations, repetition of transactions, or regularity of activities.

(ii) The property is in current use or, if not in use for reasons beyond the control of the financial group, there must be a reasonable expectation that the required use will resume.

(iii) The property is essential to the client's self-support.

(iv) The government has issued a permit to the client to engage in income-producing activity on or with the property.

(v) Personal property is used by an employee for work.

(d) In the REF, REFM, and TANF programs, it is counted as a resource, except that in the TANF program, it is excluded for a self-employed client participating in the microenterprise (see OAR 461-001-0025) component of the JOBS program.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.083, 411.400, 411.404, 411.816, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.083, 411.400, 411.404, 411.816, 412.049, 413.085, 414.685

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 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 19-1994, f. & cert. ef. 9-1-94; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 10-2000, f. 3-31-00, cert. ef. 4-1-00; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-145-0252
Income-Producing Property; OSIP, OSIPM, and QMB

(1) This rule does not apply to personal or real property used in self-employment. See OAR 461-145-0915 to determine what constitutes self-employment and OAR 461-145-0600 to determine how to treat real or personal property used in self-employment.

(2) Income from income-producing property (see OAR 461-001-0000) is counted as follows:

(a) If a member of the financial group (see OAR 461-110-0530) actively manages the property 20 hours or more per week, the income is treated in the same manner as self-employment income (see OAR 461-145-0915, 461-145-0920, and 461-145-0930).

(b) If a member of the financial group does not actively manage the property 20 hours or more per week, the income is counted as unearned income with exclusions allowed only in accordance with OAR 461-145-0920.

(3) The equity value (see OAR 461-001-0000) of income-producing property is counted as a resource, subject to the following exceptions:

(a) Except as provided in OAR 461-140-0020.

(b) If the income-producing property, including houses or apartments for rent and land other than the primary residence, produces an annual countable (see OAR 461-001-0000) income of at least six percent of its equity value, the value of the property is excluded up to a maximum of $6,000.

(c) If the annual countable income drops below six percent of the equity value of the income-producing property due to circumstances beyond the client's control, the client has up to 24 months from the end of the tax year in which the earnings dropped below six percent to meet the six percent requirement.

(d) The equity value of government permits representing authority granted by a government agency to engage in income-producing activity is excluded in its entirety.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.400, 411.404, 411.706, 413.085, 414.685

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.400, 411.404, 411.706, 413.085, 414.685

Hist.: SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-145-0440
Reimbursement

(1) For the treatment of USDA meal reimbursements, see OAR 461-145-0570.

(2) The reimbursement (see OAR 461-001-0000) of a business expense for an individual who is self-employed is treated as self-employment income (see OAR 461-145-0910, 461-145-0915, and 461-145-0920).

(3) Except as provided in sections (1) and (2) of this rule, a reimbursement is treated as follows:

(a) In the ERDC program, a reimbursement is excluded, except that a reimbursement for child care from a source outside of the Department is counted as unearned income.

(b) In the SNAP program:

(A) A reimbursement in the form of money for a normal household living expense, such as rent or payment on a home loan, personal clothing, or food eaten at home, is unearned income.

(B) Any other reimbursement is treated as follows:

(i) An in-kind reimbursement is excluded.

(ii) A reimbursement in the form of money is excluded if used for the identified expense, unless the expense is covered by program benefits.

(iii) A reimbursement is counted as periodic income (see OAR 461-001-0000 and 461-140-0110) or lump sum income (see OAR 461-001-0000 and 461-140-0120) if not used for the identified expense.

(iv) A reimbursement for an item already covered by the benefits of the benefit group (see OAR 461-110-0750) is counted as periodic income or lump sum income.

(c) In the SNAP program, an expenditure by a business entity that benefits a principal (see OAR 461-145-0088) is counted as earned income (see OAR 461-145-0130).

(d) In all programs except the ERDC and SNAP programs, a reimbursement is treated as follows:

(A) An in-kind reimbursement is excluded.

(B) A reimbursement in the form of money is excluded if used for the identified expense, unless the expense is covered by program benefits.

(C) A reimbursement is counted as periodic income or lump sum income if not used for the identified expense.

(D) A reimbursement for an item already covered by the benefits of the benefit group is counted as periodic income or lump sum income.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 412.049, 413.085, 414.685

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; 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 10-2007, f. & cert. ef. 10-1-07; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-145-0600
Work-Related Capital Assets, Equipment, and Inventory

(1) As used in this rule:

(a) "Inventory" means goods that are in stock and available for sale to prospective customers.

(b) "Work-related equipment" means property essential to the employment or self-employment of a financial group (see OAR 461-110-0530) member. Examples are a tradesman's tools, a farmer's machinery, and equipment used to maintain an income-producing vehicle.

(2) A capital asset (see OAR 461-001-0000), other than work-related equipment (see section (1) of this rule) and inventory (see section (1) of this rule), is treated as follows:

(a) In the ERDC and GA programs, the equity value (see OAR 461-001-0000) of a capital asset is treated according to the rules for the asset.

(b) In the SNAP program, a capital asset used in a business is excluded as follows:

(A) Non-farm assets are excluded as long as the financial group is actively engaged in self-employment activities.

(B) Farm assets are excluded until one year after the date the individual quit self-employment as a farmer.

(c) In the REF, REFM, and TANF programs:

(A) For a self-employed client participating in the microenterprise component (see OAR 461-190-0197) of the JOBS program, the value of a capital asset is excluded.

(B) For all other clients, the value of a capital asset is counted according to the rules in this division of rules.

(d) In the OSIP, OSIPM, and QMB programs, a capital asset is excluded.

(3) Work-related equipment is treated as follows:

(a) In the EA, ERDC, OSIP, OSIPM, QMB, and SNAP programs, the equity value of work-related equipment is excluded.

(b) In the GA program, the value of equipment needed by an individual who has a disability or is blind to complete a plan for self-support (see OAR 461-135-0708) is excluded as long as the plan is in effect. For all other equipment, the equity value of the equipment is counted as a resource, except as provided at OAR 461-145-0250.

(c) In the REF, REFM, and TANF programs:

(A) For a self-employed client participating in the microenterprise component of the JOBS program, the equity value of the equipment is excluded.

(B) For all other clients, the equity value of the equipment is treated as a resource.

(4) Inventory is treated as follows:

(a) In the EA, ERDC, OSIP, OSIPM, QMB, and SNAP programs, inventory is excluded as long as the client is engaged in self-employment activities.

(b) In the GA program, the value of inventory needed by an individual who has a disability or is blind to complete a plan for self-support is excluded, as long as the plan is in effect. For all other inventory, the equity value of the inventory is counted as a resource.

(c) In the REF, REFM, and TANF programs:

(A) For a self-employed client participating in the microenterprise component of the JOBS program, the wholesale value of inventory remaining at the end of the semi-annual period covered in each income statement (see OAR 461-190-0197), less encumbrances, is counted as a resource.

(B) For all other clients, the wholesale value of inventory remaining at the end of a month, less encumbrances, is counted as a resource.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.117, 411.404, 411.816, 412.014, 412.049, 413.085, 414.685, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-145-0910
Self-Employment; General; Not OSIP, OSIPM, or QMB

(1) Self-employment income is income resulting from an individual's business, trade, or profession, rather than from a salary or wage paid by an employer. An individual is considered self-employed if the individual meets the criteria in sections (2) or (3) of this rule. Except as noted in section (3) of this rule, for all programs except SNAP, when an individual has established a corporation, determine if the individual is self-employed according to section (2) of this rule. If the individual has more than one self-employment business, trade, or profession, the income from each is determined separately.

(2) Except as provided in OAR 461-145-0250(1), an individual is self-employed for the purposes of this division of rules if the individual:

(a) Is considered an independent contractor by the business that employs the individual; or

(b) Meets at least four of the following criteria:

(A) Is engaged in an enterprise for the purpose of producing income.

(B) Is responsible for obtaining or providing a service or product by retaining control over the means and manner of providing the work or services offered.

(C) Is principally responsible for the success or failure of the business operation by assuming the necessary business expenses and profit or loss risks connected with the operation of the business, and has the authority to hire and fire employees to perform the labor or services.

(D) Is not required to complete an IRS W-4 form for an employer and is not required to have federal income tax or FICA payments withheld from a pay check.

(E) Is not covered under an employer's liability or workers' compensation insurance policy.

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

(a) Homecare Workers (see OAR 411-031-0020) paid by the Department are not self-employed.

(b) Child care providers (see OAR 461-165-0180) paid by the Department, adult foster home providers (see OAR 411-050-0602) paid by the Department, realty agents, and individuals who sell plasma, redeem beverage containers, pick mushrooms for sale, or engage in similar enterprises are considered to be self-employed.

(4) In the ERDC, REF, SNAP, and TANF programs, self-employment income, including income from a microenterprise (see OAR 461-001-0000), is counted prospectively to determine eligibility (see OAR 461-001-0000) as follows:

(a) Self-employment income is annualized when it is:

(A) Received during less than a 12-month period but is intended as a full year's income.

(B) From a business that has operated for a full year and the previous year is representative of what the income and costs will be during the budget month.

(b) Self-employment income is treated as anticipated income when a financial group (see OAR 461-110-0530) begins self-employment and is unable to determine what the income and costs will be during the budget month.

(5) In the GA program, self-employment income is considered available upon receipt by a member of the financial group, except it is prorated over the period of work if the duration of the work exceeds one month.

(6) In the REFM program:

(a) Self-employment income is counted only if received in the month of application.

(b) If self-employment income counted in the month of application puts the applicant over the income limits for REFM, the income is calculated according to section (4) of this rule.

(7) When determining the amount of countable (see OAR 461-001-0000) self-employment income, use gross receipts and sales, including mileage reimbursements, before costs.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 413.085, 414.685

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; 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 14-2006, f. 9-29-06, cert. ef. 10-1-06; 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 11-2015, f. 3-13-15, cert. ef. 4-1-15; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-145-0915
Self-Employment; General; OSIP, OSIPM, QMB

(1) For purposes of this rule:

(a) "Business entity" includes a sole proprietorship, a partnership, and an unincorporated limited liability company.

(b) "Principal" means an individual with significant authority in a "business entity" (see subsection (a) of this section), including a sole proprietor, a general partner in a partnership, or a member or manager of an unincorporated limited liability company.

(2) Notwithstanding any other sections of this rule:

(a) Homecare workers (see OAR 411-031-0020) paid by the Department are not self-employed.

(b) Child care providers (see OAR 461-165-0180) paid by the Department, adult foster home providers (see OAR 411-050-0602) paid by the Department, realty agents, and individuals who sell plasma, redeem beverage containers, pick mushrooms for sale, or engage in similar enterprises are considered self-employed.

(c) Self-employment does not include non-business activities such as property rentals (see OAR 461-145-0252) or renting a room out of the financial group's primary residence (see OAR 461-145-0340).

(3) Self-employment means active engagement in one's own business, trade, or profession, rather than earning a salary or wage paid by an employer or maintaining a passive ownership interest in a business entity. An individual is considered self-employed if the individual meets the criteria in subsection (2)(b) or section (5) of this rule.

(4) For a principal (see subsection (1)(b) of this rule) of a corporation or incorporated limited liability company, payments for working or performing services for the corporation or holding corporate office are considered wages and counted as earned income (see OAR 461-145-0089 and 461-145-0130).

(5) Except as provided in OAR 461-145-0089(3), an individual is self-employed for the purposes of this division of rules if the individual:

(a) Is considered an independent contractor by the business that employs him or her; or

(b) Meets at least four of the following criteria:

(A) Is engaged in an enterprise for the purpose of producing income.

(B) Is responsible for obtaining or providing a service or product by retaining control over the means and manner of providing the work or services offered.

(C) Has significant responsibility for the success or failure of the business operation and has the authority to hire and fire employees to perform the labor or services.

(D) Is not required to complete an IRS W-4 form for an employer and is not required to have federal income tax or FICA payments withheld from a pay check.

(E) Is not covered under an employer's liability or workers' compensation insurance policy.

(6) For a principal or any individual with an ownership interest in a business entity who cannot be considered self-employed using the criteria in this rule:

(a) See OAR 461-145-0089 for individuals who are not actively working in the business entity to determine how to treat income and resources.

(b) See OAR 461-145-0130 for individuals who are actively working for the business entity but do not have significant authority or responsibility for its success or failure to determine how to treat income and OAR 461-145-0089 to determine how to treat resources.

(7) For an individual who is considered self-employed:

(a) See OAR 461-145-0920 and 461-145-0930 to determine how to treat income from self-employment.

(b) See OAR 461-145-0600 to determine how to treat resources used in self-employment.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 413.085, 414.685
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.400, 411.404, 411.706, 413.085, 414.685, 414.839
Hist.: SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-145-0920
Self-Employment; Costs That Are Excluded To Determine Countable Income

(1) This rule explains how to determine which costs are excluded from gross self-employment income.

(2) In all programs except the OSIP, OSIPM, and QMB programs, unless prohibited by section (4) of this rule, and subject to the provisions of sections (6) and (7) of this rule and OAR 461-145-0930, the necessary costs of producing self-employment income are excluded from gross sales and receipts including, but not limited to:

(a) Labor (wages paid to an employee or work contracted out).

(b) Materials used to make a product.

(c) In the SNAP program — principal and interest paid to purchase income-producing property (see OAR 461-001-0000), such as real property, equipment, or capital assets. In all other programs, interest paid to purchase income-producing property, such as equipment or capital assets.

(d) Insurance premiums, taxes, assessments, and utilities paid on income-producing property.

(e) Service, repair, and rental of business equipment, including motor vehicles, and property that is owned, leased, or rented.

(f) Advertisement and business supplies.

(g) Licenses, permits, legal, or professional fees.

(h) Transportation costs at 20 cents per mile, if the cost is part of the business expense. Commuting expenses to and from the worksite are not part of the business expense.

(i) Charges for telephone service that are a necessary cost for self-employment.

(j) Meals and snacks provided by family day care providers for children in their care, except the provider's own children. The actual cost of the meals is used if the provider can document the cost. If the provider cannot document the actual cost, the USDA meal reimbursement rates are used.

(k) Materials purchased for resale, such as cosmetic products.

(L) For newspaper carriers, the cost of newspapers, bags, and rubber bands.

(3) In the OSIP, OSIPM, and QMB programs, unless prohibited by section (5) of this rule, and subject to the provisions of sections (6) and (7) of this rule and OAR 461-145-0930, the necessary costs of producing self-employment income are excluded from gross sales and receipts including, but not limited to:

(a) Advertising.

(b) Car and truck expenses.

(c) Commissions and fees.

(d) Contract labor.

(e) Depletion.

(f) Depreciation.

(g) Employee benefit programs.

(h) Insurance, other than health.

(i) Mortgage interest.

(j) Legal and professional services.

(k) Office expenses.

(L) Pension and profit-sharing plans.

(m) Rent or lease of vehicles, machinery, equipment, and other business property.

(n) Repairs and maintenance.

(o) Supplies.

(p) Taxes and licenses.

(q) Travel, meals, and entertainment.

(r) Utilities.

(s) Wages, less employment credits.

(t) Meals and snacks provided by family day care providers for children in their care, except the provider's own children. The actual cost of the meals is used if the provider is able to document the cost. If the provider is unable to document the actual cost, the USDA meal reimbursement rates are used.

(u) Materials purchased for resale, such as cosmetic products.

(v) For newspaper carriers, the cost of newspapers, bags, and rubber bands.

(4) In all programs except the OSIP, OSIPM, and QMB programs, the following costs are not excluded from gross sales and receipts:

(a) Business losses from previous months.

(b) Except in the SNAP program, payments on the principal of the purchase price of income-producing real estate and capital assets, equipment, machinery, and other durable goods.

(c) Federal, state, and local income taxes, draws or salaries paid to any financial group member, money set aside for personal retirement, and other work-related personal expenses, such as transportation, personal business, and entertainment expenses.

(d) Depreciation. For purposes of this section, "depreciation" means a prorated lessening of value assigned to a capital asset (see OAR 461-001-0000) based on its useful life expectancy and initial cost.

(e) Costs related to traveling to another area to seek business when there is no reasonable possibility of deriving income from the trip.

(f) Interest or fees on personal credit cards.

(g) Personal telephone charges.

(h) Shelter or utility costs associated with the individual's home, except as authorized by section (6) of this rule.

(5) In the OSIP, OSIPM, and QMB programs, the following costs are not excluded from gross sales and receipts:

(a) Federal, state, and local income taxes.

(b) Costs related to traveling to another area to seek business when there is no reasonable possibility of deriving income from the trip.

(c) Interest or fees on personal credit cards.

(d) Personal telephone charges.

(e) Shelter or utility costs associated with the individual's home, except as authorized by section (6) of this rule.

(6) The exclusions for items used for both business and personal purposes, such as automobiles and a residence, including utilities, are limited by the following subsections:

(a) In the ERDC, GA, GAM, OSIP, OSIPM, and QMB programs, the portion of the expense that is for business use only is excluded.

(b) In the SNAP program, costs are excluded for a separate office or shop located on the property used as a home, if the costs are billed separately from the residence. Costs for other items used for both business and personal use are excluded.

(7) If no member of the financial group (see OAR 461-110-0530) has been self-employed for a sufficiently long period to ascertain the costs of self-employment, the costs may be estimated.

(8) For an individual participating in the microenterprise component (see OAR 461-190-0197) of the JOBS program, costs are excluded according to this rule and general accounting principles, as applied by a certified public accountant, bookkeeping firm, or other entity approved by the Department.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 413.085, 414.685
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 413.085, 414.685, 414.839
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; 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 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; 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 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 24-1998(Temp), f. 11-30-98, cert. ef. 12-1-98 thru 3-31-99; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 1-2005(Temp), f. & cert. ef. 2-1-05 thru 6-30-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07;

SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-150-0090
Prospective Budgeting: Annualizing and Prorating Contracted or Self-employment Income; Not OSIP, OSIPM, or QMB

In all programs except the REFM program:

(1) Income from self-employment, including contract income while self-employed, is treated in accordance with OAR 461-145-0910 unless the income meets the provisions of section (2) of this rule.

(2) If past contract income is not representative of future income or when a substantial increase or decrease is expected in countable (see OAR 461-001-0000) self-employment income (see OAR 461-145-0910) in the next year, costs as allowed under OAR 461-145-0930 and anticipated income are used to determine the countable income.

(3) In the ERDC, REF, SNAP, and TANF programs, contract income that does not meet the criteria of self-employment income (see OAR 461-145-0910) is treated as follows:

(a) Income received during a less than 12-month period but intended as a full year's income is annualized.

(b) Income received on an hourly or piecework basis or monthly over the term of the contract period is not annualized. It is treated as stable income (see OAR 461-001-0000) under OAR 461-150-0070 or variable income (see OAR 461-001-0000) under OAR 461-150-0080.

(4) Contract income that is not the annual income of the financial group (see OAR 461-110-0530) and not paid on an hourly or piecework basis is prorated over the period the income is intended to cover.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.014, 412.049
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 412.014, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1992, f. & cert. ef. 5-1-92; 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; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 37-2009(Temp), f. & cert. ef. 12-1-09 thru 5-30-10; SSP 5-2010, f. & cert. ef. 4-1-10; 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 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-150-0095
Prospective Budgeting: Averaging and Estimating Self-employment Income; OSIP, OSIPM, QMB

(1) Net earnings from self-employment are counted on a taxable year basis by dividing the total earnings by twelve to arrive at a monthly amount.

(2) Only net losses from self-employment that are documented are divided over the taxable year in the same way as net earnings and excluded only from other earned income of the financial group (see OAR 461-110-0530 and 461-145-0130).

(3) When a self-employed individual is engaged in a business or trade which is neither seasonal nor has income peaks at certain parts of the year, estimate net earnings from self-employment for the current taxable year in the following sequence:

(a) When the individual has been conducting the same trade or business for two or more years, has had fairly constant net earnings from self-employment from year-to-year, and anticipates no change or gives no convincing explanation why current net earnings would be substantially different from past net earnings, use the net earnings from the prior year as an estimate for the current taxable year.

(b) When an individual has been engaged in the same business for only the preceding taxable year, anticipates no change or gives no convincing explanation why current net earnings would be substantially different from the previous taxable year:

(A) Calculate the ratio between net profit or loss and gross receipts from the last year;

(B) Calculate the actual gross receipts from the individual's current records and project them for the remainder of the year; and

(C) Apply the gross-to-net ratio calculated in paragraph (A) of this subsection to the current year's projected gross calculated in paragraph (B) of this subsection to arrive at the estimated net earnings.

(c) When an individual is engaged in a new business, project the income received to date for the remainder of the year as follows:

(A) Calculate the net earnings from the individual's profit and loss statement or other business records for the taxable year to date; and

(B) Average the monthly net earnings by dividing the net income received to date by the number of months that have elapsed.

(d) Accept the individual's estimate for the net earnings when an individual is engaged in one of the following:

(A) A new business for which there are insufficient net earnings to date.

(B) At initial application only, an existing business for which records were not kept.

(C) An existing business with anticipated income that varies from past years and a convincing explanation is given for the variation.

(4) When a self-employed individual is engaged in a trade or business that is seasonal or has income peaks at certain parts of the year, estimate net earnings from self-employment for the current taxable year in the following sequence:

(a) When the individual has been conducting the same trade or business for at least one full taxable year, anticipates no change or gives no convincing explanation why current net earnings would be substantially different from past net earnings, use the net earnings from the prior year as an estimate for the current taxable year.

(b) Accept the individual's estimate for the net earnings when an individual is engaged in one of the following:

(A) A new business.

(B) At initial application only, an existing business for which records were not kept.

(C) An existing business with anticipated income that varies from past years and a convincing explanation is given for the variation.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 413.085, 414.685
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.706, 413.085, 414.685, 414.839
Hist.: SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15

461-195-0310
Notice of Claim or Action by Applicant or Recipient

(1) An applicant (see OAR 461-195-0301) for or recipient (see OAR 461-195-0301) of assistance (see OAR 461-195-0301) who has a claim (see OAR 461-195-0301) for a personal injury (see OAR 461-195-0301) or begins an action (see OAR 461-195-0301) to enforce such claim — or the attorney, personal representative (see OAR 407-014-0000), or authorized representative (see OAR 410-200-0015 and 461-115-0090) for the applicant or recipient — must notify the Department (see OAR 461-195-0301) and the CCO (see OAR 461-195-0301) of the recipient, if the recipient is receiving services from the CCO, within ten days of initiating that claim or action, unless the action was initiated prior to the application for assistance.

(a) If the action was initiated prior to the application for assistance, the applicant must notify the Department at the time of application.

(b) The notification must include:

(A) The names and addresses of all parties against whom the action is brought or claim is made;

(B) A copy of each claim demand; and

(C) If an action is brought, the case number and the county where the action is filed.

(c) A parent, guardian, foster parent, caretaker relative, attorney, personal representative, or authorized representative must make the notification on behalf of an individual under the age of 18 or an incompetent adult.

(2) Notification required under section (1) of this rule must be sent to the Personal Injury Liens Unit, Office of Payment Accuracy and Recovery, Department of Human Services, by mail or facsimile (see sections (4) and (5) of this rule).

(3) Notices required by ORS 416.530 to be sent to the Oregon Health Authority (Authority) may be consolidated with similar notices to the Department and sent to the Personal Injury Liens Unit. A consolidated notice is considered notice to the Authority if the Authority's interest or claim in the matter is identified in the notice consistent with requirements in the applicable statute. (See also OAR 943-001-0020(2)(e).)

(4) The mailing address for the Personal Injury Liens Unit is: Personal Injury Liens Unit, PO Box 14512, Salem OR 97309-0416.

(5) The facsimile number for the Personal Injury Liens Unit is (503) 378-2577 and the telephone number is (503) 378-4514.

(6) If an applicant for or recipient of assistance— or the attorney, personal representative, or authorized representative for the applicant or recipient — fails to give the notification as required by this rule, the Department or the CCO of the recipient, if the recipient is receiving services from the CCO, has a cause of action under ORS 416.610 against the recipient for amounts received by the recipient pursuant to a judgment (see OAR 461-195-0301), settlement (see OAR 461-195-0301), or compromise (see OAR 461-195-0301) to the extent that the Department or the CCO could have had a lien against such amounts had such notice been given. At least 30 days prior to commencing an action under ORS 416.610, the Personal Injury Liens Unit and the CCO, if any, must consult with each other.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 412.049, 413.033, 413.042, 413.085, 414.685
Stats. Implemented: ORS 409.050, 410.070, 411.060, 411.070, 412.049, 413.033, 413.042, 413.085, 414.685, 416.510, 416.530, 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 461-010-0110; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; 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 25-2015, f. 9-29-15, cert. ef. 10-1-15

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Rule Caption: Providing assistance with applications and appeals for Social Security benefits to clients who qualify
Adm. Order No.: SSP 26-2015(Temp)
Filed with Sec. of State: 9-29-2015
Certified to be Effective: 10-5-15 thru 4-1-16
Notice Publication Date:
Rules Amended: 461-125-0370
Subject: OAR 461-125-0370 about disability as the basis of need is being amended to state that an individual may request free assistance with Social Security applications and administrative appeals from the Department when the individual:

- Is determined to have a disability under OAR 461-125-0370(1)(c);
- Receives benefits from one of the OCCS Medical Programs;
- Receives SNAP benefits; and
- Is served by the Aging and People with Disabilities Office in Estacada, Oregon.

This will assist these individuals in meeting the requirement to pursue assets under OAR 410-200-0220.
Rules Coordinator: Kris Skaro—(503) 945-6067

461-125-0370
Disability as the Basis of Need

(1) In the OSIP and OSIPM programs (except OSIP-EPD and OSIPM-EPD), an individual meets the eligibility requirement to have a disability if the requirements of one of the following subsections are met:

(a) The individual is receiving Social Security Disability Income (SSDI) or Supplemental Security Income (SSI) based on disability. Eligibility continues as long as the individual remains eligible for SSDI or SSI.

(b) The individual was eligible for and received Aid to the Disabled benefits in Oregon in December 1973. These grandfathered cases continue to be eligible as long as they are continuously disabled as defined by Oregon requirements that were in effect in 1973.

(c) The Department has determined the individual meets the listing of impairments found in 20 C.F.R. Part 404, Subpart P, Appendix 1; meets the medical vocational guidelines found in 20 C.F.R. Part 404, Subpart P, Appendix 2 for SSI; or meets the definition of disability in 20 C.F.R. 404.1505 or 416.905.

(d) The Social Security Administration (SSA) has determined the individual meets the listing of impairments found in 20 C.F.R. Part 404, Subpart P, Appendix 1; meets the medical vocational guidelines found in 20 C.F.R. Part 404, Subpart P, Appendix 2; or meets the definition of disability in 20 C.F.R. 404.1505 or 416.905.

(2) If the Department finds the individual eligible for OSIPM in the absence of a disability determination by SSA, the individual remains eligible, provided that the individual continues to meet the disability criteria for eligibility for OSIPM, until SSA denies the disability claim in a final administrative decision.

(3) For OSIP and OSIPM, a disability determination made by SSA that is unfavorable to an individual is binding on the Department unless the requirements of at least one of the following subsections are met (see 42 C.F.R. 435.541(c)(1) and (c)(4)):

(a) SSA made the determination for a reason other than disability.

(b) The individual alleges a disabling condition different from, or in addition to, that considered by SSA in making its determination.

(c) More than 12 months after the most recent SSA determination denying disability, the individual alleges that his or her condition has changed or deteriorated since that SSA determination, and the individual has not made application to SSA based on these allegations.

(d) The individual alleges less than 12 months after the most recent SSA determination denying disability that the condition which SSA evaluated has changed or deteriorated since that SSA determination; and one or both of the following apply:

(A) The individual has requested reconsideration or reopening of the most recent SSA determination denying disability and SSA has declined to consider the new allegations.

(B) It is clear that the individual no longer meets SSI eligibility requirements unrelated to disability status but may satisfy comparable Medicaid eligibility requirements.

(4) If a binding SSA disability determination is not in place, the determination of disability to qualify for OSIPM is made by the Presumptive Medicaid Disability Determination Team (PMDDT), composed of a medical or psychological consultant and another individual who is qualified to interpret and evaluate medical reports, other evidence relating to the individual's physical or mental impairments, and (as necessary) to determine the capacities of the individual to perform substantial gainful activity, as specified in 20 C.F.R. Part 416, Subpart J (see 42 C.F.R. 435.541(f)(2)).

(5) The Presumptive Medicaid Disability Determination Team (PMDDT) obtains and reviews medical reports and other non-medical evidence pertaining to the individual and the claimed disability. The medical report and non-medical evidence must include diagnosis and other information in accordance with the requirements for evidence applicable to disability determinations under the SSI program specified in 20 CFR Part 416, Subpart I. The PMDDT then makes a decision about medical eligibility and whether and when a redetermination will be made (see 42 C.F.R. 435.541(f)(1) and (3)).

(6) In the OSIP-EPD and OSIPM-EPD programs, an individual is disabled (see OAR 461-001-0035) or has a disability (see OAR 461-001-0035) if the individual has a physical or mental impairment, or a combination of these impairments, that meets the definition of disability used by SSA when determining eligibility for SSI or SSDI under 20 C.F.R. Part 404. The determination is made as follows:

(a) A determination by SSA that the individual is disabled or has a disability is accepted by the Department.

(b) If the individual was determined to have a disability by SSA and lost their SSDI eligibility due to their own income, the SSA determination remains effective for one year from the date that the individual loses eligibility for SSDI.

(c) If there is no currently effective SSA determination finding the individual has a disability, the case is referred to the Department's central office for a disability determination (see OAR 461-001-0035) using the standards of 20 C.F.R. Parts 404 and 416 and considering all relevant medical and vocational information.

(d) For OSIPM-EPD, an individual is engaging in substantial gainful activity (SGA, see OAR 461-001-0035) if the earnings of the individual are at or above the EPD Income Standard.

(e) For OSIPM-EPD, any work activity engaged in during the OSIPM-EPD application process or certification period is not evaluated as past relevant work (PRW, see OAR 461-001-0035).

(7) An individual who is served by a branch office (see OAR 461-001-0000) and who has been determined by the Presumptive Medicaid Disability Determination Team (PMDDT) to have a disability (see section (1) of this rule) may receive free assistance from the Department with applications and administrative appeals for Social Security benefits based on a disability for purposes including, but not limited to, meeting the requirement to pursue assets under OAR 461-120-0330.

(8) An individual may receive free assistance from the Department with applications and administrative appeals for Social Security benefits based on a disability for purposes including, but not limited to, meeting the requirement to pursue assets under OAR 410-200-0220 if the individual:

(a) Is determined to have a disability under subsection (1)(c) of this rule;

(b) Receives benefits from one of the OCCS Medical Programs (see OAR 461-001-0000);

(c) Receives SNAP benefits; and

(d) Is served by the Aging and People with Disabilities branch office (see OAR 461-001-0000) in Estacada, Oregon.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070, 411.121, 411.404, 411.706, 411.816, 413.085, 414.685
Stats. Implemented: ORS 409.010, 409.050, 410.010, 410.020, 410.050, 411.060, 411.070, 411.121, 411.404, 411.704, 411.706, 411.816, 413.085, 414.685
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; SSP 9-2003(Temp), f. & cert. ef. 4-11-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 20-2014(Temp), f. & cert. ef. 8-1-14 thru 1-28-15; SSP 22-2014(Temp), f. 8-29-14, cert. ef. 9-1-14 thru 1-28-15; SSP 27-2014(Temp), f. & cert. ef. 10-1-14 thru 1-28-15; SSP 31-2014(Temp), f. & cert. ef. 12-8-14 thru 1-28-15; SSP 5-2015, f. & cert. ef. 1-29-15; SSP 26-2015(Temp), f. 9-29-15, cert. ef. 10-5-15 thru 4-1-16

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Rule Caption: Changing notice requirements for JPI (Job Participation Incentive) benefits
Adm. Order No.: SSP 27-2015(Temp)
Filed with Sec. of State: 9-29-2015
Certified to be Effective: 10-1-15 thru 3-28-16

Notice Publication Date:
Rules Amended: 461-170-0103, 461-175-0200
Subject: OAR 461-170-0103 about actions resulting from changes in household circumstances and 461-175-0200 about notice situations are being amended to allow JPI (Job Participation Incentive) payments to be closed with a basic notice (instead of a 10-days advance notice with a right to continuing benefits) when a client reports a change, as long as the change does not reduce SNAP benefits. (This amendment only applies when net benefits are either unchanged or increased.) The JPI program is a $10 monthly food benefit.
Rules Coordinator: Kris Skaro—(503) 945-6067

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

In the SNAP program and JPI, benefits may be changed for an individual using SRS — based on information obtained other than through the Interim Change Report — only as follows:

(1) The benefit level is increased if the information demonstrates the individual is eligible for greater benefits.

(2) The benefits are closed or reduced if any of the following subsections apply:

(a) The household requests a closure of benefits.

(b) The action is based on information that is verified upon receipt. Information is considered verified upon receipt if:

(A) It is not questionable and the individual making the report has first-hand knowledge of the information reported; or

(B) Verification is provided with the reported change in accordance with OAR 461-115-0651.

(c) The individual reports information that results in loss of eligibility (see OAR 461-001-0000).

(d) The individual reports financial group (see OAR 461-110-0530) income exceeding the SNAP program countable (see 461-001-0000) income limit.

(3) The Department acts on information reported through computer matches when the Interim Change Report is processed, when the individual is recertified, or when the monthly match with the Department of Corrections indicates a member is incarcerated.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.081, 411.816, 411.825, 411.837
Hist.: SSP 20-2003, f. & cert. ef. 8-15-03; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 23-2015, f. 9-28-15, cert. ef. 10-1-15; SSP 27-2015(Temp). f. 9-29-15, cert. ef. 10-1-15 thru 3-28-16

461-175-0200
Notice Situations; General Information

(1) In the EA program, a basic decision notice (see OAR 461-001-0000) is sent for all situations.

(2) In the SNAP program, a basic decision notice is sent for all actions on applications for assistance.

(3) In the JOBS program:

(a) A basic decision notice is sent whenever a request for a support service payment is denied.

(b) No decision notice is required if request for a support service is approved.

(4) A basic decision notice is sent to close JPI benefits when the filing group (see OAR 461-110-0310) reports a change during the reporting period in which SNAP benefits do not decrease.

(5) In the TANF program, a notice approving benefits informs the client, within one month following eligibility determination, of the opportunity to volunteer for JOBS participation and of the procedure for JOBS program entry.

(6) In the Pre-TANF program, a basic decision notice is sent when payment for basic living expenses is denied or when payment for other support services in the JOBS program is denied. No other notices are required for this program.

(7) In the TA-DVS program, a basic decision notice (see OAR 461-001-0000) is sent to a safe mailing address or hand delivered for all situations. This includes when the program is approved, denied, or closed (prior to the end of the 90 day eligibility period) and when a payment under the program is denied.

(8) In all programs except the Pre-TANF program, unless stated differently in this rule or another rule, the Department mails or otherwise provides the client with (sends) a decision notice (see OAR 461-001-0000) as follows:

(a) A basic decision notice is sent whenever an application for assistance, including retroactive medical assistance, is approved or denied or a request for a support service payment in the JOBS program is denied.

(b) A timely continuing benefit decision notice (see OAR 461-001-0000) is sent whenever benefits or support service payments authorized by 461-190-0211 are reduced or closed, or the method of payment changes to protective, vendor, or two-party.

(c) A decision notice is sent whenever the Department adjusts previously underissued cash assistance or SNAP benefits.

(9) In all programs:

(a) Notwithstanding any rule in Chapter 461, to the extent permitted by OAR 137-003-0530, the Department may take any of the following actions:

(A) Amend a decision notice with another decision notice or a contested case notice.

(B) Amend a contested case notice.

(C) Delay a reduction or closure of benefits as a result of a client's request for hearing.

(D) Extend the effective date on a decision notice or contested case notice.

(b) Except as provided in subsection (a) of this section or when a delay results from the client's request for a hearing, a notice to reduce or close benefits becomes void if the reduction or closure is not initiated on the date stated on the notice. If the notice is void, a new notice is sent to inform the financial group (see OAR 461-110-0530) of a new date on which their benefits will be reduced or closed.

(c) No decision notice is required in each of the following situations:

(A) Benefits are ended because there is no living person in the benefit group (see OAR 461-110-0750).

(B) A notice was sent, the client requested a hearing, and either the hearing request is dismissed or a final order is issued.

(C) The client has signed a voluntary agreement that qualifies as a final order under ORS 183.417(3)(b) (see OAR 461-175-0340(2)).

(D) A decision notice that included the eligibility begin and end dates was given for TA-DVS program benefits and the 90 day eligibility period ends.

(d) When the Department amends a decision notice with another decision notice under subsection (a) of this section, the date of the amended notice restarts the client's deadlines to request a hearing or continuing benefits, or both.

(e) When a contested case notice extends an effective date or delays a reduction or closure, the date of the amended notice restarts a client's timeline to request continuing benefits.

(f) When a client has a pending hearing request or is receiving continuing benefits, and the Department amends a notice under this section, the client need not re-file the hearing request or renew the request for continuing benefits.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 414.231
Stats. Implemented: ORS 183.415, 183.417, 411.060, 411.070, 411.117, 411.404, 411.706, 411.816, 412.014, 412.049, 414.231, 414.826
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 13-1991, f. & cert. ef. 7-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 29-1993, f. 12-30-93, cert. ef. 1-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 16-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 6-27-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 11-2008(Temp), f. & cert. ef. 4-7-08 thru 9-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 3-2010(Temp), f. & cert. ef. 2-23-10 thru 8-22-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 25-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 25-2012, f. 6-29-12, cert. ef. 7-1-12; 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 27-2015(Temp). f. 9-29-15, cert. ef. 10-1-15 thru 3-28-16

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Rule Caption: Amending rules relating to public assistance programs, including REF, SNAP, and TANF
Adm. Order No.: SSP 28-2015
Filed with Sec. of State: 9-29-2015
Certified to be Effective: 10-1-15
Notice Publication Date: 9-1-2015
Rules Amended: 461-110-0370, 461-115-0030, 461-115-0040, 461-155-0190, 461-160-0410, 461-160-0420, 461-160-0430, 461-180-0070

Rules Repealed: 461-115-0030(T), 461-115-0040(T), 461-160-0410(T), 461-180-0070(T), 461-190-0212

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

OAR 461-115-0030 about the date of request, OAR 461-115-0040 about the filing date, and OAR 461-180-0070 about the effective date of benefits are being amended to correct a recent filing. On June 30, 2015, the Department filed amendments to these rules to change policy in the REF and TANF programs regarding the start date of benefits. Those amendments stated that the benefits start on the filing date (the date a signed application is received by the Department) as long as all eligibility requirements are met by the 45th day after the filing date. However, the intention was to require that eligibility requirements be met by the 45th day after the date of request, the date a client originally requests benefits orally or in writing. The amendments correctly state that benefits begin on the filing date as long as all eligibility requirements are met by the 45th day after the date of request. This makes permanent temporary rules adopted on July 23, 2015.

OAR 461-160-0410 about use of income and income deductions in the Supplemental Nutrition Assistance Program (SNAP) when there are ineligible or disqualified members in the filing group is being amended to comply with federal guidance to the Department regarding calculating the income for noncitizens receiving Temporary Assistance for Needy Families (TANF) benefits. The current rule requires the TANF benefit amount to be prorated and only counted for the eligible filing group members. The amendment removes this requirement and will result in the full TANF benefit amount being used to calculate benefits for the household. This makes permanent a temporary rule adopted on July 1, 2015.

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

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

Rules Coordinator: Kris Skaro—(503) 945-6067

461-110-0370
Filing Group; SNAP

In the SNAP program:

(1) Except as provided in this rule, the filing group (see OAR 461-110-0370) consists of members of a household group (see 461-110-0210) who choose to apply together or customarily purchase and prepare meals together.

(2) Except as provided in sections (3) and (8) of this rule, the following household group members must be in the same filing group, even if they do not customarily purchase and prepare meals together:

(a) Each spouse (see OAR 461-001-0000).

(b) A parent (see OAR 461-001-0000) and his or her child under age 22 living with the parent.

(c) A household group member and any child under age 18 who lives with and is under "parental control" of that household group member. For the purposes of this subsection, "parental control" means the adult is responsible for the care, control, and supervision of the child or the child is financially dependent on the adult.

(3) In the following specific situations, the Department forms a filing group as indicated:

(a) An individual is not included in the filing group if, during the month the group applied for SNAP program benefits, the individual received SSI benefits through the state of California. This exclusion applies only in the month the group applied and, if necessary to meet notice requirements, in the month following the month the group applied.

(b) An individual is not included in the filing group if during the month the group applied for SNAP program benefits the individual received SNAP program benefits in another household and was not the head of household in the prior household. This exclusion applies only in the month the group applied and, if necessary to meet notice requirements, in the month following the month the group applied.

(c) An elderly (see OAR 461-001-0015) individual and his or her spouse may be considered a separate filing group from others with whom the elderly individual purchases and prepares meals, if:

(A) The elderly individual is unable to purchase or prepare food because of a permanent and severe disabling condition; and

(B) The combined income of the other members of the household group does not exceed the following limit: [Table not included. See ED. NOTE.]

(4) A paid live-in attendant may choose not to be in the filing group with the recipient of the services provided, unless required by section (2) of this rule to be in the same filing group.

(5) An individual in foster care, the individual's spouse, and each child under age 22 living with the individual are not eligible to participate in the SNAP program independently of the care or service provider's filing group, but may be included in the provider's filing group if the provider applies for benefits.

(6) Unless required under section (2) of this rule, the following household group members may form a separate filing group from other members of the household group:

(a) A resident of an alcohol or drug treatment and rehabilitation program certified by the Department for which an employee of the facility is the authorized representative (see OAR 461-135-0550). A resident's spouse in the same facility may be in a separate filing group, but a child of a resident must be in the same filing group as the resident.

(b) A resident in group living (see OAR 461-001-0015).

(c) A resident of a public or private non-profit homeless or domestic violence shelter (see OAR 461-135-0510).

(d) An individual who is a resident of federally subsidized housing for the elderly, an individual with a disability, or blind recipient of benefits under Title I, II, X, XIV, or XVI of the Social Security Act.

(7) A member of the household group who pays the filing group for room and board (lodger) is treated as follows:

(a) A lodger cannot participate in the SNAP program independently of the household group when the lodger pays a reasonable amount for room and board. A reasonable amount is:

(A) An amount that equals or exceeds the Thrifty Food Plan for the individual and anyone in that individual's filing group (see OAR 461-155-0190(2)), if more than two meals per day are provided; or

(B) An amount that equals or exceeds two-thirds of the Thrifty Food Plan for the individual and anyone in the individual's filing group, if two or fewer meals per day are provided.

(b) A lodger may participate in the SNAP program independently of the household group when the lodger pays less than a reasonable amount for room and board.

(8) A household group member is not included in the filing group, if the member is:

(a) A resident of a commercial boarding house; or

(b) An ineligible student, as defined in OAR 461-135-0570.

(9) A household group member may be included in two filing groups in the same month, if the member:

(a) Is a resident of a domestic violence shelter (see OAR 461-001-0000) or safe home (see 461-001-0000); and

(b) Recently left the household group containing the member's abuser.

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

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837

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 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; 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 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 15-1998(Temp), f. 9-15-98, cert. ef. 10-1-98 thru 10-31-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 22-2001, F. & cert. ef. 10-1-01; AFS 13-2002,

f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 28-2015, f. 9-29-15, cert. ef. 10-1-15

461-115-0030
Date of Request

(1) For all programs covered by OAR chapter 461, an individual or someone authorized to act on behalf of an individual must contact the Department or use another appropriate method to request benefits (see OAR 461-115-0150). The request may be oral or in writing. The request starts the application process.

(2) The "date of request" is one of the following:

(a) In the EA, ERDC, GA, OSIP, REF, and TANF programs and for support service payments in the JOBS program authorized by OAR 461-190-0211, the "date of request" is the day the request for benefits is received by the Department.

(b) In the SNAP program, this section does not apply. See OAR 461-115-0040.

(c) In the GAM, OSIPM, QMB, and REFM programs, for a new applicant, the "date of request" is determined as follows:

(A) The day the request for medical benefits is received by a Department representative, except as described in paragraph (B) of this subsection.

(B) If the request for medical benefits is received by a Department representative no later than the next business day after medical services are received, the "date of request" is the day these medical services were received.

(d) In the OSIPM, QMB, and REFM programs, for a current recipient, the "date of request" is one of the following:

(A) The date the individual reports a change requiring a redetermination of eligibility (see OAR 461-001-0000).

(B) The date the Department initiates a review.

(C) The date the individual establishes a "date of request" by contacting the Department orally or in writing or by submitting an application.

(e) In the SFPSS program:

(A) Except as provided in paragraph (B) of this subsection, the "date of request" is the day the individual signs the Interim Assistance Agreement.

(B) The "date of request" for support service payments is the day the request for benefits is received by the Department.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 413.085, 414.685, 414.826, 414.839
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 413.085, 414.041, 414.685, 414.826, 414.839
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 12-2008(Temp), f. & cert. ef. 4-17-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 22-2009(Temp), f. & cert. ef. 8-28-09 thru 2-21-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 23-2011(Temp), f. & cert. ef. 8-1-11 thru 1-27-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 16-2014, f. & cert. ef. 7-1-14; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 22-2015(Temp), f. & cert. ef. 7-23-15 thru 1-18-16; SSP 28-2015, f. 9-29-15, cert. ef. 10-1-15

461-115-0040
Filing Date; REF, SNAP, TANF

(1) In the REF and TANF programs, the "filing date" is established when a signed and dated application for benefits is received by the Department.

(2) In the SNAP program:

(a) A filing group (see OAR 461-110-0370) is entitled to establish a "filing date" on the date a member of the group requests benefits. The "filing date" establishes:

(A) The date for starting the application processing time frames.

(B) The date from which some effective dates are determined.

(b) The "filing date" is the date a signed written request for benefits is received by the Department or by the Social Security Administration for filing groups applying in accordance with OAR 461-115-0150(3). The written request may be a Department-approved form or other written material that includes the client's name, address, and signature.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.006, 412.049
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.081, 411.087, 411.816, 411.825, 412.006, 412.049, 412.054, 412.064
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 22-2015(Temp), f. & cert. ef. 7-23-15 thru 1-18-16; SSP 28-2015, f. 9-29-15, cert. ef. 10-1-15

461-155-0190
Income and Payment Standards; SNAP

(1) The monthly SNAP Countable and Adjusted Income Limits are as follows: [Table not included. See ED. NOTE.]

(2) The SNAP Payment Standard (Thrifty Food Plan) is: [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816
Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 15-1998(Temp), f. 9-15-98; cert. ef. 10-1-98 thru 10-31-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 34-2013, f. & cert. ef. 10-15-13; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 28-2015, f. 9-29-15, cert. ef. 10-1-15

461-160-0410
Use of Income and Income Deductions When There Are Ineligible or Disqualified Group Members; SNAP

When a member of the filing group (see OAR 461-110-0370) is not in the need group (see OAR 461-110-0630), benefits in the SNAP program are calculated as follows:

(1) If the member is a qualified non-citizen (see OAR 461-120-0125(1)(a)–(g)) who does not meet the alien status requirements, the following procedure is used:

(a) Benefits are calculated as if the qualified non-citizen is eligible. Benefits are then calculated as if the qualified non-citizen is not a member of the filing group. Any income received by another member of the filing group from the qualified non-citizen is counted as income of the filing group. No expenses paid by the qualified non-citizen are deducted from gross income.

(b) The household's benefits are the lesser of the amounts calculated in subsection (a) of this section.

(2) The process described in sections (3) and (4) of this rule is used if the member is:

(a) A non-citizen but not a qualified non-citizen;

(b) Disqualified for failing to obtain or provide a Social Security Number; or

(c) Unwilling to disclose alien status.

(3) If the member is in a group described in section (2) of this rule:

(a) The member's countable (see OAR 461-001-0000) income is prorated among the members in the filing group.

(b) The pro rata share of each individual not in the benefit group (see OAR 461-110-0750) is excluded.

(c) The rest of the prorated income is countable income for the filing group.

(4) An ineligible or disqualified member covered by section (2) of this rule is entitled to all income deductions for which the member qualifies. When paid by the member, or billed to the member and unpaid, deductions for shelter, child support, medical costs, and dependent care are calculated as follows:

(a) The deductions, except deductions for the utility standard, are prorated among the members of the filing group.

(b) The prorated share of the members of the benefit group is deducted.

(c) The deduction for the utility standard is made in accordance with OAR 461-160-0420.

(5) The countable income of the following financial group (see OAR 461-110-0530) members, subject to allowable deductions, is used to determine benefits:

(a) A client disqualified for failure to comply with the requirements of the OFSET program or because of an intentional program violation.

(b) A client:

(A) Fleeing to avoid prosecution, or custody or confinement after conviction, under the law of the place from which the client is fleeing, for a crime, or attempt to commit a crime, that is a felony under the law of the place from which the client is fleeing or that, in the case of New Jersey, is a high misdemeanor under the law of New Jersey; or

(B) Violating a condition of probation or parole imposed under a federal or state law.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.837

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-979; AFS 12-2000(Temp), f. 5-1-00, cert. ef. 5-1-00 thru 9-30-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 10-2001(Temp), f. 6-29-01, cert. ef. 7-1-01 thru 10-1-01; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 6-2002(Temp), f. & cert. ef. 4-1-02 thru 6-30-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 20-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15; SSP 28-2015, f. 9-29-15, cert. ef. 10-1-15

461-160-0420
Shelter Cost; SNAP

(1) This rule explains how to calculate the shelter cost. The shelter cost is used to determine the shelter deduction (see OAR 461-160-0430). The shelter cost is the sum of the filing group's cost of housing plus an allowance for utilities, if the individual incurs a utility cost. The shelter deduction is based on the shelter cost but is subject to a limitation described in OAR 461-160-0430.

(2) Cost of housing.

(a) The following comprise the cost of housing if they are incurred with respect to the filing group's current residence or the home described in section (5) of this rule:

(A) Regular, periodic charges for the shelter of the filing group (see OAR 461-110-0370), such as rent, mortgage payments, and condominium or association fees. Late fees charged because a mortgage or rent payment was made late are not deductible.

(B) Property taxes, state and local assessments, and property insurance on the structure.

(C) Costs for repairing a home substantially damaged or destroyed by a natural disaster (such as a fire or flood), if such costs are not reimbursed.

(D) If the filing group is homeless and living in a vehicle — vehicle payments and collision and comprehensive insurance premiums for the vehicle.

(b) If housing costs are billed on a weekly or biweekly basis, the monthly cost is the weekly cost multiplied by 4.3 or the biweekly cost multiplied by 2.15.

(c) The filing group has the following choices about housing costs:

(A) The group may choose to apply the cost in the month it is billed or becomes due.

(B) The group may choose to have periodic costs averaged.

(C) For expenses that are billed less often than monthly, the group may choose to have them averaged over the period they are intended to cover.

(3) Shared housing. If the filing group shares housing costs with an individual in the dwelling who is not in the filing group, only the housing costs incurred by the filing group are included in the calculation. If the portion paid by an individual outside the filing group cannot be ascertained, the cost is apportioned among the individuals contributing to the cost. The pro rata share of those not in the filing group is deducted from the total, and the balance is considered a housing cost of the filing group.

(4) Cost for utilities.

(a) A filing group has a cost for utilities if it incurs a cost for heating or cooling; cooking fuel; electricity; water and sewerage; well installation and maintenance; septic tank system installation and maintenance; garbage and trash collection; service for a telephone, such as basic service fee, wire maintenance, subscriber line charges, relay center surcharges, 911 service, and taxes; or initial installation fees charged by a utility provider.

(b) If the group incurs no cost for utilities in either its current home or in the home described in section (5) of this rule, then the shelter cost is calculated without an allowance for utilities.

(c) If a homeless filing group uses a vehicle for shelter, the cost of fuel for the vehicle is considered a utility cost.

(d) If a filing group incurs a cost for utilities, then the utility allowance is one of the following:

(A) Allowance with heating or cooling. A full standard utility allowance of $445 per month is used if the household group (see OAR 461-110-0210) is billed for heating or cooling costs for its dwelling. Charges for any fuel and for electricity are considered heating costs if they are used for heating. A filing group who receives an energy assistance payment for the dwelling provided through the Low Income Energy Assistance Act of 1981 is eligible for the utility allowance established by this paragraph (A). This energy assistance payment must be greater than $20 annually.

(B) Allowance without heating or cooling.

(i) A limited standard utility allowance of $327 per month is used if the filing group is not billed for heating or cooling costs but is billed for at least two other costs enumerated in subsection (4)(a) of this rule.

(ii) An individual standard utility allowance of $55 per month is used if the filing group is not billed for heating or cooling costs but is billed for only one of the costs enumerated in subsection (4)(a) of this rule other than the service cost for a telephone, including the related taxes or fees.

(iii) A telephone standard utility allowance of $60 per month is used if the filing group is billed only for telephone service, such as basic service fee, wire maintenance, subscriber line charges, relay center surcharges, 911 service, and taxes.

(5) Housing costs for a home not occupied by the filing group. Housing and utility costs with respect to a home not currently occupied may be considered in calculating the shelter cost if:

(a) The home is temporarily unoccupied because of employment or training away from home, illness, or abandonment caused by casualty or natural disaster;

(b) The filing group intends to return to the home;

(c) No other, current occupant is claiming a deduction for shelter costs in the SNAP program; and

(d) The home is not leased during the household's absence.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 1-1991(Temp), f. & cert. ef. 1-2-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 21-1998(Temp), f. 10-15-98 & cert. ef. 11-1-98 thru 12-31-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 9-2001, f. & cert. ef. 6-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 13-2014(Temp), f. & cert. ef. 5-20-14 thru 11-16-14; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 28-2015, f. 9-29-15, cert. ef. 10-1-15

461-160-0430
Income Deductions; SNAP

(1) Deductions from income are subtracted from countable (see OAR 461-001-0000) income (see 461-140-0010) in the following order to determine adjusted income (see 461-001-0000) for the SNAP program:

(a) An earned income deduction of 20 percent of countable earned income. The 20 percent deduction is not taken from the wages funded by grant diversions such as Work Supplementation wages.

(b) A standard deduction of:

(A) $155 per month for a benefit group (see OAR 461-110-0750) of one, two, or three individuals.

(B) $168 per month for a benefit group of four individuals.

(C) $197 per month for a benefit group of five individuals.

(D) $226 per month for a benefit group of six or more individuals.

(c) A dependent care deduction for dependent care costs billed to a member of the filing group (see OAR 461-110-0370) and not paid for through any other program of the Department. For the cost to be deductible under this section, the care must be necessary to enable a member of the filing group to:

(A) Accept or continue employment;

(B) Seek employment, including a job search that meets the requirements of a case plan (see OAR 461-001-0020); or

(C) Attend vocational or educational training. A student receiving educational income is entitled to a deduction only for costs not excluded from educational income by OAR 461-145-0150.

(d) The medical deduction for elderly (see OAR 461-001-0015) individuals and individuals who have a disability (see 461-001-0015) in the filing group. The deduction is calculated by determining the total of their deductible medical costs (see 461-160-0415) and subtracting $35. The remainder is the medical deduction.

(e) A deduction for child support payments (including cash medical support) a member of the filing group makes under a legal obligation to a child (see OAR 461-001-0000) not a member of the filing group, including payments for the current month and for payments on arrearages. Child sup-

port is not deductible if collected by setoff through the Oregon Department of Revenue or by interception of a federal tax refund.

(f) A shelter deduction, calculated as follows:

(A) For SNAP filing group members required to pay room and board in a nonstandard living arrangement (see OAR 461-001-0000), the shelter deduction is:

(i) The cost of room and board, minus the payment standard for the benefit group; or

(ii) The actual room cost, if the individual can prove that the room cost exceeds the cost described in subparagraph (i) of this paragraph.

(B) For all other filing group members, the shelter deduction is calculated as follows:

(i) The standard deduction and the deductions of earned income, dependent care, court-ordered child support, and medical expenses are subtracted from countable income. Fifty percent of the remainder is subtracted from the shelter cost calculated in accordance with OAR 461-160-0420.

(ii) The rounded balance is the deduction, except the deduction is limited if the filing group has no member who has a disability or is elderly. The limit is $490 per month.

(2) If a filing group member cannot verify a medical or court-ordered child-support expense or cannot verify any other expense when asked to do so, the unverified expense is not used to calculate the deduction. If the individual provides verification, the deduction is applied when calculating the next month's benefits. If verification is provided within the period authorized for processing applications (see OAR 461-115-0210), the benefits for the initial month (see OAR 461-001-0000) are recalculated using the deduction.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.816, 411.825, 411.837

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 13-1991, f. & cert. ef. 7-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; 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 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 27-1995(Temp), f. 10-30-95, cert. ef. 11-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 31-1996, f. & cert. ef. 9-23-96; AFS 41-1996(Temp), f. & cert. ef. 12-31-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; 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 15-1998(Temp), f. 9-15-98, cert. ef. 10-1-98 thru 10-31-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 23-2000(Temp), f. 9-29-00, cert. ef. 10-1-00 thru 12-31-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 23-2000(Temp) Suspended by AFS 28-2000(Temp), f.10-31-0, cert. ef. 11-1-00 thru 12-31-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 3-2001, f. 2-27-01, cert. ef. 3-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; 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 22-2004, f. & cert. ef. 10-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 39-2010(Temp), f. & cert. ef. 11-4-10 thru 5-3-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 43-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 4-30-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 28-2015, f. 9-29-15, cert. ef. 10-1-15

461-180-0070
Effective Dates; Initial Month Benefits

(1) In the EA program, the effective date for opening the case is the day benefits are issued to the benefit group (see OAR 461-110-0750). For a benefit group whose only eligible child is an unborn, the effective date cannot be earlier than the first day of the calendar month preceding the month in which the due date falls.

(2) In the ERDC program, the effective date for starting benefits is one of the following:

(a) The first day of the month in which the request for benefits is made if:

(A) All eligibility (see OAR 461-001-0000) requirements are met in that month; and

(B) Verification is provided within the application processing timeframes.

(b) If all eligibility requirements are not met in the month of request, the effective date is the first day of the month in which they are met, if verification is provided within the application processing timeframes.

(c) For a benefit group that received TANF program benefits within the 30 days before applying for ERDC program benefits, the effective date is the first of the month following closure of their TANF program benefits.

(3) In the GA program, the effective date for the initial month (see OAR 461-001-0000) of benefits is whichever of the following occurs first:

(a) The day all eligibility requirements are met and verified.

(b) The 45th day from the date the individual requests benefits, if all eligibility requirements were met, but the Department did not receive documentation until after the 45th day.

(4) In the OSIP program, the effective date for the initial month of benefits is whichever of the following occurs first:

(a) The date an individual requests benefits, if the individual was eligible as of that date.

(b) The date all eligibility requirements are met.

(5) In the REF program, when a filing group (see OAR 461-110-0430) makes an initial application, the effective date for starting benefits is:

(a) If all eligibility requirements, including an interview, are completed by the 45th day from the date of request (see OAR 461-115-0030), the effective date for starting benefits is the filing date (see OAR 461-115-0040).

(b) If all eligibility requirements are not met by the 45th day from the date of request, a new date of request and filing date must be established.

(6) In the TANF program, when a filing group (see OAR 461-110-0330) makes an initial application or applies after the end of the certification period (see OAR 461-001-0000), the effective date for starting TANF benefits is one of the following:

(a) Except as provided in subsections (b) to (d) of this section, if all eligibility requirements, including a TANF interview, are completed by the 45th day from the date of request, the effective date for starting benefits is the filing date. If all eligibility requirements are not met by the 45th day from the date of request, a new date of request and filing date must be established.

(b) If the only eligible child is an unborn, the effective date may not be earlier than the first day of the calendar month preceding the month in which the due date falls.

(c) For an individual in the Pre-TANF program, the effective date for the initial month of benefits is the date the Pre-TANF program ends as provided in OAR 461-135-0475.

(d) For a JOBS support service payment, the effective date is the date the individual meets all eligibility requirements in OAR 461-190-0211.

(7) In the SFPSS program, when moving a TANF program recipient to SFPSS, the effective date for the initial month of SFPSS program benefits is:

(a) Except as provided in subsection (b) of this section, the first of the month following the day all eligibility requirements are met and verified.

(b) If the day all eligibility requirements are met and verified falls after the "compute deadline," the initial month of SFPSS program benefits will be the first of the month following the month after "compute deadline." For purposes of this rule, "compute deadline" means the Department computer system monthly deadline after which changes will not take effect until the month following the first of the next month.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.878, 412.006, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.081, 411.087, 411.404, 411.706, 411.878, 412.006, 412.014, 412.049, 412.064, 413.085, 414.685

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 7-2003, f. & cert. ef. 4-1-03; CWP 37-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 4-28-04; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 35-2011, f. 12-27-11, cert. ef. 1-1-12; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 17-2015, f. & cert. ef. 6-30-15; SSP 22-2015(Temp), f. & cert. ef. 7-23-15 thru 1-18-16; SSP 28-2015, f. 9-29-15, cert. ef. 10-1-15

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Rule Caption: Amending rules relating to the Employment Related Day Care Program
Adm. Order No.: SSP 29-2015(Temp)
Filed with Sec. of State: 10-1-2015
Certified to be Effective: 10-1-15 thru 3-28-16
Notice Publication Date:
Rules Amended: 461-001-0000, 461-125-0830, 461-135-0405, 461-135-0407, 461-145-0910, 461-160-0040, 461-160-0300, 461-170-0150, 461-170-0160, 461-175-0222, 461-175-0300
Subject: The Department of Human Services, Office of Self-Sufficiency Programs, is amending rules governing the Employment Related Day Care (ERDC) program. The amendments implement the requirements of the Federal Reauthorization Act of 2014 to the Child

Care Development Block Grant and HB 2015 (Oregon Laws 2015, ch 698). Specifically:

OAR 461-001-0000 about definitions is being amended to include a definition of "homeless" in the ERDC program;

OAR 461-125-0830 about acceptable documentation is being amended to include confirmation by Child Welfare that supervised contact is required between the child and a parent or spouse living in the child's home;

OAR 461-135-0405 about children in Head Start is amended to remove the statement "other than self-employment" and to remove the subsection about caretakers who have enrolled in school;

OAR 461-135-0407 about children in Oregon Program of Quality (OPQ) contracted child care is amended to add reference for a caretaker who is no longer employed and in school full-time; remove language about not eligible due to self-employment; and set the copayment for contracted child care;

OAR 461-145-0910 about self-employment is being amended to include an exception in the ERDC program when anticipating income for a new self-employment business;

OAR 461-160-0040 about dependent care costs deductions and coverage is being amended to list circumstances during which child care payments can continue, including during a job loss, medical leave, or military transition, and establish when a copay can be waived;

OAR 461-160-0300 about use of income to determine eligibility and benefits for ERDC is being amended to state the eligibility income standards at initial and recertification;

OAR 461-170-0150 about the certification period in the ERDC program is being amended to increase the ERDC certification period to not less than 12 months; allow "priority processing" for homeless families and families who have a current child care need for a foster child; and define "priority processing" as opening benefits for up to three months pending verification of income and other eligibility requirements;

OAR 461-170-0160 about when a reapplication form is considered complete or not received in the ERDC program is being amended to include and make allowance for the reapplication to be turned in later than the 12 month certification date when authorized work search, medical leave, and military transition end dates are later than the 12 month end of certification period date and effective close date at reapplication when the case is coded with authorized work search, medical leave or military transition;

OAR 461-175-0222 about notice situations and the expiration of certification period in the ERDC, SNAP, and TANF programs is being amended to include an exception for ERDC when households are certified for one or two months; and

OAR 461-175-0300 about notice situations and prior notice is being amended to include when an ERDC case in "priority processing" can be closed without further notice.

Rules Coordinator: Kris Skaro—(503) 945-6067

461-001-0000
Definitions for Chapter 461

Defined terms are often italicized throughout this chapter of rules. If a defined term is accompanied by a cross-reference to a rule defining the term, subsequent usages of that term in the same rule refer to the same definition cross-referenced earlier in the rule. In this chapter of rules, unless the context indicates otherwise:

(1) A reference to Division, Adult and Family Services Division (or AFS), Senior and Disabled Services Division (or SDSD), or any other agency formerly part of the Department of Human Services means the Department of Human Services (DHS), except:

(a) The rule in which reference occurs only regulates programs covered by OAR chapter 461.

(b) OCCS medical program eligibility rules are in OAR chapter 410, division 200.

(2) "Address Confidentiality Program" (ACP) means a program of the Oregon Department of Justice, which provides a substitute mailing address and mail forwarding service for ACP participants who are victims of domestic violence (see section (25) of this rule), sexual assault, or stalking.

(3) "Adjusted income" means the amount determined by subtracting income deductions from countable (see section (18) of this rule) income (see OAR 461-140-0010). Specific rules on the deductions are in OAR chapter 461, division 160.

(4) "Adoption assistance" means financial assistance provided to families adopting children with special needs. "Adoption assistance" may be state or federally funded. Federal adoption assistance is authorized by the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. No. 96-272, 94 Stat. 500 (1980)). State adoption assistance is authorized by ORS 418.330 to 418.335.

(5) "Assets" mean income and resources.

(6) "Basic decision notice" means a decision notice (see section (21) of this rule) mailed no later than the date of action given in the notice.

(7) "Branch office" means any Department or AAA (Area Agency on Aging) office serving a program covered by this chapter of rules.

(8) "Budgeting" means the process of calculating the benefit level.

(9) "Budget month" means the calendar month from which nonfinancial and financial information is used to determine eligibility (see section (28) of this rule) and benefit level for the payment month (see section (50) of this rule).

(10) "Cafeteria plan" means a written benefit plan offered by an employer in which:

(a) All participants are employees; and

(b) Participants may choose, cafeteria-style, from a menu of two or more cash or qualified benefits. In this context, qualified benefits are benefits other than cash that the Internal Revenue Service does not consider part of an employee's gross income. Qualified benefits include, but are not limited to:

(A) Accident and health plans (including medical plans, vision plans, dental plans, accident and disability insurance);

(B) Group term life insurance plans (up to $50,000);

(C) Dependent care assistance plans; and

(D) Certain stock bonus plans under section 401(k)(2) of the Internal Revenue Code (but not 401(k)(1) plans).

(11) "Capital asset" means property that contributes toward earning self-employment income, including self-employment income from a microenterprise (see section (43) of this rule), either directly or indirectly. A "capital asset" generally has a useful life of over one year and a value, alone or in combination, of $100 or more.

(12) "Caretaker" means an individual who is responsible for the care, control, and supervision of a child (see section (15) of this rule). The status of "caretaker" ends once the individual no longer exercises care, control, and supervision of the child for 30 days.

(13) "Caretaker relative" means:

(a) In the Pre-TANF, SFPSS, and TANF programs, a dependent child's father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece who lives in a residence maintained by one or more of the relatives as the child's or the relative's own home.

(b) In all programs not covered under subsection (a) of this section, a caretaker (see section (12) of this rule) who meets the requirements of one of the following paragraphs:

(A) Is one of the following relatives of the dependent child (see section (23) of this rule):

(i) Any blood relative, including those of half-blood, and including first cousins, nephews, or nieces, and individuals of preceding generations as denoted by prefixes of grand, great, or great-great.

(ii) Stepfather, stepmother, stepbrother, and stepsister.

(iii) An individual who legally adopts the child and any individual related to the individual adopting the child, either naturally or through adoption.

(B) Is or was a spouse (see section (62) of this rule) of an individual listed in paragraph (A) of this subsection.

(C) Met the definition of "caretaker relative" under paragraph (A) or (B) of this subsection before the child was adopted (notwithstanding the subsequent adoption of the child).

(14) "Certification period" means the period for which an individual is certified eligible for a program.

(15) "Child" includes natural, step, and adoptive children. The term "child" does not include an unborn.

(a) In the ERDC program, a "child" need not have a biological or legal relationship to the caretaker but must be in the care and custody of the

caretaker, must meet the citizenship or alien status requirements of OAR 461-120-0110, and must be:

(A) Under the age of 18; or

(B) Under the age of 19 and in secondary school or vocational training at least half time.

(b) In the GA, GAM, and OSIP programs, a "child" is an individual under the age of 18.

(c) In the OSIPM and QMB programs, "child" means an unmarried individual living with a parent (see section (49) of this rule) who is:

(A) Under the age of 18; or

(B) Under the age of 22 and attending full-time secondary, postsecondary or vocational-technical training designed to prepare the individual for employment.

(d) In the REF and REFM programs, a "child" is:

(A) An individual under the age of 18; or

(B) An individual who is 18 years of age and attending secondary school full-time or pursuing a GED full-time.

(16) "Community based care" is any of the following:

(a) Adult foster care — Room and board and 24 hour care and services for the elderly or for people with disabilities 18 years of age or older. The care is contracted to be provided in a home for five or fewer clients.

(b) Assisted living facility — A program approach, within a physical structure, which provides or coordinates a range of services, available on a 24-hour basis, for support of resident independence in a residential setting.

(c) In-home Services — Individuals living in their home receiving services determined necessary by the Department.

(d) Residential care facility — A facility that provides residential care in one or more buildings on contiguous property for six or more individuals who have physical disabilities or are socially dependent.

(e) Specialized living facility — Identifiable services designed to meet the needs of individuals in specific target groups which exist as the result of a problem, condition, or dysfunction resulting from a physical disability or a behavioral disorder and require more than basic services of other established programs.

(f) Independent choices — In-Home Services program wherein the participant is given cash benefits to purchase self-directed personal assistance services or goods and services provided pursuant to a written service plan (see OAR 411-030-0020).

(17) "Continuing benefit decision notice" means a decision notice that informs the client of the right to continued benefits and is mailed in time to be received by the date benefits are, or would be, received.

(18) "Countable" means that an available asset (either income or a resource) is not excluded and may be considered by some programs to determine eligibility.

(19) "Cover Oregon" means Oregon Health Insurance Exchange Corporation.

(20) "Custodial parents" mean parents who have physical custody of a child. "Custodial parents" may be receiving benefits as dependent children or as caretaker relatives for their own children.

(21) "Decision notice" means a written notice of a decision by the Department regarding an individual's eligibility for benefits in a program.

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

(23) "Dependent child" in the TANF program means the following:

(a) An individual who is not a caretaker relative (see section (13) of this rule) of a child in the household, is unmarried or married but separated, and is under the age of 18, or 18 years of age and a full time student in secondary school or the equivalent level of vocational or technical training; or

(b) A minor parent (see section (44) of this rule) whose parents have chosen to apply for benefits for the minor parent. This does not apply to a minor parent who is married and living with his or her spouse.

(24) "Disability" means:

(a) In the SNAP program, see OAR 461-001-0015.

(b) In the REF, SFPSS, TA-DVS, and TANF programs, for purposes other than determining eligibility:

(A) An individual with a physical or mental impairment that substantially limits the individual's ability to meet the requirements of the program; or

(B) An individual with a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or who is regarded as having such an impairment as defined by the Americans with Disabilities Act (42 USC 12102; 28 CFR 35.104).

(25) "Domestic violence" means the occurrence of one or more of the acts described in subsections (a) to (d) of this section between family members, intimate partners, or household members:

(a) Attempting to cause or intentionally, knowingly, or recklessly causing physical injury or emotional, mental, or verbal abuse.

(b) Intentionally, knowingly, or recklessly placing another in fear of imminent serious physical injury.

(c) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427.

(d) Using coercive or controlling behavior.

(e) As used in this section, "family members" and "household members" mean any of the following:

(A) Spouse;

(B) Former spouse;

(C) Individuals related by blood, marriage (see section (42) of this rule), or adoption;

(D) Individuals who are cohabitating or have cohabited with each other;

(E) Individuals who have been involved in a sexually intimate or dating relationship; or

(F) Unmarried parents of a child.

(26) "Domestic violence shelters" are public or private nonprofit residential facilities providing services to victims of domestic violence. If the facility serves other people, a portion must be used solely for victims of domestic violence.

(27) "Electronic application" is an application electronically signed and submitted through the Internet.

(28) "Eligibility" means the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits.

(29) "Equity value" means fair market value (see section (30) of this rule) minus encumbrances.

(30) "Fair market value" means the amount an item is worth on the open market.

(31) "Family stability" in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means the characteristics of a family that support healthy child development, including parental mental health, drug and alcohol free environment, stable relationships, and a supportive, flexible, and nurturing home environment.

(32) "Family stability activity" in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means an action or set of actions taken by an individual, as specified in a case plan, intended to promote the ability of one or both parents to achieve or maintain family stability (see section (31) of this rule).

(33) "Financial institution" means a bank, credit union, savings and loan association, investment trust, or other organization held out to the public as a place receiving funds for deposit, savings, checking, or investment.

(34) "Homeless" in the ERDC program means lacking a fixed regular and adequate nighttime residence and includes living in an emergency shelter, shared housing with others due to loss of housing or economic hardship, staying in motels, cars, parks, public places, tents, trailers, or other similar settings.

(35) "Income producing property" means:

(a) In all programs except OSIP, OSIPM, and QMB, real or personal property that generates income for the financial group (see OAR 461-110-0530). Examples of "income producing property" are:

(A) Livestock, poultry, and other animals.

(B) Farmland, rental homes (including a room or other space in the home or on the property of a member of the financial group), vacation homes, and condominiums.

(b) In the OSIP, OSIPM, and QMB programs, "income-producing property" means any real or personal property not used in self-employment (see OAR 461-145-0600 and 461-145-0915) that produces income for the financial group. "Income-producing property" includes:

(A) Livestock, poultry, or other animals that produce marketable products sold by the financial group.

(B) Farmland not excluded under OAR 461-145-0220 that is farmed or rented out by the financial group.

(C) Real property other than the home (including vacation homes and condominiums), that is rented out.

(c) In the OSIP, OSIPM, and QMB programs, "income-producing property" does not include:

(A) Rooms or other space for rent in the home (see OAR 461-145-0220).

(B) Livestock, poultry, or other animals kept for resale (see OAR 461-145-0010).

(36) "Initial month" of eligibility means any of the following:

(a) In all programs, the first month a benefit group (see OAR 461-110-0750) is eligible for a program benefit in Oregon after a period during which the group is not eligible.

(b) In all programs except the SNAP program, the first month a benefit group is eligible for a program benefit after there has been a break in the program benefit of at least one full calendar month. If benefits are suspended for one month, that is not considered a break.

(c) In the SNAP program:

(A) The first month for which the benefit group is certified following any period during which they were not certified to participate, except for migrant and seasonal farm workers (see OAR 461-001-0015).

(B) For migrant and seasonal farmworkers, the first month for which the benefit group is certified following any period of one month or more during which they were not certified to participate.

(d) For a new applicant to the GA, GAM, OSIP, or OSIPM program applying for care in a nonstandard living arrangement (see section (45) of this rule), for the purposes of calculating the correct divisor in OAR 461-140-0296, the month in which the individual would have been eligible had it not been for the disqualifying transfer of assets (see section (5) of this rule).

(e) For a current recipient of the GA, GAM, OSIP, or OSIPM program receiving or applying for care in a nonstandard living arrangement, for the purpose of calculating the correct divisor in OAR 461-140-0296, the later of the following:

(A) The month the disqualifying transfer occurred.

(B) The month of application for long-term care (see section (40) of this rule) services if the individual would have been eligible had it not been for the disqualifying transfer of assets.

(37) "In-kind income" means income in a form other than money (such as food, clothing, cars, furniture, and payments made to a third party).

(38) "Legally married" means a marriage uniting two individuals according to:

(a) The statutes of the state where the marriage occurred;

(b) Except in the SNAP program, the common law of the state in which the two individuals previously resided while meeting the requirements for common law marriage in that state; or

(c) The laws of a country in which the two individuals previously resided while meeting the requirements for legal or cultural marriage in that country.

(39) "Life estate" means the right to property limited to the lifetime of the individual holding it or the lifetime of some other individual. In general, a "life estate" enables the owner of the "life estate" to possess, use, and obtain profits from property during the lifetime of a designated individual while actual ownership of the property is held by another individual. A "life estate" is created when an individual owns property and then transfers ownership to another individual while retaining, for the rest of the individual's life, certain rights to that property. In addition, a "life estate" is established when a member of the financial group purchases a "life estate" interest in the home of another individual.

(40) "Lodger" means a member of the household group (see OAR 461-110-0210) who:

(a) Is not a member of the filing group (see OAR 461-110-0310); and

(b) Pays the filing group:

(A) In all programs except the GA, GAM, OSIP, OSIPM, and QMB programs, for room and board.

(B) In the GA, GAM, OSIP, OSIPM, and QMB programs, for room with or without board.

(41) "Long term care" means the system through which the Department provides a broad range of social and health services to eligible adults who are aged, blind, or have disabilities for extended periods of time. This includes nursing homes and state hospitals (Eastern Oregon and Oregon State Hospitals).

(42) "Lump-sum income" means income received too infrequently or irregularly to be reasonably anticipated, or received as a one-time payment. "Lump-sum income" includes:

(a) Retroactive benefits covering more than one month, whether received in a single payment or several payments.

(b) Income from inheritance, gifts, winnings, and personal injury claims.

(43) "Marriage" means the union of two individuals who are legally married (see section (37) of this rule).

(44) "Microenterprise" means a sole proprietorship, partnership, or family business with fewer than five employees and capital needs no greater than $35,000.

(45) "Minor parent" in the ERDC and TANF programs means a parent under the age of 18.

(46) "Nonstandard living arrangement" is defined as follows:

(a) In the GA, GAM, OSIP, OSIPM, and QMB programs, an individual is considered to be in a "nonstandard living arrangement" when the individual is applying for or receiving services in any of the following locations:

(A) A nursing facility in which the individual receives long-term care services paid with Medicaid funding, except this subsection does not apply to a Medicare client in a skilled-stay nursing facility.

(B) An intermediate care facility for the mentally retarded (ICF/MR).

(C) A psychiatric institution, if the individual is not yet 21 years of age or has reached the age of 65.

(D) A community based care (see section (16) of this rule) setting, except a State Plan Personal Care (SPPC) setting is not considered a "nonstandard living arrangement".

(b) In all programs except GA, GAM, OSIP, OSIPM, and QMB, "nonstandard living arrangement" means each of the following locations:

(A) Foster care.

(B) Residential Care facility.

(C) Drug or alcohol residential treatment facility.

(D) Homeless or domestic violence shelter.

(E) Lodging house if paying for room and board.

(F) Correctional facility.

(G) Medical institution.

(47) "OCCS" is the Office of Client and Community Services, part of the Medical Assistance Programs under the Oregon Health Authority responsible for OCCS medical program eligibility policy, community outreach, OCCS Medical Program eligibility determinations, and the OHA Customer Service Call Center.

(48) "OCCS Medical Programs" refers to programs for which eligibility policy can be found in OAR chapter 410, division 200, and includes CEC, CEM, MAA, MAF, EXT, OHP, Substitute Care, BCCTP, and MAGI Medicaid/CHIP programs, including:

(a) MAGI Adult;

(b) MAGI Child;

(c) MAGI Parent or Other Caretaker Relative;

(d) MAGI Pregnant Woman; and

(e) MAGI CHIP.

(49) "Ongoing month" means one of the following:

(a) For all programs except the SNAP program, any month following the initial month (see section (35) of this rule) of eligibility, if there is no break in the program benefit of one or more calendar months.

(b) For the SNAP program, any month in the certification period (see section (14) of this rule) following the initial month of eligibility.

(50) "Parent" for all programs except the JPI and SNAP programs, means the biological or legal mother or father of an individual or unborn child. For the SNAP program, a "parent" means the biological or legal mother or father of an individual. For the JPI program, a "parent" means the biological or legal mother or father of a child under the age of 18.

(a) If the mother lives with a male and either she or the male claims that he is the father of the child or unborn, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established.

(b) A stepparent relationship exists if:

(A) The individual is legally married to the child's biological or adoptive parent; and

(B) The marriage has not been terminated by legal separation, divorce, or death.

(c) A legal adoption erases all prior legal and blood relationships and establishes the adoptive parent as the legal parent. However, the biological parent is also considered a "parent" if both of the following are true:

(A) The child lives with the biological parent; and

(B) The legal parent has given up care, control, and supervision of the child.

(51) "Payment month" means, for all programs except EA, the calendar month for which benefits are issued.

(52) "Payment period" means, for EA, the 30-day period starting with the date the first payment is issued and ending on the 30th day after the date the payment is issued.

(53) "Periodic income" means income received on a regular basis less often than monthly.

(54) "Primary person" for all programs except the SNAP program, means the filing group member who is responsible for providing informa-

tion necessary to determine eligibility and calculate benefits. The "primary person" for individual programs is as follows:

(a) For the TANF program, the parent or caretaker relative.

(b) For the ERDC program, the caretaker.

(c) For SNAP, see OAR 461-001-0015.

(d) For the GA, GAM, OSIP, OSIPM, QMB, REF, and REFM programs: the client or client's spouse.

(55) "Qualified Partnership Policy" means a long-term care insurance policy meeting the requirements of OAR 836-052-0531 that was either:

(a) Issued while the individual was a resident in Oregon on January 1, 2008 or later; or

(b) Issued in another state while the individual was a resident of that state on or after the effective date of that state's federally approved State Plan Amendment to issue qualified partnership policies.

(56) "Real property" means land, buildings, and whatever is erected on or affixed to the land and taxed as "real property".

(57) "Reimbursement" means money or in-kind compensation provided specifically for an identified expense.

(58) "Safe homes" mean private homes that provide a few nights lodging to victims of domestic violence. The homes must be recognized as such by the local domestic violence agency, such as crisis hot lines and shelters.

(59) "Shelter costs" mean, in all programs except the SNAP program, housing costs (rent or mortgage payments, property taxes) and utility costs, not including cable TV or non-basic telephone charges. In the SNAP program, see OAR 461-160-0420.

(60) "Shelter in kind" means an agency or individual outside the financial group provides the shelter of the financial group, or makes a payment to a third party for some or all of the shelter costs (see section (58) of this rule) of the financial group. "Shelter-in-kind" does not include temporary shelter provided by a domestic violence shelter, homeless shelter, or residential alcohol and drug treatment facilities or situations where no shelter is being provided, such as sleeping in a doorway, park, or bus station.

(61) "Sibling" means the brother or sister of an individual. "Blood related" means they share at least one biological or adoptive parent. "Step" means they are not related by blood, but are related by the marriage of their parents.

(62) "Spousal support" means income paid (voluntarily, per court order, or per administrative order) by a separated or divorced spouse to a member of the financial group.

(63) "Spouse" means an individual who is legally married to another individual.

(64) "Stable income" means income that is the same amount each time it is received.

(65) "Standard living arrangement" means a location that does not qualify as a nonstandard living arrangement.

(66) "Teen parent" means, for TANF and JOBS, a parent under the age of 20 who has not completed a high school diploma or GED.

(67) "Timely continuing benefit decision notice" means a decision notice that informs the individual of the right to continued benefits and is mailed no later than the time requirements in OAR 461-175-0050.

(68) "Trust funds" mean money, securities, or similar property held by an individual or institution for the benefit of another individual.

(69) "USDA meal reimbursements" mean cash reimbursements made by the Oregon Department of Education for family day-care providers who serve snacks and meals to children in their care.

(70) "Variable income" means earned or unearned income that is not always received in the same amount each month.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 411.837, 412.001, 412.006, 412.014, 412.049, 413.085, 414.685

Hist.: AFS 28-1978, f. & ef. 7-13-78; AFS 54-1984, f. 12-28-84, ef. 1-1-85; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 15-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; Administrative correction 4-21-10; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 30-2012, f. 9-28-12, cert. ef. 10-1-12; SSP 22-2013(Temp), f. & cert. ef. 8-23-13 thru 2-19-14; SSP 24-2013, f. & cert. ef. 10-1-13; SSP 29-2013(Temp), f. & cert. ef. 10-1-13 thru 2-19-14; SSP 37-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 39-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; SSP 9-2014, f. & cert. ef. 4-1-14; SSP 14-2014(Temp), f. & cert. ef. 6-26-14 thru 12-23-14; SSP 15-2014, f. & cert. ef. 7-1-14; SSP 18-2014(Temp), f. & cert. ef. 7-1-14 thru 12-23-14; SSP 24-2014, f. & cert. ef. 10-1-14; SSP 11-2015, f. 3-13-15, cert. ef. 4-1-15; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 29-2015(Temp), f. & cert. ef. 10-1-15 thru 3-28-16

461-125-0830

Documentation; Medical, Disability, and Other Determinations

(1) Medical documentation must be written and must contain all the following:

(a) A diagnosis in medical terminology, including an explanation of whether the impairment limits the individual's ability to perform normal functions and, if so, how.

(b) A prognosis, including an expected recovery time frame.

(c) Clinical findings from physical examination, psychiatric evaluation, X rays, or a laboratory procedure, including specific data supporting diagnosis of a condition that causes disability, either on a medical or psychiatric basis.

(2) Except as provided otherwise in section (3) of this rule:

(a) To determine eligibility, the Department will accept evaluations from the following medical sources: medical evaluations only from licensed physicians, including psychiatrists, osteopaths, and ophthalmologists; mental evaluations only from psychiatrists and licensed or certified psychologists; and measurement of visual acuity and visual fields only from ophthalmologists and licensed optometrists.

(b) The Department will accept supplemental medical and vocational information to augment evaluations from acceptable medical sources, from a licensed social worker, licensed physical or occupational therapist, or licensed nurse practitioner.

(3) Except for eligibility determinations in the OSIP, OSIPM, QMB, and SFPSS programs, the Department will also accept medical evaluations from licensed nurse practitioners and physician assistants; and mental evaluations from psychiatric mental health nurse practitioners.

(4) The client must provide or cooperate in obtaining sufficient medical documentation for the Department to determine eligibility.

(5) In the ERDC program, in addition to the documentation outlined in this rule, the program will accept confirmation from the Office of Child Welfare Programs that supervised contact is required between the child (see OAR 461-001-0000) and a parent (see OAR 461-001-0000) or spouse (see OAR 461-001-0000) who is living in the home with the child.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.710, 412.006, 412.009, 412.014, 412.049

Stats. Implemented: ORS 409.010, 411.060. 411.070, 411.404, 411.710, 412.006, 412.009, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 39-2012(Temp), f. 12-28-12, cert. ef. 1-1-13 thru 6-30-13; SSP 8-2013, f. & cert. ef. 4-1-13; SSP 29-2015(Temp), f. & cert. ef. 10-1-15 thru 3-28-16

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 OAR 461-135-0400) or the TANF program (see 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) The child is no longer attending a Head Start contracted program.

(E) 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).

(F) The caretaker of the child is no longer employed and 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.

(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 OAR 461-120-0010.

(e) For any month in which the child is eligible to be served under a contract covered by this rule is receiving ERDC, the client's copayment is $27.

(f) For any month in which a child in a contract covered by this rule is eligible for and receiving TANF, the copay is zero.

(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; SSP 29-2015(Temp), f. & cert. ef. 10-1-15 thru 3-28-16

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 OAR 461-135-0400) or the TANF program (see OAR 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 OAR 461-135-0070(2).

(E) The caretaker of the child is no longer employed and enrolls in school full time, 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, the caretaker of the child has been found ineligible under OAR 461-135-0415 for failure to make a copayment.

(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 OAR 461-120-0010.

(3) For any month in which a child is eligible to be served under a contract covered by this rule is receiving ERDC, the client's copayment is $27.

(4) For any month in which a child is eligible to be served under a contract covered by this rule 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, 409.050, 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; SSP 29-2015(Temp), f. & cert. ef. 10-1-15 thru 3-28-16

461-145-0910

Self-Employment; General; Not OSIP, OSIPM, or QMB

(1) Self-employment income is income resulting from an individual's business, trade, or profession, rather than from a salary or wage paid by an employer. An individual is considered self-employed if the individual meets the criteria in sections (2) or (3) of this rule. Except as noted in section (3) of this rule, for all programs except SNAP, when an individual has established a corporation, determine if the individual is self-employed according to section (2) of this rule. If the individual has more than one self-employment business, trade, or profession, the income from each is determined separately.

(2) Except as provided in OAR 461-145-0250(1), an individual is self-employed for the purposes of this division of rules if the individual:

(a) Is considered an independent contractor by the business that employs the individual; or

(b) Meets at least four of the following criteria:

(A) Is engaged in an enterprise for the purpose of producing income.

(B) Is responsible for obtaining or providing a service or product by retaining control over the means and manner of providing the work or services offered.

(C) Is principally responsible for the success or failure of the business operation by assuming the necessary business expenses and profit or loss risks connected with the operation of the business, and has the authority to hire and fire employees to perform the labor or services.

(D) Is not required to complete an IRS W-4 form for an employer and is not required to have federal income tax or FICA payments withheld from a pay check.

(E) Is not covered under an employer's liability or workers' compensation insurance policy.

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

(a) Homecare Workers (see OAR 411-031-0020) paid by the Department are not self-employed.

(b) Child care providers (see OAR 461-165-0180) paid by the Department, adult foster home providers (see OAR 411-050-0602) paid by the Department, realty agents, and individuals who sell plasma, redeem beverage containers, pick mushrooms for sale, or engage in similar enterprises are considered to be self-employed.

(4) In the ERDC, REF, SNAP, and TANF programs, self-employment income, including income from a microenterprise (see OAR 461-001-0000), is counted prospectively to determine eligibility (see OAR 461-001-0000) as follows:

(a) Self-employment income is annualized when it is:

(A) Received during less than a 12-month period but is intended as a full year's income.

(B) From a business that has operated for a full year and the previous year is representative of what the income and costs will be during the budget month.

(b) Except in the ERDC program, self-employment income is treated as anticipated income when a financial group (see OAR 461-110-0530) begins self-employment and is unable to determine what the income and costs will be during the budget month.

(5) In the GA program, self-employment income is considered available upon receipt by a member of the financial group, except it is prorated over the period of work if the duration of the work exceeds one month.

(6) In the REFM program:

(a) Self-employment income is counted only if received in the month of application.

(b) If self-employment income counted in the month of application puts the applicant over the income limits for REFM, the income is calculated according to section (4) of this rule.

(7) When determining the amount of countable (see OAR 461-001-0000) self-employment income, use gross receipts and sales, including mileage reimbursements, before costs.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 413.085, 414.685

Stats. Implemented: ORS 409.010, 409.050, 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 413.085, 414.685

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; 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 14-2006, f. 9-29-06, cert. ef. 10-1-06; 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 11-2015, f. 3-13-15, cert. ef. 4-1-15; SSP 25-2015, f. 9-29-15, cert. ef. 10-1-15; SSP 29-2015(Temp), f. & cert. ef. 10-1-15 thru 3-28-16

461-160-0040
Dependent Care Costs; Deduction and Coverage

(1) In the SNAP program, dependent care is deductible (see OAR 461-160-0430) when all of the following are true:

(a) The dependent is a member of the filing group and is in the care, control, and custody of an individual in the group.

(b) The dependent care provider:

(A) Is not in the filing group; and

(B) Is not the parent (see OAR 461-001-0000) of the dependent.

(c) The dependent care is necessary because the client is working, commuting, on a meal break, in training, participating in pre-employment education, or participating in an OFSET case plan (see OAR 461-001-0020).

(2) In the ERDC, REF, and TANF programs, the cost of dependent child care may be paid for by the Department (is covered) only if dependent child care is necessary for the working client to perform his or her job duties, except in the ERDC program the cost of dependent care is allowed for approved educational hours and child care authorized under section (5) of this rule. For a client working under a JOBS Plus agreement, child care is covered during the time the client is engaged in work or in job search if the employer pays the client during that time.

(3) In the ERDC, JOBS, REF, and TANF programs, the cost of dependent child care is not covered by the Department when free care is available, such as during school hours for school-age children.

(4) Child care is not covered in the ERDC, REF, and TANF programs if the nature of the work of the caretaker (see OAR 461-001-0000) does not make it necessary for a person other than the caretaker to provide the care. Child care is not covered during a period of time when the caretaker:

(a) Works at home and the nature of the work allows the caretaker to provide the care without significantly affecting the work;

(b) Provides child care in a residence; or

(c) Works for a provider of child care in a residence, unless the provider is a certified family child care home under OAR 414-350-0000 to 414-350-0400.

(5) In the ERDC program the cost of dependent child care may continue to be paid for by the Department (is covered) during the certification period (see OAR 461-001-0000) with no change to the authorized child care hours subject to the following provisions:

(a) When a reduction in work hours occurs the copay may be adjusted.

(b) When a job loss occurs:

(A) When a caretaker has a permanent job loss from all employment the copay is waived for up to three months for a work search period, starting the month after the job loss occurred.

(B) The waiver ends at the end of the three month period if the caretaker becomes employed.

(C) The three month work search period does not apply when:

(i) The adult was discharged or fired without good cause (see OAR 461-135-0070(2)) for misconduct, felony, or theft. "Misconduct" means willful or wantonly negligent violation of the standards of behavior which an employer has the right to expect of an employee, including an act or series of actions that amount to a willful or wantonly negligent disregard of an employer's interest.

(ii) The adult voluntarily quit in anticipation of discharge or without good cause.

(c) For medical leave:

(A) When a caretaker is on medical leave the reason for the leave must be verified including diagnosis and prognosis under OAR 461-125-0830. Maternity leave may be authorized for three months (12 weeks) without medical documentation.

(B) For a decrease or increase in income during or at the end of medical leave see OAR 461-180-0005 and OAR 461-180-0030.

(C) Medical leave and maternity leave can be extended when new verification is received prior to the end of the month noted on the original documentation. Medical leave cannot extend beyond the certification period.

(d) For military transition:

(A) When a caretaker who is a discharged U.S. military member returns from active duty in a military war zone, the copay is waived for up to six months starting the month after the military member returns home.

(B) The copay waiver ends at the end of the six month period if the caretaker becomes employed. The copay waiver ends before the end of the six month period if the caretaker returns to active duty.

(e) Under this section child care may be used for work, work search, approved educational hours, military transition activities, or other activities to maintain a part-time or full-time slot at a child care facility.

(6) In the JOBS and REF programs, the cost of child care may be covered while the care is necessary to enable the client to participate in a case plan (see OAR 461-190-0211).

(7) In the ERDC, JOBS, JOBS Plus, REF, and TANF programs, the cost of dependent child care may be paid for (is covered) by the Department, only if all the following are true:

(a) The dependent child:

(A) In the ERDC program, is a member of the benefit group (see OAR 461-110-0750) and is in the care, control, and custody of an individual in the group.

(B) In the JOBS, JOBS Plus, REF, and TANF programs, lives with the filing group.

(b) The provider of child care is not in the filing group.

(c) The provider of child care is not the parent of a child in the filing group.

(8) Coverage of the cost of dependent care is subject to the requirements in OAR chapter 461, including OAR 461-120-0510(3), 461-135-0400, 461-155-0150, 461-160-0193, 461-165-0180, and 461-190-0211.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.700, 411.816, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.700, 411.816, 412.049
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 14-1999, f. & cert. ef. 11-1-99; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; 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 13-2013, f. & cert. ef. 7-1-13; SSP 30-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; SSP 38-2013, f. 12-31-13, cert. ef. 1-1-14; SSP 29-2015(Temp), f. & cert. ef. 10-1-15 thru 3-28-16

461-160-0300
Use of Income to Determine Eligibility and Benefits for ERDC

The Department determines financial eligibility for ERDC and the benefit level as follows:

(1) The monthly income of the financial group (see OAR 461-110-0530) is determined in accordance with OAR 461-150-0060.

(2) The monthly income at initial certification and recertification is compared to the ERDC eligibility standards in OAR 461-155-0150(5). If monthly income equals or exceeds the eligibility standards, the need group is ineligible for ERDC. If monthly income does not exceed the eligibility standard, the client's eligibility is determined under section (3) of this rule.

(3) For a client found eligible under section (2) of this rule, the allowable child care cost and the client's copay are determined as follows:

(a) The child care costs for which the client has been billed are compared to the amount provided in the appropriate child care chart in OAR 461-155-0150. The allowable child care cost is the lesser of the two amounts.

(b) The need group's copay is determined in accordance with OAR 461-155-0150.

(4) The copay is subtracted from the allowable child care cost, and the remainder is the payment the Department makes to the provider. If the copay is equal to or greater than the allowable child care cost, the client is not eligible for ERDC. If the copay is less than the allowable child care cost, the client meets the income requirement for ERDC.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 411.060 & 411.122
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 17-1990(Temp), f. 6-29-90, cert. ef. 7-1-90; AFS 26-1990, f. & cert. ef. 11-29-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 29-2015(Temp), f. & cert. ef. 10-1-15 thru 3-28-16

461-170-0150
Certification Period; ERDC

In the ERDC program:

(1) The length of the certification period (see OAR 461-001-0000) may not be less than 12 months. In the following situations the certification period may be extended beyond the certification end date:

(a) Caretakers in authorized work search and medical leave are limited to no more than three months.

(b) Caretakers on military transition are limited to no more than six months.

(2) A filing group (see OAR 461-110-0310 and 461-110-0350) that is determined to be homeless (see OAR 461-001-0000) or requires child care for a current foster child may receive "priority processing." For purposes of this rule, "priority processing" means the benefits may be open for up to three months while pending for verification of income or work schedule during the application period.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 409.610, 411.060
Hist.: AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 10-1993, f. & cert. ef. 6-1-93; AFS 13-1993(Temp), f. & cert. ef. 7-1-93; AFS 21-1993, f. & cert. ef. 10-12-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 29-2015(Temp), f. & cert. ef. 10-1-15 thru 3-28-16

461-170-0160
When a Reapplication Form is Considered Complete or Not Received; ERDC

In the ERDC program:

(1) At the end of the certification, authorized work search, medical leave, or military transition period (see OAR 461-160-0040(5)), whichever is later, a client must complete and return to a Department branch office (see OAR 461-001-0000) a reapplication form before a new certification period may be established under OAR 461-170-0150.

(2) A reapplication form is considered complete when it is received by a Department branch office by the 10th day of the last month of the certification, authorized work search, medical leave, or military transition period, whichever is later, and:

(a) The client answers, completely and accurately, all questions necessary to determine a copay amount for the following certification period;

(b) The client provides all required verification; and

(c) The form contains the signature of the primary person (see OAR 461-001-0000) or the authorized representative (see OAR 461-115-0090).

(3) When a Department branch office receives a completed reapplication form by the deadline in section (2) of this rule, the form is used to:

(a) Determine eligibility for ERDC benefits;

(b) Establish the ERDC benefit copay amount for the next certification period; and

(c) Establish the next certification period as beginning on the first day of the month following the last month of the previous certification, authorized work search, medical leave, or military transition period, whichever is later.

(4) When a Department branch office does not receive a completed reapplication form on or before the deadline in section (2) of this rule, the case is closed effective the last day of the last month of the certification, authorized work search, medical leave, or military transition period, whichever is later.

(5) If the reapplication form is received after the deadline in section (2) of this rule, it is treated as a new application in accordance with OAR 461-115-0050.

Stat. Auth.: ORS 411.060
Stats. Implemented: ORS 409.610, 411.060, 411.105, 411.111
Hist.: 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 25-1998, f. 12-28-98, cert. ef. 1-1-99; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 29-2015(Temp), f. & cert. ef. 10-1-15 thru 3-28-16

461-175-0222
Notice Situations — Expiration of Certification Period; ERDC, SNAP, TANF

In the ERDC, SNAP, and TANF programs:

(1) Except in the ERDC program, the Department must provide a household certified for one month or certified in the second month of a two-month certification period (see OAR 461-001-0000) a notice of expiration at the time of certification.

(2) In the ERDC program, each household must receive a notice of expiration prior to the last month of the certification period.

(3) In the ERDC program, the notice of expiration must contain:

(a) The date the certification period expires.

(b) A statement that to receive benefits, the client must reapply and be found eligible for a new benefit amount.

(c) The household's right to request a contested case hearing if the reapplication is denied or if the household objects to the benefit amount.

(4) In the SNAP program, each household other than those covered under section (1) of this rule must receive a notice of expiration before the first day of the last month of the certification period (established per OAR 461-115-0450), but not before the first day of the next-to-the-last month.

(5) In the SNAP program, notice of expiration under this rule is provided to the filing group (see OAR 461-110-0370) and must contain all of the following:

(a) The date the certification period expires.

(b) The date by which a household must submit an application for recertification to receive uninterrupted benefits.

(c) The consequences of failure to apply for recertification in a timely manner.

(d) The right to receive an application form upon request and to have it accepted as long as it contains a signature and a legible name and address.

(e) Information on alternative submission methods available to households that are not able to come into the certification office or do not have an authorized representative and how to exercise these options.

(f) The address of the office where the application must be filed.

(g) The household's right to request a contested case hearing if the recertification is denied or if the household objects to the benefit amount.

(h) A statement that any household consisting only of Supplemental Security Income (SSI) applicants or recipients is entitled to apply for SNAP program benefits recertification at an office of the Social Security Administration.

(i) A statement that failure to attend an interview may result in delay or denial of benefits.

(j) A statement that the household is responsible for rescheduling a missed interview and for providing required verification information.

(k) A statement that the client has no rights to continuation of benefits after the SNAP program certification period expires; and that to receive benefits, the client must reapply and be found eligible for a new benefit amount after the end of the certification period, including a client who is receiving continuation of benefits when his or her SNAP program certification period ends.

(6) In the TANF program, each household other than those covered under section (1) of this rule must be sent:

(a) Before the first day of the last month of the certification period (see OAR 461-001-0000 and 461-115-0430), but not before the first day of the next-to-the-last month, a recertification packet that contains application forms, deadlines, and information about the consequences of not reapplying on time; and

(b) A basic decision notice (see OAR 461-001-0000) about the expiration of the certification period (see OAR 461-001-0000 and 461-115-0430).

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.816, 412.049
Stats. Implemented: ORS 409.010, 411.060, 411.070, 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 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; Renumbered from 461-115-0510, SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 15-2010, f. & cert. ef. 5-27-10; SSP 13-2013, f. & cert. ef. 7-1-13; SSP 29-2015(Temp), f. & cert. ef. 10-1-15 thru 3-28-16

461-175-0300
Notice Situation; Prior Notice

(1) Except as provided in section (5) of this rule, when benefits in any Department program except a medical program and the SNAP program will end or be reduced after a specific period of time, the Department may issue a decision notice (see OAR 461-001-0000) informing the benefit group (see OAR 461-110-0750) of the date benefits will end or be reduced, and no further decision notice is required.

(2) Except as provided in section (5) of this rule, in any Department program except a medical program and the SNAP program, if the benefit group was informed in writing when the benefits began that the benefit group would receive benefits only for a specific period of time a basic decision notice (see OAR 461-001-0000) may be used to:

(a) Deny an application to start or continue benefits after the completion of a certification period (see OAR 461-001-0000) or to approve benefits at a level lower than the prior certification period.

(b) Indicate that benefits have been ended or reduced when no timely application is submitted.

(3) A basic decision notice is used when a special need allowance granted for a specific period of time is removed at the end of the specified period and the benefit group was informed of this in writing when the allowance began. A timely continuing benefit decision notice (see OAR 461-001-0000) is required if stopping the special need allowance results in benefit closure.

(4) In the JOBS Plus program, a basic decision notice is used if:

(a) An employer submits a wage reimbursement billing and the Department calculates a supplement (see OAR 461-190-0416 about supplements);

(b) The benefit group received a timely continuing benefit decision notice that the method of payment would be changed from cash to employer-paid wages; and

(c) The notice specified the period of time that benefits would be diverted.

(5) No additional decision notice is required when:

(a) Notwithstanding OAR 461-115-0010(6), when a benefit group submits an application for a program from which they currently are receiving benefits.

(b) In the ERDC program when a filing group (see OAR 461-110-0350) is receiving priority processing (see OAR 461-170-0150(2)) but does not return postponed verification to the Department by the last day of the month in which the application period ends (see OAR 461-115-0190).

(c) In the OSIPM program:

(A) A client's liability returns to the previous higher level after the Department sent the client a continuing benefit decision notice for a decrease in the client liability due to an allowable deduction and that notice also specified when the deduction no longer would apply causing the client liability to return to the previous higher level; or

(B) A client's benefits are being closed or reduced and the Department sent the client a basic decision notice of eligibility and a simultaneous continuing benefit decision notice because the client's circumstances changed between the date of the client's application and the date of the Department's eligibility decision and the change caused the client's benefits to be reduced or closed.

(6) In the SNAP program:

(a) A basic decision notice is used to close benefits if the benefit group was informed in writing, when their benefits began, that they would receive benefits only for a specific period of time.

(b) No decision notice is required if the client is provided a decision notice at the time of application or redetermination that:

(A) The allotment of the benefit group would vary from month to month and listed the anticipated changes;

(B) In the case the client applied at the same time for both cash assistance and SNAP benefits, the SNAP benefits would be reduced or closed upon approval of the cash assistance; or

(C) In the case of a benefit group receiving benefits under expedited services with postponed verification:

(i) The expedited services benefits would close if the Department did not receive the postponed verification within the timeframe established under OAR 461-115-0690.

(ii) The expedited services benefits may be adjusted beyond the timeframe established under OAR 461-115-0690 based on the verified information provided to the Department without further notice.

Stat. Auth.: ORS 183.417, 411.060, 411.070, 411.117, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 414.231, 414.826

Stats. Implemented: ORS 183.417, 411.060, 411.070, 411.117, 411.404, 411.706, 411.816, 412.006, 412.014, 412.049, 414.231, 414.826

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 25-1994, f. & cert. ef. 11-1-94; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 3-2005(Temp), f. & cert. ef. 3-2-05 thru 6-30-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 29-2015(Temp), f. & cert. ef. 10-1-15 thru 3-28-16

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Rule Caption: Renumbering rules governing food assistance programs

Adm. Order No.: SSP 30-2015

Filed with Sec. of State: 10-9-2015

Certified to be Effective: 10-9-15

Notice Publication Date:

Rules Renumbered: 813-220-0001 to 461-191-0001, 813-220-0005 to 461-191-0005, 813-220-0010 to 461-191-0010, 813-220-0015 to 461-191-0015, 813-220-0020 to 461-191-0020, 813-220-0030 to 461-191-0030, 813-220-0050 to 461-191-0050, 813-220-0060 to 461-191-0060, 813-250-0000 to 461-192-0000, 813-250-0020 to 461-192-0020, 813-250-0030 to 461-192-0030, 813-250-0040 to 461-192-0040

Subject: HB 5026 (2015) transferred administration of food assistance programs in the Oregon Housing and Community Services Department (OHCS) to the Department of Human Services (DHS). These programs are governed by OHCS rules, OAR 813-220-0001 to 813-250-0040. These rules are being renumbered as DHS Self-Sufficiency Program rules, OAR 461-191-0001 to 461-192-0040, to reflect that the programs will now be administered by DHS.

Rules Coordinator: Kris Skaro—(503) 945-6067

461-191-0001
Purpose and Objectives

OAR chapter 813, division 220, is promulgated to accomplish the general purpose of ORS 458.505 to 458.545, specifically ORS 458.525 to 458.530, which designates Oregon Housing and Community Services Department as the lead agency to coordinate state efforts in meeting the problem of hunger that operates through a network of local service-provider agencies. The department has designated the Oregon Food Bank as the agency responsible for administering the Emergency Food Assistance Program in Oregon within OAR chapter 813, division 220. The program's objective is to provide lower-income households with food for home and congregate meal use. OHCS believes that receiving USDA foods will not create any additional barriers between clients and their need for food than is stated in statute.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.525 - 458.545

Hist.: OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 20-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 15-2015, f. & cert. ef. 8-25-15; Renumbered from 813-220-0001, SSP 30-2015, f. & cert. ef. 10-9-15

461-191-0005
Definitions

All terms used in OAR chapter 813, division 220, are defined in the Act, and in 813-005-0005. As used in OAR chapter 813, division 220, unless otherwise indicated by the context:

(1) "Eligible services" means services provided in accordance with the rules and regulations governing the program.

(2) "Low income household" means a household with an income at or below 185 percent of the federal poverty line.

(3) "Program" means the Emergency Food Assistance Program authorized by public law 98-8 and as extended by public law 98-92.

(4) "Recipient agency means any public or private, nonprofit agency that has subcontracted with the Oregon Food Bank to relieve situations of hunger through distribution of USDA foods to local designated food assistance programs such as congregate meal sites, temporary shelters and emergency food pantries.

(5) "Oregon Food Bank" or "OFB" means the private, nonprofit organization designated by the department to coordinate the distribution of USDA foods in Oregon.

(6) "Storage and distribution costs" means direct costs incurred by the department, OFB and/or recipient agency for the operation of the program, including but not limited to, intrastate storage and distribution of USDA foods.

(7) "USDA foods" means commodities provided to low income households under the program.

(8) "USDA" means the United States Department of Agriculture.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.525 - 458.545

Hist.: HR 2-1983(Temp), f. & ef. 7-28-83; HR 1-1984, f. & ef. 5-30-84; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0000; HSG 8-1993, f. & cert. ef. 10-1-93; OHCS 3-2003, f. & cert. ef. 5-12-03, Renumbered from 813-220-0000; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 20-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 15-2015, f. & cert. ef. 8-25-15; Renumbered from 813-220-0005, SSP 30-2015, f. & cert. ef. 10-9-15

461-191-0010
Administration

(1) The department has, through the master grant agreement, designated the OFB, a nonprofit corporation organized under ORS chapter 65, as the program's responsible agency to distribute USDA foods statewide.

(2) OFB may select and subcontract with recipient agencies to carry out program activities at the local level.

(3) The reimbursement of federal funds shall be paid by the department to the OFB. OFB in consultation with OHCS will calculate the proportionate share of the moneys received from the department as reimbursement for program storage and distribution costs.

(4) OFB and their recipient agencies shall comply with all applicable state and federal rules and regulations.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.525 - 458.545

Hist.: HR 2-1983(Temp), f. & ef. 7-28-83; HR 1-1984, f. & ef. 5-30-84; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0005; HSG 8-1993, f. & cert. ef. 10-1-93; OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-

2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 20-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 15-2015, f. & cert. ef. 8-25-15; Renumbered from 813-220-0010, SSP 30-2015, f. & cert. ef. 10-9-15

461-191-0015
Requirements Imposed on OFB and Recipient Agencies

OFB and their recipient agencies are the responsible agencies designated for the distribution of USDA foods and allocation of funds. Prior to providing services, OFB and the recipient agencies will have entered into an agreement for such distribution and receipt of program USDA foods. Specific terms and conditions for doing so include:

(1) Each distribution site must collect and maintain records for each household receiving the Emergency Food Assistance Program (TEFAP) USDA foods for home consumption. TEFAP records should contain:

(a) The name of the household member receiving USDA foods,

(b) The address of the household (to the extent practicable, homeless persons, or people who have just arrived in the area, may not be able to provide an address),

(c) The number of persons in the household, and

(d) The basis for determining that the household is eligible to receive USDA foods for home consumption.

(A) No distribution site will collect social security numbers for households applying for TEFAP.

(B) No supporting documentation is required for an income eligibility determination for TEFAP.

(2) All records must be retained for a period of three (3) years from the close of the federal fiscal year to which they pertain, or longer if related to an audit or investigation in progress. Records must be reasonably accessible at all time for use during management evaluation reviews, audits or investigations. OFB and their recipient agencies shall maintain records as required by federal and state rules in accordance with federal regulations 7 CFR 251.10.

(3) OFB and their recipient agencies shall be responsible for the loss of USDA foods:

(a) Loss of USDA foods from improper distribution or use or failure to provide proper storage, care, or handling.

(b) Recipient agencies will need to immediately submit a claim to OFB and the department if the loss of the USDA foods value exceeds federal regulations.

(4) Under no circumstances shall program recipients be required to make any payments in money, materials or services in connection with participation in this program.

Stat. Auth.: ORS 183 & 458.505 - 458.515
Stats Implemented: ORS 458.525 - 458.530
Hist.: OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 20-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 15-2015, f. & cert. ef. 8-25-15; Renumbered from 813-220-0015, SSP 30-2015, f. & cert. ef. 10-9-15

461-191-0020
Client Eligibility

(1) USDA foods shall be made available to low income households. Indication of participation in such programs as the Supplemental Nutrition Assistance program, Temporary Assistance to Needy Families, SSI, State General Assistance, Low-Income Home Energy Assistance and the Oregon Supplemental Income Program shall establish a household's eligibility under the program. No letter or other verifying document is required.

(2) Households may establish their eligibility to participate in the program through a self-declaration of income at or below 185 percent of the federal poverty line.

(3) Eligibility determination is made by specific eligibility screening guidelines and shall be uniform statewide. OHCS does not require any eligibility requirements other than what is required within the federal guidelines for 7 CFR 251.5. The criteria must be:

(a) Income for households meets the low-income poverty guidelines set forth by the income guidelines for the current year. Eligible households in need of food assistance because of inadequate household income may receive TEFAP USDA foods by signing a statement that declares that their income is at or below 185% of the federal poverty level.

(b) Household must reside in the geographic location served by the distribution site at the time of applying for assistance, but length of residency shall not be used as an eligibility criterion. Households should not be denied service for the reason that they are in transit from one locality to another.

(4) Each distribution site must ensure households demonstrate eligibility as described in section (3) or by self-declaration.

Stat. Auth.: ORS 183 & 458.505 - 458.515
Stats. Implemented: ORS 458.505 - 458.515
Hist.: HR 2-1983(Temp), f. & ef. 7-28-83; HR 1-1984, f. & ef. 5-30-84; HR 2-1985, f. & ef. 2-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0010; OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 20-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 15-2015, f. & cert. ef. 8-25-15; Renumbered from 813-220-0020, SSP 30-2015, f. & cert. ef. 10-9-15

461-191-0030
Allowable Services

(1) OFB and their recipient agencies shall distribute USDA foods under the program to low income households through emergency food box programs, congregate meal sites, temporary shelters, and emergency food pantries.

(2) OFB and their recipient agencies may conduct outreach to underserved areas so that emergency food recipients can obtain needed nutrition education and other support services.

(3) Recipient agencies may publicize the availability of USDA Foods and distribute those USDA foods in their respective service areas in a manner that a maximum number of potential eligible households are reached.

Stat. Auth.: ORS 184 & 458.505 - 458.515
Stats. Implemented: ORS 458.505 - 458.515
Hist.: HR 1-1984, f. & ef. 5-30-84; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0015; HSG 8-1993, f. & cert. ef. 10-1-93; OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 20-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 15-2015, f. & cert. ef. 8-25-15; Renumbered from 813-220-0030, SSP 30-2015, f. & cert. ef. 10-9-15

461-191-0050
Fiscal Controls

(1) OFB and their recipient agencies will use funds made available under the federal guidelines in 7 CFR 251.8 for direct expenses associated with the distribution of USDA foods and foods secured from other sources to the extent that the foods are ultimately distributed by eligible recipient agencies. OFB will furnish reports as required by OMB Circular A-133 to provide these assurances.

(2) Internal controls including, but not limited to, the use of vouchers and receipts to substantiate all expenditures will be maintained by the OFB and recipient agencies. OHCS will conduct monitoring of expenses and the accounting system on an annual basis.

(3) The OFB shall provide the department with an annual audit of program and fiscal transactions within nine (9) months after the close of the fiscal audit period in accordance with OMB Circular A-133.

(4) Records of program activities and fiscal transactions shall be maintained by the OFB and their recipient agencies for a period of three (3) years from the close of the federal fiscal year to which they pertain. These records shall be made available to federal, state and OFB monitoring staff upon request.

(5) The OFB and their recipient agencies shall insure that proper records are kept at all distribution sites.

(6) Fiscal reports and program reports, audit requirements, as well as storage and distribution costs for the month shall be maintained by the OFB.

(7) Each recipient agency shall provide monthly reports to the OFB in a format prescribed by the OFB and the department.

(8) Allowable administrative cost may be used to pay direct expenses associated with the distribution of USDA foods and foods secured from other sources. Direct expenses include the following:

(a) Intrastate and interstate transport, storing, handling, repackaging, processing, and distribution of foods.

(b) Costs associated with determination of eligibility, verification, and documentation.

(c) Costs of providing information to persons receiving USDA foods concerning the appropriate storage and preparation of such foods.

(d) Costs involved in publishing announcements of times and locations of distribution, and

(e) Costs of recordkeeping, auditing, and other administrative procedures required for program participation.

Stat. Auth.: ORS 184 & 458.505 - 458.515
Stats. Implemented: ORS 458.505 - 458.515
Hist.: HR 2-1983(Temp), f. & ef. 7-28-83; HR 1-1984, f. & ef. 5-30-84; HR 2-1985, f. & ef. 2-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0025; HSG 8-1993, f. & cert. ef. 10-1-93; OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 20-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 15-2015, f. & cert. ef. 8-25-15; Renumbered from 813-220-0050, SSP 30-2015, f. & cert. ef. 10-9-15

461-191-0060
Monitoring

(1) The department will conduct reviews, audits and other compliance monitoring as it deems appropriate to verify compliance with program requirements. OFB and recipient agencies will cooperate fully with the department in its compliance monitoring.

(2) OFB shall require by contract and monitor their recipient agencies' compliance with all program requirements including, but not limited to, eligibility determinations, food ordering procedures, storage and warehousing practices, inventory controls, approval of distribution sites, reporting and recordkeeping requirements and civil rights compliance..

(3) If the department determines that OFB or their recipient agencies are not in compliance with applicable state or federal regulations, the department shall, within 30 working days of the close of the on-site evaluation, send OFB a corrective action notice that shall include at a minimum:

(a) A description of the identified deficiency;

(b) The possible causes of the deficiency;

(c) The time frame within which that corrective action must be taken; and

(d) Any requirements for documenting corrective action taken.

(4) The department may take such remedial action as it deems appropriate including, but not limited to terminating its funding agreement with OFB and requiring repayment of partial or all program funding, if it determines (in its sole discretion) that the performance of OFB or any of its recipient agencies is deficient in any manner, including with respect to program requirements.

(5) The department will provide adequate notice and opportunity for an appeal prior to a remedial action that terminates organizational eligibility for program funding for cause.

(6) Appeals will be addressed to the assistant director or their designee whose decision may be further appealed to the department director.

(7) Issuance of a deficiency notice shall not constitute a waiver of other remedies available to the department or preclude the department from exercising such other remedies available to it under the funding agreement or other program requirements, at law or otherwise.

Stat. Auth.: ORS 184 & 458.505 - 458.515
Stats. Implemented: ORS 458.505 - 458.515
Hist.: HR 2-1985, f. & ef. 2-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0030; HSG 8-1993, f. & cert. ef. 10-1-93; OHCS 3-2003, f. & cert. ef. 5-12-03; OHCS 3-2008, f. & cert. ef. 3-31-08; OHCS 10-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 20-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; OHCS 15-2015, f. & cert. ef. 8-25-15; Renumbered from 813-220-0060, SSP 30-2015, f. & cert. ef. 10-9-15

461-192-0000
Purpose and Objectives

(1) OAR chapter 813, division 250 establishes and implements the Oregon Hunger Response Fund, which is funded by General Fund moneys and carries out the Department's responsibility as the lead public body in administering the state policy on hunger under ORS 458.525 to 458.545. The Oregon Hunger Response Fund is the means by which the Department allocates funds for the statewide network of food banks and emergency food programs to acquire food and new food sources, build network capacities and link emergency food clients to other services.

(2) The Oregon Food Bank, a nonprofit corporation organized under ORS Chapter 65, is the agency designated by the Department to coordinate distribution of food and funds in Oregon under the Oregon Hunger Response Fund. Under the program, the food is distributed through the recipient agencies to low income households, which are those households with an income that does not exceed 185 percent of the federal poverty guideline. A portion of the funds are distributed to recipient agencies.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.625 & 458.525 - 458.545
Hist.: HSG 1-1994, f. & cert. ef. 3-2-94; OHCS 4-2003, f. & cert. ef. 5-12-03; OHCS 4-2008, f. & cert. ef. 4-11-08; OHCS 6-2012(Temp), f. & cert. ef. 12-6-12 thru 6-4-13; OHCS 4-2013, f. & cert. ef. 6-4-13; OHCS 8-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 22-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; Renumbered from 813-250-0000, SSP 30-2015, f. & cert. ef. 10-9-15

461-192-0020
Administration

(1) The Oregon Food Bank may select and subcontract with recipient agencies to carry out activities of the Oregon Hunger Response Fund at the local level. A recipient agency is a regional food bank or other local public agency or private nonprofit agency that under the subcontracting agreement undertakes to relieve situations of emergency and distress by enabling the provision of food to other local nonprofit agencies for distribution to low income households.

(2) A recipient agency may provide Oregon Hunger Response Fund program services only if the agency has first entered into a subcontracting agreement with the Oregon Food Bank to serve as a recipient agency. The agreement must at least include provisions regarding the grant amount, conditions, effective date, terms of the contract, eligible services, fiscal and program report requirements, and audit requirements.

(3) A recipient agency may recommend guidelines to the Oregon Food Bank for the uses and disbursement of program funds.

(4) The Oregon Food Bank may use program funds to supplement but not supplant existing funds used in supporting the work of the recipient.

(5) Neither the Oregon Food Bank nor a recipient agency may require a program recipient to make any payments in money, materials or services for, or in connection with, the receipt of emergency food.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.625 & 458.525 - 458.545
Hist.: HSG 1-1994, f. & cert. ef. 3-2-94; OHCS 4-2003, f. & cert. ef. 5-12-03; OHCS 4-2008, f. & cert. ef. 4-11-08; OHCS 6-2012(Temp), f. & cert. ef. 12-6-12 thru 6-4-13; OHCS 4-2013, f. & cert. ef. 6-4-13; OHCS 8-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 22-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; Renumbered from 813-250-0020, SSP 30-2015, f. & cert. ef. 10-9-15

461-192-0030
Eligible Activities

(1) The Oregon Food Bank and recipient agencies may use funds furnished through the Oregon Hunger Response Fund for:

(a) Capacity building activities and equipment purchases to strengthen or expand the infrastructure of recipient agencies to facilitate expansion of the food supply, including the transportation of commodities;

(b) Acquisition of food in bulk form and the repackaging and distribution of this food for household and congregate meal site use; and

(c) Linkage grants to recipient agencies for outreach to low income populations and under-served areas so that emergency food recipients can obtain nutrition education and other support services.

(2) The Oregon Food Bank and recipient agencies may use program funds to pay for reasonable administrative costs of the program.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 456.625 & 458.525 - 458.545
Hist.: HSG 1-1994, f. & cert. ef. 3-2-94; OHCS 4-2003, f. & cert. ef. 5-12-03; OHCS 4-2008, f. & cert. ef. 4-11-08; OHCS 6-2012(Temp), f. & cert. ef. 12-6-12 thru 6-4-13; OHCS 4-2013, f. & cert. ef. 6-4-13; OHCS 8-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 22-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; Renumbered from 813-250-0030, SSP 30-2015, f. & cert. ef. 10-9-15

461-192-0040
Fiscal Control and Reporting Requirements

(1) The Oregon Food Bank and each recipient agency under the Oregon Hunger Response Fund:

(a) Shall maintain records that document the use of program funds for linkage and capacity building activities and the receipt and distribution of commodities purchased; and

(b) Shall maintain records of program activities and fiscal transactions for a period of three years and shall make the records available to the Department upon request.

(2) The Oregon Food Bank shall provide the Department:

(a) An annual audit of program activities and fiscal transactions within nine months following the end of the fiscal audit period; and

(b) A year-end report of linkage and capacity projects carried out by each recipient agency compiled from recipient agency annual reports; and

(c) An annual report regarding the type and amount of food acquired, purchased and repackaged by the Oregon Food Bank using the Oregon Hunger Response Fund.

Stat. Auth.: ORS 456.555
Stats. Implemented: OL 1993 Ch. 725, ORS 456.625 & 458.525 - 458.545
Hist.: HSG 1-1994, f. & cert. ef. 3-2-94; OHCS 4-2003, f. & cert. ef. 5-12-03; OHCS 4-2008, f. & cert. ef. 4-11-08; OHCS 6-2012(Temp), f. & cert. ef. 12-6-12 thru 6-4-13; OHCS 4-2013, f. & cert. ef. 6-4-13; OHCS 8-2014(Temp), f. & cert. ef. 1-27-14 thru 7-25-14; Temporary Suspended by OHCS 22-2014(Temp), f. & cert. ef. 2-10-14 thru 7-25-14; Administrative correction, 5-2-14; Renumbered from 813-250-0040, SSP 30-2015, f. & cert. ef. 10-9-15

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Department of Justice
Chapter 137

Rule Caption: Training guidelines for victim advocates to become certified advocates.
Adm. Order No.: DOJ 11-2015(Temp)
Filed with Sec. of State: 10-2-2015
Certified to be Effective: 10-2-15 thru 3-29-16
Notice Publication Date:
Rules Adopted: 137-085-0060, 137-085-0070, 137-085-0080, 137-085-0090

Subject: These rules set out the guidelines for minimum training required of persons providing services to victims of domestic violence, sexual assault and stalking in order to be certified advocates for purposes of the evidentiary privilege and confidentiality requirements of HB 3476.
Rules Coordinator: Carol Riches—(503) 378-5987

137-085-0060
Purpose

These rules set out the guidelines for minimum training required of persons providing services to victims of domestic violence, sexual assault and stalking in order to be certified advocates for purposes of the evidentiary privilege and confidentiality requirements of HB 3476.

Stat. Auth.: 2015 HB 3476
Stats. Implemented: 2015 HB 3476
Hist.: DOJ 11-2015(Temp), f. & cert. ef. 10-2-15 thru 3-29-16

137-085-0070
Definitions

(1) "Certified advocate" means a person who:

(a) Has completed at least 40 hours of training in advocacy for victims of domestic violence, sexual assault, or stalking that meets the minimum training requirements set out in OAR 137-085-0080; and

(b) Is an employee or a volunteer of a qualified victim services program.

(2) "Qualified victim services program" means:

(a) A nongovernmental, nonprofit, community-based program receiving moneys administered by the state Department of Human Services or the Oregon or United States Department of Justice that offers safety planning, counseling, support or advocacy services to victims of domestic violence, sexual assault or stalking; or

(b) A sexual assault center, victim advocacy office, women's center, student affairs center, health center or other program providing safety planning, counseling, support or advocacy services to victims that is on the campus of or affiliated with a two- or four-year post-secondary institution that enrolls one or more students who receive an Oregon Opportunity Grant.

Stat. Auth.: 2015 HB 3476
Stats. Implemented: 2015 HB 3476
Hist.: DOJ 11-2015(Temp), f. & cert. ef. 10-2-15 thru 3-29-16

137-085-0080
Training Requirements

(1) For purposes of HB 3476, training that is no less than a total of 40 hours and that is substantially similar to subsections (2)–(4) of this rule is approved by the Attorney General.

(2) Training shall be comprised of a minimum of 40 hours.

(3) At least 26 hours of the training shall cover each of the following topics:

(a) Dynamics of domestic violence;
(b) Dynamics of sexual assault;
(c) Dynamics of stalking;
(d) Anti-oppression, anti-racism, cultural competency theory and practice;
(e) Effects of trauma on survivors and family members;
(f) Adults molested as children;
(g) Effects of exposure to violence on children;
(h) Dynamics of domestic violence abusers;
(i) Dynamics of sexual offenders;
(j) Vicarious traumatization and self-care;
(k) Advocacy and crisis response;
(l) Confidentiality and privilege;
(m) Advocacy skills;
(n) Working with system-based partners and other services providers.

(4) Training shall include no less than an additional 12 hours regarding SANE exams, court accompaniment, medical exam accompaniment, working with law enforcement, support group facilitation, shelter intake, working with children, campus response, or other topics as approved by the Crime Victims' Services Division of the Department of Justice.

(5) At least 2 hours of the training shall focus on confidentiality and privilege, the Violence Against Women Act and other funding requirements relating to confidentiality, the provisions set forth in HB 3476, and related matters.

(6) A person employed at or volunteering with a qualified victim services program who completed 40 hours of training before October 1, 2015, that is substantially similar to training requirements described in contracts between such programs and the Department of Justice or Department of Human Services, is a "certified advocate," at such time as the person completed an additional 2 hours of training on confidentiality, advocate privilege, and HB 3476 as described in subsection (5) of this rule.

Stat. Auth.: 2015 HB 3476
Stats. Implemented: 2015 HB 3476
Hist.: DOJ 11-2015(Temp), f. & cert. ef. 10-2-15 thru 3-29-16

137-085-0090
Training Records

Each qualifying victim services program shall maintain a roster of advocates who have completed the minimum training described required by OAR 137-085-0080 and who are thus "certified advocates."

Stat. Auth.: 2015 HB 3476
Stats. Implemented: 2015 HB 3476
Hist.: DOJ 11-2015(Temp), f. & cert. ef. 10-2-15 thru 3-29-16

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Rule Caption: Criminal Fine Account victim assistance funding revisions to improve administration of victim assistance grants process.
Adm. Order No.: DOJ 12-2015
Filed with Sec. of State: 10-8-2015
Certified to be Effective: 10-8-15
Notice Publication Date: 9-1-2015
Rules Amended: 137-078-0000, 137-078-0010, 137-078-0015, 137-078-0035, 137-078-0041, 137-078-0045, 137-078-0051
Subject: The proposed rulemaking revises OARs related to administration of the Criminal Fine Account's victim assistance funding. These rule changes are insubstantial in nature, but remove and update archaic language and help to improve CFA administrative procedures. These updates include restoring unallowable expense categories to rule and aligns CFA administrative rules with new U.S. OMB regulations related to federal Victim of Crime Act regulations.
Rules Coordinator: Carol Riches—(503) 378-5987

137-078-0000
Purpose

ORS 147.227 et seq ("the Act") provides that the Attorney General or the designee shall disburse a portion of the moneys that the Criminal Injuries Compensation Account receives from the Criminal Fine Account ("CFA") to counties and cities where prosecuting attorneys maintain victims' assistance programs approved by the Attorney General. The Act also requires the Attorney General to adopt administrative rules establishing criteria for the equitable distribution of moneys disbursed under the Act. OAR 137-078-0000 through 137-078-0050 (the "Rules") establish the criteria for the equitable distribution of moneys disbursed under the Act, and the establishment of an advisory committee to provide consultation on the distribution of the moneys.

Stat. Auth.: ORS 147
Stats. Implemented: ORS 147.227
Hist.: JD 5-1983(Temp), f. & ef. 9-9-83; JD 1-1984, f. & ef. 3-5-84; DOJ 14-2010(Temp), f. 7-27-10, cert. ef. 8-2-10 thru 1-28-11; DOJ 17-2010, f. 11-29-10, cert. ef. 12-1-10; DOJ 12-2015, f. & cert. ef. 10-8-15

137-078-0010
Approval of Funding and Duration of Funding

(1) To be eligible and approved for distribution of moneys under the Act ("Fund" or "Funding"), a city or county victims' assistance program ("Program") must be operational at the time an application for Funding is made. A Program is operational for the purposes of this rule if at the time of application for Funding, it is providing the core services set forth in 137-078-0030.

(2) Programs which are determined to be eligible under the Act and these rules and are approved for Funding will continue to be approved for Funding indefinitely subject to the availability of Criminal Fine Account revenues, OAR 137-078-0050 and the following:

(a) The Program shall complete an application for Funding, thereby indicating that the approved Program will continue in operation for the duration of the grant period. In the event the application indicates that the Program will not continue beyond the duration of the grant period, Funding for the Program will expire at the end of the grant period, or on the date the Program indicates it will no longer be operational, whichever is earlier. Any subsequent reactivation of a Program or initiation of a new Program will require a new application for Funding.

(b) If a Program discontinues a core services as described in OAR 137-078-0030, the Administrator may require a new approval of Funding, based upon a new Program application, in order to continue Funding of the Program. The addition of services to an approved Program does not require a new approval or new Program application for continued Funding.

(3) Program Funding will be made to approved Programs according to the criteria for equitable distribution of moneys set forth in the Act and these Rules. Program Funding will commence at the beginning of the fiscal year in which application for Funding is made, and will continue for a one or two year period immediately following execution of the Grant agreement for Funding by the Administrator. Funds will be distributed on a quarterly basis or as determined by the Administrator.

Stat. Auth.: ORS 147
Stats. Implemented: ORS 147.227
Hist.: JD 5-1983(Temp), f. & ef. 9-9-83; JD 1-1984, f. & ef. 3-5-84; DOJ 14-2010(Temp), f. 7-27-10, cert. ef. 8-2-10 thru 1-28-11; DOJ 17-2010, f. 11-29-10, cert. ef. 12-1-10; DOJ 12-2015, f. & cert. ef. 10-8-15

137-078-0015
Distribution of Funds

(1) The Administrator, or designee during periods of absence or unavailability, is authorized to interpret and apply the criteria for the equitable distribution of moneys disbursed under the Act and these rules. The Administrator, after consultation with the advisory committee established under these Rules (the "Committee"), shall make decisions concerning eligibility of Programs for Funding. The Administrator is also authorized, after consultation with the Committee, to make all other decisions concerning distribution of moneys to counties and cities, including but not limited to, denial of Funding, conditional allocation of Funding when necessary to establish eligibility for Funding, notices and time limits for applications, acceptance of Funding terms, conditions and reports, method of review and role of the Committee, and reallocation of moneys not applied for or disbursed by Programs.

(2) The criteria for the equitable distribution of moneys disbursed under the Act and these Rules to Programs (the "Formula") is based on the following criteria:

(a) The amount of Funding shall reflect consideration of county per capita population, county crime rates and other similar criteria.

(b) The Formula established for counties will be applied to cities, and be adjusted as necessary to reflect the current percentage of the total of Program Funding the counties have received under the current allocation per 137-078-0010(2)(a). City Programs will only be approved for Funding after consultation with the Committee and after a memorandum of understanding (MOU) between the County and City programs has been executed. The financial impact and Funding considerations associated with adding a new city Program will be considered in the context of ORS 147.227(2)(c) which requires service priority to victims of serious crimes against persons.

(3) The Formula may be revised periodically by the Administrator, following consultation with the Committee to reflect statistical updates relating to the criteria reflected in the formula, and the amount of Criminal Fine Account revenues provided to CVSD's Criminal Injuries Compensation Account.

(4) Distribution of moneys to Programs and the conditions relating thereto, including availability of monies available for Funding, shall be described in a grant agreement established by the Administrator ("Grant"). The Grant shall incorporate by reference the requirements of the Act and these Rules, and such other terms and conditions which apply. If a Program elects to accept Funding based on the terms and conditions set forth in the Grant, an authorized representative of the Program shall sign the Grant in the manner provided therein, and submit a signed Grant to the Administrator within the timeframe established in the Grant. Upon submission of the signed Grant, the Administrator shall distribute funds to the county or city upon the terms contained in the Grant.

(5) In the event the Administrator, after review of a Program, or otherwise, discovers non-compliance by a city or county with the terms of the Grant, Funds which were allocated to a non-compliant city or county may be reallocated to eligible cities or counties. This will occur by applying the Formula which is applicable to the city or county, to the monies which were originally allocated to the non-compliant Program. A reallocation of Funding shall thereafter be made to Programs which are in compliance with their respective Grants or held in reserve by the Administrator for future Grant allocations. The reallocation of funds derived from the non-compliant Program shall be made in the form of an Amended Award of Funding in the same manner as an initial award of Funding pursuant to a Grant.

(6) In the event Funds have already been disbursed to a Program which is or has been in non-compliance with the terms of the Grant, the Administrator, may adjust or reduce a Program's allocation in future fiscal years to take into account the Program non-compliance.

(7) If a Program does not expend all of its allocated Funds for the period of time described in the Grant, the Administrator may permit a Program to retain some or all the funds for use in a subsequent Grant. The Program will be required to demonstrate how those monies will be incorporated into the next year's Program.

(8) Any Program which has unexpended monies pursuant to a fully executed Grant (including an Amended Award of Funding), and which elects to file an objection to a notice of its alleged non-compliance under these rules, shall retain said monies until such time as the filed objection is resolved by the Administrator in favor of the Program. In the event the objection is not resolved in favor of the Program, the Program shall immediately return the monies to CVSD.

Stat. Auth.: ORS 147
Stats. Implemented: ORS 147.227
Hist.: JD 5-1983(Temp), f. & ef. 9-9-83; JD 1-1984, f. & ef. 3-5-84; DOJ 14-2010(Temp), f. 7-27-10, cert. ef. 8-2-10 thru 1-28-11; DOJ 17-2010, f. 11-29-10, cert. ef. 12-1-10; DOJ 12-2015, f. & cert. ef. 10-8-15

137-078-0035
Maintenance and Retention of Records

(1) The Program shall maintain accurate, complete, orderly, and separate records. All records and documents must be adequately stored and protected from fire, electronic disclosure, and other damage. All record books, documents, and records related to the program must be accessible to the Administrator or his or her designee for inspection and audit. The accounting system shall insure that CFA funds are not commingled with funds from any other source. Funds specifically budgeted for/or received in connection with one grant may not be used to fund another grant. Revenues and expenditures for each grant shall be separately identified and tracked within the grantee's accounting system or records. In the event a grantee's accounting system cannot comply with this requirement, the grantee shall establish a system to provide adequate fund accountability for each grant awarded. Any carryover of CFA funds shall not revert to or be transferred to the city or county's general fund or other fund. A "carryover" is defined as any unexpended monies remaining in a Program, at the end of the term of the grant for the Program.

(2) All records must be secured and confidential and retained in accordance with the Oregon Department of Justice record retention scheduled as required in OAR 166-300-0015, 0025.

Stat. Auth.: ORS 147
Stats. Implemented: ORS 147.227
Hist.: JD 5-1983(Temp), f. & ef. 9-9-83; JD 1-1984, f. & ef. 3-5-84; DOJ 14-2010(Temp), f. 7-27-10, cert. ef. 8-2-10 thru 1-28-11; DOJ 17-2010, f. 11-29-10, cert. ef. 12-1-10; DOJ 12-2015, f. & cert. ef. 10-8-15

137-078-0041
Allowable and Unallowable Expenses

(1) All reasonable activities and expenses that support or enhance the direct provision of the Program content areas 1–11 outlined in 137-078-0030 are allowable as outlined below:

(a) Salary and personnel expenses (benefits) for staff providing direct service to victims of crime;

(b) Contractual Services or Professional Services;

(c) Training and travel for victim assistance staff;

(d) Office equipment and supplies to support the Program;

(e) Indirect costs based on or a federally-approved Negotiated Indirect Cost Rate or administrative costs not to exceed 10% of the modified total direct costs of the CFA Grant Award to be used for fund and program management;

(f) Emergency Services and assistance;

(g) Travel and lodging expenses for a victim to attend legal proceedings directly related to their victimization;

(h) Operating Costs such as, but not limited to, supplies, printing, copying and postage;

(i) Other activities and expenses necessary to provide victim services as outlined in these Rules and as expressly approved by the CFA Fund Coordinators or Administrator;

(j) Rent;

(k) Furniture and Equipment purchases that provides or enhances services to crime victims;

(l) Outreach activities and coordination of community collaborations.

(2) The expenses and activities listed below are unallowable uses for CFA funds:

(a) Indirect program costs in excess of a federally-approved Negotiated Indirect Cost Rate, or in excess of ten percent (10%) if the Program does not have a federally-approved Negotiated Indirect Cost Rate.

(b) Activities or costs that support prosecution or law enforcement functions.

(c) Crime prevention activities.

(d) Purchase of vehicles or buildings.

(e) Retirement of any debt, or reimbursement of any person or entity for expenditures made or expenses incurred.

(f) Perpetrator/Offender rehabilitation and counseling.

(g) Witness activities (for those who are not crime victims).

(h) Entertainment, honoraria, gifts, gift certificates, and recreational or sport activities.

(i) Fundraising activities.

(j) Conference costs for individual crime victims.

(k) Investment of CFA Grant funds.

(l) Liability insurance for buildings, property.

(m) Mortgage payments.

(n) Any other costs at the discretion of the Administrator.

(3) Programs are required to be prudent in the acquisition of equipment. Careful screening should take place before purchasing equipment to be sure that the property is needed and the need cannot be met with the equipment already in the possession of the Program. Monies expended for the purchase of equipment that is already available for use within the county or city will be considered unnecessary and unallowable Program expenses.

(4)(a) Professional services may be performed under contract with the city or county, by individuals and organizations, when such services are not readily available within the Program and are clearly consistent with the intent and purposes of the Act. Employees on the Program's payroll are not eligible to provide professional services under contract with the Program;

(b) Under the Act, city and district attorneys are required to administer the Program. Administration of the Program shall serve the objective of incorporating these programs as an integral function of the prosecutor's office, to the end that there is an efficient and coordinated merger between the interests of serving the needs of the victim and the prosecution of crime. In light of this objective, no contract may be entered into which will allow the Program to be administered independently of the control and policy direction of the city or district attorney whose Program is the subject of the contracted service. Any allowable contract shall:

(A) Detail those specific services identified in the approved Program that are to be carried out by the contractor;

(B) Provide for coordination of the contractor's functions with those of the prosecutor's city or county office, including as appropriate, the services to be performed, the contractor's access to the prosecutor's records and personnel, and the exchange of such communications between the prosecutor's office and the contractor as are necessary to the ongoing performance of the contract services and the prosecutorial function;

(C) Provide that ultimate program control and policy direction not addressed in the agreement shall be retained as the responsibility of the prosecutor and that he or she shall provide timely consideration and written determination thereof; and

(D) Provide a procedure for routine review by the city or district attorney of the contractor's performance, facilitated by quarterly activity reports to be made by the contractor to the prosecutor outlining the activities and accomplishments during the report period, any problems in operation or implementation of the contracted services, and any critical observations relative to the program's operation.

Stat. Auth.: ORS 147
Stats. Implemented: ORS 147.227
Hist.: DOJ 14-2010(Temp), f. 7-27-10, cert. ef. 8-2-10 thru 1-28-11; DOJ 17-2010, f. 11-29-10, cert. ef. 12-1-10; DOJ 12-2015, f. & cert. ef. 10-8-15

137-078-0045
Annual Report

The Program shall submit reports as required by CVSD for each year of Funding provided by the Grant. Reports shall be submitted within 30 days of receiving instructions from the Administrator. Failure to submit reports by the due date established in the instructions may result in a suspension of funds disbursed to the Program until the reports are submitted and approved. A certification form shall also provide for verification of carryover funds.

Stat. Auth.: ORS 147
Stats. Implemented: ORS 147.227
Hist.: JD 5-1983(Temp), f. & ef. 9-9-83; JD 1-1984, f. & ef. 3-5-84; DOJ 14-2010(Temp), f. 7-27-10, cert. ef. 8-2-10 thru 1-28-11; DOJ 17-2010, f. 11-29-10, cert. ef. 12-1-10; DOJ 12-2015, f. & cert. ef. 10-8-15

137-078-0051
Advisory Committee

(1) An Advisory Committee, which at the sole discretion of the Administrator may be incorporated within a larger CVSD advisory body, is established to provide consultation on the distribution of CFA monies and Grants, and the provisions of these rules.

(2) The Advisory Committee shall consist of at least the following members:

(a) A representative of the Department of Justice;

(b) A representative of the Oregon District Attorneys Association; and

(c) A representative of a prosecuting attorney's victim assistance program.

Stat. Auth.: ORS 147
Stats. Implemented: ORS 147.227
Hist.: DOJ 14-2010(Temp), f. 7-27-10, cert. ef. 8-2-10 thru 1-28-11; DOJ 17-2010, f. 11-29-10, cert. ef. 12-1-10; DOJ 12-2015, f. & cert. ef. 10-8-15

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

Rule Caption: Implements Chapter 154, Oregon Laws 2015, Relating to Proof of Vehicle Registration
Adm. Order No.: DMV 7-2015
Filed with Sec. of State: 9-21-2015
Certified to be Effective: 1-1-16
Notice Publication Date: 8-1-2015
Rules Adopted: 735-032-0025
Subject: A person commits the offense of illegal display of a registration plate or improper display of validating stickers if the person displays a registration plate with registration stickers that have an expiration date that is different from the date shown on DMV's record for the vehicle.

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

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

DMV has adopted OAR 735-032-0025 to specify what constitutes proof of registration for the purposes of ORS 803.550 and 803.560, as amended by Chapter 154, Oregon Laws, 2015.
Rules Coordinator: Lauri Kunze—(503) 986-3171

735-032-0025
Proof of Registration Renewal

Proof of vehicle registration, for the purposes of ORS 803.550 and 803.560, as amended by Chapter 154, Oregon Laws 2015, is a receipt of payment for vehicle registration renewal from DMV that shows:

(1) The vehicle registration plate number, vehicle year, vehicle make and VIN;

(2) The date the vehicle registration renewal transaction was transmitted to or received by DMV; and

(3) The new expiration date of the vehicle registration.

(4) Proof of registration under this rule may be provided in electronic or paper form. This includes an image or display on an electronic device.

Stat. Auth.: ORS 184.616, 184.619, 802.012, ORS 803.460, 803.550, 803.560 & 2015 OL Ch. 154
Stats. Implemented: ORS 803.550, 803.560 & 2015 OL Ch. 154,
Hist.: DMV 7-2015, f. 9-21-15, cert. ef. 1-1-16

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Department of Transportation, Motor Carrier Transportation Division
Chapter 740

Rule Caption: Refund of fees and tax on fuel purchases
Adm. Order No.: MCTD 4-2015
Filed with Sec. of State: 9-21-2015
Certified to be Effective: 9-21-15

Notice Publication Date: 8-1-2015
Rules Amended: 740-055-0020, 740-055-0110
Subject: These rules describe payments and refunds of Oregon Highway Use Tax and fuel purchase records and refunds. The amended rule sets a minimum dollar amount for which the Department will issue a refund check to a motor carrier. Motor carriers can request to apply any credits under $100 to other taxes due, such as, Oregon Highway Use Tax, International Fuels Tax Agreement, or International Registration Plan. The Department will issue a check for less than $100 after a motor carrier's account is audited and the account is closed. In addition, the amendment adds clarifying language to require fuel card statement to clearly identify retail and cardlock purchases. It is becoming increasingly difficult and time consuming to determine whether or not fuel tax was actually paid at the time of purchase. This rulemaking will ensure refunds are not provided to motor carriers that purchase fuel where the tax is not actually paid.
Rules Coordinator: Lauri Kunze—(503) 986-3171

740-055-0020
Payment of Fees and Refunds

(1) Carriers registered with the Oregon Department of Transportation, or their agents as established either through an approved Power of Attorney or prior remittance of taxes or fees on behalf of the carrier, shall pay taxes and fees by either:

(a) Cash;
(b) Bank Draft;
(c) Guaranteed Draft;
(d) Credit card, under the conditions described in ORS 825.502;
(e) Cashier's Check;
(f) Travelers Check;
(g) Company check when drawn in the name of record of the account to which it is to be applied;
(h) Personal or business check from an agent described in subsection (1);
(i) Personal check when drawn in the name of a company employee;
(j) Personal check from a corporate officer; or
(k) Personal check when drawn in the name of a lessor driver when accompanied by a copy of the lease.

(2) Carriers not registered with the Oregon Department of Transportation shall pay fees and taxes due by either:

(a) Cash;
(b) Bank Draft;
(c) Guaranteed Draft;
(d) Credit card, under the conditions described in ORS 825.502;
(e) Cashier's Check; or
(f) Travelers Check.

(3) All payments to the Oregon Department of Transportation for taxes and fees shall be in United States funds.

(4) In the event any check drawn payable to the Department for payment of taxes or fees is not honored, the motor carrier account for which the check was drawn will be assessed the maximum service charge authorized by ORS 30.701(5) for each such check and the motor carrier account for which the check was drawn may thereafter be required to remit taxes or fees by money order, bank draft, certified check, or cash.

(5) The Department will not issue a refund by cash to a motor carrier. The Department will not issue a refund by check to a motor carrier unless the dollar amount is equal to or greater than $100.00.

(6) The Department will only issue a check for less than $100.00 after a motor carrier's account has been audited and closed.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.502
Stats. Implemented: ORS 30.701, 825.498, 825.502
Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-038-0010; PUC 12-1981, f. & ef. 12-16-81 (Order No. 81-880); PUC 3-1988, f. & cert. ef. 1-25-88 (Order No. 88-068); PUC 7-1993, f. & cert. ef. 3-19-93 (Order No. 93-285); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-068-0010; MCT 6-1996, f. & cert. ef. 12-19-96; MCTB 2-1999, f. & cert. ef. 8-20-99; MCTD 3-2009, f. & cert. ef. 12-22-09; MCTB 4-2015, f. & cert. ef. 9-21-15

740-055-0110
Fuel Purchase Records and Refunds

(1) All motor carriers must obtain an invoice covering every purchase of motor vehicle fuel and preserve the same for a period of three (3) years subject to inspection by the Department or its representatives at all reasonable times. Fuel Card statements reflecting purchases from retail stations must clearly separate and identify retail and cardlock purchases. Purchases from retail stations require an invoice or receipt from the original seller to be accepted.

(2) Such invoice or statement must disclose:

(a) Date and location of purchase;
(b) From whom purchased;
(c) Kind of fuel and number of gallons purchased;
(d) Oregon Weight Receipt and Tax Identifier number, temporary pass number, or Special Transportation Permit of the vehicle if fuel is delivered directly into such vehicle; and
(e) Amount of fuel tax paid.

(3) Motor carriers purchasing fuel in Oregon may claim a credit for Oregon state fuel tax paid at the pump. Carriers shall deduct the amount of fuel tax paid from the highway use tax due on the highway use tax report for the period in which the fuel was purchased. Motor carriers taking a deduction on the highway use tax report for fuel tax paid shall attach a copy of all fuel invoices for which credit is claimed. Carriers who purchase fuel in bulk shall attach to the highway use tax report for the period in which the fuel was dispensed into a motor vehicle copies of invoices from fuel suppliers indicating Oregon state fuel tax paid and fueling records showing fuel dispensed for each motor vehicle.

(4) Motor carriers may submit a written request for refund of Oregon state fuel tax paid up to three years after purchase. A written request for refund may be granted for any Oregon fuel tax paid but not deducted from the highway use tax report for the period in which the fuel was purchased. Motor carriers requesting refund must attach copies of all invoices. No such refund will be issued until an audit has been performed.

Stat. Auth.: ORS 184.616, 184.619, 823.011
Stats. Implemented: ORS 825.476, 825.480, 825.484, 825.486
Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, f. 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-038-0050; PUC 9-1990, f. & cert. ef. 5-25-90 (Order No. 90-835); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-068-0050; MCTB 1-2002, f. 6-21-02, cert. ef. 7-1-02; MCTB 4-2015, f. & cert. ef. 9-21-15

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Rule Caption: Electronic System
Adm. Order No.: MCTD 5-2015
Filed with Sec. of State: 9-21-2015
Certified to be Effective: 9-21-15
Notice Publication Date: 8-1-2015
Rules Adopted: 740-300-0005
Subject: In September 2014, the Department adopted rules to govern the development of automated electronic systems operated by motor carrier agents that accurately and reliably transmit, process, and store operating data from motor vehicles and allows the generation of tax reports and the transmission of taxes, fees for the use of highways under Oregon Highway Use Tax. This new rule allows the Department the option to require a motor carrier to use an automated electronic system operated by a motor carrier agent, as a condition for continuing operations, when the motor carrier is found to have repeatedly violated the laws and rules of the Department by failing to report and pay the Oregon Highway Use Tax. A request for a review of the motor carrier account can be requested after three years of compliance to relieve the requirement of the use of the automated electronic system.
Rules Coordinator: Lauri Kunze—(503) 986-3171

740-300-0005
Failure to Report or Pay Oregon Highway Use Tax

(1) A motor carrier adjudicated to have repeatedly violated Oregon Revised Statute (ORS) Chapter 825 or the rules of the Department by failing to report and pay all operations and Oregon Highway Use Tax, as described in ORS 825.450, et seq., at the discretion of the Department may be required to implement and use an "electronic system" defined in OAR 740-065-0005(7) to report and pay its tax electronically through the "electronic system provider" defined in 740-065-0005(8) for all vehicles operating in Oregon.

(2) When notified by the Department of the requirement to use an "electronic system", the motor carrier must prove, to the satisfaction of Department, the "electronic system" is installed and operational in all registered vehicles operating in Oregon within 30 calendar days from the date of the notification.

(3) As a condition of maintaining a continuing account with the Department, the motor carrier must satisfy payment requirements determined by the Department for any outstanding debt.

(4) After 36 months or the satisfaction of the debt, whichever occurs first, the motor carrier may request a review by the Department to report and pay taxes without a requirement to use an "electronic system."

(5) Failing to comply with paragraphs (1) through (3) of this rule will result in the suspension of the motor carrier authority.

Stat. Auth.: ORS 184.616, 184.619 & 823.011
Stats. Implemented: ORS 825.137, 825.139, 825.135, 825.450, 825.474, 825.490 - 825.496 & 825.506
Hist.: MCTD 5-2015, f. & cert. ef. 9-21-15

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Department of Veterans' Affairs
Chapter 274

Rule Caption: Increases veterans' home loan processing fee because of new federal home loan disclosure requirements.
Adm. Order No.: DVA 3-2015(Temp)
Filed with Sec. of State: 10-12-2015
Certified to be Effective: 10-12-15 thru 4-8-16
Notice Publication Date:
Rules Amended: 274-020-0440
Subject: The amendment to the rule increases the veterans' home loan processing fee from $495 to $635. The increase is needed because the costs to third parties who originate veterans loans for the Oregon Department of Veterans' Affairs have increased beginning October 3, 2015 due to new federal loan processing requirements. These new federal requirements are found in the Truth in Lending RESPA Integrated Document (TRID) rules promulgated by the Consumer Financial Protection Bureau (CFPB) under the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act.

The loan processing fee of $635 includes a $35 service charge retained by the Department to cover costs of drawing the loan closing documents and $600 that will be paid directly to the third party loan originators and compensation for originating the loan.
Rules Coordinator: Laurie Skillman—(503) 373-2016

274-020-0440
Fees

(1) The Director of Veterans' Affairs (director) may impose fees for the following:

(a) New Loan;
(b) Assumption by Eligible Veteran;
(c) Transfer of Ownership;
(d) Partial Release, Easement, and Modification of Mortgage;
(e) Timber Release;
(f) Firewood Release;
(g) Purchase of State Owned Property;
(h) Dishonored Check;
(i) Reissue of Stale, Lost, Destroyed or Missing Document;
(j) Mineral Rights and Geothermal Resource Rights Release;
(k) Veterans' Home Improvement Loan;
(l) Borrower requests to cancel private mortgage insurance; and
(m) Dishonored Electronic Funds Transfer.

(2) The fee will not be waived or reduced except when in the director's opinion, requiring the fee would cause an undue hardship. In the case of a dishonored check, the fee will be waived if the check was dishonored because of a bank error.

(3) Fee Schedule:

(a) New Loan:

(A) A credit report fee may be charged in an amount not to exceed the amount charged by the credit reporting firm. A credit report fee may be charged for each applicant unless a co applicant is the applicant's spouse;

(B) An appraisal report fee may be charged in an amount not to exceed the amount charged by the appraiser;

(C) In the event of cancellation of the application after acceptance for processing and collection of credit report and appraisal fees, any money not used or obligated for credit reports or appraisals shall be refunded;

(D) A loan fee shall be charged on a conventional loan not to exceed 2 percent of the loan amount;

(E) Flood determination fee for each loan may be charged in an amount not to exceed the amount charged by the flood determination company;

(F) A processing fee in the amount of $635 will be charged for processing, document preparation, or other services permitted by the director that are usual and customary in the mortgage industry.

(G) A loan closing document redraw fee may be charged in an amount not to exceed the amount charged by the documentation preparation company each time the loan documents must be redrawn for errors or changes created by third parties.

(b) Assumption by an eligible veteran under ORS 407.305. Effective with applications received on or after July 1, 1985, the director shall charge a fee of 1.125 percent of the total of the unpaid balance plus any new funds loaned. The minimum service fee shall be $100;

(c) Transfer of Ownership:

(A) The fee for transfer shall be:

(i) Through June 30, 1985, 1 percent of the unpaid balance;
(ii) Effective July 1, 1985, 1.125 percent of the unpaid balance;
(iii) Effective May 1, 1992, $450.

(B) No fee will be charged when a transfer results from:

(i) Divorce;
(ii) Death;
(iii) Marriage;
(iv) Transfer of the interest of one or more current owners to the other owner or owners; or
(v) Transfer to a relocation company on an unrecorded contract.

(d) Partial Release, Easement, and Modification of Mortgage. The director will charge the following fees:

(A) $450 plus the cost of an appraisal for a partial release or modification of mortgage on an urban property. The appraisal fee will be refunded to the applicant if the request is withdrawn before the director is obligated to an appraiser for the cost of a property appraisal;

(B) $450 plus the cost of an appraisal for a partial release or modification of mortgage on a farm property. The appraisal fee will be refunded to the applicant if the request is withdrawn before the director is obligated to an appraiser for the cost of a property appraisal;

(C) $50 for consenting to an easement;

(D) $100 for partial release involving release of a mobile home which is to be replaced with another home;

(E) $1,100 for a partial release involving release of water rights. $1,000 of the $1,100 fee will be refunded if the request is withdrawn before the director is obligated to an appraiser for the cost of a property appraisal;

(F) $50 for processing request to relocate personal property mobile home;

(G) A larger fee may be charged in complex cases to cover extra processing costs; and

(H) A fee for the partial release of property to a government entity for public use as noted in ORS 407.275. This fee may be modified or waived at the discretion of the director.

(e) Timber Release:

(A) The director shall charge $200 for a release of more than 7,500 and less than 30,000 board feet of timber. No refund will be made after application. The director shall charge $1,200 for a release of 30,000 board feet or more of timber. $1,000 of the $1,200 fee will be refunded to the applicant if the request is withdrawn before the director is committed to an appraiser for the cost of a property appraisal. One release of up to and including 7,500 board feet of timber will be allowed each calendar year without a fee being charged;

(B) An increased fee may be charged in complex cases to cover extra costs.

(f) Firewood Release:

(A) The director shall charge $200 for a release of more than six and less than 20 cords of firewood. No refund will be made after application. The director shall charge $1,200 for a release of 20 cords or more of firewood. $1,000 of the $1,200 fee will be refunded to the applicant if the request is withdrawn before the director is committed to an appraiser for the cost of a property appraisal. One release of up to and including six cords of firewood, will be allowed each calendar year without a fee being charged;

(B) An increased fee may be charged in complex cases to cover extra costs.

(g) Purchase of State Owned Property:

(A) A credit report fee may be charged equal to the amount charged by the credit reporting firm. A credit report fee may be charged for each applicant unless a co applicant is the applicant's spouse;

(B) A fee of 1.125 percent shall be charged on the amount of the contract on all properties whether or not the purchaser is a veteran. The minimum fee will be $250. There will be no fee for a cash sale. If improvements in lieu of a cash down payment are part of the purchase agreement, a $50

fee will be charged for any necessary completion inspection(s) after the first one. The provisions of section (4) of this rule apply to any fee charged;

(C) In the event of cancellation of an offer after acceptance for processing by Loan Processing, but prior to approval, all of the earnest money deposit except $200 shall be refunded ($200 to be retained by the director). If an application is canceled after approval, the full amount of the earnest money deposit shall be retained by the director;

(D) Notwithstanding the provisions of paragraph (3)(g)(C) of this rule, the director may refund all of the earnest money deposit if cancellation of the application was necessitated by some unexpected event such as redemption of the property before closing, or the death, disappearance, serious injury, serious illness, job loss, or job transfer of one or more of the parties to the transaction. Parties to the transaction include members of the immediate family.

(h) Dishonored Check. Whenever a bank check issued in payment of an obligation due to the Director of Veterans' Affairs is dishonored by the bank upon which the check is drawn, a fee in the amount of $25 will be charged. If two dishonored checks are received from the same borrower within a 12 month period, the director may require this borrower to make all future payments by cash, money order, cashier's check or certified check;

(i) Reissue of Stale, Lost, Destroyed or Missing Document. Whenever a document issued by the director must be reissued because it has been outstanding too long without being used, or has been lost, destroyed or for some other reason is missing, a fee in the amount of $25 may be charged for this service. "Document" means deed, satisfaction of mortgage, satisfaction of judgment, request for reconveyance, reconveyance, assumption agreement, contract, partial release, modification of mortgage, escrow closing papers (or some other document substantially the same as the ones enumerated). This fee may be waived if there is good reason to believe that the person requesting the reissue was not responsible for the delay that caused the document to become stale or for the disappearance of the original issue;

(j) Release of Mineral Rights and Geothermal Resource Rights. The director may charge a fee of $150 for processing an application for release of mineral and geothermal resource rights. From this fee, ODVA will pay the cost of recording any document issued. An additional $100 may be charged if the nature of the application requires a review by the Division of State Lands to determine the mineral and geothermal resource potential. A check or money order in the amount of $100 made payable to the Division of State Lands will be required when the Division of State Lands review is necessary.

(k) Veterans' Home Improvement Loan:

(A) A credit report fee may be charged for residential mortgage credit reports in an amount not to exceed the amount charged by the credit reporting firm;

(B) An appraisal report fee may be charged in an amount not to exceed the amount charged by the appraiser;

(C) A flood determination fee may be charged in an amount not to exceed the amount charged by the flood determination company; and

(D) Any other fees, that may be incurred by ODVA, may be charged in an amount not to exceed the amount charged by the provider of the service.

(l) Borrower requests to cancel private mortgage insurance. The director may charge a $100 inspection fee. In the event a full appraisal is necessary to establish value, and it is requested by the borrower, the $100 inspection fee will be credited toward the cost of the appraisal.

(m) Dishonored Electronic Funds Transfer. Whenever an electronic funds transfer (also known as ACH) is authorized for payment of an obligation due to the Director of Veterans' Affairs and is dishonored by the bank upon which the funds transfer is drawn, a fee in the amount of $25 will be charged. If two dishonored electronic funds transfers are received from the same borrower within a 12 month period, the director may require this borrower to make all future payments by cash, money order, cashier's check or certified check.

(4) Fees will be collected in advance (except for dishonored checks and electronic funds transfers). Where the director was not made a party to a transaction requiring payment of a fee, and the fee was not paid, the fee is due on demand. If payment is not made after 30 days written notice, it may be added to the amount due on the loan. The fee for dishonored checks may be added to the amount due on the loan when the check is returned by the bank. Any fee added to the amount due on the loan shall bear interest at the same rate as on the principal indebtedness. "Loan" means "contract" where context requires.

Stat. Auth.: ORS 406.030, 407.115, 407.135, 407.145, 407.275 & 742.282
Stats. Implemented: 407.135, 407.145 & 407.275

Hist.: DVA 5-1982(Temp), f. & ef. 2-12-82; DVA 16-1982, f. & ef. 6-1-82; DVA 29-1982, f. 12-30-82, ef. 1-1-83; DVA 1-1983, f. 1-14-83, ef. 1-15-83; DVA 9-1983, f. & ef. 7-1-83; DVA 15-1983, f. 12-20-83, ef. 1-1-84; DVA 7-1984, f. 7-25-84, ef. 8-15-84; DVA 7-1985, f. 5-22-85, ef. 7-1-85; DVA 4-1988, f. & cert. ef. 8-15-88; DVA 3-1989, f. & cert. ef. 8-16-89; DVA 5-1990, f. 8-20-90, cert. ef. 10-1-90; DVA 5-1991, f. 7-23-91, cert. ef. 7-24-91; DVA 7-1991, f. 10-31-91, cert. ef. 11-1-91; DVA 7-1992, f. & cert. ef. 5-1-92; DVA 12-1992(Temp), f. & cert. ef. 8-19-92; DVA 3-1993, f. & cert. ef. 1-4-93; DVA 5-1993, f. 3-16-93, cert. ef. 3-21-93; DVA 7-1995, f. & cert. ef. 7-21-95; DVA 10-1995, f. 9-11-95, cert. ef. 9-22-95; DVA 12-1995, f. & cert. ef. 9-22-95; DVA 5-1997, f. & cert. ef. 10-22-97; DVA 1-1998(Temp), f. 1-26-98, cert. ef. 2-2-98 thru 7-31-98; DVA 7-1998, f. & cert. ef. 6-23-98; DVA 3-1999, f. & cert. ef. 9-22-99; DVA 6-2001(Temp), f. 9-7-01, cert. ef. 9-10-01 thru 3-8-02; DVA 2-2002, f. & cert. ef. 2-22-02; DVA 2-2005, f. & cert. ef. 4-22-05; DVA 3-2007, f. & cert. ef. 9-25-07; DVA 2-2012, f. & cert. ef. 6-25-12; DVA 3-2015(Temp), f. & cert. ef. 10-12-15 thru 4-8-16

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Higher Education Coordinating Commission
Chapter 715

Rule Caption: Adopt fees to be reflected in rule and amend new school fee.
Adm. Order No.: HECC 12-2015
Filed with Sec. of State: 9-21-2015
Certified to be Effective: 9-21-15
Notice Publication Date: 8-1-2015
Rules Amended: 715-045-0007
Rules Repealed: 715-045-0007(T)
Subject: This amendment corrects one reference to OAR 715-045-0001 and clarifies language in OAR 715-045-0007. The Private Career Schools Licensing unit will adopt a licensing fee for new programs offered by a licensed private career school that were not offered at the time of initial application. The licensing fee will be $1,000 for each new program. The fee was proposed and submitted to the Oregon State Legislature in Senate Bill 218 during the 2015 legislative session. The Private Career Schools found that in an average year the unit will experience 16 new program applications from the existing licensed career schools. The new fee requires each new program to be charged $1,000 per program review. With this fee increase, the unit expects an additional $32,000 in revenue over the course of the biennium. This is to help create a self-sustaining unit under the Office of Private Postsecondary. The Advisory Committee met to discuss these developments in March, 2015 and June, 2015. The committee advises the commission on policies and regulations regarding career schools and functions as the commission's rules advisory committee for rules regarding career schools.
Rules Coordinator: Kelly Dickinson—(503) 947-2379

715-045-0007
License Fees

(1)(a) Before issuing a career school license under ORS 345.010 to 345.450, the Executive Director shall collect a nonrefundable, annual license fee based on the fee schedule below in OAR 715-045-0007(1)(c) for In-State Schools and for Out-of-State Schools.

(b) For purposes of ORS 345.080, "tuition income" means "gross tuition income," as that term is defined at OAR 715-045-0001 and 715-045-0007.

(c) In-State Schools: Tuition Income Range — Fee:

$0–15,000 — $600
15,001–50,000 — 800
50,001–125,000 — 1,000
125,001–250,000 — 1,425
250,001–500,000 — 1,850
500,001–750,000 — 2,275
750,001–1,000,000 — 2,700
Over 1,000,000 — 3,125

(d) Out-of-state Schools: Tuition Income Range — Fee:

$0–50,000 — $1,850
50,001–250,000 — 2,275
250,001–500,000 — 2,700
500,001–750,000 — 3,125
750,001–1,000,000 — 3,550
Over 1,000,000 — 3,975

(2) Applications for a new license must be accompanied by a nonrefundable application fee, based on the fourth step of the fee schedule in above in OAR 715-045-0007(1)(c).

(3) The Commission shall collect a nonrefundable fee of $12 to conduct a search of a closed career school's transcripts and, if any are found, provide four copies of a former student's transcript. If more than four copies are requested, the requestor shall pay a nonrefundable fee of $2 for each additional copy.

(4) Teacher registration applications shall be accompanied by a nonrefundable application fee of $75.

(5) Requests to verify a teacher's registration, training, or experience shall be accompanied by a nonrefundable verification fee of $25.

(6) Applications for teacher trainee registrations must be accompanied by a nonrefundable registration fee of $7.

(7) Requests to determine whether an out-of-state applicant for a cosmetology license is qualified to take a test of the Board of Cosmetology shall be accompanied by a nonrefundable review fee of $25.

(8) The Commission shall collect a nonrefundable fee of $100 for processing:

(a) Career school license renewal applications submitted after the applicable due date established in OAR 715-045-0062. This fee shall be in addition to any civil penalties that may be assessed for renewal applications that are not submitted in compliance with the requirements of 715-045-0062 and any other applicable rules.

(b) Payments to the Tuition Protection Fund established under ORS 345.110 after the due dates established in OAR 715-045-0029. This fee shall be in addition to any civil penalties that may be assessed for payments to the Fund that are not submitted in compliance with the requirements of 715-045-0029 and any other applicable rules.

(9) The Commission shall collect the annual, nonrefundable cosmetology school inspection fee of $100 established in ORS 345.450 from schools teaching hair design, barbering, esthetics, or nail technology. This inspection fee shall be transferred to the Health Licensing Office.

(10)(a) The Commission shall assess a nonrefundable fee of $200 for investigations of career schools when the Commission determines that a career school has violated any provision of ORS 345.010 to 345.450, or any rule adopted pursuant to 345.010 to 345.450.

(b) If the Commission must engage an individual or business, such as a forensic accountant or an attorney, for assistance in conducting an investigation, then the Commission shall assess a nonrefundable fee in an amount equal to the investigative costs incurred by the Commission; however, the amount of the fee may not exceed $5,000.

(11) Applications for a new program must be accompanied by a nonrefundable application fee of $1,000 for each new program submitted for review and approval which was not offered at the time of the career school's initial application to the Commission.

Stat. Auth.: ORS 345.080
Stats. Implemented: ORS 345.080
Hist.: EB 13-1996, f. & cert. ef. 7-26-96; Renumbered from 581-045-0002, ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; Renumbered from 581-045-0007 by HECC 2-2014, f. & cert. ef. 4-23-14; HECC 9-2014, f. & cert. ef. 12-18-14; HECC 7-2015(Temp), f. & cert. ef. 6-25-15 thru 12-21-15; HECC 12-2015, f. & cert. ef. 9-21-15

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Rule Caption: Replicate fees currently in statute to be reflected in rule.
Adm. Order No.: HECC 13-2015(Temp)
Filed with Sec. of State: 9-23-2015
Certified to be Effective: 9-23-15 thru 3-20-16
Notice Publication Date:
Rules Amended: 715-045-0007
Subject: The Higher Education Coordinating Commission (Commission) is proposing to adopt fees in rule because current fees are scheduled to sunset in statute effective July, 2015. The proposed rule change in OAR 715-045-0007 would not increase the fees but adopt the existing fees in rule. The Oregon Department of Education, where the Private Career Schools unit was previously housed, was given 2 years in statute to adopt the fee schedule in rule assuming during the two years no suggested revisions were proposed. Now under the authority of the Commission, the PCS unit needs to have the fees adopted in rule prior to the scheduled sunset.
Rules Coordinator: Kelly Dickinson—(503) 947-2379

715-045-0007
License Fees

(1)(a) Before issuing a career school license under ORS 345.010 to 345.450, the Executive Director shall collect a nonrefundable, annual license fee based on the fee schedule below in OAR 715-045-0007(1)(c) for In-State Schools and for Out-of-State Schools.

(b) For purposes of ORS 345.080, "tuition income" means "gross tuition income," as that term is defined at OAR 715-045-0001 and 715-045-0007.

(c) In-State Schools: Tuition Income Range — Fee:
(A) $0–15,000 — $600;
(B) 15,001–50,000 — 800;
(C) 50,001–125,000 — 1,000;
(D) 125,001–250,000 — 1,425;
(E) 250,001–500,000 — 1,850;
(F) 500,001–750,000 — 2,275;
(G) 750,001–1,000,000 — 2,700;
(H) Over 1,000,000 — 3,125.

(d) Out-of-state Schools: Tuition Income Range — Fee:
(A) $0–50,000 — $1,850;
(B) 50,001–250,000 — 2,275;
(C) 250,001–500,000 — 2,700;
(D) 500,001–750,000 — 3,125;
(E) 750,001–1,000,000 — 3,550;
(F) Over 1,000,000 — 3,975.

(2) Applications for a new license must be accompanied by a nonrefundable application fee, based on the fourth step of the fee schedule above in OAR 715-045-0007(1)(c).

(3) The Commission shall collect a nonrefundable fee of $12 to conduct a search of a closed career school's transcripts and, if any are found, provide four copies of a former student's transcript. If more than four copies are requested, the requestor shall pay a nonrefundable fee of $2 for each additional copy.

(4) Teacher registration applications shall be accompanied by a nonrefundable application fee of $75.

(5) Requests to verify a teacher's registration, training, or experience shall be accompanied by a nonrefundable verification fee of $25.

(6) Applications for teacher trainee registrations must be accompanied by a nonrefundable registration fee of $7.

(7) Requests to determine whether an out-of-state applicant for a cosmetology license is qualified to take a test of the Board of Cosmetology shall be accompanied by a nonrefundable review fee of $25.

(8) The Commission shall collect a nonrefundable fee of $100 for processing:

(a) Career school license renewal applications submitted after the applicable due date established in OAR 715-045-0062. This fee shall be in addition to any civil penalties that may be assessed for renewal applications that are not submitted in compliance with the requirements of OAR 715-045-0062 and any other applicable rules.

(b) Payments to the Tuition Protection Fund established under ORS 345.110 after the due dates established in OAR 715-045-0029. This fee shall be in addition to any civil penalties that may be assessed for payments to the Fund that are not submitted in compliance with the requirements of OAR 715-045-0029 and any other applicable rules.

(9) The Commission shall collect the annual, nonrefundable cosmetology school inspection fee of $100 established in ORS 345.450 from schools teaching hair design, barbering, esthetics, or nail technology. This inspection fee shall be transferred to the Health Licensing Office.

(10)(a) The Commission shall assess a nonrefundable fee of $200 for investigations of career schools when the commission determines that a career school has violated any provision of ORS 345.010 to 345.450, or any rule adopted pursuant to ORS 345.010 to 345.450.

(b) If the Commission must engage an individual or business, such as a forensic accountant or an attorney, for assistance in conducting an investigation, then the commission shall assess a nonrefundable fee in an amount equal to the investigative costs incurred by the commission; however, the amount of the fee may not exceed $5,000.

(11) Applications for a new program must be accompanied by a nonrefundable application fee of $1,000 for each new program submitted for review and approval which was not offered at the time of the career school's initial application to the Commission.

Stat. Auth.: ORS 345.080
Stats. Implemented: ORS 345.080
Hist.: EB 13-1996, f. & cert. ef. 7-26-96; Renumbered from 581-045-0002, ODE 32-2000, f. 12-11-00 cert. ef. 1-1-01; Renumbered from 581-045-0007 by HECC 2-2014, f. & cert. ef. 4-23-14; HECC 9-2014, f. & cert. ef. 12-18-14; HECC 7-2015(Temp), f. & cert. ef. 6-25-15 thru 12-21-15; HECC 12-2015, f. & cert. ef. 9-21-15; HECC 13-2015(Temp), f. & cert. ef. 9-23-15 thru 3-20-16

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

Rule Caption: Additional Strategic Fund category for emergencies
Adm. Order No.: DCCWD 3-2015(Temp)
Filed with Sec. of State: 10-12-2015
Certified to be Effective: 10-12-15 thru 4-8-16
Notice Publication Date:

Rules Amended: 589-002-0110, 589-002-0130
Subject: Establishes that funds from the Community College Support Fund strategic fund may be granted to a single college to support expenses incurred in the event of an emergency. Defines emergency.
Rules Coordinator: Kelly Dickinson—(503) 947-2379

589-002-0110
Definitions

The following definitions apply to OAR 589-002-0100 through 589-002-0130.

(1) "Total Public Resources (TPR)" is what the Community College Support Fund formula considers 100% of the next year's imposed property tax revenue and the General Fund appropriation from the legislature. TPR does not include tuition and fees paid by students.

(2) "Base Payment" is an allocation made from the Community College Support Fund which provides funding for basic community college district operations that are essential and do not vary in direct proportion to the districts' Full-Time Equivalent (FTE) student enrollment. The base allocation increases stability and predictability of funding for individual colleges.

(3) "Equalization" means equal public resource support per funded FTE, regardless of community college district, and exclusive of the base. Equalization is measured by dividing Total Public Resources, exclusive of the base, by funded FTE.

(4) "Property tax revenues" means the amount determined by the Department of Revenue to be imposed on local property following the application of limits imposed by sections 11(b)(1) through 11(b)(3), Article XI, of the Oregon Constitution, and those limits imposed by legislation implementing Ballot Measure 50. This amount becomes the basis for operation of the funding formula without regard to uncollectible taxes, or taxes collected from previous years. Taxes levied or imposed by a community college district to provide a public library system shall be excluded from the definition of property taxes in this rule. Property tax revenues raised through voter approval of any local option or capital construction levy are not to be included as a resource to be distributed through the funding formula.

(5) "Community College Support Fund (CCSF)" is funding received through the state's General Fund appropriation and distributed to the community college districts for funding educational programs.

(6) "Full-Time Equivalent (FTE) student" for the purpose of receiving state reimbursement, means a student who carries 510 clock hours over three terms of instruction for all terms including a fall 12-week term. All colleges with an 11-week fall term will have their fall term clock hours increased to the equivalent 12-week hours for the purpose of calculating reimbursable FTE.

(7) "Total Reimbursable FTE" means full-time equivalent students that are eligible for state reimbursement. These students must receive instruction from community college districts through either a contracted out-of district (COD) agreement described in OAR 589-002-0600, an agreement to provide services to state penitentiary or correctional institution inmates described in OAR 589-002-0700, or are CCSF reimbursable FTE, described in Section 8 of this rule and in OAR 589-002-0110 Sections (2) through (5).

(8) "CCSF Reimbursable FTE" means full-time equivalent students that are eligible, as described in OAR 589-002-0110 Sections (2) through (5) of this rule, for state funding through the CCSF Funding Distribution Formula, before the application of the Annual Growth Factor (AGF).

(9) "Contracted Out-of-District (COD) Reimbursable FTE" means full-time equivalent students that are not residents in the community college district that they are attending and for which the community college district has a contract to provide educational services with an entity in the geographic area from which the student resides. COD reimbursable FTE must meet all other requirements of a CCSF reimbursable FTE. The community college district must have a contract in place with the Department of Community Colleges and Workforce Development in order to receive reimbursement.

(10) "Fundable FTE" is the number of full-time equivalent students that are at or below each community college district's FTE Cap. Fundable FTE is the lesser of either the CCSF reimbursable FTE or the FTE cap. This number is used in the three-year weighted average calculation that determines a community college district's funded FTE as described in Section 11 of this rule.

(11) "Funded FTE" is the community college district's number of full-time equivalent students used in the formula to distribute the CCSF funding for each community college district. This number is buffered to prevent significant changes in a community college district's funding due to variability in student enrollment. It is calculated using a three-year weighted average of fundable FTE with the first year prior to current fundable FTE weighted at 40%, second year prior to current fundable FTE weighted at 30%, and third year prior to current fundable FTE weighted at 30%.

(12) "Total Funded FTE" is the sum of all community college districts' funded FTE for a fiscal year.

(13) "FTE Cap" is the maximum number of CCSF reimbursable FTE per community college district, which may be included in the funding formula calculation. The FTE cap is determined by applying the annual growth factor and may be adjusted by the preliminary FTE cap as described in Section 14.

(14) "Preliminary FTE Cap" is a tool that allows a community college district to recover fundable FTE within one year, if the district's CCSF reimbursable FTE is less than the FTE cap. There are two preliminary FTE caps. The first is based on the FTE cap from one year prior and the second is based on the prior year's fundable FTE. The annual growth factor (as defined in Section 19 below) is applied to each. The current year's FTE cap is the greater of these two numbers.

(15) "Growth Management" means the application of the Growth Management Component in combination with each community college district's FTE cap.

(16) "Biennial Growth Management Component" is the percent change, from one biennium to the next, of the total number of FTE for all community college districts that could be included in the funding formula without reducing resources available per FTE. The biennial growth management component is determined by the amount of total public resources available for the current biennium compared to the prior biennium and the estimated increased cost of FTE.

(17) "State Board of Education's Biennial Quality Growth Factor" is a policy lever that allows the number of FTE that will be counted for funding purposes to be above or below the Biennial Growth Management Component.

(18) "Total Biennial Growth Management Component" is the sum of the Biennial Growth Management Component and the State Board of Education's Biennial Quality Growth Factor.

(19) "Annual Growth Factor (AGF)" is one-half of the Biennial Growth Management Component.

(20) "Emergency" means any catastrophe, disaster or unforeseen or unanticipated condition or circumstance, or abnormal change of conditions or circumstances, affecting the functions of a community college that result in substantial and immediate expenses.

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
Hist.: DCCWD 1-2012(Temp), f. & cert. ef. 7-17-12 thru 1-10-13; DCCWD 3-2012, f. & cert. ef. 12-26-12; DCCWD 3-2013, f. & cert. ef. 6-11-13; DCCWD 3-2015(Temp), f. & cert. ef. 10-12-15 thru 4-8-16

589-002-0130
State Board Strategic Fund

The State Board may establish a strategic fund.

(1) There are three basic categories for these funds: incentivized statewide initiatives and activities, requests from individual districts for assistance in meeting new requirements and expectations stemming from legislative change, and requests from individual districts for expenditures in the case of an emergency.

(2) The commissioner will use a committee of stakeholders and department staff to determine overall priorities for funding that considers the State Board work plan and initiatives.

(3) Strategic funds provided to incentivize statewide activities or assist community colleges in meeting legislative expectations are provided only for the biennium in which funding is approved. Strategic Funds allocated for either purpose will not be considered in the distribution of funds through the formula described in Section 6 of 589-002-0110 for the current biennium or future biennia.

(4) Any unused monies remaining in the current biennium's strategic fund will be allocated through the formula described in Section 6 of 589-002-0110 at the end of the biennium.

(5) The commissioner will review, rank and approve proposals to incentivize statewide activities. After each proposal is approved, the commissioner will provide the State Board with a report detailing the purpose of the activity, the amount of strategic fund monies approved, and the proposal's merit as assessed under the following parameters:

(a) Purpose of the proposal.

(b) How the activity supports the initiatives and work plans of the department and the State Board.

(c) How the activity relates to the department's Key Performance Measures or other program-specific measures.

(d) If the funding one time (for this biennium) or will additional funding be needed in the future.

(e) If future funding is needed, how resources will be obtained and how the activity will be sustainable?

(f) The activity's impact on the state three years from now and five years from now.

(g) Anticipated changes.

(h) How progress will be measured.

(f) The department will bring all requests for assistance in meeting new requirements or expectations stemming from legislative change to the State Board for discussion and consideration.

(g) Explanation of the expenditure requirements in the case of an emergency.

(h) The department will assess the requests for assistance in meeting new requirements or expectations of the legislature based on the following parameters:

(A) Purpose of the proposal.

(B) How funds will be used to sustain or increase enrollment (not supplanting existing funds).

(C) If the funding is one time (for this biennium) or if additional funding will be needed in the future.

(D) If future funding is needed, how those resources will be obtained and how the activity is sustainable.

(E) The impact on the community college three years from now and five years from now.

(F) How progress will be measured.

(h) The department will provide a recommendation and reasoning to the State Board on whether the request merits funding.

Stat. Auth.: ORS 326.051, 341.015, 341.022, 341.317, 341.440, 341.525, 341.528, 341.626 & 341.665

Stats. Implemented: ORS 341.015, 341.022, 341.317, 341.440, 341.525, 341.528, 341.626 & 341.665

Hist.: DCCWD 1-2012(Temp), f. & cert. ef. 7-17-12 thru 1-10-13; DCCWD 3-2012, f. & cert. ef. 12-26-12; DCCWD 3-2013, f. & cert. ef. 6-11-13; DCCWD 3-2015(Temp), f. & cert. ef. 10-12-15 thru 4-8-16

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Rule Caption: Allows Oregon community colleges to develop and issue non-credit training certificates.

Adm. Order No.: DCCWD 4-2015

Filed with Sec. of State: 10-13-2015

Certified to be Effective: 10-13-15

Notice Publication Date: 9-1-2015

Rules Amended: 589-006-0050, 589-006-0300

Subject: House Bill 2410 changes existing statutory language to allow community colleges to develop and issue noncredit training certificates. The certificates can be awarded for single stand-alone courses or series of courses. In order to meet the needs of local Oregon businesses and communities, the certificate content and rigor would be determined and standardized at the institutional level.

The Non-Credit Training Workgroup, represented by a majority of community colleges in the state, through careful deliberation clarified the definition, approval criteria and rigor to create an oversight system to maintain the integrity of noncredit training certificates, in deference to credit Certificates of Completion and degree programs.

Previously, Oregon community colleges were not permitted to issue certificates for noncredit trainings. Noncredit divisions of the seventeen community colleges could only issue "Recognition Awards".

Noncredit training certificates provide documentation of skill attainment for entry-level positions in a wide variety of industries. They also serve as a gateway to the resources of college, allowing less-skilled workers to attain a college credential. Segments of the workforce are increasingly seeking ways to document competencies and job skills, and many occupational fields value a workforce credential over academic documentation for initial job placement as well as for promotion or advancement. College-sponsored certification programming can also allow for credentialing to be earned in an area where there is no readily available industry standard.

Rules Coordinator: Kelly Dickinson—(503) 947-2379

589-006-0050

Definitions

For the purposes of division 6 of chapter 589, the following definitions apply:

(1) "Academic standard of achievement" means demonstrated achievement, proficiency, or measured learning acknowledged as meeting a predetermined academic standard, which is normally noted through a record transcripted and maintained by the college.

(2) "Associate degree" means a state-approved lower division undergraduate award issued by a community college that indicates satisfactory completion of a course of study approved by the community college board.

(3) "Associate of Applied Science (AAS)" means a state-approved associate degree that is intended to prepare graduates for direct entry into the workforce. AAS degrees may also help to prepare students for career advancement, occupational licensure, or further study at the baccalaureate level.

(4) "Associate of Applied Science degree option" means a transcripted specialization within a state-approved associate degree that is intended to prepare graduates for direct entry into the workforce.

(5) "Associate of Arts Oregon Transfer (AAOT) degree" means a state-approved associate degree that is intended to prepare students to transfer into upper division courses for a baccalaureate degree.

(6) "Associate of General Studies" means a state-approved associate degree that is intended to meet the individual student needs using a variety of collegiate-level courses to meet degree requirements.

(7) "Associate of Science" means a state-approved associate degree that is intended to prepare students to transfer into an upper division baccalaureate degree program in areas such as Business, Science, Mathematics and Engineering. The Associate of Science degree is often designed to meet the requirements of a specific receiving institution.

(8) "Business and Industry Based program" means an Associate of Applied Science degree or certificate of completion designed for employers to meet specific occupational and educational needs of their current employees.

(9) "Career Pathways Certificate of Completion" means a form of certificate awarded by a community college for meeting specific technical skill proficiency requirements that meet an employment need. Career Pathways Certificates pertain to a grouping of 12 to 44 credits that are wholly contained in an approved Associate of Applied Science (AAS) degree/option or an Independent Certificate of Completion (with a minimum size of 45 credits), have a defined job entry point, represent collegiate-level work, and meet Higher Education Coordinating Commission standards and criteria.

(10) "Career Technical Education courses" means the collegiate-level occupational preparatory or occupational supplementary courses that are designed to prepare persons for entrance into and employment stability and advancement in specific occupations or clusters of closely related occupations. Career Technical Education courses include both occupational preparatory and occupational supplementary courses.

(11) "Career Technical Education program" means collegiate-level coursework that is designed to prepare persons for entrance into and employment stability and advancement in specific occupations or clusters of closely related occupations. Career Technical Education programs result in the achievement of a state-approved certificate of completion, associate of applied science degree or associate of applied science degree option.

(12) "Certificate of Completion" means a form of recognition awarded by a community college for meeting minimum occupational course, curriculum or proficiency requirements. Certificates of completion must be state-approved, have a defined job entry point, represent collegiate-level work, be credit bearing, and meet Higher Education Coordinating Commission standards and criteria.

(13) "Clock or contact hours" means one clock (or contact) hour that is 60 minutes long. No more than 10 minutes of each hour can be used for a regularly-scheduled break or passing period.

(14) "Collegiate-level work" means course and program content that provides skills and information beyond that which is normally gained before or during the secondary level. It is characterized by analysis, synthesis and application in which students demonstrate an integration of skills and critical thinking. It is a term that denotes more than college or university transfer courses. It also includes Career Technical Education and other courses that exceed basic skills, workplace readiness and fundamental basic skills. Courses must be collegiate-level if used to fulfill a requirement in an associate degree, option or certificate of completion program.

(15) "Complementary courses in general education" means as courses that are designed to serve as supportive parts of Career Technical

Education. They are designed to aid students in attaining a higher degree of self-development and to assist the student to make a maximum contribution as a citizen in a democratic society.

(16) "Continuing education units (CEUs)" means a form of recognition given for completion of a unit of training for selected occupational supplementary courses. CEUs are based on time attended and not on the assessment of learning.

(17) "Credit" means an 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.

(18) "Credit course" means courses offered by the college as part of a lower division transfer degree or approved Career Technical Education program.

(19) "Degree" means any academic or honorary title, rank or status that may be used for any purpose whatsoever, 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; or

(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.

(20) "Deleted program" means the permanent elimination of a program previously approved by community college boards and the Higher Education Coordinating Commission.

(21) "Detrimental duplication" means a situation that occurs when recruitment of students for a new program or location will tend to redirect prospects from a fixed pool concomitant with the application of publicly funded educational cost subsidies, thereby significantly reducing enrollment in existing similar programs for which student financial aid is available but the number of prospective enrollees is limited by non-financial factors such as interest, qualifications needed for admission, internship openings for students, and job openings for graduates.

(22) "Direct control" means the community college maintains direct and sole responsibility for the academic quality of all aspects of all programs and courses through management and supervision by faculty and institutional administrators.

(23) "Educational programs" means state-approved certificates of completion and associate degree programs.

(24) "General education" means the introduction to the content and methodology of the major areas of knowledge including the humanities and fine arts, the natural sciences, mathematics, and the social sciences and helps students develop the mental skills that will make them more effective learners and citizens in a democratic society.

(25) "Higher Education Coordinating Commission" means the Higher Education Coordinating Commission established by ORS 351.715.

(26) "Hobby course" means any directed activity engaged in by individuals as an avocation resulting in a collection of objects or in the production of works.

(27) "Intersegmental" means across segments of education. See "Segment of education."

(28) "Laboratory or lab" means an instructional setting in which students work independently with the instructor available and in the instructional area for assistance and supervision.

(29) "Lecture" means an instructional setting in which the instructor delivers information.

(30) "Lecture or laboratory (lecture or lab)" means an instructional setting in which the instructor gives short presentations and supervises student application of content. Instructional methods are integrated, and lecture and lab are dependent upon each other for the student's educational success.

(31) "Local community college program approval" means the approval by the local community college board of education or its designee indicating that a program has met or exceeded local community college program standards and processes prior to being submitted to the Higher Education Coordinating Commission or its designee for review.

(32) "Lower Division Collegiate (LDC)" means collegiate-level work in areas of instruction that parallel the offerings of the first two years of Oregon's four-year institutions, and are generally accepted for transfer by Oregon's public higher education institutions.

(33) "New location of an approved program" means a facility where students collectively may receive instruction in the program face-to-face or through telecommunications in a community not previously so served, including a non-Oregon location within 50 miles of where a comparable program is located in Oregon.

(34) "New program" means any program not previously approved by the Higher Education Coordinating Commission, the Office of Degree Authorization or by their predecessor review authorities, regardless of whether it comprises new instructional components or the reassembled components of existing programs.

(35) "Non-credit course" means a course that does not offer college credit for completion and generally cannot be used as part of a credit based degree or certificate program. No assessment of learning generally takes place.

(36) "Non-credit Training Certificate" means a form of recognition awarded by a community college made up of a single stand-alone course or a series of courses that do not offer college credit for completion. An assessment of measurable outcomes or mastery of learning or knowledge is required.

(37) "Occupational preparatory program" means a state-approved Career Technical Education program which is designed to prepare persons for employment in a specified occupation or cluster of closely related occupations.

(38) "Occupational supplementary program" means a state-approved program designed for individuals who have already entered an occupation and seek to improve their occupational skills and knowledge in order to achieve employment stability or advancement.

(39) "Other education courses" means general self-improvement courses intended primarily for adults and independent of Career Technical Education or lower division curricula. These courses are not intended for programs that may lead toward a baccalaureate degree. These courses may be used as prerequisite and elective courses in Career Technical Education degree and certificate programs. Other education courses include areas of instruction not otherwise included in the Career Technical Education and lower division collegiate categories. Other education course areas include but are not limited to adult basic education (ABE), general educational development (GED), adult high school completion (AHS), English as a second language (ESL), and self-improvement courses not fitting into previously listed categories.

(40) "Program" means any organized teaching and learning activity in which successful completion qualifies a student for a degree, a certificate of substantial academic or vocational learning short of a degree, a certificate of preparation related to new or modified occupational licensure, or another academic or vocational certificate that represents a shorter period of activity but has value as a public credential.

(41) "Program amendment" means a change in a state-approved program submitted to the Higher Education Coordinating Commission or its designee by a college to receive approval to revise the program. Revisions include minor changes in curriculum content, courses, program outcomes and titles.

(42) "Program approval" means the process by which the local community college board and the Higher Education Coordinating Commission acknowledge that a program has met the applicable program standards and requirements of the local and Higher Education Coordinating Commissions or its designees. Program approval also includes the authorization of the program by the Office of Degree Authorization.

(43) "Publicly funded" means controlled by an agency of government or by a public corporation as occurs in Oregon community colleges, institutions of higher education, and the Oregon Health & Science University, regardless of specific sources and applications of funds, or controlled by a private entity but subsidized with appropriated public funds received directly for program operation rather than indirectly in the form of student financial aid.

(44) "Recognition award" means an award given to a student by a community college for completion of a state-approved course or courses or for attendance and participation in workshops or seminars. Recognition awards may not be called "certificates of completion" or "certificates" and may not be included on the official student transcript.

(45) "Recreational course" means any directed activity in which individuals participate with the purpose of engaging in physical activity, except those activities which focus on physical fitness or which directly relate to the initial skill development of physical activities in which individuals could reasonably be expected to participate during most of their adult lives.

(46) "Related instruction" means programs of study for which applied or specialized associate degrees are granted, or programs of an academic

year or more in length for which certificates are granted. They must contain a recognizable body of instruction in program-related areas of communication, computation and human relations. Additional topics which should be covered as appropriate include safety, industrial safety, and environmental awareness. Related instruction areas are either embedded within the program curriculum or taught in blocks of specialized instruction.

(47) "Segment of education" means any one of the following:

(a) Oregon community colleges, community college districts, or service districts, together with every other postsecondary program or location ultimately sponsored by the Higher Education Coordinating Commission;

(b) Oregon state-owned institutions of higher education and related organizational units, together with every other postsecondary program or location ultimately sponsored by the Higher Education Coordinating Commission;

(c) The Oregon Health & Science University, any hereafter created public corporations for higher education, and any organizational units of such public corporations, together with every postsecondary program or location under their ultimate sponsorship;

(d) Private Oregon degree-granting institutions and organizations and all non-Oregon entities offering residential instruction in Oregon for credit toward full degrees approved by the Office of Degree Authorization, together with every postsecondary program or location they sponsor; and

(e) Private nondegree career schools offering instruction in Oregon and licensed under ORS 345, together with every postsecondary program or location they sponsor.

(48) "Stand-alone occupational preparatory courses" means courses designed for individuals seeking to build knowledge and skills for initial employment in an area not included in one or more of a community college's existing approved Associate of Applied Science degree or certificate of completion programs. Also see Occupational Preparatory Program.

(49) "Statewide or regional consortium program" means an associate of applied science or certificate of completion program which is developed, applied for and continuously monitored by a partnership of colleges to address a specific program need through a cohesive and transferable curriculum among participating colleges.

(50) "State-approved program" means a community college certificate of completion or associate degree program that has met and continues to meet the standards and criteria of the Higher Education Coordinating Commission and has received authorization by the Office of Degree Authorization.

(51) "Suspended program" means the temporary removal of a state-approved program from the overall curriculum of a community college by the local community college board of education or their designee.

Stat. Auth.: ORS 326.051
Stats. Implemented: 341.425, 341.465
Hist.: DCCWD 1-2003, f. & cert. ef. 1-9-03; DCCWD 5-2003, f. & cert. ef. 10-20-03; DCCWD 1-2007(Temp), f. & cert. ef. 6-15-07 thru 12-11-07; DCCWD 3-2007, f. & cert. ef. 9-6-07; DCCWD 2-2014(Temp), f. & cert. ef. 3-14-14 thru 9-10-14; DCCWD 5-2014, f. & cert. ef. 7-22-14; DCCWD 4-2015, f. & cert. ef. 10-13-15

589-006-0300
Approval of Career Technical Education Courses, Certificate of Completion and Associate of Applied Science Degree Programs

(1) Under the authority of ORS 341.425, the Higher Education Coordinating Commission delegates to the Department the authority to approve Career Technical Education courses.

(2) Career Technical Education courses consist of either occupational preparatory courses or occupational supplementary courses.

(3) The department will use the Career Technical Education Course Approval Procedure and Certificate of Completion and Associate Degree Approval Procedure to approve Career Technical Education courses and programs.

(4) Career Technical Education courses are approved by the Higher Education Coordinating Commission or its designee, either as a component of the curriculum for a state- approved certificate of completion, associate of applied science degree, or associate of applied science degree option program, or through an individual course approval process as identified in the Career Technical Education Course Approval Procedure.

(5) Higher Education Coordinating Commission standards for approval of occupational preparatory courses are included in the Career Technical Education Course Approval Procedure and include but are not be limited to:

(a) Courses are delivered under the direct control of the college and are either:

(A) Approved as part of a community college certificate of completion, associate of applied science degree program, or associate of applied science degree option; or

(B) Approved as a stand-alone occupational preparatory course.

(b) Courses are collegiate-level and provide education and training directed to the development of abilities, skills, understanding, and attitudes needed to enter into an occupation.

(c) Courses are designed for occupational employment and are not necessarily directed toward completion of baccalaureate degree requirements.

(d) Courses are developed and operated with the advice and counsel of employers, employees and other persons knowledgeable about the requirements of the occupations involved.

(e) Courses will not adversely impact or detrimentally duplicate similar intersegmental courses offered locally.

(6) Occupational preparatory courses may not be offered by the local community college prior to the approval of the Higher Education Coordinating Commission or its designee.

(7) Higher Education Coordinating Commission standards for approval of occupational supplementary courses are included in the Career Technical Education Course Approval Procedure and include but are not be limited to:

(a) Courses are delivered under the direct control of the college and may or may not be components of a community college certificate of completion or associate of applied science degree program.

(b) Courses are not necessarily directed toward the completion of requirements for a baccalaureate degree.

(c) Courses are collegiate- level and provide education and training designed to develop or enhance abilities, skills, understandings and attitudes needed to improve occupational skills in order to achieve employment stability or advancement.

(d) Courses are developed and operated with the advice and counsel of employers, employees and other persons knowledgeable of the requirements of the occupation involved.

(8) Occupational supplementary courses may be offered by the local community college prior to final approval by the department as identified in the Career Technical Education Course Approval Procedure under conditions that include the following:

(a) The local community college has a local course approval process in place and assures that the occupational supplementary standards have been met.

(b) The community college is willing to take the risk that the course may not be approved and may be non-reimbursable.

(9) Career Technical Education courses will be numbered using course numbering conventions as approved by the department.

(10) Career Technical Education programs will be approved by the Higher Education Coordinating Commission based on meeting the general community college program requirements for certificates of completion, associate of applied science degrees or associate of applied science options as identified in 589-006-0100.

(11) Higher Education Coordinating Commission standards and criteria for approval of Career Technical Education are included in the Certificate of Completion and Associate Degree Approval Procedures and include but are not be limited to:

(a) The program is developed and will be implemented, operated and evaluated as a joint venture with business, industry and labor; and

(b) The college demonstrates capacity to offer the program and will provide the necessary resources and services to assure that students can attain the skills and knowledge necessary to fulfill the stated objectives of the program, and

(c) The curriculum for the program demonstrates a cohesive instructional system that will lead to the attainment of the academic and Career Technical Education exit proficiencies needed for success in the occupational field; and

(d) The instructional design for the program provides the appropriate access, flexibility and evaluation components to provide appropriate instruction for students within the program; and

(e) The program provides access to all students and provides the necessary additional and supplemental services for special populations and protected classes; and

(f) Program need is based on local, regional, state, and national statistics and forecasts documenting that an employment demand for family wage occupations is not or cannot be met through existing programs; and

(g) The program provides direct connections to appropriate certificates of advanced mastery as well as other programs in the college, other institutions of postsecondary education, and future training opportunities; and

(h) The program has continuous improvement systems in place that provide for program input through evaluation based on instructor, employer and student satisfaction follow-up data.

(12) Career Technical Education programs will include the sequence of courses for the program including general education and related instruction, Career Technical Education required, elective and specialization courses. Program approval materials will also include course numbers, credit/non-credit and clock/contact hours for the course.

(13) Provisions will be made within the Certificate of Completion and Associate Degree Approval Procedures to allow for the development, approval, implementation and evaluation of certificate of completion, associate of applied science degree and associate of applied science degree options for statewide or regional consortium of community colleges. Statewide and regional consortia certificates and degrees will address a specific program need through a cohesive and transferable curriculum among and between participating colleges.

(14) Provisions will be made within the Certificate of Completion and Associate Degree Approval Procedures to allow for the development, approval, implementation, and evaluation of Business and Industry-based programs that are designed for employers to meet specific occupational and educational needs of their current employees.

(15) New Career Technical Education programs will be submitted for approval following the processes outlined in the Oregon Community Colleges Handbook and Planning Guide.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 326.051
Stats. Implemented: ORS 341.425
Hist.: 1EB 132, f. 5-19-72, ef. 6-1-72; 1EB 166, f. 2-20-74, ef. 3-11-74; EB 14-1991, f. & cert. ef. 7-19-91; Renumbered from 581-042-0040, 581-042-0045, 581-042-0050, 581-042-0055 & 581-042-0060; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-043-0290; DCCWD 1-2003, f. & cert. ef. 1-9-03; DCCWD 5-2003, f. & cert. ef. 10-20-03; DCCWD 2-2014(Temp), f. & cert. ef. 3-14-14 thru 9-10-14; DCCWD 5-2014, f. & cert. ef. 7-22-14; DCCWD 4-2015, f. & cert. ef. 10-13-15

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Oregon Business Development Department
Chapter 123

Rule Caption: These temporary rules relate to the Special Public Works Fund.
Adm. Order No.: OBDD 9-2015(Temp)
Filed with Sec. of State: 10-1-2015
Certified to be Effective: 10-1-15 thru 3-27-16
Notice Publication Date:
Rules Adopted: 123-042-0061
Rules Amended: 123-042-0020, 123-042-0026, 123-042-0036, 123-042-0038, 123-042-0045, 123-042-0055, 123-042-0065, 123-042-0076, 123-042-0122, 123-042-0132, 123-042-0155, 123-042-0165, 123-042-0175, 123-042-0180, 123-042-0190
Subject: As a result of SB 306 in the 2015 legislative session, the Special Public Works Fund rules are being amended to included definitions, criteria, project eligibility and funding related to levee projects.
Rules Coordinator: Mindee Sublette—(503) 986-0036

123-042-0020
Definitions

For the purposes of these rules additional definitions may be found in Procedural Rules, OAR 123-001. As used in this OAR 123 division 42 the following terms have the meanings set forth below, unless the context clearly indicates otherwise.

(1) "Authority" means the Infrastructure Finance Authority within the Oregon Business Development Department.

(2) "Award" means the Authority's determination that the project is eligible for funding and that the Authority has identified the specified funding type and amount for the activities described in the staff recommendation.

(3) "Award date" means the date of the final Authority management signature approving the award.

(4) "Board" means the Oregon Infrastructure Finance Authority Board.

(5) "Commission" means the Oregon Business Development Commission

(6) "Development project" means a project for the acquisition, improvement, construction, demolition, or redevelopment of municipally owned utilities, buildings, land, transportation facilities or other facilities that assist the economic and community development of the municipality, including but not limited to the following type of projects:

(a) Transportation projects

(b) Utility system projects

(c) Buildings, lands or other facility projects including planning project activities that are necessary or useful as determined by the Authority.

(7) "Direct project management costs" means expenses directly related to a project that are incurred by a municipality solely to support or manage a project eligible for assistance under ORS 285B.410 to 285B.482. Direct project management costs does not include routine or ongoing expenses of the municipality.

(8) "Eligible commercial jobs" means jobs that are created or retained by businesses selling goods or services into markets for which national or international competition exists.

(9) "Emergency project" means a development project resulting from an emergency as defined in ORS 401.025

(10) "Essential Community Facilities" means municipally owned or operated facilities that provide or support services vital to public health and safety, including, but not limited to police and fire protection, medical treatment, public utilities, transportation, and auxiliary shelter facilities.

(11) "Executive Director" means the administrator of the Infrastructure Finance Authority.

(12) "Firm business commitment project" means a project in response to a specific business development, expansion or retention proposal where assistance is necessary to enable the proposal to proceed and where permanent, full-time equivalent jobs will be created or retained. The project must support industrial development or eligible commercial jobs and be consistent with local comprehensive plans and implementing ordinances.

(13) "Fund" means the Special Public Works Fund created by ORS 285B.455.

(14) "Levee project" means a planning project, development project, or other project that is directly related to and necessary for required inspections, levee certification, accreditation or repairs.

(15) "Marine facility" has the meaning given that term in ORS 285B.410(7).

(16) "Municipality" means an Oregon city, or county, the Port of Portland created by ORS 778.010, a county service district organized under ORS Chapter 451, a district as defined in 198.010, a tribal council of a federally recognized Indian tribe in this state, or an airport district organized under ORS 838, but does not include an ORS 190 entity.

(17) "Planning project" means:

(a) A project related to a potential development project for preliminary, final or construction engineering;

(b) A survey, site investigation or environmental action related to a potential development project;

(c) A financial, technical or other feasibility report, study or plan related to a potential development project; or

(d) An activity that the Authority determines to be necessary or useful in planning for a potential development project.

(18) "Project" means a development, planning or emergency project.

(19) "State revenue bond loan" means a loan funded in whole or part through the sale of state revenue bonds issued by the State of Oregon at the request of the department that are payable from specific revenue sources pledged by a municipality and are not a pledge of the full faith and credit of the State of Oregon.

Stat. Auth.: ORS 285B.419 & 285A.075
Stats. Implemented: ORS 285B.410 - 285B.482
Hist.: ED 12-2000, f. 8-9-00, cert. ef. 8-14-00; EDD 7-2001(Temp), f. & cert. ef. 11-6-01 thru 3-29-02; EDD 4-2002, f. & cert. ef. 2-26-02; EDD 5-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 18-2004, f. & cert. ef. 8-2-04; EDD 10-2006, f. & cert. ef. 11-1-06; EDD 13-2008(Temp), f. & cert. ef. 4-9-08 thru 10-5-08; EDD 31-2008, f. 10-2-08, cert. ef. 10-3-08; OBDD 41-2010, f. 11-30-10, cert. ef. 12-1-10; OBDD 9-2015(Temp), f. & cert. ef. 10-1-15 thru 3-27-16

123-042-0026
Loan and Grant Information

(1) The moneys in the fund will be used primarily to provide loans to municipalities for projects. Grants may be given only when loans are not feasible due to the financial need of the municipality or special circumstances of a project. The level of loan or grant funding, if any, may be determined by the Authority on a case-by case-basis. The Authority shall determine awards in a manner that maximizes the use of available resources and maintains the desired credit standards of the fund according to the following criteria:

(a) Amount requested;

(b) Type;

(c) Interest rate;

(d) Terms and conditions of an award. The Authority may offer an alternate mix or lower amount of assistance than requested, and it may investigate and recommend other sources of funds for all or part of a proposed project.

(2) Grants:

(a) If the Authority determines that a firm business commitment project meets the minimum criteria for a grant, the Authority may make a further determination on the amount of the grant. The maximum grant amount is $500,000 per project or 85% of allowable project costs, whichever is less. In-kind materials and services cannot be included in allowable project costs.

(b) The amount of grant will be based primarily on the number of eligible commercial and industrial jobs proposed to be created or retained with a maximum of $5,000 for each job created or retained.

(c) If a grant is for the acquisition and improvement of real property, the maximum grant amount cannot exceed the fair market value of the real property after the improvements have been made or the value placed on the real property and improvements on the assessment rolls, whichever is less.

(d) The Authority must receive, in accordance with OAR 123 division 70, a copy of the appropriate First Source Hiring Agreement or assurance from the municipality that one has been entered into before the grant is dispersed.

(e) Not less than 60 percent of the grants awarded from the Special Public Works Fund in any biennium can be used to provide assistance to distressed or rural areas.

(f) The Authority cannot expend more than $900,000 for grants or direct assistance, if any, for planning projects to municipalities in a biennium.

(g) The Authority cannot commit more than $2,000,000 for grants for Firm Business Commitment development projects in a biennium.

(h) A development project that qualifies as a firm business commitment project is eligible to apply for a grant. When making a determination to award a grant, the Authority will apply prudent fiscal management of the fund in order to manage constrained funding resources. In addition to the criteria and process contained in its policies on grant and loan funding, the Authority will apply the following minimum criteria for grants:

(A) The Authority's financial analysis determines that the municipality's borrowing capacity is insufficient to support the amount of the loan requested for the project;

(B) Eligible commercial jobs will be created or retained as a result of the grant being awarded; and

(C) The Authority has received confirmation that the firm business commitment project will not occur, or that the eligible commercial jobs will be lost, if the municipality does not receive a grant.

(3) Loans:

(a) Maximum loan amount for a project will be based on the Authority's financial and credit analysis of the municipality's capacity to repay, the availability of moneys in the fund, and prudent fund management. Projects that the Authority determines are not financially feasible, or loans that cannot be adequately secured, will not be funded. The maximum loan amount per project cannot exceed $10,000,000.

(b) A development project may receive loan funding as follows:

(A) The initial or renegotiated term is limited to the usable life of the contracted project, or a maximum of 30 years from the year of project completion, whichever is less.

(B) The interest rate on a loan will be based on market conditions for similar debt, and will be set at the time of the award.

(C) The repayment terms of a loan can include deferred repayment of principal and/or interest for a specified term of the loan to address special circumstances and financial feasibility of a project.

(D) The interest rate on a state revenue bond loan will be equal to the coupon rates on the bonds. Until the state revenue bonds are sold, the municipality will pay interest on the outstanding principal balance of the loan at the rate established by the Authority.

(c) A loan amount requiring Board approval will be established by the Board.

(d) The loan will be a full faith and credit obligation, which is payable from any taxes that the municipality may levy within the limitations of Article XI, Sections 11 and 11b, of the Oregon Constitution and all legally available funds of the municipality. Additional pledges of revenue or other collateral may also be required and may include, but are not limited to:

(A) Specific revenues of the municipality may also be required to be pledged as security, including revenues of the project, special assessment revenues and other collateral.

(B) If repayment of a loan substantially depends on revenues the municipality will receive from a lessee or payments from a benefiting business, the Authority will assess the financial capacity of the payor, the adequacy of the security, the financial instrument(s) requiring such payments to the municipality, and any liens, pledge(s), or assignments of collateral from the payor to the municipality. The Authority may require an assignment of such revenue and collateral from the municipality.

(C) If repayment of the loan substantially depends on a pledge of tax increment revenues from an urban renewal agency to the borrowing municipality, the Authority's financial analysis will extend to the financial feasibility of the projected revenues and the financial and legal adequacy of the proposed pledge of tax increment revenue.

Stat. Auth.: ORS 285B.419 & 285A.075
Stats. Implemented: ORS 285B.410 - 285B.482
Hist.: EDD 10-2006, f. & cert. ef. 11-1-06; EDD 13-2008(Temp), f. & cert. ef. 4-9-08 thru 10-5-08; EDD 31-2008, f. 10-2-08, cert. ef. 10-3-08; OBDD 41-2010, f. 11-30-10, cert. ef. 12-1-10; OBDD 10-2011, f. 12-30-11, cert. ef. 1-1-12; OBDD 9-2015(Temp), f. & cert. ef. 10-1-15 thru 3-27-16

123-042-0036
Project Priorities and Funding

(1) The Authority may consider the following priorities when determining a development project's eligibility, including but not limited to:

(a) Projects that help create or retain permanent jobs.

(b) Projects for which a municipality has documented a strong likelihood of creating construction jobs or otherwise promoting or contributing to economic and community development.

(c) Projects for which a municipality has documented substantial local commitment to the project's success.

(d) Projects for which a municipality has documented how the benefits of the project will be preserved over the project life.

(2) The Authority may apply the following procedure when determining whether to make an award for an eligible development project:

(a) The Authority will review project concepts and/or project information contained in the project intake form.

(b) Proposed projects that the Authority determines to be eligible, meet the Board approved prioritization criteria, are a high priority and address the goals of the program, will be advanced to the next step. A proposed project that is not advanced will be referred to other possible funding source(s) or referred back to the proposing municipality for further project development.

(c) High priority projects will be funded on a funds available basis.

Stat. Auth.: ORS 285B.419 & 285A.075
Stats. Implemented: ORS 285B.410 - 285B.482
Hist.: EDD 10-2006, f. & cert. ef. 11-1-06; EDD 13-2008(Temp), f. & cert. ef. 4-9-08 thru 10-5-08; EDD 31-2008, f. 10-2-08, cert. ef. 10-3-08; OBDD 41-2010, f. 11-30-10, cert. ef. 12-1-10; OBDD 9-2015(Temp), f. & cert. ef. 10-1-15 thru 3-27-16

123-042-0038
Criteria for Special Project Funding

Special types of development projects must meet the following criteria. If the project consists:

(1) Solely of the acquisition of land by the municipality, the land must be identified in the applicable land use or capital plan as necessary for a potential development project or be zoned solely for commercial or industrial use. A loan for such a project must be repaid if the land that is acquired through the proceeds of the loan is rezoned so as to be no longer zoned for industrial or commercial use.

(2) Of a privately owned railroad, the railroad must be designated by the owner and operator as subject to abandonment within three years, pursuant to federal law governing abandonment of common carrier railroad lines.

(3) Of a telecommunications system, the governing body of the municipality shall adopt a resolution, after a public hearing, finding that the proposed telecommunications system project is necessary and would not otherwise be provided by a for-profit entity within a reasonable time and for a reasonable cost.

(4) Of an energy system, the municipality and the serving utility must execute an ownership and operating agreement for the proposed energy system project. This sub-section does not apply when the energy system project will be located within the recognized service territory of the municipality.

(5) Of a marine facility project authorized under ORS 777.267, assistance from the fund can only be a loan that may not exceed the amount of the required local match.

(6) Of a project for a utility system that is functionally connected to, or anticipates connecting to, another municipality's utility system, an intergovernmental cooperation agreement that describes the duties and obliga-

tions of each entity in regard to the project and utility system is required. A certified copy of the fully executed intergovernmental agreement must be provided before the Authority will disburse funds.

Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 285A.075 & 285B.410 - 285B.460
Hist.: EDD 31-2008, f. 10-2-08, cert. ef. 10-3-08; OBDD 41-2010, f. 11-30-10, cert. ef. 12-1-10; OBDD 9-2015(Temp), f. & cert. ef. 10-1-15 thru 3-27-16

123-042-0045
Planning Project Eligibility, Criteria and Funding

(1) A planning project, as defined in ORS 285B.410(9), may be eligible for a loan. The Authority will make awards for loans based on availability of moneys in the fund and prudent fund management as well as its financial analysis of the municipality's ability to repay the loan;

(2) A planning project conducted for the purpose of developing industrial lands, including planning for industrial site certification, is eligible for a grant of up to $60,000 per site, per biennium or 85% of the allowable planning project cost, whichever is less. This type of planning project must meet the following criteria:

(a) The land must be zoned "industrial"; and

(b) The land meets marketability standards as determined by the department using its adopted policy.

(3) A planning project conducted for the purpose of preliminary evaluation, planning, or engineering for levee certification is eligible for one grant of up to $50,000 per levee certification project area or 85% of the allowable planning project cost, whichever is less.

Stat. Auth.: ORS 285B.419 & 285A.075
Stats. Implemented: ORS 285B.410 - 285B.482
Hist.: EDD 10-2006, f. & cert. ef. 11-1-06; OBDD 41-2010, f. 11-30-10, cert. ef. 12-1-10; OBDD 10-2011, f. 12-30-11, cert. ef. 1-1-12; OBDD 9-2015(Temp), f. & cert. ef. 10-1-15 thru 3-27-16

123-042-0055
Emergency Project Eligibility, Criteria and Funding

(1) An emergency project, as defined in ORS 285B.410(5), which meets the following criteria is eligible for assistance from the fund:

(a) The project must result from an emergency as defined in ORS 401.025; and

(b) The project must have federal disaster relief assistance funds committed;

(2) The following apply to both grants and loans for emergency projects:

(a) The maximum award amount for an emergency project cannot exceed the required local match for the federal disaster relief assistance committed to the project;

(b) A grant for an emergency project cannot exceed $500,000 per project, or the amount of the federally required local match, whichever is less; and

(c) A loan for an emergency project must meet the criteria set forth in OAR 123-042-0036.

(3) The Authority shall not commit more than $2.5 million for emergency project grants, including grants for essential community facilities, in a biennium.

(4) For the purposes of awards made under this OAR 123-042-0055, allowable project costs are those eligible for federal assistance, unless those costs are precluded by a restriction in state law or the Code of Federal Regulations.

(5) In the event of an emergency, the Authority may adopt a policy, after consultation with stakeholders and others, to guide implementation decisions regarding such matters as grant amounts and priorities.

Stat. Auth.: ORS 285B.419 & 285A.075
Stats. Implemented: ORS 285B.410 - 285B.482
Hist.: EDD 10-2006, f. & cert. ef. 11-1-06; OBDD 41-2010, f. 11-30-10, cert. ef. 12-1-10; OBDD 9-2015(Temp), f. & cert. ef. 10-1-15 thru 3-27-16

123-042-0061
Levee Project Eligibility, Criteria and Funding

(1) The Authority may provide financial assistance in the form of loans and grants for a levee project to:

(a) A municipality, including drainage districts organized under ORS Chapter 547;

(b) Corporations or companies for drainage or flood control organized under ORS Chapter 554.

(2) A levee project as defined in 123-042-0020(14) that meets one or more of the following criteria is eligible for assistance from the fund:

(a) The project is for the purpose of completing certification documents and accreditation by the Federal Emergency Management Agency (FEMA) as defined in Chapter 44 of the Code of Federal Regulations (44 CFR), Section 65.2;

(b) The project is for the purpose of meeting the requirements of 44 CFR, Section 65.10 and obtaining accreditation by FEMA.

(3) The following applies to loans for levee projects:

(a) The maximum loan amount cannot exceed $2,500,000;

(b) A principal only, zero percent (0%) interest rate loan of up to $1,000,000 may be awarded for each levee certification project area. The zero percent loan cannot exceed 50 percent (50%) of the financial award from the Special Public Works Fund;

(c) The Authority cannot commit more than $4,000,000 for zero percent (0%) interest rate loans for levee projects in a biennium.

(4) A levee project is eligible for one grant of up to a maximum of $50,000. Maximum grant amount will include any amount previously awarded as a planning project grant pursuant to OAR 123-042-0045(3).

(5) For awards made under this OAR 123-042-0061, allowable project costs are those set forth in OAR 123-042-0065.

Stat. Auth.: ORS 285B.410, 285B.419 & 285A.075
Stats. Implemented: ORS 285B.410 - 285B.482
Hist.: OBDD 9-2015(Temp), f. & cert. ef. 10-1-15 thru 3-27-16

123-042-0065
Allowable Project Costs

For purposes of projects funded under this division of rules, the allowable costs of a project include:

(1) Financing costs, including capitalized interest;

(2) Direct project management costs;

(3) Costs of consultant services and expenses;

(4) Construction costs and expenses;

(5) Costs of property acquisition, including any easement, or right of way directly related to and necessary for the project;

(6) Costs incurred by the municipality prior to the award if such costs are allowable under the Authority's adopted policy for reimbursement of pre-award costs;

(7) Costs of acquiring off-site property for purposes directly related to the project, such as wetland mitigation; and

(8) Other costs that the Authority determines to be necessary or useful.

Stat. Auth.: ORS 285B.419 & 285A.075
Stats. Implemented: ORS 285B.410 - 285B.482
Hist.: EDD 10-2006, f. & cert. ef. 11-1-06; OBDD 41-2010, f. 11-30-10, cert. ef. 12-1-10; OBDD 9-2015(Temp), f. & cert. ef. 10-1-15 thru 3-27-16

123-042-0076
Ineligible Projects and Project Costs

Expenses and costs expressly allowed under this division of rules are eligible for reimbursement from the fund. All other costs are ineligible for reimbursement including but not limited to:

(1) Assistance to facilities that are or will be privately owned;

(2) Purchase of general purpose motor vehicles and equipment not essential to the project;

(3) Assistance to projects that primarily focus on relocating business or economic activity from one part of the state to another, except in cases where the business or economic activity would otherwise locate outside of Oregon; and

(4) Project operating or maintenance costs, except as allowed by statute.

Stat. Auth.: ORS 285B.419 & 285A.075
Stats. Implemented: ORS 285B.410 - 285B.482
Hist.: EDD 10-2006, f. & cert. ef. 11-1-06; OBDD 41-2010, f. 11-30-10, cert. ef. 12-1-10; OBDD 9-2015(Temp), f. & cert. ef. 10-1-15 thru 3-27-16

123-042-0122
Application Requirements

(1) A municipality may submit an application to the Authority after consulting with the Authority on a preliminary determination of eligibility and following the Authority's procedures.

(2) The application must be in the form provided by the Authority and must contain or be accompanied by such information and documentation as the Authority may require. The Authority may assist municipalities in understanding program requirements and in completing applications. The Authority will process only completed applications.

Stat. Auth.: ORS 285B.419 & 285A.075
Stats. Implemented: ORS 285B.410 - 285B.482
Hist.: EDD 10-2006, f. & cert. ef. 11-1-06; OBDD 41-2010, f. 11-30-10, cert. ef. 12-1-10; OBDD 9-2015(Temp), f. & cert. ef. 10-1-15 thru 3-27-16

123-042-0132
Application Review and Approval

(1) For a construction project the Authority must make the following determinations:

(a) The municipality has certified that the proposed project is feasible, is the most cost effective solution, and adequately serves the applicable land uses in both the short and long term;

(b) The loan is secured by the pledge of utility revenues or other revenues, collateral, or payments from any owners of specially benefited properties, and such pledge is sufficient, when considered with other collateral or assets, to assure repayment, and the municipality has certified to the Authority that there will be adequate funds available to repay the loans made to the municipality from the fund;

(c) The municipality is willing and able to enter into a contract with the Authority;

(d) The project is consistent with the requirements governing assistance from the fund. If the Authority determines that the municipality or the proposed project does not meet the requirements of OAR chapter 123, division 42, the Authority may reject an application or require further documentation from the municipality;

(e) Other funds that may be needed to complete the project are available or the municipality has a binding commitment for such funds. If a portion of the other funds needed to complete the project is not available or committed at the time an award is made, the award will be conditional on securing the other needed funds or a binding commitment for such funds; and

(f) The project is ready to begin and the municipality has committed in writing that, if awarded the assistance, it shall proceed immediately.

(2) For a planning project, the Authority must make the following determinations:

(a) The requirements set out in OAR 123-042-0132(1) are met, except for subsection (b) if no loan is being awarded;

(b) The planning activities must be for a project that is eligible under OAR chapter 123, division 42 and meets the criteria listed in OAR 123-042-0045; and

(c) The municipality has demonstrated the ability to secure, the administrative capacity to undertake and complete the planning project.

Stat. Auth.: ORS 285B.419 & 285A.075
Stats. Implemented: ORS 285B.410 - 285B.482
Hist.: EDD 10-2006, f. & cert. ef. 11-1-06; OBDD 41-2010, f. 11-30-10, cert. ef. 12-1-10; OBDD 9-2015(Temp), f. & cert. ef. 10-1-15 thru 3-27-16

123-042-0155
Contracts and Disbursements of Funds

(1) The Authority shall disburse monies from the fund only after entering into a binding contract with the municipality.

(2) The contract will be in form and substance as provided by the Authority, and must include:

(a) A provision that disbursements from the fund will be according to the terms of the contract;

(b) A provision that the liability of the Authority under the contract is contingent upon the availability of moneys in the fund for use in the project;

(c) For a development project, a provision requiring the contracted project remain in municipal ownership for either the life of the loan, or for not less than 10 years following the Project Closeout Deadline if funding award is solely a grant. If this condition is not met, the grant and any interest earned is immediately payable to the Authority, unless the Authority in its sole discretion elects to convert the grant to a loan on terms and conditions satisfactory to the Authority;

(d) For a planning project, other than planning projects conducted for levee certification, a provision requiring that the land involved in the project must remain zoned as industrial and not be converted to another use for at least 5 years after completion of the project. If this condition is not met, the grant and any interest earned is immediately payable to the Authority, unless the Authority in its sole discretion elects to convert the grant to a loan on terms and conditions satisfactory to the Authority;

(e) If any portion of the assistance is in the form of a loan or the purchase of a bond of a municipality, a provision granting the Authority a lien on, or a security interest in, the collateral as determined by the Authority to be necessary to secure repayment of the loan or bond;

(f) A provision that for a period of up to six (6) years after project completion, the Authority may request that the municipality, at its own expense, submit data on the economic development benefits of the project, including but not limited to, information on new or retained jobs resulting from the project, and other information necessary to evaluate the success and economic impact of the project; and

(g) Other provisions that the Authority considers necessary or appropriate to implement the assistance.

(4) The contract for a loan or grant must be authorized by an ordinance, order or resolution adopted by the governing body of the municipality in accordance with the municipality's requirements for public notice and authorizing debt.

Stat. Auth.: ORS 285B.419 & 285A.075
Stats. Implemented: ORS 285B.410 - 285B.482
Hist.: EDD 10-2006, f. & cert. ef. 11-1-06; OBDD 41-2010, f. 11-30-10, cert. ef. 12-1-10

123-042-0165
Municipality Responsibilities

(1) The municipality must comply with all applicable state laws, regulations and requirements, such as Oregon prevailing wage rates, municipal audit law, and procurement regulations.

(2) The municipality shall maintain accounts and records for all activities associated with the contracted project and shall provide the Authority, and its representatives, reasonable access to such records. The municipality shall submit periodic reports on the project as requested by the Authority.

(3) The municipality shall certify that any service provider retained for their professional expertise is certified, licensed, or registered, as appropriate, in the State of Oregon for their specialty.

(4) The municipality shall certify that it will follow standard construction practices, such as bonding of engineers and contractors, requiring errors and omissions insurance, performing testing and inspections during construction, and obtaining as-built drawings.

(5) For a project funded with state lottery proceeds, the municipality shall comply with ORS 280.518 requiring public display of information on lottery funding of the project. At a minimum the municipality shall:

(a) Include the following statement, prominently placed on all plans, reports, bid documents and advertisements relating to the project: "This project was funded in part with a financial award from the Special Public Works Fund, funded by the Oregon State Lottery and administered by the Oregon Infrastructure Finance Authority"; and

(b) For a construction project, post a sign, provided by the Authority, at the project site or, if more than one site is included in the project, at a site visible to the general public stating that the project is being funded by lottery proceeds.

(6) For a construction project, the municipality shall have a financing plan for the ongoing operation, maintenance and repairs that will preserve the project benefits over its useful life.

Stat. Auth.: ORS 285B.419 & 285A.075
Stats. Implemented: ORS 285B.410 - 285B.482 & 280.518
Hist.: EDD 10-2006, f. & cert. ef. 11-1-06; OBDD 41-2010, f. 11-30-10, cert. ef. 12-1-10; OBDD 9-2015(Temp), f. & cert. ef. 10-1-15 thru 3-27-16

123-042-0175
Eligibility Criteria for State Revenue Bond Loans

The Authority shall apply the following standards for determining the eligibility of development projects for revenue bond financing:

(1) Loan repayment must be secured by a full faith and credit pledge of the municipality;

(2) The loan must be of sufficient size as determined by the Authority;

(3) The loan must be fully amortized over its term with fixed annual principal and interest payments and the term of the loan will not exceed the usable life of the contracted project;

(4) The loan must conform to the requirements of the bond indenture for the state revenue bonds; and

(5) The loan and the municipality must meet the minimum underwriting criteria for revenue bond financing as established by Authority policies.

Stat. Auth.: ORS 285B.419 & 285A.075
Stats. Implemented: ORS 285B.410 - 285B.482
Hist.: EDD 10-2006, f. & cert. ef. 11-1-06; OBDD 41-2010, f. 11-30-10, cert. ef. 12-1-10; OBDD 9-2015(Temp), f. & cert. ef. 10-1-15 thru 3-27-16

123-042-0180
Remedies

The Authority may invoke remedies for an "event of default" as described in the contract with the municipality, including but not limited to the following:

(1) Withholding of amounts otherwise due to the municipality pursuant to ORS 285B.449;

(2) Barring Recipient from applying for future awards.

Stat. Auth.: ORS 285B.419 & 285A.075
Stats. Implemented: ORS 285B.410 - 285B.482
Hist.: ED 12-2000, f. 8-9-00, cert. ef. 8-14-00; EDD 5-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 18-2004, f. & cert. ef. 8-2-04; EDD 10-2006, f. & cert. ef. 11-1-06; OBDD 41-2010, f. 11-30-10, cert. ef. 12-1-10; OBDD 9-2015(Temp), f. & cert. ef. 10-1-15 thru 3-27-16

123-042-0190
Appeals and Exceptions

(1) Appeals of decisions made by a municipality regarding a project must be made in accordance with the requirements and procedures of the municipality.

(2) The executive director of the Authority will consider appeals of the Authority's funding decisions. Only the municipality may appeal. An appeal must be submitted in writing to the executive director within 30 days of the event or action that is being appealed. A project that would have been funded but for a technical error in the Authority's review of the application will be funded as soon as sufficient moneys become available in the fund, provided the project is still viable. The executive director's decision is final.

(3) The executive director may waive non-statutory requirements of this program if it is demonstrated such a waiver would serve to further the goals and objectives of the program.

Stat. Auth.: ORS 285B.419 & 285A.075
Stats. Implemented: ORS 285B.410 - 285B.482 & 285A.101
Hist.: ED 12-2000, f. 8-9-00, cert. ef. 8-14-00; EDD 5-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 18-2004, f. & cert. ef. 8-2-04; EDD 10-2006, f. & cert. ef. 11-1-06; OBDD 41-2010, f. 11-30-10, cert. ef. 12-1-10; OBDD 9-2015(Temp), f. & cert. ef. 10-1-15 thru 3-27-16

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Rule Caption: Adjustments to enterprise-zone related rules, specifically E-Commerce Enterprise Zones, for new laws and general housekeeping.
Adm. Order No.: OBDD 10-2015
Filed with Sec. of State: 10-5-2015
Certified to be Effective: 10-5-15
Notice Publication Date: 9-1-2015
Rules Amended: 123-662-0001, 123-662-0100, 123-662-1000, 123-662-1200, 123-662-2000, 123-662-2500
Subject: Proposed modifications to division 662 (Electronic Commerce) improve clarity and specificity of guidance for local government officials and business firms seeking tax abatement, as well as implementation of Oregon Laws-ch. 385 (HB 2981), 2014-ch. 53 (HB 4005), and 2015-ch. 648 (HB 2643)- specifically the local E-commerce overlay designation on a first-come basis potentially after October 5, 2015.
Rules Coordinator: Mindee Sublette—(503) 986-0036

123-662-0001
Purpose and Scope

This division of administrative rules specifies matters related to areas designated for electronic commerce and the business tax incentives especially available in them, including but not limited to the electronic commerce overlay of an enterprise zone:

(1) In such areas businesses engaged in Electronic Commerce are not only eligible for the standard enterprise zone exemption, but they may also qualify for a state income tax credit based on their Electronic Commerce investment.

(2) These administrative rules:

(a) Have no bearing on any enterprise zone aside from its having electronic commerce status;

(b) Do not control or bind the county assessor or Department of Revenue, and they do not supersede OAR chapter 150, in matters related to tax administration.

Stat. Auth.: ORS 285A.075, 285C.050(5), 285C.060(1) & OL 2015, Ch. 648, Sec. 14(3)(c)
Stats. Implemented: ORS 285C.050, 285C.095, 285C.100, 285C.135, 285C.180, 285C.185, 315.507 & 315.508; OL 2015, Ch. 648, Sec. 14 & 28
Hist.: OBDD 25-2010, f. & cert. ef. 6-14-10; OBDD 10-2015, f. & cert. ef. 10-5-15

123-662-0100
Definition of Electronic Commerce

OAR 123-001 (Procedural Rules) defines terms used in this division of administrative rules, unless the context clearly indicates otherwise; in addition, for purposes of Electronic Commerce as defined under ORS 285C.050(5):

(1) E-commerce zone means any of the enterprise zones designated for electronic commerce under ORS 285C.095 or a city so designated under ORS 285C.100 in accordance with OAR 123-662-1200(4) or (5) and 123-662-2000(2).

(2) "Predominantly" means that more than 50 percent of applicable transactional activity is Internet-based in terms of receipts, number of orders, clients served or like measures, as opposed to activity handled directly or primarily through other means such as by telephone or e-mail.

(3) Applicable business activity and related investments must:

(a) Locate and occur inside the E-commerce zone;

(b) Involve dealings with customers, suppliers, clients or other transactional entities that are external to the eligible business firm, predominantly over the Internet itself or on a computer network that utilizes the Internet as a platform; and

(c) Entail, support or relate to the sale or purchase of goods, property or services, whether conducted on a wholesale, commercial, business-to-business, retail or other basis.

(4) It also includes facilities, equipment, services, networks, software, broadband infrastructure, or the like that are produced or operated inside the E-commerce zone by a third party, who facilitates, fosters or makes possible business transactions by means consistent with sections (2) and (3) of this rule. Such a third party is eligible for purposes of tax abatement if other businesses or organizations represent 75 percent or more of its customers or gross receipts as opposed to households or the general public.

(5) Beyond the initiation or consummation of the sale, purchase or arms-length exchange, it also encompasses elements of the transaction's overall completion or delivery, if that element:

(a) Is conducted in the E-commerce zone by means consistent with sections (2) and (3) of this rule, including but not limited to customer service, technical support, claims processing, client evaluation, performance measurement or the like, even if the actual sale, purchase or contract originated outside the zone or through other means; or

(b) Naturally serves, underpins or arises from the sale or purchase of goods, property or services inside the E-commerce zone by means consistent with sections (2) and (3) of this rule, including but not limited to distribution, made-to-order assemblage, direct after-sale support, shipping, warehousing, warranty service or any similar operation or order fulfillment-type activity.

(6) One way to understand subsection (5)(b) of this rule is by means of a flowchart representing the totality of Electronic Commerce operations in the zone, such that if a critical node in that flowchart is handled by means consistent with sections (2) and (3) of this rule, then:

(a) Substantially related activities both upstream and downstream of the node are also included for purposes of this rule; and

(b) Associated qualified property or investments in capital assets shall receive respective tax benefits subject to other applicable requirements.

Stat. Auth.: ORS 285A.075, 285C.050(5) & 285C.060(1)
Stats. Implemented: ORS 285C.050, 285C.135, 285C.180, 285C.185 & 315.507
Hist.: OBDD 25-2010, f. & cert. ef. 6-14-10; OBDD 10-2015, f. & cert. ef. 10-5-15

123-662-1000
Electronic Commerce Status

(1) An E-commerce zone may be any enterprise zone, whether urban or rural, except as described in section (3) of this rule, provided that the enterprise zone is itself already designated in accordance with OAR 123-650 or 123-656 and has not terminated.

(2) Electronic commerce status fully overlays the entire area of the enterprise zone designated as an E-commerce zone inclusive of areas added by a subsequent change to the zone's boundary.

(3) The sponsor of an enterprise zone may revoke its status as an E-commerce zone by resolution(s), at any time, pursuant to which the Department shall establish the effective date of revocation, and that that enterprise zone is never again eligible to be an E-commerce zone.

(4) To designate an E-commerce zone:

(a) The process begins with a zone sponsor's sending a formal advisory to the Department of its intent to so designate, which must occur on or after an effective date in OAR 123-662-1200 and October 5, 2015;

(b) The Department shall respond promptly to such an advisory, consulting with the sponsor about the availability of any designation and other pertinent information;

(c) Not less than 31 days after advising the Department, the sponsor may submit its E-commerce designation, consisting of an executed copy of a resolution that designates the zone an E-commerce zone, as adopted after consultation with the Department by each governing body of the zone sponsor consistent with its charter, by-laws or ordinances; and

(d) Subject to the resolution(s) in subsection (c) of this section and other procedural matters being in order, as well as E-commerce zone availability under the law, the Department shall issue a notice of positive determination confirming the designation and establishing its effective date.

(5)(a) If the Department receives advisories per subsection (4)(a) of this rule from two or more zone sponsors within 15 days of one another that exceed the number of available electronic commerce designations, and the Department receives submissions in accordance with subsection (4)(c) of this rule from those sponsors within 45 days of the first advisory, then pos-

itive determination shall go to the zone with the earlier date of resolution adoption by any cosponsor.

(b) If subsection (a) of this section results in a tie, tiebreakers shall be employed in the following order:

(A) The enterprise zone that less recently had electronic commerce status;

(B) The formal advisory received on the earlier date;

(C) The zone with the greater number of cosponsors; or

(D) Special determination of the Director.

(c) If the Department receives fewer submissions than there are available E-commerce zone designations, despite excess advisories in subsection (a) of this section, then pursuant to advisories from other zone sponsors, the Department shall process additional submissions consistent with this section, until all available designations are positively determined to have been made.

(6) The Department shall promptly give written notification and explanation to any zone sponsor subject to a negative determination of its electronic commerce designation and shall counsel the sponsor about the viability and timing of resubmission.

(7) As otherwise permissible, the Department may allow a zone sponsor of an E-commerce zone to re-designate itself as an E-commerce zone at the time it re-designates the enterprise zone under ORS 285C.250, if the zone was designated for electronic commerce within one year of the enterprise zone's termination date.

Stat. Auth.: ORS 285A.075, 285C.060(1) & OL 2015, Ch. 648, Sec. 14(3)(c)
Stats. Implemented: ORS 285C.095; OL 2015, Ch. 648, Sec. 14 & 28
Hist.: OBDD 25-2010, f. & cert. ef. 6-14-10; OBDD 10-2015, f. & cert. ef. 10-5-15

123-662-1200
Designated Areas

(1) If the Legislature allows additional electronic commerce designations under ORS 285C.095 for enterprise zones, which are currently limited to 15, the sponsor of any eligible existing enterprise zone that is not already an E-commerce zone may designate itself as an E-commerce zone in accordance with OAR 123-662-1000, pursuant to the date that the legislation took effect.

(2) The Department shall maintain and publicize information identifying which enterprise zones are currently E-commerce zones.

(3) If an enterprise zone that has been an E-commerce zone for more than one year terminates under ORS 285C.245, or if a zone sponsor revokes its electronic commerce designation, the sponsor of any eligible existing enterprise zone that is not already or is no longer an E-commerce zone may designate itself as an E-commerce zone in accordance with OAR 123-662-1000, pursuant to the date that the termination and revocation took effect.

(4) The City of North Plains in Washington County is a city designated for electronic commerce under ORS 285C.100 effective on March 4, 2002, such that

(a) All areas then or later inside the city limits or urban growth boundary of the City of North Plains are the same as an "E-commerce zone," as used in this division of administrative rules, but only for purposes of Electronic Commerce and business firms that are eligible on that basis under ORS 285C.050 to 285C.250 and 315.507.

(b) The city shall act as the effective zone sponsor and take responsibility for all duties of a zone sponsor as they apply to an Electronic Commerce business firm seeking to utilize areas of the city for special benefits.

(5) If the Legislature provides additional electronic commerce designations under ORS 285C.100 for cities, of which only one is currently allowed, the governing body of any city that is not already an E-commerce city may designate itself as an E-commerce city in a manner equivalent to OAR 123-662-1000(4) to (6), except as prescribed by the legislation, pursuant to the date that the legislation took effect.

Stat. Auth.: ORS 285A.075, 285C.050(5), 285C.060(1) & OL 2015, Ch. 648, Sec. 14(3)(c)
Stats. Implemented: ORS 285C.095, 285C.100 & 285C.135; OL 2015, Ch. 648, Sec. 14
Hist.: OBDD 25-2010, f. & cert. ef. 6-14-10; OBDD 14-2012, f. & cert. ef. 8-15-12; OBDD 10-2015, f. & cert. ef. 10-5-15

123-662-2000
Enterprise Zone Business Eligibility

Respective to the standard exemption from property taxes under ORS 285C.175:

(1) A business firm engaged in Electronic Commerce will likely be eligible in other ways under ORS 285C.135, but it shall not be subject to the requirements or restrictions of those other ways once the enterprise zone is effectively an E-commerce zone.

(2) If an eligible business firm that originally sought eligibility based on Electronic Commerce does not satisfy that definition, it may still receive authorization and exemption subject to another way's requirements or restrictions, except in an area described in OAR 123-662-1200(4) or (5).

(3) The following may occur only once the enterprise zone is effectively an E-commerce zone:

(a) Authorization and qualification of a firm that is eligible only by virtue of Electronic Commerce; or

(b) Exemption of personal property permissible only under ORS 285C.185(1)(b)(B).

(4) Property that due to section (3) of this rule does not qualify for exemption by January 1 of the first year, for which a business firm may claim the exemption, is not allowed to qualify later, even if the enterprise zone becomes an E-commerce zone.

(5) After an area's status as an E-commerce zone effectively ceases, a business firm shall enjoy the following protection for exemption on qualified property respective to Electronic Commerce eligibility, notwithstanding that the firm might be eligible in another way:

(a) Under ORS 285C.245(1), consistent with applicable elements of OAR 123-674-8100 and 123-674-8200, if for whatever reason the underlying enterprise zone terminates and the location of the qualified property is outside of a subsequent enterprise zone.

(b) Only under ORS 285C.245(1)(a), consistent with OAR 123-674-8100(1)(b) regardless that the firm was already authorized or qualified, upon:

(A) Revocation of the zone's electronic commerce designation; or

(B) Termination of the underlying enterprise zone and designation of the location of qualified property in another enterprise zone without electronic commerce status.

Stat. Auth.: ORS 285A.075, 285C.050(5) & 285C.060(1)
Stats. Implemented: ORS 285C.095, 285C.100, 285C.135, 285C.140, 285C.180, 285C.185 & 285C.245
Hist.: OBDD 25-2010, f. & cert. ef. 6-14-10; OBDD 10-2015, f. & cert. ef. 10-5-15

123-662-2500
State Income Tax Credit for E-commerce Investment

For purposes of a business firm receiving and using the credit under ORS 315.507 to offset state personal or corporate income/excise tax liabilities:

(1) Respective to an enterprise zone's designation as an E-commerce zone, relevant investments in Electronic Commerce capital assets under ORS 315.507(2) must be:

(a) Made in an income or corporate excise tax year, during or after which the designation took effect.

(b) In use, placed in service or completed in terms of construction or installation only on or after the effective date of designation.

(2) The business firm must make:

(a) Application for authorization before the effective date of revocation of the zone's electronic commerce designation or termination of the underlying enterprise zone.

(b) The relevant investment on or before the date, on which the enterprise zone terminates, irrespective of:

(A) Prior revocation of the zone's electronic commerce status; or

(B) Any continuing receipt or access to the standard property tax exemption after termination.

(3) The business firm engaged or preparing to engage in Electronic Commerce may make relevant investments only:

(a) During or after an income/excise tax year, in which the firm applies for authorization by submission of its application to the zone sponsor, that ends before July 1 of the first property tax year of exemption; or

(b) In an income/excise tax year that begins on or within less than a year's time preceding July 1 of any property tax year, in which the business firm remains qualified and associated qualified property is subject to exemption under ORS 285C.175.

(4) The third year after a credit was claimed for a year described in subsection (3)(a) of this rule must be a year described in subsection (3)(b) of this rule, in order for the firm to receive and keep the tax credit.

(5) Aside from their relation to Electronic Commerce and other requirements, the capital assets that generate the tax credit:

(a) Comprise new acquisitions, investments or costs of the business firm that are depreciable for purposes of federal income taxation, even if they are allowed to be and are, in fact, expensed on the corresponding tax return.

(b) Must, consistent with sections (3) and (4) of this rule, be associated concurrently with qualified property that is successfully claimed for exemption from property taxes under ORS 285C.175, and inasmuch as such assets are qualified property and are actually used to earn the credit, they must in general (aside from incidental oversights) also subsequently

qualify for the exemption; nevertheless:

(A) Such assets may consist entirely or partially of items or costs that are not qualified property or otherwise not allowed for exemption, including but not limited to property exempt under another law such as certain intangible personal property (though not ORS 307.123 or 285C.409), as well as property previously used inside the E-commerce zone, or items located elsewhere in the zone apart from the site identified in the authorization application but connected to on-site Electronic Commerce activities; and

(B) Associated qualified property may consist entirely or partially of items or costs that are unusable for the credit, including but not limited to property distinct from Electronic Commerce activities, in excess of the annual limit in subsection (7)(c) of this rule, or subject to use and occupancy by the qualified business firm through a (non-capitalized) lease.

(6) The business firm will claim the credit as an amount entered with "other credits" on the taxpayer's state tax return for an income/excise tax year, in which it makes the Electronic Commerce investment (there is no prescribed form or worksheet). That tax year must begin before the date prescribed under section 3, chapter 913, Oregon Laws 2009, as amended in 2011 [c.730 §5] and in the future.

(7) The firm shall be responsible for maintaining tax records under ORS 315.508, including but not limited to:

(a) Annual qualification for exemption under ORS 285C.175, such as copies of forms filed with the county assessor and evidence of avoided property taxes, sufficient zone employment, and so forth;

(b) Methods used to determine the basis and extent, by which the firm/taxpayer attributes capital assets to Electronic Commerce for purposes of calculating the credit; and

(c) The actual cost of investments in terms of such calculations, as well as the annual limit under ORS 315.507(4) of effectively up to $8 million in relevant costs in any one income/excise tax year.

(8) The tax credit is inapplicable with the exemption under ORS 285C.409 (Long-Term Rural Tax Enterprise Zone Facility Incentives).

(9) In terms of capital assets for Electronic Commerce (in contrast to property taxes, which typically relate to new physical vesting), to "make an investment" means:

(a) As a matter of timing, to financially incur costs or binding liability in payment for the asset, for example, by entering into a construction contract or by having booked an order to buy equipment.

(b) Not only capital that is new to the E-commerce zone, but it may also include the firm's acquisition of assets already existing and previously subject to use and occupancy in the enterprise zone.

Stat. Auth.: ORS 285A.075, 285C.050(5) & 285C.060(1)
Stats. Implemented: ORS 285C.060, 285C.095, 285C.100, 315.507 & 315.508
Hist.: OBDD 25-2010, f. & cert. ef. 6-14-10; OBDD 10-2015, f. & cert. ef. 10-5-15

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Rule Caption: Adjustments to enterprise zone related rules specifically Long Term Rural zones and general housekeeping.
Adm. Order No.: OBDD 11-2015
Filed with Sec. of State: 10-5-2015
Certified to be Effective: 10-5-15
Notice Publication Date: 9-1-2015
Rules Adopted: 123-690-6400
Rules Amended: 123-690-0001, 123-690-0100, 123-690-0500, 123-690-2000, 123-690-2100, 123-690-2300, 123-690-2400, 123-690-4000, 123-690-4200, 123-690-4400, 123-690-4600, 123-690-5000, 123-690-5200, 123-690-6000, 123-690-6200, 123-690-8000, 123-690-8100, 123-690-8500
Subject: Proposed changes to division 690 (Long-term Rural Enterprise Zone Facility Incentives) reflect thorough reworking of language to better address a number of different but intertwined and sometimes inherently complicated issues, given limited statutory guidance in some cases, such as:

Employment requirements for investments involving existing facilities, including cases of successive use by the same company,

Potential transfer of jobs within this state to an applicable facility,

Delineation of what constitutes facility investments by physical location,

Relationship of minimum investment criteria to the property that is or is not subject to exemption from taxes,

Updates description of annual determination of where these incentives may be offered based on county economic eligibility,

Clarity about the order of local certification procedures, respective to such
Rules Coordinator: Mindee Sublette—(503) 986-0036

123-690-0001
Purpose and Scope

This division of administrative rules specifies the effect of provisions under ORS 285C.400 to 285C.420, 317.124 and 317.131. As such, these administrative rules:

(1) Address determinations, procedures and requirements of the up to 15 years of exemption from property taxes and of corporate excise tax credits for a facility inside a rural enterprise zone in a county experiencing particular economic hardship.

(2) Do not control or bind the county assessor or Department of Revenue, and they do not supersede OAR chapter 150, in matters related to tax administration.

Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 285C.400 - 285C.420 & 317.124 & 317.131
Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10; OBDD 11-2015, f. & cert. ef. 10-5-15

123-690-0100
Terminology

OAR 123-001 (Procedural Rules) contains definitions that are used in this division of administrative rules, unless the context dictates otherwise. In addition:

(1) "Facility Site" means a location consisting of one or more parcels of land and buildings that:

(a) Contain the 'facility,' as used in ORS 285C.400(4), and all (but not only) property of a certified business firm subject to an exemption under ORS 285C.409; and

(b) Are contiguous or have comparable proximity to each other, inside the boundary of a single rural enterprise zone, although it may also include one or more ancillary locations of interrelated investment and operations inside the same zone that are specifically identified as such in the agreement under ORS 285C.403(3)(c) between the business firm and the zone sponsor.

(2) "In service" has the meaning described in OAR 150-285C.409, or the one used in ORS 285C.050 in the absence of an applicable permit requirement.

(3) "Sponsor" or "zone sponsor" has the same meaning as described in OAR 123-668, including but not limited to all of the zone's cosponsors' needing to jointly approve or exercise any and all actions under ORS 285C.400 to 285C.420.

Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 285C.400 - 285C.420 & 317.124 & 317.131
Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10; OBDD 11-2015, f. & cert. ef. 10-5-15

123-690-0500
Eligible Rural Enterprise Zones

In determining annually if a county meets the definition under ORS 285C.400(3) of a 'county with chronically low income or chronic unemployment':

(1) With on-line availability of revised/benchmarked annual unemployment rates for the previous year and other relevant data described in this rule, the Department shall analyze the data for all relevant prior years, ascertain which counties in the state satisfy the definition, identify existing rural enterprise zones in those counties, prepare information as appropriate, and post it on the Department web site for use by the public and business firms, as well as local zone managers and county assessors.

(2) The determination described in section (1) of this rule shall first take effect on July 1 next following on-line availability of the latest relevant annual data and shall apply until and including June 30 of the next calendar year. A correct, prior determination in accordance with this rule is not subject to retroactive change due to revisions in future years, but if during an annual data cycle, the Department learns of a significant revision or correction to relevant data, the Department will review the data to determine whether they alter the status of any county, and for any consequent change to the currently identified counties:

(a) The effective date of the change is the first day of the second month following the month in which the revised or corrected data were formally released; and

(b) The Department will notify affected county assessors and local zone managers and revise information materials, accordingly.

(3) A county is a 'county with chronically low income or chronic unemployment' if subsection (a), (b) or (c) of this section is true:

(a) The median derived per subsection (4)(c) of this rule for the most recent 10 or 20 consecutive years is at least 1.3 rounded to the nearest tenth, based on unemployment rates as described in subsection (4)(a) of this rule.

(b) The median derived per subsection (4)(c) of this rule for the most recent 10 consecutive years is equal to or less than 0.75 rounded to the nearest hundredth, based on per capita income levels as described in subsection (4)(b) of this rule.

(c) The county's change in total population minus natural population change is equal to or less than negative one (-1), based on the most recent estimates available from the Portland State University Population Research Center, in comparison to the latest U.S. decennial census population count of not less than three years earlier.

(4) As used in ORS 285C.400(3):

(a) "Most recently revised annual average unemployment rate . . . available" means the estimated percent of the civilian labor force that is unemployed on average according to the Oregon Employment Department for each of the most recent calendar years available.

(b) "Most recently revised . . . annual per capita income levels available" means the average annual per capita personal income level as estimated and revised by the Bureau of Economic Analysis of the U.S. Department of Commerce for each of the most recent calendar years available.

(c) "Median ratio . . . of the county to the equivalent of the entire United States for each year" means the average for the two middlemost quotients that result from dividing the county figures described in subsection (a) or (b) of this section by each year's corresponding national figure over 10 or 20 years.

Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 285C.400 & 285C.403
Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10; OBDD 11-2015, f. & cert. ef. 10-5-15

123-690-2000
Written Agreement

For purposes of the written agreement between a business firm and the sponsor of the rural enterprise zone under ORS 285C.403(3)(c) and (d):

(1) The agreement shall consist at a minimum of the following:

(a) Acknowledgment of the planned or pending application for certification under ORS 285C.403;

(b) Concise description of the firm's proposed investments, Facility Site and workforce;

(c) Specification of the obligations that the proposed investments and workforce must satisfy under ORS 285C.412, which the agreement in no way supersedes;

(d) Identification of all the parties to the agreement and their representatives;

(e) Zone sponsor's explicit approval for the firm to receive the exemption under ORS 285C.409 on qualifying facility property;

(f) The sponsor's statement as to the number of consecutive tax years that will comprise the period of exemption beginning after facility property is placed in service, which is not less than 7 and not more than 15 years, but which is only seven years if the agreement is silent about the period of exemption. The agreement may also provide that the exemption period, at the election of the business firm or upon fulfillment of a certain local additional condition or criterion:

(A) Expires prematurely after at least seven years but before the stated number of years, such that the firm does not henceforth need to comply further with any statutory or local additional requirement; or

(B) Extends a certain number of years beyond the stated number of years, but not more than 15 years in total; and

(g) With respect to additional conditions or requirements by the zone sponsor under ORS 285C.403(2)(e) and (3)(c), either:

(A) Indication that the sponsor is not imposing or requesting any such condition or requirement; or

(B) Specification of any such condition or requirement, in accordance with OAR 123-668, including but not limited to standards and methods for demonstrating satisfaction of the condition or requirement, as well as consequences of noncompliance, such that the business firm expressly acknowledges when noncompliance shall result in retroactive disqualification of the exemption, termination of the remaining exemption period or an alternative consequence.

(2) The agreement may be:

(a) Part of a broader accord involving parties other than the business firm and the sponsor, insofar as the accord still conforms to section (1) of this rule.

(b) Preapproved or subsequently authorized by resolution or by other means of the zone sponsor, or of each cosponsor, consistent with OAR 123-668-2400.

(3) An authorized representative or representatives of the business firm and of the zone sponsor must execute the agreement:

(a) On or after the effective date on which:

(A) The zone is designated or some or all of the Facility Site is amended into the zone through a change in the boundary of the zone; and

(B) The county containing the Facility Site is determined to meet the definition under ORS 285C.400(3) consistent with OAR 123-690-0500; and

(b) Effectively before:

(A) The zone has terminated; or

(B) The county is not subject to a positive determination as described in paragraph (a)(B) of this section.

(4) The sponsor shall provide a copy of the signed and dated written agreement to the Department, which shall review the agreement, and if the following are accurate, the Department shall issue a letter for attachment to the written agreement confirming that:

(a) On the date of its execution it effectively satisfied section (3) of this rule, and one party to the agreement is the sponsor of the rural enterprise zone; and

(b) The agreement appears to satisfy section (1) of this rule.

(5) Following the effective date of the enterprise zone's termination, the agreement may not be substantially modified, replaced, amended, supplemented or terminated.

Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 285C.403, 285C.406 & 285C409
Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10; OBDD 11-2015, f. & cert. ef. 10-5-15

123-690-2100
Requisite County/City Resolutions

For purposes of resolutions adopted under ORS 285C.403(3)(a):

(1) A requirement for certification is the adoption of a resolution expressly approving the exemption of facility property by the county and by any city in which the Facility Site is located, as follows:

(a) Both the county and the city must adopt such a resolution if any part of the Facility Site is located in incorporated territory, but only the county must adopt such a resolution if the Facility Site is located entirely in unincorporated territory.

(b) Authorization or approval of a written agreement described in OAR 123-690-2000 by formal resolution of the governing body of a city or county sponsor of the zone automatically fulfills this requirement for that city or county, as the case may be.

(c) If the county or city does not sponsor the zone, it may nevertheless be a party to the written agreement in accordance with OAR 123-690-2000(2), but the necessity of a formal resolution remains.

(2) Adoption may occur at any time irrespective of when the agreement is executed or of an effective date in OAR 123-690-2000(3) for the sake of then certifying the business firm. If, however, the resolution also substantially implements all or part of the agreement by the zone sponsor, as opposed to merely authorizing or endorsing execution of an otherwise operable agreement, its adoption must occur after the agreement's execution and before the zone terminates.

Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 285C.403
Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10; OBDD 11-2015, f. & cert. ef. 10-5-15

123-690-2300
Applying for Certification

For purposes of the application for certification under ORS 285C.403(1) and (2):

(1) In order for a business firm to receive the exemption on facility property under ORS 285C.409:

(a) The firm must do the following before hiring new employees at the Facility Site and before commencing any physical work, as described in OAR 123-690-4000(1)(a), on property that would be subject to the exemption:

(A) Fill out the latest revision of the Department of Revenue form 150-310-073, **Certification Application: Long-Term Rural Oregon Tax Incentive**, as completely as the firm is capable of doing;

(B) Have the form signed and dated by the owner or authorized representative of the firm; and

(C) Submit a signed original of the form to either the local zone manager representing the sponsor of the enterprise zone or the county assessor of the county in which the Facility Site is located, and an executed copy to the other.

(b) Submission of the application form as described in subsection (a) of this section must occur before the effective date of the rural enterprise zone's termination.

(2) Submission of the application form may occur before or after any relevant resolution, commitment, written agreement or effective date of determination that the county meets the definition under ORS 285C.400(3).

(3) Estimated numbers, anticipated dates or other expectations as indicated in the application form are not binding. The business firm shall base them on the best and most current information available to it at the time and shall inform the local zone manager and county assessor in writing of any significant changes to such expectations.

(4) The commitments made by the business firm (as required in the application form or otherwise during the certification process) shall be accepted at face value for purposes of certifying the firm, but such a commitment shall not relieve the firm of actually needing to meet any applicable requirement under ORS 285C.400 to 285C.420 and 307.124.

[Forms: Forms referenced are available from the agency]
Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 285C.403
Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10; OBDD 11-2015, f. & cert. ef. 10-5-15

123-690-2400
Certification

For purposes of ORS 285C.403(3) to (6), following submission of the application for certification as described in OAR 123-690-2300:

(1) The signatures of the local zone manager and county assessor approving the certification application are not valid if either one occurs:

(a) After any facility property subject to the exemption under ORS 285C.409(1) has been placed in service;

(b) After the operational sunset date prescribed under ORS 285C.406(2)(a); or

(c) Before any of the following (unless formally reaffirmed afterwards):

(A) The commitments by the firm in the application to meet requirements under ORS 285C.412;

(B) The relevant written agreement and the corresponding letter of confirmation by the Department as described in OAR 123-690-2000;

(C) Any resolution by the sponsor or a cosponsor of the zone that authorizes or effects the written agreement in paragraph (B) of this subsection; or

(D) The requisite resolution or resolutions under ORS 285C.403(3)(a) by the county/city in which the Facility Site is located.

(2) Approval of the certification application may occur after:

(a) The effective date of the termination of the enterprise zone; or

(b) Commencement of applicable hiring or physical work on exempt facility property.

(3) Except as qualified in this rule and OAR 123-690-5200(2)(a), the local zone manager and the county assessor shall approve the certification application upon satisfaction of the criteria under ORS 285C.403(3), at which point:

(a) The business firm is "certified," such that it is eligible for any of the exemptions under ORS 285C.409(1); and

(b) The zone manager and assessor shall send copies of the signed original certification application form with all relevant attachments to the firm, the Department and the Department of Revenue.

Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 285C.403, 285C.406, 285C.409 & 285C.412
Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10; OBDD 11-2015, f. & cert. ef. 10-5-15

123-690-4000
Minimum Investment and Exempt Property

For purposes of the required minimum investment under ORS 285C.412(1)(a), (2)(a), (3)(a), (4)(b) or (5)(a) in property that is owned or leased by a certified business firm and located at the Facility Site:

(1) Subject to section (2) of this rule, the following costs count toward the minimum investment:

(a) Construction, reconstruction, modification, refurbishing, reconditioning, retrofitting, upgrading and installations that commence after the application for certification, including but not limited to the costs of materials, supplies, labor, building contractors, engineering, physical connections to utilities, on-site development or site preparation; or

(b) Property acquired or moved to the Facility Site after the application for certification. (Current fair market value substitutes for price if the property is not subject to a recent transaction, such as leased or newly transferred property in certain cases)

(2) Costs due to activities or actions described in section (1) of this rule count toward the minimum investment only if incurred for:

(a) The following types of property or change in property value, which would be subject to exemption under ORS 285C.409:

(A) One or more newly constructed buildings or structures;

(B) Additions or modifications to any previously constructed or occupied building or structure; and

(C) Newly installed or newly upgraded, reconditioned, refurbished or retrofitted real property machinery & equipment or personal property, whether or not it is inside or on a building or structure described in this subsection, including non-inventory supplies, spare parts or otherwise taxable vehicles operated within the confines of the Facility Site.

(b) Land, improvements to the land, or the existing value of any property already at the Facility Site, notwithstanding that under ORS 285C.409(5) it is not subject to exemption.

(c) Property leased by the firm and described in subsection (a) or (b) of this section, which in the case of subsection-(a) property or property value may be exempt only if the firm is fully responsible for any ad valorem tax through explicit provisions of a lease agreement.

(d) Any whole category of property as otherwise described in subsection (a) or (c) of this section, even though the certified business firm, in first claiming an exemption under ORS 285C.409(1)(a) or (c), formally and irreversibly elects to exclude it from any further exemption, including but not limited to an exclusion made pursuant to the agreement under ORS 285C.403(3)(c) with the zone sponsor.

(3) Regardless of their association with the Facility Site or exemption under ORS 285C.409, the following do not count toward the minimum investment:

(a) Cost of financing (including but not limited to debt service), legal fees (except as necessary in obtaining government permission for facility development), ongoing management and maintenance, and similar expenses;

(b) Cost or value of property that at the time of the application for certification is already owned or leased by the firm and located at the Facility Site;

(c) Cost or value of inventory, including but not limited to raw materials or work in progress; or

(d) Any vehicle or device pulled, pushed or carried by a vehicle that is designed to hold and transport people, goods or property beyond the Facility Site, including but not limited to aircraft, barges, carriages, railcars, trailers, trucks or ships (which are also not exemptible in any case); or

(e) Expenses associated with activities or actions described in section (1) of this rule that are incurred only after the calendar year in which exempt facility property is first placed in service, although the property associated with those activities or actions may be exempt for the remainder of the period under ORS 285C.409(1)(c).

(4) The firm shall provide notice to the assessor in writing as soon as possible after satisfaction of this requirement is verifiable, to be documented through existing project expense records or retrospective compilation of evidence as necessary or appropriate.

(5) In determining 'real market value of all nonexempt taxable property in the county,' as used in ORS 285C.412, the most recently available fiscal year of "Oregon Property Tax Statistics" (150-303-405) from the Department of Revenue at the time of certification shall be used.

Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 285C.412 & 285C.415
Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10; OBDD 11-2015, f. & cert. ef. 10-5-15

123-690-4200
Minimum Hiring

For purposes of the minimum hiring and employment requirements to be met and maintained under ORS 285C.412(1)(b), (2)(c), (3)(d), (4)(d) or (5)(c) by a certified business firm:

(1) Employees are persons:

(a) Working for the firm at the Facility Site more than 32 hours per week in an established, year-round position (as opposed to any form of averaging hours worked, such as full-time equivalency); and

(b) Whom the business firm, an affiliated company, or a third party fully charged with general facility operations:

(A) Employs under ORS chapter 316 respective to Oregon personal income tax withholding, contracts with or leases; or

(B) Directs on a daily basis and has significant control over personnel decisions, although an independent contractor employs the person to deliver or perform specific services at the Facility Site (as opposed, for example, to workers who are assigned at the discretion of a vendor or contractor).

(2) The number of employees located and performing their jobs at the Facility Site, less the base number of employees as calculated in sections

(4) to (7) of this rule, must equal or exceed the applicable minimum under ORS 285C.412.

(3) The firm shall provide notice to the assessor in writing, with payroll records or other evidence as necessary or appropriate, as soon as possible after satisfaction of section (2) of this rule is achieved. This must occur in a calendar year that is not more than the applicable number of years set forth below after the calendar year in which exempt facility property is first placed in service:

(a) Five years for ORS 285C.412(1) or (4); or

(b) Three years for ORS 285C.412(2), (3) or (5).

(4) The base number of employees is one of the following figures, adjusted in accordance with sections (5) and (6) of this rule:

(a) The total number of employees working at the Facility Site on the date 12 months before the date that property subject to exemption under ORS 285C.409(1)(c) is first placed in service, if the agreement under ORS 285C.403(3)(c) with the zone sponsor does not otherwise stipulate; or

(b) As stipulated in the agreement, the total or annual average number of employees working at the Facility Site as of the date:

(A) The firm submitted its application for certification pursuant to OAR 123-690-2300;

(B) The application was fully approved and the firm certified pursuant OAR 123-690-2400; or

(C) Specified in the agreement, which may be after the date of application but not less than 12 months before the date property is first placed in service.

(5) The base number includes employees engaged in equivalent occupations/operations of the certified business firm or any other firm under common ownership or control that are transferred to the Facility Site from another location within this state that undergoes corresponding job losses, at any time after the application is made but before the end of the applicable calendar year in section (3) of this rule.

(6) The base number excludes current or former employees of the certified business firm who are transferred or rehired, and whose employment at the Facility Site is unrelated to the transfer of existing operations or occupations from elsewhere in this state.

(7) If so specified in the agreement under ORS 285C.403(3)(c) with the zone sponsor, the base number also excludes:

(a) Employment in excess of what is required on previously exempt investment(s) as described in OAR 123-690-6200(4).

(b) Employment located within the Facility Site but engaged in distinct operations and working in separate areas that are not involved with any property subject to the exemption under ORS 285C.409.

(c) Employment to be transferred to the Facility Site as described in section (5) of this rule, if the zone sponsor formally accepts the firm's public assertion that the operations and jobs would be otherwise transferred somewhere outside this state but for the exemption, and:

(A) The existing location is within a governmental jurisdiction of the zone sponsor; or

(B) The Department concurs with the sponsor in the letter described in OAR 123-690-2000(4) for elsewhere in Oregon.

Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 285C.412 & 285C.415
Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10; OBDD 11-2015, f. & cert. ef. 10-5-15

123-690-4400
Minimum Distance from I–5

For purposes of the minimum distance from the Facility Site of a certified business firm to Interstate Highway 5 (I-5) under ORS 285C.412(3)(b) or (5)(b):

(1) Measure the distance as:

(a) A straight line; and

(b) The shortest possible gap between any part of the Facility Site and a point along the median of the highway, regardless if that point is in this state or offers access on/off the highway.

(2) Exclude any spur or bypass such as I-105 or I-205.

(3) Round distances to the nearest whole number, such that an applicable location must be effectively farther than 10.4 miles from I-5.

Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 285C.412 & 285C.415
Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10; OBDD 11-2015, f. & cert. ef. 10-5-15

123-690-4600
Minimum Average Annual Compensation

For purposes of the minimum average annual compensation to be met and maintained under ORS 285C.412(1)(c), (2)(b), (3)(c), (4)(c) or (5)(d) by a certified business firm:

(1) Compensation includes total calendar-year remuneration that is:

(a) In the form of wages, salary, bonuses, commissions, shift differential, overtime pay, profit-sharing, paid vacation, and associated fringe or financial benefits (whether taxable or not) such as life insurance, medical coverage or retirement plans, but excluding:

(A) Free meals, club membership or comparable workplace amenities;

(B) Payroll-based tax or cost mandated by federal, state or local law, such as worker's compensation or unemployment insurance or the employer's share under FICA; and

(C) Gratuities or tips.

(b) Paid to any employee located and performing work for the certified business firm at the Facility Site, consistent with OAR 123-690-4200(1), regardless of hours worked per week or the permanence or newness of the employee's position, except if excluded by OAR 123-690-4200(7)(b).

(2) Actual compensation described in section (1) of this rule shall be annualized in the case of jobs at the Facility Site, in which the employee works less than 40 hours per week or for less than the entire calendar year, by dividing 1,820 by the hours of actual time worked on the job for the calendar year and multiplying that quotient by the employee's actual compensation.

(3) The firm shall add all employees' total annual compensation under section (1) or (2) of this rule, as applicable, and divide that sum by the number of applicable (annualized) employees or positions to derive average annual compensation.

(4) In a calendar year after the calendar year in which exempt facility property is first placed in service — but in or before the fifth such year — this computed average annual compensation must equal or exceed 1.5 times the most recently finalized average annual wage by the Oregon Employment Department for all industries or ownerships in the county containing the Facility Site.

(5) The firm shall provide notice to the assessor in writing as soon as possible after satisfaction of section (4) of this rule is achieved, with payroll records or other evidence as necessary or appropriate.

Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 285C.412 & 285C.415
Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10; OBDD 11-2015, f. & cert. ef. 10-5-15

123-690-5000
Maintaining Employment and Compensation

(1) After initial satisfaction of the minimum requirement for total employment or average annual compensation, until after the final calendar year of the exemption period, the applicable employment or average annual compensation of employees of the certified business firm at the Facility Site may not be less than the mandatory minimum level. Otherwise, the exemption is disqualified consistent with OAR 150-285C.420, including but not limited to the imposition of property taxes that would have been assessed against facility property for a year in the which such property was not yet in service but was exempt under ORS 285C.409(1)(a) and (b).

(2) The mandatory minimum level for average annual compensation of employees at the Facility Site remains fixed, regardless of how much:

(a) Such compensation initially exceeded the county's applicable average annual wage level; or

(b) The county's average annual wage subsequently changes during the exemption period.

(3) Notwithstanding section (1) of this rule, the applicable employment or average annual compensation of employees at the Facility Site may fall below the mandatory minimum level under certain extenuating circumstances, including but not limited to the following:

(a) A natural disaster, conflagration or the like substantially disrupting the relevant operations of the certified business firm;

(b) Six or more months of severe economic troubles or military conflict significantly affecting the United States and other major foreign economies or the certified business firm's industry;

(c) Unforeseen coincidence of vacant positions at the Facility Site, such as the case in which employees die, quit or have been fired for cause; or

(d) Temporary curtailment in operations at the Facility Site lasting no longer than twelve months to undertake major repairs in response to mechanical breakdowns that are unusual and unexpected within normal engineering parameters and maintenance program for exempt facility property.

(4) For separate exemptions at two or more separate Facility Sites of the same certified business firm in the same enterprise zone, the zone sponsor may allow that employees, who work at and regularly move between sites, to be counted proportionally among the sites according to an expli-

cated method for purposes of satisfying the respective requirements of each exemption.

Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 285C.412, 285C.415 & 285C.420
Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10; OBDD 11-2015, f. & cert. ef. 10-5-15

123-690-5200
Post-Certification Verification

Pursuant to certification as described in OAR 123-690-2400 for purposes of qualifying for and continuing to receive exemption under ORS 285C.409(1)(c):

(1) The firm shall submit in writing to the county assessor (and to the zone sponsor, Department or Department of Revenue) as requested, relevant, understandable documentation on the following:

(a) Property at the Facility Site as described in OAR 123-690-4000(2), including but not limited to the particulars of any leased property;

(b) The date on which facility property subject to exemption under ORS 285C.409(1) is fully permitted for occupancy/operations or is otherwise first placed in service; and

(c) The date on which and the method by which each applicable requirement under ORS 285C.412 is initially satisfied, including but not limited to the notice required to be sent to the county assessor under ORS 285C.415.

(2) For purposes of section (1) of this rule and ongoing compliance with applicable requirements under ORS 285C.412:

(a) The county assessor may agree with the business firm in writing regarding certain methods and mechanisms to be implemented by the firm, as a condition of the county assessor's approval of the certification application.

(b) The written agreement under ORS 285C.403(3)(c) with the zone sponsor may (also) contain such provisions.

(3) Any lack of the arrangements described in section (2) of this rule does not relieve the business firm of its obligation to demonstrate compliance with and satisfaction of any applicable requirement, as the assessor or Department of Revenue may demand.

(4) The Department shall prepare a worksheet, which is:

(a) Available at the Department web site; and

(b) Hereby incorporated and made part of these administrative rules by reference, in order for business firms to readily report recent employment and compensation for purposes of ongoing compliance under ORS 285C.412.

(5) The zone sponsor may annually give notice to all certified business firms in its enterprise zone that they must fill out and return the worksheet (whether in the absence of, in addition to or as part of arrangements in section (2) of this rule), whereby:

(a) The sponsor shall specify a due date for its receipt of the worksheet, which shall be between April 1 and June 1 of each year but never less than 60 days after sending notice;

(b) If the sponsor's notice also asks for additional information to corroborate the worksheet that a certified business provides with a good faith request that the information not be publicly released because of its sensitive, proprietary or similar nature, the sponsor may honor the request as otherwise allowed under ORS 192.502(4) or other applicable laws;

(c) The sponsor shall share copies of returned worksheets and corroborating information with the Department, the county assessor or other relevant officials, as appropriate and in accordance with subsection (b) of this section; and

(d) The sponsor shall report the failure by any business firm to fulfill this requirement to the Department and the county assessor.

(6) If a certified business firm fails to return a worksheet pursuant to section (5) of this rule, or if the zone sponsor strongly doubts the information reported in the worksheet and suspects noncompliance, the sponsor and county assessor may jointly demand by registered/certified mail that the firm substantiate its employment, compensation or other compliance issue under ORS 285C.412. If the firm does not respond within 60 days of such mailing, then the zone sponsor shall assume noncompliance under ORS 285.412, and the assessor may retroactively disqualify the exemption under ORS 285C.420.

(7) This rule does not pertain to any additional local condition or requirement, for which verification of compliance is solely the responsibility of the zone sponsor pursuant to arrangements in the agreement between the zone sponsor and the certified business firm under ORS 285C.403(3)(c), consistent with OAR 123-690-2000(1)(g).

[Publications: Publications referenced are available from the agency]
Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 285C.409, 285C.412, 285C.415 & 285C.420
Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10; OBDD 11-2015, f. & cert. ef. 10-5-15

123-690-6000
Other Enterprise Zone or Construction Exemptions

For purposes of the exemption under ORS 285C.409:

(1) An eligible business firm may seek and receive approval for authorization under ORS 285C.140 according to OAR 123-674, while applying for and being certified under ORS 285C.403, although the zone sponsor and business firm shall clarify and resolve the situation as soon as possible.

(2) However, any property exempted under ORS 285C.170 or 285C.175, whether in the same or another enterprise zone, may not concurrently or subsequently be exempt under any paragraph of ORS 285C.409(1), and exemption under ORS 285C.409(1)(a) or (b) could complicate the use of ORS 285C.175. Therefore, a certified business firm still contemplating either the exemption under ORS 285C.409(1)(c) or the one under ORS 285C.175 might best avail itself of the exemption under ORS 307.330 as applicable during construction at the Facility Site.

(3) This rule does not relieve a taxpayer of any requirement to timely file forms, evidence or notice with the county assessor for purposes of (or to reserve the taxpayer's right to) an exemption on property under ORS 285C.170 or 307.330, as well as 285C.409.

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.403, 285C.409 & 285C.420
Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10; OBDD 11-2015, f. & cert. ef. 10-5-15

123-690-6200
Subsequent Facility Site Investments

For property newly placed in service at the same Facility Site on or after the 'assessment date' of an ongoing exemption under ORS 285C.409(1)(c):

(1) Any such property may also receive the exemption but only for the remainder of the 7 to 15 tax years available, and neither additional operations nor the introduction of such property at the Facility Site shall lengthen or add to the ongoing period of exemption on that or any property at the Facility Site, except as addressed in OAR 123-690-6400.

(2) A certified business firm may receive another (potentially overlapping) period of exemption under ORS 285C.409(1) on such additional property constituting another facility under ORS 285C.400(4) at the same Facility Site, but only if independent of the respective actions and investments pertaining to the firm's certification or qualification for any previously granted exemption, the firm again:

(a) Applies and receives approval for certification;

(b) Respectively undertakes additional operations at the Facility Site; and

(c) Satisfies the applicable requirements to qualify for the exemption, including but not limited to the firm's having submitted the final notice under ORS 285C.415 to the county assessor of having timely met all applicable requirements under ORS 285C.412.

(3)(a) A business firm certified for another exemption on additional property, as described in subsections (2)(a) and (b) of this rule, may formally submit a formal request to the county assessor that the property revert to a preexisting exemption, and the assessor may treat the additional property as a part of that remaining period of exemption, as described in section (1) of this rule, but only if the request is made before:

(A) The end of that ongoing exemption's final tax year; and

(B) Submission of the final notice described in subsection (2)(c) of this rule.

(b) Upon fulfillment of either paragraph (a)(A) or (B) of this section, without a preceding request to the county assessor, the additional property stays exempt until the end of its own period of exemption, subject to the operation of ORS 285C.420 (retroactive disqualification for failure to meet or maintain an applicable requirement).

(4) In the case of any subsequent exemption according to section (2) of this rule that begins within seven years after the first year of the most recent ongoing exemption under ORS 285C.409(1)(c), the agreement with the zone sponsor under ORS 285C.403(3)(c) may give the certified business firm credit for some or all of its existing employees at the Facility Site, who were hired in excess of minimum requirements for a previous, ongoing exemption, in meeting the newer exemption's required hiring.

Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 285C.403, 285C.409 & 285C.412
Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10; OBDD 11-2015, f. & cert. ef. 10-5-15

123-690-6400
Multiple, Joint Facilities

For purposes of two or more exemptions under ORS 285C.409(1)(c) as provided under ORS 285C.412(4), for which exempt facility property in

each case is first placed in service over not more than four consecutive calendar years:

(1) Not only may the exemption periods start in different years, but their lengths may also vary respective to each agreement between the zone sponsor and certified business firm under ORS 285C.403(3)(c).

(2) If involving different Facility Sites, including but not limited to inside the same enterprise zone, the number of employees shall be determined separately subject to any base number at each Facility Site, consistent with OAR 123-690-4200, before being combined for purposes of ORS 295C.412(4)(d).

(3) If at the same Facility Site, each exemption must pertain to distinct investments or operations, but a common base number of employees shall be used.

Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 285C.412
Hist.: OBDD 11-2015, f. & cert. ef. 10-5-15

123-690-8000
Request for State Tax Credit

For purposes of approval for a business firm to receive the credit under ORS 317.124(3), to offset state corporate excise tax liabilities, unless otherwise directed by the Governor or by the Director:

(1) A request for the credit shall be formally submitted to the Director from an authorized executive of the corporation, preferably pursuant to relevant local approval and certification under ORS 285C.403.

(2) Official consideration of the request shall happen only after certification.

(3) The request must explicitly indicate:

(a) That the corporation is seeking gubernatorial approval;

(b) When it would expect to begin claiming such credits; and

(c) Any preferred length of time during for which credits may be claimable.

(4) The request shall contain the best possible information about the corporation's future income and plans to use the credit, as necessary and appropriate to evaluate the impact and applicability of the tax credit, which may be in response to follow-up inquiry by the Department.

(5) The Director will forward the request to the Governor and may include a recommendation, and as warranted, the following:

(a) Background information and analysis about the corporation, the proposed facility, tax impacts, the local community and other relevant information; and

(b) Summary of consultations with other state agencies including but not limited to the Department of Revenue.

(6) Approval of the request may be conditioned on additional commitments by the corporation as contained in a formal agreement between the State and the business firm.

(7) Information received from the corporation as described in section (4) of this rule may be exempt from public release if otherwise allowed under ORS 192.502(17)(a) or other applicable laws.

Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 317.124
Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10; OBDD 11-2015, f. & cert. ef. 10-5-15

123-690-8100
Excise/income Tax Credit

(1) To be effective, the Governor's approval of a corporate excise or income tax credit under ORS 317.124 may take the form of a letter, memo or similarly official document that:

(a) Names the corporation and refers to its facility that is subject to certification and exemption under ORS 285C.400 to 285C.420;

(b) Simply grants the tax credit, approves the corporation's request or directs necessary action by State officials;

(c) Defines the number of years during which the tax credit may be claimed; and

(d) Is done and effective by the ultimate due date (including normal extensions) to file a tax return for the corporation's fourth income/excise tax year, in which exempt facility property is in service.

(2) To claim the tax credit, certification must occur on or before the operational sunset date prescribed under ORS 285C.406(2)(b), and the certified business firm must:

(a) Own facility property exempt under ORS 285C.409 and not lease it from other than a commonly owned company; and

(b) Fill out the latest revision of the Department of Revenue form 150-102-043, Long-Term Enterprise Zone Facilities Credit, and submit it with the tax return for each applicable income/excise tax year of the corporation, starting no later than the final year prescribed under ORS 317.124(3)(a).

(3) For a certified business firm with two or more exemptions under ORS 285C.412(4), the Governor may approve the tax credit jointly for all such facilities and provide that the apportionment factor and tax credit threshold under ORS 317.124(6) and (7) apply collectively to those facilities.

Stat. Auth.: ORS 285A.075
Stats. Implemented: ORS 317.124
Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10; OBDD 11-2015, f. & cert. ef. 10-5-15

123-690-8500
Revenue Distribution to Local Zone Sponsor

(1) As indicated in OAR 123-668-1600, the sponsor of an enterprise zone containing exempt facility property owned by a corporation that claims the tax credit under ORS 317.124 might receive funds through the Department of Revenue from the Long Term Enterprise Zone Fund established under ORS 317.127.

(2) The sponsor's receipt of such funds depends on:

(a) The qualifying taxpayer's having claimed the credit;

(b) The taxpayer's making applicable tax payments; and

(c) The deposit of such payments for distribution under ORS 317.129 and 317.131.

(3) As to amounts for distribution and the current state fiscal year:

(a) If they exceed the property taxes that relevant taxing districts would otherwise have received in the corresponding property tax year, but for exemption under ORS 285C.409, then that excess goes to the zone sponsor.

(b) If there is no relevant exemption under ORS 285C.409 in the corresponding property tax year, then the entire amount goes to the zone sponsor.

(4) For purposes of section (3) of this rule, the zone sponsor is responsible for making timely arrangements, so that it:

(a) Can receive distributed funds in a way that effectively ensures the Department of Revenue of having made payment to the zone sponsor (including but not limited to a joint mechanism among all cosponsors, or a deposit account administered by a single cosponsor on behalf of the entire zone sponsorship); and

(b) Satisfies applicable provisions of ORS Chapter 294 and other state or local laws with regard to collecting, holding and using such funds.

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 317.131
Hist.: OBDD 29-2010, f. & cert. ef. 6-14-10; OBDD 11-2015, f. & cert. ef. 10-5-15

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Rule Caption: The amendment of (OAR) Chapter 123, Division 680 related to Rural Renewal Energy Development Zones.
Adm. Order No.: OBDD 12-2015
Filed with Sec. of State: 10-5-2015
Certified to be Effective: 10-5-15
Notice Publication Date: 9-1-2015
Rules Amended: 123-680-0001, 123-680-1000, 123-680-1200, 123-680-1400, 123-680-1600
Subject: Proposed modifications to division 680 (Rural Renewable Energy Development Zones) improve clarity and specificity of guidance for local government officials and business firms seeking tax abatement, as well as implementation of Oregon Laws 2013-ch. 385 (HB 2981), 2014-ch 53 (HB 4005), and 2015-ch. 648 (HB 2643)-specifically the $5 million local employment waiver in a RRED zone.
Rules Coordinator: Mindee Sublette—(503) 986-0036

123-680-0001
Purpose and Scope

This division of administrative rules specifies matters related to the creation and operation of an ***RREDZ***, which as used in these administrative rules, means a rural renewable energy development zone under ORS 285C.350 to 285C.370:

(1) For an eligible business firm in an RREDZ, the standard (3–5-year) enterprise zone exemption and associated provisions under ORS 285C.050 to 285C.250 apply as they would inside an enterprise zone, as addressed in OAR 123-674, for which:

(a) The firm and the firm's property qualify, however, only insofar as they relate to "renewable energy" facilities and activities under ORS 285C.350, such that for purposes of the first clause under ORS 285C.350(2), in order to be exempt, qualified property must generate electricity to a significant degree from the combustion, harnessing or utilization of the renewable energy resource, but it may also produce (even for the

most part) other energy forms, including but not limited to steam, heat or mechanical power; and

(b) The sponsor of the RREDZ is equivalently responsible for the same applicable duties as a local enterprise zone sponsor, including but not limited to those covered in OAR 123-668.

(2) The primary purpose of RREDZs is the extension of this enterprise zone incentive to renewable energy projects, especially those that are far-flung or widely dispersed, in lieu of potentially infeasible or physically complex amendment to the boundary of an existing enterprise zone.

(3) These administrative rules:

(a) Have no bearing on true enterprise zones, including but not limited to an enterprise zone, or to an eligible business firm or qualified property in an enterprise zone, encompassed by an RREDZ;

(b) Do not control or bind the county assessor or Department of Revenue, and they do not supersede OAR chapter 150, in matters related to tax administration; and

(c) Utilize definitions found in OAR 123-001 (Procedural Rules) and 123-674, except where the context dictates otherwise.

Stat. Auth.: ORS 285A.075 & 285C.370
Stats. Implemented: ORS 285C.350 - 285C.370
Hist.: OBDD 28-2010, f. & cert. ef. 6-14-10; OBDD 12-2015, f. & cert. ef. 10-5-15

123-680-1000
Basic Points about RREDZs

(1) Like an enterprise zone, an RREDZ terminates by operation of law as otherwise provided under ORS 285C.245(1) and (2), with equivalent protection and allowances for relevant business firms in the RREDZ, but it does not terminate by programmatic sunset under ORS 285C.255.

(2) An RREDZ (irrespective of OAR 123-650-1000) covers the entire territory of the designated:

(a) City including subsequent annexations; or

(b) County or counties whether outside corporate limits or not, but excluding any area inside an urban growth boundary (UGB) described in section (3) of this rule.

(3) An RREDZ is permitted anywhere in this state, except within the UGB of a city with a population of 30,000 or more, including but not limited to the entire (Portland-area) Metro UGB.

(4) RREDZs come in one of only the following three types:

(a) City RREDZ, in that the governing body of a single city applies to the Department for designation, and the city is the sponsor of the RREDZ;

(b) County RREDZ, in that the governing body of a single county applies to the Department for designation, and the county is the sponsor of the RREDZ; or

(c) Multi-county RREDZ, in that each governing body of two or more counties jointly apply to the Department for designation, for which:

(A) The counties are contiguous one to another, but do not necessarily all share a single common border in the case of three or more counties; and

(B) Only one of the counties serves as the zone sponsor.

(5) In appointing the local RREDZ manager, the sponsor is encouraged to select someone, who also serves as the local zone manager for an enterprise zone whenever possible.

(6) There is no particular limit on the number of RREDZs statewide, although a city or county may not have two or more concurrent designations, with the following distinctions:

(a) A city may have a designation, even if inside a county designated as an RREDZ; or

(b) A county may itself be designated an RREDZ and be part of an RREDZ with one or more other counties, but it may not concurrently belong to two or more different, multi-county RREDZs.

(7) The RREDZ exemption under ORS 285C.362 on the qualified property of a qualified business firm may not be derived from more than one overlapping RREDZ designation, except if there are two or more authorizations covering property in different tax lots.

Stat. Auth.: ORS 285A.075 & 285C.370
Stats. Implemented: ORS 285C.350 - 285C.370
Hist.: OBDD 28-2010, f. & cert. ef. 6-14-10; OBDD 12-2015, f. & cert. ef. 10-5-15

123-680-1200
Designation of a RRED Zone

(1) To apply for designation of an RREDZ under ORS 285C.353, the city, county or multiple counties shall furnish the Department with:

(a) A copy of the resolution(s) requesting designation duly adopted by each jurisdiction within the past six months, which among other things, would specify the designation's exemption limitation amount under ORS 285C.353(4) as described OAR 123-680-1400;

(b) Evidence of timely notice and communication with local taxing districts consistent with OAR 123-650-5500; and

(c) A formal statement that specifies the following:

(A) The county that will serve as the sponsor in the case of a multi-county RREDZ; and

(B) The status of any previous or otherwise ongoing RREDZ designation in the jurisdiction(s), including but not limited to the unused portion of an exemption limitation for purposes of section (4) of this rule.

(2) Subject to the accuracy and completeness of the furnished materials and any other information as the Department may request, as well as applicable laws and these administrative rules:

(a) The Director will approve designation of the requested RREDZ; and

(b) The Department shall issue documentation of the designation, including but not limited to establishing its:

(A) Effective date, which may be as early as when the zone sponsor adopted its resolution in the case of a new RREDZ if so requested by the applicant; and

(B) Exemption limitation amount.

(3) Premature termination of the RREDZ under ORS 285C.245(3) to (5) shall occur only if the Director issues an order to that effect, such that with a multi-county RREDZ, all of the counties must adopt a resolution requesting termination under ORS 285C.245(4) not only the sponsor. The Director shall not approve any RREDZ that corresponds to one so terminated for the next 10 years.

(4) If the application is for a subsequent additional designation corresponding to an existing RREDZ under ORS 285C.353(4)(b) and (c), then the existing RREDZ ceases, and the new designation replaces it, effective on January 1 directly following the last date on which a resolution of application was adopted, so that:

(a) Any authorized business firm in the previously existing RREDZ belongs to the newly designated RREDZ for the initial qualification of any property first placed in service in an assessment year immediately preceding that January-1 date (regardless of the application of authorization's date of submission or approval); and

(b) Any unused portion of the previous RREDZ's exemption limitation under ORS 285C.353(4) ceases to exist, and only the new RREDZ's exemption limitation, consistent with OAR 123-680-1400(3)(c), is available for future exemptions.

Stat. Auth.: ORS 285A.075 & 285C.370
Stats. Implemented: ORS 285C.350 - 285C.370
Hist.: OBDD 28-2010, f. & cert. ef. 6-14-10; OBDD 12-2015, f. & cert. ef. 10-5-15

123-680-1400
Limitation of Exempt Real Market Value

Under ORS 285C.353(4), each RREDZ designation has a cap on the total value in qualified property allowed, which is cumulatively exhausted with each exempt project over the life of the designation:

(1) Such value is the property's real market value (RMV) on the assessment date of the first year that the authorized business firm may claim the exemption, not the amount exempted each year.

(2) The zone sponsor shall coordinate with the county assessor to track the amount of this limitation that former/ongoing exemptions have used and the remaining, unused portion. (If the assessor later disqualifies affected property and collects the property taxes back, then the initial RMV of the disqualified property increases the unused portion for future use in the same RREDZ)

(3) The exemption limitation described in this rule equals the amount specified in the resolution(s) adopted by the city, county or counties in applying for the RREDZ, and any such specified amount must be:

(a) Less than or equal to the maximum permitted under ORS 285C.353(4)(d);

(b) Evenly divisible by $5 million; and

(c) Greater than the unused portion of the previous RREDZ's exemption limitation with a subsequent additional RREDZ as described in OAR 123-680-1200(4).

(4) If any such resolution fails to specify an exemption limitation for the RREDZ, or if two or more such resolutions comprising a joint application disagree as to the amount, then the limitation for that RREDZ defaults to the maximum permitted.

(5)(a) If new qualified property of an authorized business firm first subject to exemption in a single year will exhaust the exemption limitation, then the exemption or exemptions are allowed only up to the point at which the property's RMV equals the unused portion; and

(b) In the case of two or more such firms subject to simultaneous exemptions, the assessor shall pro-rate the unused portion among them

commensurate with the total value of each one's applicable qualified property.

Stat. Auth.: ORS 285A.075 & 285C.370
Stats. Implemented: ORS 285C.350 - 285C.370
Hist.: OBDD 28-2010, f. & cert. ef. 6-14-10; OBDD 12-2015, f. & cert. ef. 10-5-15

123-680-1600
Further Distinctions from an Enterprise Zone Exemption

For an RREDZ exemption, in contrast to a business firms' using an enterprise zone:

(1) The application for authorization shall give special attention to characterizing the proposed investment in qualified property, clarifying how it relates to renewable energy, and estimating its real market value by January 1 of the first full calendar year of operations.

(2) To be exempt, the qualified property must effectively and substantively correspond to the description in the application.

(3) For purposes of a business firm's receiving authorization and then qualifying:

(a) An "eligible business firm" under ORS 285C.135 relates only to such operations or business activities that are engaged in renewable energy.

(b) The "employment of the firm" under ORS 285C.200 and 285C.210:

(A) Relates only to employees engaged a majority of their time in eligible renewable energy operations within the RREDZ.

(B) Satisfies requirements for the addition of one or more employees respective to the existing number of employees, who work throughout the entire city, county or counties, as applicable.

(4) The exemption is essentially the same as that under ORS 285C.175, once property has been placed in service. There is, however, no special exemption during construction like under ORS 285C.170, although the exemption under ORS 307.330 may be used as otherwise permissible.

(5) For purposes of an additional one or two years of exemption (following the basic three-year period) on qualified property to be located inside a county that is part of a multi-county RREDZ but not its sponsor:

(a) At least 21 calendar days before execution of the requisite written agreement between the sponsor and the eligible business firm, which may contain additional local requirements that the business firm would need to satisfy, the sponsor shall give the county's governing body formal notice of the potential extension to the tax abatement period; and

(b) If before the date, on which the firm and sponsor would execute the written agreement, the county's governing body adopts a resolution electing not to participate, then there shall be no extended abatement for the proposed investment in qualified property in that county.

(6) For purposes of local waivers to statutory employment requirements:

(a) Only the sponsoring county of a multi-county RREDZ needs to adopt the requisite resolution by the time of authorization, regardless of the proposed location of qualified property;

(b) Provisions under ORS 285C.155 and 285C.200(2) otherwise pertain to RREDZs, including as described in OAR 123-674-4300; and

(c) Another type of waiver unique to RREDZs is allowed under ORS 285C.362(2), if the total investment in qualified property pursuant to the application equals or exceeds $5 million, but in this case the sponsor resolution shall not establish:

(A) An alternative minimum employment level, but rather it simply waives the requirements; or

(B) Other conditions to be imposed on the business firm.

Stat. Auth.: ORS 285A.075 & 285C.370
Stats. Implemented: OR 285C.350 - 285C.370
Hist.: OBDD 28-2010, f. & cert. ef. 6-14-10; OBDD 16-2012, f. & cert. ef. 8-15-12; OBDD 12-2015, f. & cert. ef. 10-5-15

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Oregon Department of Education
Chapter 581

Rule Caption: Aligning K–12 Biliteracy Pathways Grant Program with HB 3499 to support students eligible for ELL programs.
Adm. Order No.: ODE 14-2015(Temp)
Filed with Sec. of State: 9-25-2015
Certified to be Effective: 9-28-15 thru 3-15-16
Notice Publication Date:
Rules Adopted: 581-017-0380, 581-017-0383, 581-017-0386, 581-017-0389, 581-017-0392, 581-017-0395
Subject: New temporary rules are needed to support a K–12 Biliteracy Pathways Grant Program, in accordance with HB 3499's provision relating to the development and implementation of a statewide plan to support students eligible for English Language Learner programs.

The rules will provide grants (up to $120,000, depending on available funds) to district and school sites that are in the midst of developing or have already establishd K-12 biliteracy pathways for students. The program will also provide expert consultants to grantees to assist them with program design, implementation and evaluation to ensure (a) that the biliteracy pathways developed under the grant are well implemented and (b) that ODE can continue to develop a solid research base on effective EL instructional practice and EL program models.
Rules Coordinator: Cindy Hunt—(503) 947-5651

581-017-0380
Definitions

The following definitions apply to OAR 581-017-0380 to 581-017-0395:

(1) "K–12 Biliteracy Pathways Grant" means the Grant established in OAR 581-017-0383 to implement ORS 336.079.

(2) "K–12 Biliteracy Pathway" means an educational program that begins in at least Kindergarten and continues through grade 12 that promotes biliteracy outcomes and provides students who complete this pathway with the skills necessary to earn a State Seal of Biliteracy. For the purposes of this grant, these pathways must include an existing dual language program that:

(a) Already serves students at the elementary school level;

(b) Also operates at or there are plans for expansion to the middle and high school level; and

(c) Is primarily designed to serve English Learners.

(3) "Dual language program" means any program that provides literacy and content instruction to all students through two languages and that promotes bilingualism and biliteracy, grade-level academic achievement, and multicultural competence for all students. This grant is intended to support dual language programs that are primarily designed to serve English Learners. These types of dual language programs are commonly referred to as two-way immersion, developmental bilingual, and heritage language programs.

Stat. Auth.: ORS 326.051
Stat. Implemented: ORS 336.079
Hist.: ODE 14-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16

581-017-0383
Establishment

There is established the K–12 Biliteracy Pathways Grant, which is intended to support Oregon public school districts or public charter schools to develop and implement model dual language programs and K–12 biliteracy pathways. This includes improving existing K–12 dual language programs, as well as expanding well-implemented elementary programs into middle and high school.

Stat. Auth.: ORS 326.051
Stat. Implemented: ORS 336.079
Hist.: ODE 14-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16

581-017-0386
Eligibility

(1) The following entities shall be eligible to receive the K–12 Biliteracy Pathways Grant:

(a) School districts;

(b) Public charter schools; and

(c) Consortium of school districts, public charter schools or an Education Service District (ESD). Each consortium must have at least one school district or public charter school as a member.

(2) A single grant proposal may include more than one eligible applicant.

Stat. Auth.: ORS 326.051
Stat. Implemented: ORS 336.079
Hist.: ODE 14-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16

581-017-0389
Criteria

(1) The Oregon Department of Education (ODE) shall establish a request for proposal solicitation and approval process to be conducted each biennium for which the K–12 Biliteracy Pathways grant funds are available.

(2) Grants shall be awarded based on the following criteria:

(a) Whether the grant application identifies how English Learners enrolled in the applicant's school(s) will benefit from the proposed K–12 Biliteracy Pathway.

(b) Whether the grant application demonstrates school district or public charter school support, commitment and readiness to design a K–12 Biliteracy Pathways Grant program.

(2) ODE shall give priority to proposals that meet the minimum criteria and:

(a) Provide a sustainability plan to continue the program for at least two additional years after the grant period ends.

(b) The extent to which the applicant clearly documents its capacity to implement a model K–12 Biliteracy Pathway, including demonstrated intentions to work in a collaborative way with other grantees.

(3) ODE shall allocate funds for the grant program based on the evaluation of the grant application and the following considerations:

(a) Geographic location of district to insure geographic diversity within the recipients of grant program funds throughout the state;

(b) Districts who have a high level of students who are economically disadvantaged; and

(c) Give preference to districts or schools that have demonstrated success in improving student outcomes, particularly for English Learners.

(5) ODE may also provide funding on a non-competitive basis to previous Dual Language Grant recipients for the purposes of fostering K–12 biliteracy pathways at these sites and to support a more complete evaluation of dual language programs and K–12 biliteracy pathways across the state.

Stat. Auth.: ORS 326.051
Stat. Implemented: ORS 336.079
Hist.: ODE 14-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16

581-017-0392
Funding

(1) Each grantee who is awarded a competitive K–12 Biliteracy Grant based on the criteria identified in OAR 581-017-0389(1) to (4) may receive up to $120,000 for the biennium.

(2) Each grantee who is awarded a non-competitive K–12 Biliteracy Grant based on the criteria identified in OAR 581-017-0389(5) may receive up to $40,000 for the biennium.

(3) Grantees shall use funds for planning, implementation and evaluation activities associated with the development and/or improvement of their dual language program into a model for statewide replication, and shall engage administrators, teachers, parents and the community in the design, implementation and evaluation of the program with a focus on building school and school district capacity to sustain efforts.

(4) Grantees must be able to expend the funds for allowable purposes specified in the request for proposal within the grant timeline according to acceptable accounting procedures.

Stat. Auth.: ORS 326.051
Stat. Implemented: ORS 336.079
Hist.: ODE 14-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16

581-017-0395
Reporting

The Oregon Department of Education shall provide to grant recipients a template for an interim and final grant report. Grantees are required to submit a final report prior to receiving their final request for funds.

Stat. Auth.: ORS 326.051
Stat. Implemented: ORS 336.079
Hist.: ODE 14-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16

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Rule Caption: Revises STEM grant rules to align with HB3072. Creates rule identifying fiscal agents for grants.
Adm. Order No.: ODE 15-2015(Temp)
Filed with Sec. of State: 9-25-2015
Certified to be Effective: 9-28-15 thru 3-15-16
Notice Publication Date:
Rules Adopted: 581-017-0302
Rules Amended: 581-017-0301, 581-017-0306, 581-017-0309, 581-017-0312, 581-017-0315, 581-017-0318
Subject: Revises the existing rules on STEM Hub grants to align with new requirements in HB 3072 (2015) and creates a new rule specifying what entities can be a fiscal agent for CTE and STEM grants.
Rules Coordinator: Cindy Hunt—(503) 947-5651

581-017-0301
Definitions

The following definitions apply to 581-017-0300 to 581-017-0333:

(1) "Achievement Gap" means the gap in achievement (state test scores in science and mathematics as well as postsecondary degree attainment in STEM) that often exists between students who are economically disadvantaged, students learning English as a second language, African American, Hispanic or Native American compared to their peers.

(2) "Authentic Problem-Based Learning" means using real world questions, problems, and tasks—often drawn from local community issues and industries—as the focus to drive the learning experiences, deepen understanding, and developing rich contextual connections across a variety of STEM and non-STEM disciplines.

(3) "Career and Technical Education (CTE)" is a comprehensive educational program for students based on industry needs. CTE includes coursework in areas such as health care, engineering, and computer science.

(4) "Community Engagement" means a broad collaboration and participation between multiple sectors of the community for the mutually beneficial exchange of knowledge and resources to identify local needs and contribute to larger conversations on visioning planning which may include, but not limited to parent groups and advocacy groups, industry and STEM agencies, economic and workforce groups, student input, and educators.

(5) "Education service district" or "ESD" means an education service district as defined in ORS 334.003.

(6) "Effective STEM Instruction" means the use of evidence-based practices that support interconnected, relevant STEM instruction as stated in definition number one.

(7) "Effective STEM Leadership" means identifying schools, school districts, postsecondary institutions, business & industry, student-focused nonprofits and community leadership to support implementing and improving STEM teaching and learning in addition to creating a culture that fosters STEM learning with evidence-based resources. Effective STEM leadership develops an understanding of what effective and interconnected STEM education looks like in the classroom and supports the development of learning environments that empower educators to implement innovative STEM education approaches.

(8) "Effective STEM Learning Environments" means supporting student interaction with STEM education during formal and informal settings in ways that promote deeper understanding of real-world complex concepts. Such learning environments need to engage all students in solving complex problems, using highly interactive learning opportunities that create new opportunities for STEM learning across the core curriculum.

(9) "Equity Lens" refers to the commitment and principles adopted by the Oregon Education Investment Board to address inequities of access, opportunity, interest, and attainment for underserved and underrepresented populations in all current and future strategic investments.

(10) "Postsecondary Institution" means a:

(a) A community college operated under ORS Chapter 341.

(b) The following public universities within the Oregon University System:

(A) University of Oregon.
(B) Oregon State University.
(C) Portland State University.
(D) Oregon Institute of Technology.
(E) Western Oregon University.
(F) Southern Oregon University.
(G) Eastern Oregon University.

(c) Oregon Health and Science University.

(d) An Oregon-based, generally accredited, not-for-profit institution of higher education.

(11) "Regional STEM Hub" means a commitment of a group of key stakeholders from different sectors such as, but not limited to school districts, informal education providers, postsecondary institutions, business & industry, student-focused nonprofits, students, families, community members and policy makers to advance state and local educational goals related to science, technology, engineering, mathematics and career & technical education (CTE).

(12) "Statewide STEM Network" means a supportive collaboration between and across Regional STEM Hubs to share knowledge, expertise, insights, and leadership to assist other communities in their efforts to create similar STEM partnerships.

(13) "STEM Education" means an approach to teaching and lifelong learning that emphasizes the natural interconnectedness of the four separate

STEM disciplines. Developing and deepening content knowledge and skills in science and mathematics is the foundation of STEM teaching and learning. The natural connections among science, mathematics and STEM are made explicit through collaboration between educators resulting in real and appropriate context built into instruction, curriculum, and assessment. The common element of problem solving is emphasized across all STEM disciplines allowing students to discover, explore, and apply critical thinking skills as they learn.

(14) "STEM Practitioners" refers to individuals engaged in STEM-related professions such as but not limited to, natural resources management, high-tech manufacturing and product development, information technology, industrial design, health sciences, software, scientific research, engineering, data analytics, etc.

(15) "Student-Focused Nonprofits" means an organization that meets all of the following requirements:

(a) Is established as a nonprofit organization under the laws of Oregon;

(b) Qualifies as an exempt organization under section 501(c)(3) of the Internal Revenue Code as defined in ORS 314.011; and

(c) Is focused on providing services to students who's goals or mission are focused on impacting and improving outcomes in STEM education.

(16) "Underserved Students" are students whom systems have placed at risk because of their race, ethnicity, English language proficiency, socioeconomic status, gender, sexual orientation, differently abled, or geographic location.

(17) "Underrepresented Students" in STEM are from demographic groups who's representation in STEM fields and industries does not mirror regional and national focus populations specifically, women, African American, Native American, Hispanic and Pacific Islander students which systems have provided insufficient or inadequate balance of opportunity.

Stat. Auth.: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Stat. Implemented: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Hist.: ODE 30-2014, f. & cert. ef. 6-24-14; ODE 15-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16

581-017-0302
Fiscal Agent for CTE and STEM grants

The following entities shall be eligible to be the fiscal agent for the grants available under 581-017-0301 to 0333:

(1) School districts;
(2) Education service district (ESD) as defined in ORS 334.003;
(3) Public schools;
(4) Public charter schools;
(5) Community Colleges; and
(6) Public Universities.

Stat. Auth.: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Stat. Implemented: 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Hist.: ODE 15-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16

581-017-0306
Establishment of Regional STEM Hubs

(1) The Regional STEM Hub Grant is established as part of the Connecting to the World of Work Program.

(2) The purposes of these Regional STEM Hubs includes, but is not limited to:

(a) Engage school districts, post-secondary institutions, student-focused nonprofit organizations, business and industry around common outcomes related to increasing students' proficiency, interest, and attainment in science, technology, engineering and mathematics along with career and technical education.

(b) Align STEM program activities and leverage State and local resources, both financial and human, around common student outcomes to advance the State 40/40/20 goals.

(c) Address ongoing access, opportunity, interest, and attainment gaps for underserved and underrepresented students in STEM consistent with the Equity Lens.

(d) Engage local communities to elevate the importance of STEM to the prosperity of individuals, and the local and state economy.

(e) Promote effective instructional practices by providing professional learning opportunities and to support educators in ways that are consistent with the implementation of the Common Core State Standards and Oregon Science Standards.

(f) Provide age-appropriate career exploration opportunities in STEM for students along the education continuum including career guidance, tours, and internships.

(g) Expand effective STEM learning experiences for students both in and out of school.

(h) Share knowledge, expertise, insights, and leadership to assist other communities in their efforts to create similar STEM partnerships.

(i) Foster greater coherency across institutions to smooth student transitions and support services along education and career pathways.

(j) Diminish the sense of academic isolation and silos, both locally and statewide.

(k) Increase interactions of STEM practitioners with students and educators.

Stat. Auth.: ORS 327.820
Stat. Implemented: ORS 327.820
Hist.: ODE 30-2014, f. & cert. ef. 6-24-14; ODE 15-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16

581-017-0309
Eligibility of Regional STEM Hubs

The Oregon Department of Education shall allocate funds for Regional STEM Hubs based on the following criteria:

(1) The following entities shall be eligible for the Regional STEM Hub Grant:

(a) Existing STEM Hubs;
(b) School districts;
(c) Education service districts;
(d) Student-focused nonprofit organizations;
(e) Postsecondary institutions for the purpose of supporting STEM & CTE education; and
(f) Any of the nine federally recognized Native American Tribes in Oregon.

(2) A Regional STEM Hub must be established by a school district, postsecondary institutions or student-focused nonprofit and is required to include the following additional partners at a minimum:

(a) A School District or ESD,
(b) A Postsecondary Education Partner,
(c) A Student-focused nonprofit; and
(d) An Industry, Business or STEM focused Community Partner.

(3) A Regional STEM Hub must be able to demonstrative that the Hub has the following five key elements:

(a) A common agenda;
(b) Shared measurement systems;
(c) Mutually reinforcing activities;
(d) Continuous communication; and
(e) Backbone support organizations.

Stat. Auth.: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Stat. Implemented: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Hist.: ODE 30-2014, f. & cert. ef. 6-24-14; ODE 15-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16

581-017-0312
Criteria of Regional STEM Hubs Awards

(1) The Oregon Department of Education shall establish a solicitation and approval process to be conducted each biennium for which the Regional STEM Hub grant funds for operations support and program support are available. The solicitation and approval process must comply with the requirements of section 1, Chapter 763, Oregon Law 2015 (Enrolled House Bill 3072) and rules adopted to implement that section.

(2) The Oregon Department of Education may only award grants for operations support to Regional STEM Hubs which meet the minimum criteria by having a record of success in, or clearly established plans for, addressing the following:

(a) Establishing a partnership for a Regional STEM Hub consisting of the partners identified in OAR 581-017-0309(2);

(b) Selecting and supporting a backbone organization to coordinate and support the various partners of the Regional STEM Hub and ensure effective communication, a focus on data and outcomes, and alignment of programing to address the STEM-related nees of the community; and

(c) Creating, implementing, and improving a Partnership Plan that guides the vision, goals, strategies, and outcomes of the Regional STEM Hub; incorporates the principles of the Equity Lens adopted by the Chief Education Office; and contributes to the achievement of the State's education goals and the STEM-related goals identified by the STEM Investment Council.

(3) The Oregon Department of Education may only award grants for program support to Regional STEM Hubs which meet the minimum criteria by having a record of success in or clearly established plans for addressing the following:

(a) An established Regional STEM Hub with a formalized and approved Partnership Plan, and contributions by partners of human, material, and financial resources;

(b) An established backbone organization to coordinate and support the various partners of the Regional STEM Hub and ensuring effective communication, a focus on data & outcomes, and aligning programming to address the STEM-related needs of the community; and

(c) An approved Partnership Plan that guides the vision, goals, strategies, and outcomes of the Regional STEM Hub; incorporates the principles of the Equity Lens adopted by the Chief Education Office; and contributes to the achievement of the State's education goals and the STEM-related goals identified by the STEM Investment Council.

Stat. Auth.: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Stat. Implemented: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Hist.: ODE 30-2014, f. & cert. ef. 6-24-14; ODE 15-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16

581-017-0315
Implementation of Grant Funding of Regional STEM Hubs

(1) The Oregon Department of Education shall allocate funds to support the operations and programs of expanding and newly established Regional STEM Hubs.

(2) The Department of Education, in collaboration with the Chief Education Office and the STEM Council, shall determine for each biennium the portion of the funds available for operations support and program support grants.

(3) Grantees and the associated Regional STEM Hub will be expected to:

(a) Participate in data collection and reporting progress against agreed upon outcomes determined by the Chief Education Office, the STEM Investment Council, and the Oregon Department of Education;

(b) Engage in mutually reinforcing activities for improving STEM/CTE education with partners within and outside the formal education system;

(c) Engage in collaboration and communication, within and between Regional STEM Hubs, including regular coordination calls, site visits, and convenings; and

(d) Identify and select a backbone organization to coordinate and support the various partners of the Regional STEM Hub and ensuring effective communication, a focus on data & outcomes, and aligning programming to address the STEM-related needs of the community.

Stat. Auth.: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Stat. Implemented: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Hist.: ODE 30-2014, f. & cert. ef. 6-24-14; ODE 15-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16

581-017-0318
Reporting of Regional STEM Hubs

(1) The Department of Education shall develop partnership-reporting requirements for allocation of funds for implementation of Regional STEM Hubs as required by the Chief Education Office.

(2) The Department of Education, in collaboration with the STEM Investment Council and the committee established under ORS 344.075, shall submit a biennial report to the Legislative Assembly related to distributions made under this section. The report must include metrics that identify how distributions made under this section are contributing to the development of a skilled workforce that is able to secure high wage and high demand jobs.

Stat. Auth.: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Stat. Implemented: ORS 327.820; 2015 OL Ch. 763, Sec. 1 (Enrolled HB 3072)
Hist.: ODE 30-2014, f. & cert. ef. 6-24-14; ODE 15-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16

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Rule Caption: Amends LTCT to allow implementation of the Minimum Staffing Level Model (MSL) required by HB5016.
Adm. Order No.: ODE 16-2015(Temp)
Filed with Sec. of State: 9-25-2015
Certified to be Effective: 9-28-15 thru 3-15-16
Notice Publication Date:
Rules Amended: 581-015-2572
Subject: Currently OAR 581-015-2572 identifies a funding model based upon a predetermined formula which includes student counts as the basis for the allocation of state funding. HB 5016 contained a budget note which directs the department to allocate funding based upon an MSL model. This model bases the allocation of funding on a formula related to minimum classroom support rather than student count.
Rules Coordinator: Cindy Hunt—(503) 947-5651

581-015-2572
Long-Term Care and Treatment (LTCT) Education Program Funding Formula

(1) The Department of Education shall provide funding to LTCT education programs based on a Minimum Staffing Level (MSL) model. The MSL model is based on standard classroom staffing that addresses the educational and safety needs of the students and educational staff in eligible LTCT day and residential treatment program classrooms.

(2) The Department shall base the MSL model on a ratio of staff to students per classroom that is based upon:

(a) One teacher and two instructional assistants for up to 15 students per classroom.

(b) One teacher and three assistants for between 15-20 students per classroom.

(c) When there are more than 20 students in a classroom, the distribution may factor in opening an additional classroom staffed with one teacher and two additional assistants to bring the student number back to 10 students per classroom.

(d) Staffing levels may vary from this guideline for safety, student characteristics, or treatment needs and still meet the MSL standard as determined by the department.

(e) At the department's discretion up to 15.0 percent may be added to LTCT contracts to cover educational overhead costs such as indirect, administrative costs and other educational service related costs.

(3) If the total state funding available for all LTCT programs is less than the total state funding needed to fully fund each LTCT contract under the MSL model, the amount of state funding in each contract determined under paragraph (2) of this subsection will be prorated.

(4) LTCT education programs shall use the funding from the department based on the MSL model to implement the MSL model as described under paragraph (2) of this rule. Any variation in staff to student classroom ratios under the MSL model must be approved by the department.

(5) A special needs fund is established at the Oregon Department of Education which will be up to five percent of the total state monies made available for the LTCT program during a biennium:

(a) Individual applications may be made to the Department for this fund to cover unexpected, emergency expenses;

(b) Funds not utilized under this paragraph for the first year of the biennium will be carried forward by the Department to the next fiscal year and the remaining balance at the end of the biennium will be carried over as reserve funds into the next biennium.

Stat. Auth. ORS 326.051 & 343.961
Stats. Implemented: ORS 343.243 & 343.961
Hist.: ODE 14-2009, f. & cert. ef. 12-10-09; ODE 15-2011, f. & cert. ef. 12-15-11; ODE 19-2014, f. & cert. ef. 6-3-14; ODE 10-2015, f. & cert. ef. 7-13-15; ODE 16-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16

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Rule Caption: Implement provisions of SB217 amending strategic initiatives including the Regional Promise Replication Grant Program.
Adm. Order No.: ODE 17-2015(Temp)
Filed with Sec. of State: 9-25-2015
Certified to be Effective: 9-28-15 thru 3-14-16
Notice Publication Date:
Rules Amended: 581-017-0350, 581-017-0362
Subject: The 2015 legislature adopted SB 217 which amended the former Eastern Promise Replication Grant provisions to provide more flexibility to the Department of Education for administration of the grant. The legislation and Department budget also provided that the grant was intended for Regional Promise Grants and no longer to specifically fund the Eastern Promise.

The rule amendments allow for different membership in consortia applying for a grant, specify competitive priorities for grant awards, change terminology and address prior grant recipients.
Rules Coordinator: Cindy Hunt—(503) 947-5651

581-017-0350
Definitions

The following definitions apply to OAR 581-017-0350 to 581-017-0362:

(1) "Consortium" means the equal partnership developed to form the cross-sector collaboration between eligible educational institutions.

(2) "Opportunity Gap" means the gap in opportunities that often exists between students who are economically disadvantaged, students with disabilities, students learning English as a second language, African American, Hispanic or Native American when compared to their peers who do not share these characteristics. This can often lead to a gap in achievement (state test scores in reading, writing, and mathematics as well as diploma and post-secondary degree attainment).

(3) "Postsecondary Institution" means:

(a) A community college operated under ORS Chapter 341 or,

(b) The following public universities:

(A) University of Oregon;

(B) Oregon State University;

(C) Portland State University;

(D) Oregon Institute of Technology;

(E) Western Oregon University;

(F) Southern Oregon University;

(G) Eastern Oregon University;

(H) Oregon Health and Science University.

(c) An Oregon-based accredited not-for-profit institution of higher education.

(4) "Private post-secondary institution" means" an Oregon-based, generally accredited, not-for-profit institution of higher education.

(5) "Significant population" means to serve the majority of underserved students within the consortiums region.

(6) "Underserved student" means a student (English language learner, student of color, an economically disadvantaged student or a student with disabilities) who has not historically taken high school accelerated courses and may not have considered enrolling in a post-secondary education program.

(7) "Variety" means students having access to a choice of courses offered in core academic subjects, in different forums (which include yet are not limited to distance learning, high school campus, college campus, by proficiency assessment or through credit for prior learning), that are eligible for transfer.

Stat. Auth.: ORS 327.800
Stat. Implemented: ORS 327.820
Hist.: ODE 3-2014(Temp), f. & cert. ef. 2-19-14 thru 8-17-14; ODE 29-2014, f. & cert. ef. 6-24-14; ODE 17-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-14-16

581-017-0362
Timelines and Performance Measures

The Regional Promise program shall provide award recipients a template for an interim, legislative, and final grant report. Recipients are required to submit the all reports and teacher and student data prior to their final request for funds.

Stat. Auth.: ORS 327.800
Stat. Implemented: ORS 327.820
Hist.: ODE 3-2014(Temp), f. & cert. ef. 2-19-14 thru 8-17-14; ODE 29-2014, f. & cert. ef. 6-24-14; ODE 17-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-14-16

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Rule Caption: Amends rules for District Collaboration Grant to align with SB216.
Adm. Order No.: ODE 18-2015(Temp)
Filed with Sec. of State: 9-25-2015
Certified to be Effective: 9-28-15 thru 3-15-16
Notice Publication Date:
Rules Amended: 581-018-0110, 581-018-0120, 581-018-0125
Subject: Amends OAR to align with SB 216, Provides a $50,000 supplement to districts under 1,500 ADMw to hire a project Director, and caps their award at $150,000. Includes a stipulation for an additional 10% of grant funds to be provided to districts who implement a new, researched-based program to increase student achievement, and removes the provision to include district consortiums.
Rules Coordinator: Cindy Hunt—(503) 947-5651

581-018-0110
Criteria

(1) The Oregon Department of Education shall establish a request for proposal solicitation and approval process to be conducted each biennium for when District Implementation and Design Collaboration grant funds are available. The Department shall notify eligible applicants of the proposal process and the due dates, and make available necessary guidelines and application forms.

(2) All proposals must comply with the requirements of ORS 329.838 and 342.950 and rules adopted to implement those laws. Grants shall be awarded based on whether the grant application identifies how the funds will be used to improve education outcomes identified by the Department of Education or set forth in ORS 351.009.

(3) Prior to applying for a grant, the school district must receive the approval to apply for the grant from:

(a) The exclusive bargaining representative for the teachers of the school districts, or if the teachers are not represented by an exclusive bargaining representative, from the teachers of the school districts;

(b) The chairperson of the school district board; and

(c) The superintendent of the school district.

(4) Districts shall establish a collaborative leadership team to oversee the design and implementation process. The collaborative leadership team shall include the exclusive bargaining representative for the teachers of the school district or, if the teachers are not represented by an exclusive bargaining representative, the teachers of the school district.

(5) Districts shall display readiness and eligibility for an implementation grant by submitting detailed blueprints, developed collaboratively by teachers, administrators, and the teacher bargaining unit, in the four required areas:

(a) Career pathways processes for teachers and administrators;

(b) Evaluation processes for teachers and administrators;

(c) Compensation models for teachers and administrators, and

(d) Enhanced professional development opportunities for teachers and administrators.

(6) The Department of Education shall award design and implementation grants based on the evaluation of the district application, eligibility criteria, and the following considerations:

(a) Geographic location of districts to insure geographic diversity within the recipients of grant program funds throughout the state;

(b) Districts that have an achievement gap as defined in 581-018-0005;

(c) Districts that have a high level of economically disadvantaged students as defined in 581-018-0005.

Stat. Auth.: ORS 329.838
Stats. Implemented: ORS 329.838
Hist.: ODE 18-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 33-2013, f. & cert. ef. 12-18-13; ODE 18-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16

581-018-0120
Implementation Grant Funding

(1) The Department of Education shall determine for each fiscal year the total amount available for distribution to school districts as implementation grants.

(2) The Department of Education shall determine the grant amount to be awarded to each district that is eligible to receive a grant based on the following formula: Grant Amount = school district ADMw x (the total amount available for distribution for an implementation grant in a fiscal year through the School District Collaboration Grant Program / the total ADMw of the School Districts that receive an implementation grant for the fiscal year.

(3) Notwithstanding subsection (2) of this section, a school district may receive a grant for an amount that is 10 percent more than the amount calculated under subsection (2) of this section if the Department approves a school district's supplemental plan to design and implement new approaches to improve student achievement that are in addition to the approaches identified in OAR 581-015-0110(5) and that are research-based best practices.

(4) In addition to any amounts received under subsections (2) and (3), a school district that has an average daily membership of less than 1,500 may receive a supplemental amount of up to $50,000 if:

(a) The supplemental amount is used for expenses incurred in relation to a grant manager who:

(A) Manages the use of a grant received under this paragraph;

(B) Supports the school district's committees related to the grant;

(C) Monitors and measures the implementation of new approaches funded by the grant;

(D) Ensures timely and accurate communications with educators in the school district;

(E) Completes all Department of Education requirements related to the grant; and

(F) Attends meetings and collaborates with other school districts; and

(b) The total of the implementation grant and the supplemental amount does not exceed $150,000.

Stat. Auth.: ORS 329.838
Stats. Implemented: ORS 329.838

Hist.: ODE 18-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 33-2013, f. & cert. ef. 12-18-13; ODE 18-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16

581-018-0125
Reporting

(1) Districts shall meet timelines, performance measures and other requirements related to the accumulation and evaluation of data collected as required by the Oregon Department of Education.

(2) Districts shall submit interim and final grant reports describing progress toward grant requirements and goals as defined by the Department of Education.

(3) Districts shall share lessons learned and school district models on the design and implementation of the four blueprint areas.

(4) The Department of Education shall disseminate best practices from the grant districts to districts statewide.

Stat. Auth.: ORS 329.838
Stats. Implemented: ORS 329.838
Hist.: ODE 18-2013(Temp), f. & cert. ef. 8-15-13 thru 2-11-14; ODE 33-2013, f. & cert. ef. 12-18-13; ODE 18-2015(Temp), f. 9-25-15, cert. ef. 9-28-15 thru 3-15-16

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Oregon Health Authority, Division of Medical Assistance Programs
Chapter 410

Rule Caption: Update International Classification of Diseases Coding from ICD-9 to ICD-10
Adm. Order No.: DMAP 51-2015
Filed with Sec. of State: 9-22-2015
Certified to be Effective: 10-1-15
Notice Publication Date: 9-1-2015
Rules Amended: 410-120-1280, 410-121-0185, 410-122-0020, 410-122-0205, 410-122-0330, 410-122-0400, 410-122-0662, 410-123-1260, 410-123-1620, 410-124-0000, 410-124-0020, 410-124-0060, 410-124-0063, 410-124-0065, 410-124-0070, 410-124-0080, 410-124-0090, 410-124-0100, 410-124-0105, 410-124-0120, 410-125-0045, 410-125-0141, 410-125-1080, 410-125-2020, 410-127-0040, 410-129-0060, 410-130-0160, 410-130-0190, 410-130-0562, 410-130-0585, 410-131-0080, 410-133-0040, 410-140-0040, 410-140-0120, 410-140-0260, 410-141-0480, 410-146-0040, 410-146-0085, 410-147-0040, 410-147-0120, 410-147-0500, 410-148-0020
Subject: Currently ICD-9 is the International Classification of Diseases that is used by providers to input diagnosis codes on claims. Effective October 1, 2015 the coding will change to ICD-10. The Authority needs to amend and update these rules to reflect the change to ICD-10. The transition to ICD-10 is required for everyone covered by the Health Insurance Portability Accountability Act (HIPAA). The change to ICD-10 does not affect CPT coding for outpatient procedures and physician services.
Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-120-1280
Billing

(1) A provider enrolled with the Authority or providing services to a client in a CCO or PHP under the Oregon Health Plan (OHP) may not seek payment, from the client for any services covered by Medicaid fee-for-service or through contracted health care plans:

(a) A client may not be billed for missed appointments. A missed appointment is not considered to be a distinct Medicaid service by the federal government and as such is not billable to the client or the Division;

(b) A client may not be billed for services or treatments that have been denied due to provider error (e.g., required documentation not submitted, prior authorization not obtained, etc.).

(2) For Medicaid covered services the provider may not bill the Division more than the provider's usual charge (see definitions) or the reimbursement specified in the applicable Division program rules.

(3) Providers shall only bill a client or a financially responsible relative or representative of that client in the following situations:

(a) For any applicable coinsurance, copayments and deductibles expressly authorized in OAR chapter 410, divisions 120 and 141, or any other Division program rules;

(b) The client did not inform the provider of their OHP coverage, enrollment in a PHP or CCO, or third party insurance coverage at the time of or after a service was provided, therefore, the provider could not bill the appropriate payer for reasons including, but not limited to, the lack of prior authorization, or the time limit to submit the claim for payment has passed. The provider must verify eligibility, pursuant to OAR 410-120-1140, and document attempts to obtain coverage information prior to billing the client;

(c) The client became eligible for benefits retroactively but did not meet all of the other criteria required to receive the service);

(d) A third party payer made payments directly to the client for services provided;

(e) The client has the limited Citizen Alien Waived Emergency Medical benefit package. CAWEM clients have the benefit package identifier of CWM. Clients receiving CAWEM benefits may be billed for services that are not part of the CAWEM benefits. (See OAR 410-120-1210 for coverage.) The provider must document that the client was informed in advance that the service or item would not be covered by the Division. A DMAP 3165 is not required for these services;

(f) The client has requested a continuation of benefits during the contested case hearing process and the final decision was not in favor of the client. The client shall pay for any charges incurred for the denied service, on or after the effective date on the Notice of Action or Notice of Appeal Resolution. The provider must complete the DMAP 3165 pursuant to section (3)(h) of this rule before providing these services;

(g) In exceptional circumstances, a client may decide to privately pay for a covered service. In this situation, the provider may bill the client if the provider informs the client in advance of all of the following:

(A) The requested service is a covered service, and the appropriate payer (the Division, PHP, CCO or third party payer) would pay the provider in full for the covered service; and

(B) The estimated cost of the covered service, including all related charges, the amount that the appropriate payer would pay for the service, and that the provider cannot bill the client for an amount greater than the amount the appropriate payer would pay; and

(C) That the client knowingly and voluntarily agrees to pay for the covered service;

(D) The provider documents in writing, signed by the client or the client's representative, indicating that the provider gave the client the information described in section (3)(g)(A-C); and that the client had an opportunity to ask questions, obtain additional information and consult with the client's caseworker or client representative; and the client agreed to privately pay for the service by signing an agreement incorporating all of the information described above. The provider must give a copy of the signed agreement to the client. A provider may not submit a claim for payment for covered services to the Division or to the client's PHP, CCO or third party payer that is subject to the agreement.

(h) A provider may bill a client for services that are not covered by the Division, PHP, or CCO (see definition of non-covered services). Before providing the non-covered service, the client must sign the provider-completed Agreement to Pay (DMAP 3165), or a facsimile containing all of the information and elements of the DMAP 3165 as shown in Table 3165 of this rule. The completed DMAP 3165, or facsimile, is valid only if the estimated fee does not change and the service is scheduled within 30 days of the client's signature. Providers must make a copy of the completed DMAP 3165, or facsimile, available to the Division, PHP or CCO upon request.

(4) Code Set requirements:

(a) Federal Code Set requirements (45 CFR 162) apply to all Medicaid Code Set requirements, including the use of diagnostic or procedure codes for prior authorization, claims submissions and payments. Code Set has the meaning set forth in 45 CFR 162.103, and it includes the codes and the descriptors of the codes. Federal Code Set requirements are mandatory, and the Division lacks any authority to delay or alter their application or effective dates as established by the U.S. Department of Health and Human Services;

(b) The Division shall adhere to the Code Set requirements in 45 CFR 162.1000–162.1011;

(c) Periodically, the Division shall update its provider rules and tables to conform to national codes. In the event of an alleged variation between a Division-listed code and a national code, the Division shall apply the national code in effect on the date of request or date of service;

(d) Only codes with limitations or requiring prior authorization are noted in rules. National Code Set issuance alone should not be construed as coverage or a covered service by the Division;

(e) The Division adopts by reference the National Code Set revisions, deletions, and additions issued and published by the American Medical Association (Current Procedural Terminology — CPT) and on the CMS website (Healthcare Common Procedural Coding System — HCPCS). This

code adoption should not be construed as coverage or as a covered service by the Division.

(5) Claims:

(a) Upon submission of a claim to the Division for payment, the provider agrees that it has complied with all Division program rules. Submission of a claim, however, does not relieve the provider from the requirement of a signed provider agreement;

(b) A provider enrolled with the Division must bill using the Authority assigned provider number, or the National Provider Identification (NPI) number if the NPI is available, pursuant to OAR 410-120-1260;

(c) The provider may not bill the Division more than the provider's usual charge (see definitions) or the reimbursement specified in the applicable Division program rules;

(d) Claims must be submitted on the appropriate form as described in the individual Division program rules or electronically in a manner authorized in OAR chapter 943, division 120;

(e) Claims must be for services provided within the provider's licensure or certification;

(f) Unless otherwise specified, claims must be submitted after:

(A) Delivery of service; or

(B) Dispensing, shipment or mailing of the item.

(g) The provider must submit true and accurate information when billing the Division. Use of a billing provider does not abrogate the performing provider's responsibility for the truth and accuracy of submitted information;

(h) A claim is considered a valid claim only if all required data is entered on or attached to the claim form. See the appropriate provider rules and supplemental information for specific instructions and requirements;

(i) A provider or its contracted agency, including billing providers, may not submit or cause to be submitted:

(A) Any false claim for payment;

(B) Any claim altered in such a way as to result in a payment for a service that has already been paid;

(C) Any claim upon which payment has been made or is expected to be made by another source unless the amount paid or to be paid by the other party is clearly entered on the claim form;

(D) Any claim for furnishing specific care, items, or services that has not been provided.

(j) The provider is required to submit an Individual Adjustment Request or to refund the amount of the overpayment on any claim where the provider identifies an overpayment made by the Division;

(k) A provider who, after having been previously warned in writing by the Division or the Department of Justice about improper billing practices, is found to have continued improper billing practices and has had an opportunity for a contested case hearing shall be liable to the Division for up to triple the amount of the Division established overpayment received as a result of the violation.

(6) Diagnosis code requirement:

(a) A primary diagnosis code is required on all claims, using the ICD-10-CM diagnosis code set, unless specifically excluded in individual Division program rules;

(b) The primary diagnosis code must be the code that most accurately describes the client's condition;

(c) All diagnosis codes are required to the highest degree of specificity;

(d) Hospitals must follow national coding guidelines and bill using the 7th digit where applicable in accordance with methodology used in the Medicare Diagnosis Related Groups.

(7) Procedure code requirement:

(a) For claims requiring a procedure code the provider must bill as instructed in the appropriate Division program rules and must use the appropriate HIPAA procedure code set such as CPT, HCPCS, ICD-10-PCS, ADA CDT, NDC, established according to 45 CFR 162.1000 to 162.1011, which best describes the specific service or item provided;

(b) For claims that require the listing of a procedure code as a condition of payment, the code listed on the claim must be the code that most accurately describes the services provided. Hospitals must follow national coding guidelines;

(c) When there is no appropriate descriptive procedure code to bill the Division, the provider must use the code for "unlisted services." Instructions on the specific use of unlisted services are contained in the individual provider rules. A complete and accurate description of the specific care, item, or service must be documented on the claim;

(d) Where there is one CPT, CDT, or HCPCS code that according to CPT, CDT, and HCPCS coding guidelines or standards describes an array of services, the provider must bill the Division using that code rather than itemizing the services under multiple codes. Providers may not "unbundle" services in order to increase the payment.

(8) Third party Liability (TPL):

(a) Federal law requires that state Medicaid agencies take all reasonable measures to ensure that in most instances the Division shall be the payer of last resort;

(b) Providers must make reasonable efforts to obtain payment first from other resources. For the purposes of this rule "reasonable efforts" include determining the existence of insurance or other resources on each date of service by:

(A) Using an insurance database such as Electronic Verification System (EVS) available to the provider;

(B) Using the Automated Voice Response (AVR) or secure provider web portal on each date of service and at the time of billing.

(c) Except as noted in section (8)(d)(A through E) below, when third party coverage is known to the provider prior to billing the Division the provider must:

(A) Bill the TPL; and

(B) Except for pharmacy claims billed through the Division's point-of-sale system, the provider must wait 30 days from submission date of a clean claim and have not received payment from the third party; and

(C) Comply with the insurer's billing and authorization requirements; and

(D) Appeal a denied claim when the service is payable in whole or in part by an insurer.

(d) In accordance with federal regulations the provider must bill the TPL prior to billing the Division, except under the following circumstances:

(A) The covered health service is provided by an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/ID);

(B) The covered health service is provided by institutional services for the mentally and emotionally disturbed;

(C) The covered health services are prenatal and preventive pediatric services;

(D) Services are covered by a third party insurer through an absent parent where the medical coverage is administratively or court ordered;

(E) When another party may be liable for an injury or illness (see definition of Liability Insurance), the provider may bill the insurer, the liable party, place a lien against a settlement, or bill the Division. The provider may not both place a lien against a settlement and bill the Division. The provider may withdraw the lien and bill the Division within 12 months of the date of service. If the provider bills the Division, the provider must accept payment made by the Division as payment in full.

(e) The provider may not return the payment made by the Division in order to accept payment from a liability settlement or liability insurer or place a lien against that settlement:

(A) In the circumstances outlined in section (8)(d)(A) through (E) above, the provider may choose to bill the primary insurance prior to billing the Division. Otherwise, the Division shall process the claim and, if applicable, pay the Division's allowable rate for these services and seek reimbursement from the liable third party insurance plan;

(B) In making the decision to bill the Division the provider should be cognizant of the possibility that the third party payer may reimburse the service at a higher rate than the Division, and that, once the Division makes payment no additional billing to the third party is permitted by the provider.

(f) The provider may bill the Division directly for services that are never covered by Medicare or another insurer on the appropriate form identified in the relevant provider rules. Documentation must be on file in the provider's records indicating this is a non-covered service for purposes of Third Party Resources. See the individual provider rules for further information on services that must be billed to Medicare first;

(g) Providers shall submit an Individual Adjustment Request showing the amount of the third party payment or to refund the amount received from another source within 30 days of the date the payment is received. Failure to submit the Individual Adjustment Request within 30 days of receipt of the third party payment or to refund the appropriate amount within this time frame is considered concealment of material facts and grounds for recovery and sanction:

(A) When a provider receives a payment from any source prior to the submission of a claim to the Division, the amount of the payment must be shown as a credit on the claim in the appropriate field;

(B) Any provider who accepts third party payment for furnishing a service or item to a Division client after having billed the Division shall:

(i) Submit an Individual Adjustment Request indicating the amount of the third party payment. Follow instructions in the individual Division program rules and supplemental billing; or

(ii) When the provider has already accepted payment from the Division for the service or item, the provider shall make direct payment of the amount of the third party payment to the Division. The check to repay the Division shall include the reason the payment is being made and either:

(I) An Individual Adjustment Request that identifies the original claim, name and number of the client, date of service and items or services for which the repayment is made; or

(II) A copy of the Remittance Advice showing the original Division payment.

(C) Any provider who accepts payment from a client, or client's representative and is subsequently paid for the service by the Division shall reimburse the client or their representative the full amount of their payment.

(h) The Division may make a claim against any third party payer after making payment to the provider of service. The Division may pursue alternate resources following payment if it deems this a more efficient approach. Pursuing alternate resources includes, but is not limited to, requesting the provider to bill the third party and to refund the Division in accordance with this rule;

(i) For services provided to a Medicare and Medicaid dual eligible client, the Division may request the provider to submit a claim for Medicare payment, and the provider must honor that request. Under federal regulation, a provider may not charge a beneficiary (or the state as the beneficiary's subrogee) for services for which a provider failed to file a timely claim (42 CFR 424) with Medicare despite being requested to do so;

(j) If Medicare is the primary payer and Medicare denies payment, Medicare appeals must be timely pursued, and Medicare denial must be obtained prior to submitting the claim for payment to the Division. Medicare denial on the basis of failure to submit a timely appeal may result in the Division reducing from the amount of the claim any amount the Division determines could have been paid by Medicare.

(9) Full use of alternate resources:

(a) The Division shall generally make payment only when other resources are not available for the client's medical needs. Full use must be made of reasonable alternate resources in the local community;

(b) Except as provided in subsection (10) of this rule, alternate resources may be available:

(A) Under a federal or state worker's compensation law or plan;

(B) For items or services furnished by reason of membership in a prepayment plan;

(C) For items or services provided or paid for directly or indirectly by a health insurance plan or as health benefits of a governmental entity such as:

(i) Armed Forces Retirees and Dependents Act (CHAMPVA);

(ii) Armed Forces Active Duty and Dependents Military Medical Benefits Act (CHAMPUS); or

(iii) Medicare Parts A and B.

(D) To residents of another state under that state's Title XIX or state funded medical assistance programs; or

(E) Through other reasonably available resources.

(10) Exceptions:

(a) Indian Health Services or Tribal Health Facilities. Pursuant to 42 CFR 136.61 subpart G and the Memorandum of Agreement in OAR 310-146-0000, Indian Health Services facilities and tribal facilities operating under Public Law 93, Section 638 agreement are payers of last resort and are not considered an alternate resource or TPL;

(b) Veterans Administration. Veterans who are also eligible for Medicaid benefits are encouraged to utilize Veterans' Administration facilities whenever possible. Veterans' benefits are prioritized for service related conditions and as such are not considered an alternate or TPL.

(11) Table 120-1280 – TPR codes.

(12) Table – OHP Client Agreement to Pay for Health Services, DMAP 3165.

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

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.025, 414.065

Hist.: PWC 683, f. 7-19-74, ef. 8-11-74; PWC 803(Temp), f. & ef. 7-1-76; PWC 812, f. & ef. 10-1-76; AFS 5-1981, f. 1-23-81, ef. 3-1-81, Renumbered from 461-013-0050, 461-013-0060, 461-013-0090 & 461-013-0020; AFS 47-1982, f. 4-30-82, & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 117-1982, f. 12-30-82, ef. 1-1-83; AFS 42-1983, f. 9-2-83, ef. 10-1-83; AFS 45-1983, f. 9-19-83, ef. 10-1-83; AFS 6-1984(Temp), f. 2-28-84, ef. 3-1-84; AFS 36-1984, f. & ef. 8-20-84; AFS 24-1985, f. 4-24-85, cert. ef. 6-1-85; AFS 33-1986, f. 4-11-86, ef. 6-1-86; AFS 43-1986, f. 6-13-86, ef. 7-1-86; AFS 57-1986, f. 7-25-86, ef. 8-1-86; AFS 14-1987, f. 5-31-87, ef. 4-1-87; AFS 38-1988, f. 5-17-88, cert. ef. 6-1-88; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90, Renumbered from 461-013-0140, 461-013-0150, 461-013-0175 & 461-013-0180; HR 19-1990, f. & cert. ef. 7-9-90; HR 41-1991, f. & cert. ef. 10-1-91; HR 32-1993, f. & cert. ef. 11-1-93, Renumbered from 410-120-0040, 410-120-0260, 410-120-0280, 410-120-0300 & 410-120-0320; HR 31-1994, f. & cert. ef. 11-1-94; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; HR 21-1997, f. & cert. ef. 10-1-97; OMAP 20-1998, f. & cert. ef. 7-1-98; OMAP 10-1999, f. & cert. ef. 4-10-99; OMAP 31-1999, f. & cert. ef. 10-1-99; OMAP 35-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 30-2001, f. 9-24-01, cert. ef 10-1-01; OMAP 23-2002, f. 6-14-02 cert. ef. 8-1-02; OMAP 42-2002, f. & cert. ef. 10-1-02; OMAP 73-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 62-2003, f. 9-8-03, cert. ef.10-1-03; OMAP 10-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 10-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 39-2005, f. 9-2-05, cert. ef. 10-1-05; OMAP 67-2005, f. 12-21-05, cert. ef. 1-1-06; OMAP 15-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 45-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 39-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 49-2012, f. 10-31-12, cert. ef. 11-1-12; DMAP 61-2013, f. 10-31-13, cert. ef. 11-1-13; DMAP 40-2015, f. & cert. ef. 7-1-15; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-121-0185
Pharmacy Based Immunization Delivery

(1) When administering immunizations for adults (ages 19+) the pharmacy can bill either:

(a) Through Point-of-Sale (POS) using the appropriate National Drug Code (NDC) for the serum and the administration fee shall automatically be applied equivalent to Current Procedural Terminology (CPT) codes 90470-90474 ; or

(b) Bill on a CMS-1500, DMAP 505, or Provider Web Portal professional claim using the appropriate immunization CPT code for the serum; or

(c) Bill as a Provider Web Portal pharmacy claim.

(2) If billing as a professional claim, you must also include:

(a) A primary diagnosis to the highest degree of specificity, and;

(b) The appropriate CPT code for the serum, code ranges 90476-90749; and

(c) The appropriate CPT code for the administration, code ranges 90470-90474.

(3) Pursuant to ORS 689.205 and the Board of Pharmacy administrative rules 855-019-0270 through 855-019-0290; pharmacists may prescribe and administer vaccines to children who are from the age of 11 through 18 years of age only if the pharmacy is enrolled in the Vaccines for Children (VFC) Program. The Division will not reimburse providers the cost of privately purchased vaccination.

(4) If the pharmacy is enrolled in the VFC Program, then only the administration fee shall be reimbursed by the Division and must be billed on a professional claim. For detailed information on billing for the VFC Program, refer to Medical Surgical Services OAR 410-130-0255.

Stat. Auth.: ORS 413.042, & 414.065

Stats. Implemented: ORS 414.065

Hist.: OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 7-2002, f. & cert. ef. 4-1-02; OMAP 18-2004, f. 3-15-04 cert. ef. 4-1-04; OMAP 9-2005, f. 3-9-05, cert. ef. 4-1-05; DMAP 36-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10; DMAP 14-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 44-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-122-0020
Orders

(1) The purchase, rental or modifications of durable medical equipment, and the purchase of supplies must have an order prior to dispensing items to a client.

(2) For any durable medical equipment, prosthetics, orthotics and supplies (DMEPOS), a provider must have a written order signed and dated by the prescribing practitioner prior to submitting a claim to the Division of Medical Assistance Programs (Division).

(3) A provider may dispense some items based on a verbal order from the prescribing practitioner, except those items requiring a written order prior to delivery (see below) or as specified in a particular rule:

(a) A provider must maintain documentation of the verbal order and this documentation must be available to the Division upon request;

(b) The verbal order must include all the following elements:

(A) Client's name; and,

(B) Name of the practitioner; and,

(C) Description of the item; and,

(D) Start date of the order; and,

(E) Primary ICD-10 diagnosis code for the equipment/supplies requested.

(c) For items that are dispensed based on a verbal order, the provider must obtain a written order that meets the requirements outlined below for written orders.

(4) For an item requiring a written order prior to delivery, Medicare criteria must be met.

(5) When specified in rule, a nurse practitioner may provide the dispensing order and sign the detailed written order only when the following are met:

(a) They are treating the client for the condition for which the item is needed; and

(b) They are practicing independently of a physician.

(6) The DMEPOS provider must have on file a written order, information from the prescribing practitioner concerning the client's diagnosis and medical condition, and any additional information required in a specific rule.

(7) The Division accepts any of the following forms of orders and Certificates of Medical Necessity (CMN): a photocopy, facsimile image, electronically maintained or original "pen and ink" document:

(a) An electronically maintained document is one which has been created, modified, and stored via electronic means such as commercially available software packages and servers;

(b) It is the provider's responsibility to ensure the authenticity/validity of a facsimile image, electronically maintained or photocopied order;

(c) A provider must also ensure the security and integrity of all electronically maintained orders and/or certificates of medical necessity;

(d) The written order may serve as the order to dispense the item if the written order is obtained before the item is dispensed.

(8) A written order must be legible and contain the following elements:

(a) Client's name; and,

(b) Detailed description of the item that can either be a narrative description (e.g., lightweight wheelchair base) or a brand name/model number including medically appropriate options or additional features; and,

(c) The detailed description of the item may be completed by someone other than the practitioner. However, the prescribing practitioner must review the detailed description and personally indicate agreement by his signature and the date that the order is signed;

(A) The Division requires practitioners to sign for services they order;

(B) This signature must be handwritten or electronic, and it must be in the client's medical record;

(C) The ordering practitioner is responsible for the authenticity of the signature;

(d) Primary ICD-10 diagnosis code for the equipment/supplies requested.

(9) Use of signature stamps is prohibited on any medical record.

(10) When a DMEPOS provider submits a Centers for Medicare & Medicaid Services (CMS) CMN to the Division as documentation, the following is required:

(a) The corresponding instructions for completing the specific CMN form must be followed; and

(b) Section B on the CMN cannot be completed by the DMEPOS provider;.

(11) A provider is responsible to obtain as much documentation from the client's medical record as necessary for assurance that the Division coverage criteria for an item(s) is met.

(12) Certain items require one or more of the following additional elements in the written order:

(a) For accessories or supplies that will be provided on a periodic basis:

(A) Quantity used;

(B) Specific frequency of change or use — "as needed" or "prn" orders are not acceptable;

(C) Number of units;

(D) Length of need: Example: An order for surgical dressings might specify one 4" x 4" hydrocolloid dressing which is changed one to two times per week for one month or until the ulcer heals;

(b) For orthoses: If a custom-fabricated orthosis is ordered by the practitioner, this must be clearly indicated on the written order;

(c) Length of need:

(A) If the coverage criteria in a rule specifies length of need; or,

(B) If the order is for a rental item;

(d) Any other medical documentation required by rule.

(13) For repairs: Labor for repairs, parts for durable medical equipment (DME) repairs and replacement parts for DME (e.g., batteries) do not require a written order.

(14) A new order is required:

(a) When required by Medicare (for a Medicare covered service) (www.cignamedicare.com); or,

(b) When there is a change in the original order for an item; or,

(c) When an item is permanently replaced; or,

(d) When indicated by the prescribing practitioner;

(A) A new order is required when an item is being replaced because the item is worn or the client's condition has changed; and,

(B) The provider's records should also include client-specific information regarding the need for the replacement item; and,

(C) This information should be maintained in the provider's files and be available to the Division on request; and,

(D) A new order is required before replacing lost, stolen or irreparably damaged items to reaffirm the medical appropriateness of the item;

(e) When there is a change of DMEPOS provider: In cases where two or more providers merge, the resultant provider should make all reasonable attempts to secure copies of all active CMN's and written orders from the provider(s) purchased. This document should be kept on file by the resultant provider for future presentation to the Division, if requested;

(f) On a regular or specific basis (even if there is no change in the order) only if it is so specified in a particular rule.

(15) A provider is required to maintain and provide (when required by a particular rule) legible copies of facsimile image and electronic transmissions of orders.

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: AFS 41-1982, f. 4-29-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 in the North Salem, Woodburn, McMinnville, Lebanon, Albany and Corvallis branch offices, ef. 6-30-82 in the balance of the state; AFS 20-1983, f. 5-5-83, ef. 6-1-83; AFS 49-1987, f. 10-16-87, ef. 11-1-87; AFS 48-1989, f. & cert. ef. 8-24-89; HR 13-1991, f. & cert. ef. 3-1-91, Renumbered from 461-024-0004; HR 32-1992, f. & cert. ef. 10-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 17-1996, f. & cert. ef. 8-1-96; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 72-2002(Temp), f. & cert. ef. 12-24-02 thru 5-15-03; OMAP 36-2003, f. & cert. ef. 5-1-03; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 11-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 44-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 17-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-122-0205
Respiratory Assist Devices

(1) As referenced in this policy, non-invasive positive pressure respiratory assistance (NPPRA) is the administration of positive air pressure, using a nasal and/or oral mask interface which creates a seal, avoiding the use of more invasive airway access (e.g., tracheostomy).

(2) Indications and Coverage — General:

(a) The "treating prescribing practitioner" must be one who is qualified by virtue of experience and training in non-invasive respiratory assistance, to order and monitor the use of respiratory assist devices (RAD);

(b) For the purpose of this policy, polysomnographic studies must be performed in a sleep study laboratory, and not in the home or in a mobile facility. The sleep study laboratory must comply with all applicable state regulatory requirements;

(c) For the purpose of this policy, arterial blood gas, sleep oximetry and polysomnographic studies may not be performed by a durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) provider. For purposes of this policy's coverage and payment guidelines, a DMEPOS provider is not considered a qualified provider or supplier of these tests;

(d) If there is discontinuation of usage of E0470 or E0471 device at any time, the provider is expected to ascertain this, and stop billing for the equipment and related accessories and supplies.

(3) Coverage criteria for E0470 and E0471 devices – Table 122-0205-1.

(4) Documentation:

(a) The following documentation must be submitted with the request for prior authorization (PA) and the original kept on file by the provider:

(A) An order for all equipment and accessories including the client's diagnosis, an ICD-10-CM code signed and dated by the treating prescribing practitioner;

(B) Summary of events from the polysomnogram, if required in this rule under the indications and coverage section or Table 122-0205-1;

(C) Arterial blood gas results, if required under the indications and coverage section or Table 122-0205-1;

(D) Sleep oximetry results, if required under the indications and coverage section or Table 122-0205-1;

(E) Treating prescribing practitioner statement regarding medical symptoms characteristic of sleep-associated hypoventilation, including, but not limited to daytime hypersomnolence, excessive fatigue, morning headache, cognitive dysfunction, and dyspnea;

(F) Other treatments that have been tried and failed. To be submitted in addition to the above at the fourth month review;

(b) A copy of the Evaluation of Respiratory Assist Device (Division 2461) completed and signed by the client, family member or caregiver;

(c) Clients currently using BiPapS and BiPap ST are not subject to the new criteria.

(5) Table **122-0205-1**, Respiratory Assist Devices.

(6) Table **122-0205-2**, Procedure Codes.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 413.042 & 414.065
Stats. Implemented: ORS 414.065
Hist.: OMAP 1-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 21-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 25-2004, f. & cert. ef. 4-1-04; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 44-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 35-2006, f. 9-15-06, cert. ef. 10-1-06; OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 15-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-122-0330
Power-Operated Vehicle

(1) Indications and limitations of coverage and medical appropriateness:

(a) The Division of Medical Assistance Programs (Division) may cover a power-operated vehicle (POV) when all of the following criteria are met:

(A) The client has a mobility limitation that significantly impairs their ability to accomplish mobility-related activities of daily living (MRADLs); places the client at reasonably determined heightened risk of morbidity or mortality secondary to the attempts to perform an MRADL; or the client is unable to sustain safely the performance of MRADLs throughout the course of a regular day. See OAR 410-122-0010 Definitions for complete definition of MRADLs;

(B) An appropriately fitted cane or walker cannot resolve the client's mobility limitation;

(C) The client does not have sufficient upper extremity function to self-propel an optimally-configured manual wheelchair in the home to perform MRADLs during a typical day:

(i) Assessment of upper extremity function should consider limitations of strength, endurance, range of motion, or coordination, presence of pain, and deformity or absence of one or both upper extremities;

(ii) An optimally-configured manual wheelchair features an appropriate wheelbase, device weight, seating options, and other appropriate non-powered accessories;

(D) The client has sufficient strength, postural stability, or other physical or mental capabilities needed to safely operate a POV in the home;

(E) The client's home provides adequate maneuvering space, maneuvering surfaces, and access between rooms for the operation of the POV being requested;

(F) Use of a POV will significantly improve the client's ability to move within the home to the areas customarily used for their MRADLs to allow completion of these activities within a reasonable time frame;

(G) The client is willing to use the requested POV in the home, and the client will use it on a regular basis in the home;

(H) The Division does not cover services or upgrades that primarily allow performance of leisure or recreational activities. Such services include but are not limited to backup POVs, backpacks, accessory bags, clothing guards, awnings, additional positioning equipment if the POV meets the same need, custom colors, and wheelchair gloves;

(b) For a POV to be covered, the treating physician or nurse practitioner must conduct a face-to-face examination of the client before writing the order:

(A) The durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) provider must receive a written report of this examination within 45 days after the face-to-face examination and prior to delivery of the device.

(B) When this examination is performed during a hospital or nursing facility stay, the DMEPOS provider must receive the report of the examination within 45 days after date of discharge;

(C) The physician or nurse practitioner may refer the client to a licensed/certified medical professional, such as a physical therapist (PT) or occupational therapist (OT), to perform part of this face-to-face examination. This person may not be an employee of the DMEPOS provider or have any direct or indirect financial relationship, agreement or contract with the DMEPOS provider. When the DMEPOS provider is owned by a hospital, a PT/OT working in the inpatient or outpatient hospital setting may perform part of the face-to-face examination:

(i) If the client was referred to the PT/OT before being seen by the physician or nurse practitioner, then once the physician or nurse practitioner has received and reviewed the written report of this examination, the physician or nurse practitioner must see the client and perform any additional examination that is needed. The physician's or nurse practitioner's report of the visit should state concurrence or any disagreement with the PT/OT examination. In this situation, the physician or nurse practitioner must provide the DMEPOS provider with a copy of both examinations within 45 days of the face-to-face examination with the physician or nurse practitioner;

(ii) If the physician or nurse practitioner examined the client before referring the client to a PT/OT, then again in person after receiving the report of the PT/OT examination, the 45-day period begins on the date of that second physician or nurse practitioner visit. However, it is also acceptable for the physician or nurse practitioner to review the written report of the PT/OT examination, to sign and date that report, and to state concurrence or any disagreement with that examination. In this situation, the physician or nurse practitioner must send a copy of the note from his/her initial visit to evaluate the client plus the annotated, signed, and dated copy of the PT/OT examination to the DMEPOS provider. The 45-day period begins when the physician or nurse practitioner signs and dates the PT/OT examination;

(iii) If the POV is a replacement of a similar item that was previously covered by the Division or when only POV accessories are being ordered and all other coverage criteria in this rule are met, a face-to-face examination is not required;

(c) The Division may authorize a new POV when a client's existing POV is no longer medically appropriate; or repair and/or modifications to the POV exceed replacement costs;

(d) If a client has a medically appropriate POV regardless of payer, the Division will not reimburse for another POV;

(e) The cost of the POV includes all options and accessories that are provided at the time of initial purchase, including but not limited to batteries, battery chargers, seating systems, etc.;

(f) Reimbursement for the POV includes all labor charges involved in the assembly of the POV and all covered additions or modifications. Reimbursement also includes support services such as emergency services, delivery, set-up, pick-up and delivery for repairs/modifications, education and on-going assistance with use of the POV;

(g) If a client-owned POV meets coverage criteria, medically appropriate replacement items, including but not limited to batteries, may be covered;

(h) If a POV is covered, a manual or power wheelchair provided at the same time or subsequently will usually be denied as not medically appropriate;

(i) The Division will cover one month's rental of a POV if a client-owned POV is being repaired;

(j) The following services are not covered:

(A) POV for use only outside the home; and

(B) POV for a nursing facility client.

(2) Coding guidelines:

(a) Codes K0800 — K0802 are used only for POVs that can be operated inside the home;

(b) Codes K0800 — K0802 are not used for a manual wheelchair with an add-on tiller control power pack;

(c) A replacement item, including but not limited to replacement batteries, should be requested using the specific wheelchair option or accessory code if one exists (see 410-122-0340, Wheelchairs Options/Accessories). If a specific code does not exist, use code K0108 (wheelchair component or accessory, not otherwise specified);

(d) For guidance on correct coding, DMEPOS providers should contact the Pricing, Data Analysis and Coding (PDAC) Contractor by the Centers for Medicare and Medicaid Services. See 410-122-0180 Healthcare Common Procedure Coding System (HCPCS) Level II Coding for more information.

(3) Documentation requirements: Submit all of the following documentation with the prior authorization (PA) request:

(a) A copy of the written report of the face-to-face examination of the client by the physician or nurse practitioner:

(A) The report must include information related to the following:

(i) This client's mobility limitation and how it interferes with the performance of activities of daily living;

(ii) Why a cane or walker can't meet this client's mobility needs in the home;

(iii) Why a manual wheelchair can't meet this client's mobility needs in the home;

(iv) This client's physical and mental abilities to operate a POV (scooter) safely in the home:

(I) Besides a mobility limitation, if other conditions exist that limit a client's ability to participate in MRADLs, how these conditions will be ameliorated or compensated;

(II) How these other conditions will be ameliorated or compensated sufficiently such that the additional provision of mobility assistive equip-

ment (MAE) will be reasonably expected to significantly improve the client's ability to perform or obtain assistance to participate in MRADLs in the home.

(B) The face-to-face examination should provide pertinent information about the following elements, but may include other details. Only relevant elements need to be addressed:

(i) Symptoms;

(ii) Related diagnoses;

(iii) History:

(I) How long the condition has been present;

(II) Clinical progression;

(III) Interventions that have been tried and the results;

(IV) Past use of walker, manual wheelchair, POV, or power wheelchair and the results;

(iv) Physical exam:

(I) Weight;

(II) Impairment of strength, range of motion, sensation, or coordination of arms and legs;

(III) Presence of abnormal tone or deformity of arms, legs or trunk;

(IV) Neck, trunk, and pelvic posture and flexibility;

(V) Sitting and standing balance;

(v) Functional assessment — any problems with performing the following activities including the need to use a cane, walker, or the assistance of another person:

(I) Transferring between a bed, chair, and power mobility device;

(II) Walking around their home — to bathroom, kitchen, living room, etc. — provide information on distance walked, speed, and balance;

(C) Although a client who qualifies for coverage of a POV may use that device outside the home, because the Division's coverage of a POV is determined solely by the client's mobility needs within the home, the examination must clearly distinguish the client's abilities and needs within the home from any additional needs for use outside the home;

(b) The physician's or nurse practitioner's written order, received by the DMEPOS provider within 30 days after the physician's or nurse practitioner's face-to-face examination, which includes all of the following elements:

(A) Client's name;

(B) Description of the item that is ordered. This may be general — e.g., "POV" or "power mobility device" — or may be more specific:

(i) If this order does not identify the specific type of POV that is being requested, the DMEPOS provider must clarify this by obtaining another written order which lists the specific POV that is being ordered and any options and accessories requested;

(ii) The items on this order may be entered by the DMEPOS provider. This subsequent order must be signed and dated by the treating physician or nurse practitioner, received by the DMEPOS provider and submitted to the authorizing authority, but does not have to be received within 45 days following the face-to-face examination.

(C) Most significant ICD-10 diagnosis code that relates specifically to the need for the POV;

(D) Length of need;

(E) Physician's or nurse practitioner's signature;

(F) Date of physician's or nurse practitioner's signature;

(c) For all requested equipment and accessories, include the manufacturer's name, product name, model number, standard features, specifications, dimensions and options;

(d) Detailed information about client-owned equipment (including serial numbers) as well as any other equipment being used or available to meet the client's medical needs, including the age of the equipment and why it can't be grown or modified, if applicable;

(e) A written evaluation of the client's living quarters, performed by the DMEPOS provider. This assessment must support that the client's home can accommodate and allow for the effective use of a POV, including, but is not limited to, evaluation of door widths, counter/table height, accessibility (e.g., ramps), electrical service, etc; and

(f) All HCPCS to be billed on this claim (both codes that require authorization and those that do not require authorization); and

(g) Any additional documentation that supports indications of coverage are met as specified in this rule;

(h) The above documentation must be kept on file by the DMEPOS provider;

(i) Documentation that the coverage criteria have been met must be present in the client's medical record. This documentation and any additional medical information from the DMEPOS provider must be made available to the Division on request.

(4) Billing:

(a) Procedure Codes:

(A) K0800 Power operated vehicle, group 1 standard, patient weight capacity up to and including 300 pounds — PA;

(B) K0801 Power operated vehicle, group 1 heavy duty, patient weight capacity, 301 to 450 pounds — PA;

(C) K0802 Power operated vehicle, group 1 very heavy duty, patient weight capacity, 451 to 600 pounds — PA;

(b) The Division will purchase, rent and repair;

(c) Item considered purchased after 13 months of rent.

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 25-2006, f. 6-14-06, cert. ef. 7-1-06; DMAP 12-2007, f. 6-29-07, cert. ef. 7-1-07; DMAP 15-2007, f. 12-5-07, cert. ef. 1-1-08; DMAP 37-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-122-0400

Pressure Reducing Support Surfaces

(1) Indications and limitations of coverage and medical appropriateness:

(a) Group 1 (A4640, E0180–E0182, E0184–E0189, and E0196-E0199):

(A) The Division of Medical Assistance Programs (Division) may cover a Group 1 support surface when the client meets:

(i) Criterion (I), or;

(ii) Criteria (II) or (III) and at least one of criteria (IV)–(VII):

(I) Completely immobile — i.e., client cannot make changes in body position without assistance;

(II) Limited mobility — i.e., client cannot independently make changes in body position significant enough to alleviate pressure;

(III) Any stage pressure ulcer on the trunk or pelvis;

(IV) Impaired nutritional status;

(V) Fecal or urinary incontinence;

(VI) Altered sensory perception;

(VII) Compromised circulatory status;

(B) The Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) provider must provide a support surface in which the client does not "bottom out";

(C) The Division does not cover foam overlays or mattresses without a waterproof cover, since these are not considered durable;

(D) The Division does not cover pressure reducing support surfaces for the prevention of pressure ulcers or pain control;

(E) The allowable rental fee includes all equipment, supplies and services for the effective use of the pressure reducing support surface;

(b) Group 2 (E0193, E0277, and E0371–E0373):

(A) A Group 2 support surface may be covered for up to an initial three month rental period when the client meets:

(i) Criterion (I) and (II) and (III), or;

(ii) Criterion (IV), or;

(iii) Criterion (V) and (VI);

(I) Multiple stage II pressure ulcers located on the trunk or pelvis;

(II) Client has been on a comprehensive ulcer treatment program for at least the past month which includes the following: use of an appropriate Group 1 support surface; education of the client, if appropriate, and caregiver on the prevention and/or management of pressure ulcers; regular assessment by a nurse, physician, or other licensed healthcare practitioner (usually at least weekly for a patient with a stage III or IV ulcer); appropriate turning and positioning; appropriate wound care (for a stage II, III, or IV ulcer); appropriate management of moisture/incontinence; and nutritional assessment and intervention consistent with the overall plan of care;

(III) The ulcers have worsened or remained the same over the past month;

(IV) Large or multiple stage III or IV pressure ulcer(s) on the trunk or pelvis A large wound is generally any wound of eight square centimeters (length x width) or more. Individual client circumstances may be weighed. Undermining and/or tunneling, anatomic location on the body and the size of the client may be taken into account;

(V) Recent myocutaneous flap or skin graft for a pressure ulcer on the trunk or pelvis (surgery within the past 60 days)

(VI) The client has been on a Group 2 or 3 support surface immediately prior to a recent discharge from a hospital or nursing facility (discharge within the past 30 days);

(B) The DMEPOS provider must provide a support surface in which the patient does not "bottom out";

(C) When a Group 2 surface is requested following a myocutaneous flap or skin graft, coverage generally is limited to 60 days from the date of surgery

(D) The Division may cover continued use of a Group 2 support surface if healing continues;

(E) The Division does not cover pressure reducing support surfaces for the prevention of pressure ulcers or pain control;

(F) The allowable rental fee includes all equipment, supplies and services for the effective use of the pressure reducing support surface;

(c) Division may consider coverage for bariatric pressure reducing support surfaces only coded as E1399 (durable medical equipment, miscellaneous) for a client residing in a nursing facility, subject to service limitations of Division rules, only when the following requirements are met:

(A) The client meets the conditions of coverage as specified in this rule; and

(B) The bariatric pressure reducing support surface has been assigned code E1399 by the Medicare Pricing, Data Analysis and Coding (PDAC) contractor;

(d) Group 3: Air-fluidized beds (E0194) are not covered.

(2) Definitions for Group 1 and Group 2:

(a) Bottoming out: Finding that an outstretched hand, placed palm up between the undersurface of the overlay or mattress and the patient's bony prominence (coccyx or lateral trochanter), can readily palpate the bony prominence. This bottoming out criterion should be tested with the client in the supine position with their head flat, in the supine position with their head slightly elevated (no more than 30 degrees), and in the side-lying position;

(b) Plan of care: Written guidelines developed to identify specific problems and needs of the client and interventions/regimen necessary to assist the client to achieve optimal health potential. Developing the plan of care includes establishing measurable client and nursing goals with time lines and determining nursing/caregiver/other discipline-assigned interventions to meet care objectives;

(c) The staging of pressure ulcers used in this rule is as follows:

(A) Stage I — Observable pressure related alteration of intact skin whose indicators as compared to the adjacent or opposite area on the body may include changes in one or more of the following: skin temperature (warmth or coolness), tissue consistency (firm or boggy feel) and/or sensation (pain, itching). The ulcer appears as a defined area of persistent redness in lightly pigmented skin, whereas in darker skin tones, the ulcer may appear with persistent red, blue, or purple hues;

(B) Stage II — Partial thickness skin loss involving epidermis, dermis, or both. The ulcer is superficial and presents clinically as an abrasion, blister, or shallow crater;

(C) Stage III — Full thickness skin loss involving damage to, or necrosis of, subcutaneous tissue that may extend down to, but not through, underlying fascia. The ulcer presents clinically as a deep crater with or without undermining of adjacent tissue;

(D) Stage IV — Full thickness skin loss with extensive destruction, tissue necrosis, or damage to muscle, bone, or supporting structures (e.g., tendon, joint capsule). Undermining and sinus tracts also may be associated with Stage IV pressure ulcers;

(3) Guidelines:

(a) Group 1:

(A) Codes E0185 and E0197–E0199 termed "pressure pad for mattress" describe non-powered pressure reducing mattress overlays and are designed to be placed on top of a standard hospital or home mattress;

(B) A gel/gel-like mattress overlay (E0185) is characterized by a gel or gel-like layer with a height of two inches or greater;

(C) An air mattress overlay (E0197) is characterized by interconnected air cells having a cell height of three inches or greater that are inflated with an air pump;

(D) A water mattress overlay (E0198) is characterized by a filled height of three inches or greater;

(E) A foam mattress overlay (E0199) is characterized by all of the following:

(i) Base thickness of two inches or greater and peak height of three inches or greater if it is a convoluted overlay (e.g., egg crate) or an overall height of at least three inches if it is a non-convoluted overlay; and

(ii) Foam with a density and other qualities that provide adequate pressure reduction; and

(iii) Durable, waterproof cover;

(F) Codes E0184, E0186, E0187 and E0196 describe non-powered pressure reducing mattresses;

(G) A foam mattress (E0184) is characterized by all of the following:

(i) Foam height of five inches or greater;

(ii Foam with a density and other qualities that provide adequate pressure reduction;

(iii) Durable, waterproof cover; and

(iv) Can be placed directly on a hospital bed frame;

(H) An air, water or gel mattress (E0186, E0187, E0196) is characterized by all of the following:

(i) Height of five inches or greater of the air, water, or gel layer (respectively);

(ii) Durable, waterproof cover; and

(iii) Can be placed directly on a hospital bed frame;

(I) Codes E0180, E0181, E0182, and A4640 describe powered pressure reducing mattress overlay systems (alternating pressure or low air loss) and are characterized by all of the following:

(i) An air pump or blower which provides either sequential inflation and deflation of air cells or a low interface pressure throughout the overlay;

(ii) Inflated cell height of the air cells through which air is being circulated is 2 inches or greater; and

(iii) Height of the air chambers, proximity of the air chambers to one another, frequency of air cycling (for alternating pressure overlays), and air pressure provide adequate client lift, reduce pressure and prevent bottoming out;

(J) Alternating pressure mattress overlays or low air loss mattress overlays are coded using codes E0180, E0181, E0182, and A4640;

(K) Code A4640 or E0182 may only be billed when they are provided as replacement components for a client-owned E0180 or E0181 mattress overlay system;

(L) A Column II code is included in the allowance for the corresponding Column I code when provided at the same time: Column I (Column II), E0180 (A4640, E0182), E0181 (A4640, E0182);

(b) Group 2:

(A) Code E0277 describes a powered pressure reducing mattress (alternating pressure, low air loss, or powered flotation without low air loss) which is characterized by all of the following:

(a) An air pump or blower which provides either sequential inflation and deflation of the air cells or a low interface pressure throughout the mattress;

(b) Inflated cell height of the air cells through which air is being circulated is five inches or greater;

(c) Height of the air chambers, proximity of the air chambers to one another, frequency of air cycling (for alternating pressure mattresses), and air pressure provide adequate patient lift, reduce pressure and prevent bottoming out;

(d) A surface designed to reduce friction and shear; and

(e) Can be placed directly on a hospital bed frame;

(B) Code E0193 describes a semi-electric or total electric hospital bed with a fully integrated powered pressure reducing mattress which has all the characteristics defined above;

(C) Code E0371 describes an advanced non-powered pressure-reducing mattress overlay which is characterized by all of the following:

(i) Height and design of individual cells which provide significantly more pressure reduction than a group 1 overlay and prevent bottoming out;

(ii) Total height of three inches or greater;

(iii) A surface designed to reduce friction and shear; and

(iv) Documented evidence to substantiate that the product is effective for the treatment of conditions described by the coverage criteria for Group 2 support surfaces;

(D) Code E0372 describes a powered pressure reducing mattress overlay (low air loss, powered flotation without low air loss, or alternating pressure) which is characterized by all of the following:

(i) An air pump or blower which provides either sequential inflation and deflation of the air cells or a low interface pressure throughout the overlay;

(ii) Inflated cell height of the air cells through which air is being circulated is 3 ? inches or greater;

(iii) Height of the air chambers, proximity of the air chambers to one another, frequency of air cycling (for alternating pressure overlays), and air pressure to provide adequate patient lift, reduce pressure and prevent bottoming out; and

(iv) A surface designed to reduce friction and shear;

(E) Code E0373 describes an advanced non-powered pressure reducing mattress which is characterized by all of the following:

(i) Height and design of individual cells which provide significantly more pressure reduction than a group 1 mattress and prevent bottoming out;

(ii) Total height of five inches or greater;

(iii) A surface designed to reduce friction and shear;

(iv) Documented evidence to substantiate that the product is effective for the treatment of conditions described by the coverage criteria for Group 2 support surfaces; and

(v) Can be placed directly on a hospital bed frame;

(F) The only products that may be coded and billed using code E0371 or E0373 are those products for which a written coding determination specifying the use of these codes has been made by PDAC;

(G) Alternating pressure mattresses and low air loss mattresses are coded using code E0277;

(H) Products containing multiple components are categorized according to the clinically predominant component (usually the topmost layer of a multi-layer product). For example, a product with three powered air cells on top of a three foam base would be coded as a powered overlay (code E0180 or E0181), not as a powered mattress (E0277).

(4) Documentation requirements: Submit the following information with the prior authorization request:

(a) Initial Requests:

(A) For all pressure reducing support surfaces, other than a Group I for a completely immobile client or a Group 2 surface following a myocutaneous flap or skin graft:

(i) An order for each item requested, signed and dated by the attending physician;

(ii) Documentation that supports conditions of coverage are met as specified in this rule;

(iii) A plan of care which has been established by the client's physician or home care nurse (by the RN resident care manager for a client in a nursing facility), which generally includes the following: Education of the client, if appropriate, and caregiver on the prevention and/or management of pressure ulcers;

(II) Regular assessment by a nurse, physician, or other licensed healthcare practitioner;

(III) Appropriate turning and positioning including the number of hours per 24-period that the client will utilize the support surface;

(IV) Appropriate wound care (for a stage II, III, or IV ulcer);

(V) Appropriate management of moisture/incontinence;

(VI) Nutritional assessment and intervention consistent with the overall plan of care by a licensed healthcare practitioner (by a registered dietitian for a client in a nursing facility) within the last 90 days;

(VII) Client's weight and height (approximation is acceptable, if unable to obtain);

(VIII) Description of all pressure ulcers, which includes number, locations, stages, sizes and dated photographs;

(iv) Lab reports, if relevant;

(v) Other treatments and products that have been tried and why they were ineffective; Interventions and goals for stepping down the intensity of support surface therapy;

(vi) For pressure ulcers on extremities, why pressure cannot be relieved by other methods;

(B) For a Group I surface for a completely immobile client:

(a) An order for each item requested, signed and dated by the attending physician;

(b) A plan of care which has been established by the client's physician or home care nurse (by the RN resident care manager for a client in a nursing facility), which generally includes the following:

(I) Education of the client, if appropriate, and caregiver on the prevention of pressure ulcers;

(ii) Regular assessment by a nurse, physician, or other licensed healthcare practitioner

(iii) Appropriate turning and positioning including the number of hours per 24-period that the client will utilize the support surface;

(iv) Appropriate management of moisture/incontinence, if appropriate;

(C) For a Group 2 surface following a myocutaneous flap or skin graft:

(i) An order for each item requested, signed and dated by the treating physician;

(ii) Operative report;

(iii) Hospital discharge summary;

(iv) Plan of care;

(F) Required documentation may not be completed by the durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) provider or anyone in a financial relationship of any kind with the DMEPOS provider;

(G) Medical records must corroborate that all criteria in this rule are met when dispensing and billing for an item in Table 122-0400-1 and Table-122-400-2;

(H) Medical records must be kept on file by the DMEPOS provider and made available to the Division upon request;

(b) Subsequent Requests: May be authorized contingent on progress towards healing:

(A) For all pressure reducing support surfaces, other than a Group I surface for a completely immobile client or a Group 2 surface following a myocutaneous flap or skin graft:

(i) Progress notes from the attending physician;

(ii) Description of all pressure ulcers, including progress towards healing, by a licensed healthcare practitioner (by the RN resident care manager for a client in a nursing facility) which includes number, locations, stages, sizes and dated photographs;

(iii) Current plan of care;

(iv) Any other relevant documentation;

(B) For a Group I surface for a completely immobile client:

(i) Progress notes from the attending physician;

(ii) Current plan of care;

(iii) Any other relevant documentation;

(C) For a Group 2 surface following a myocutaneous flap or skin graft:

(i) Progress notes from the attending physician;

(ii) Current plan of care;

(iii) Any other relevant documentation.

(4) **Table 122-0400-1** — Group 1.

(5) **Table 122-0400-2** — Group 2.

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

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: HR 13-1991, f. & cert. ef. 3-1-91; HR 10-1992, f. & cert. ef. 4-1-92; HR 9-1993, f. & cert. ef. 4-1-93; HR 10-1994, f. & cert. ef. 2-15-94; HR 41-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1996, f. & cert. ef. 8-1-96; HR 7-1997, f. 2-28-97, cert. ef. 3-1-97; OMAP 11-1998, f. & cert. ef. 4-1-98; OMAP 13-1999, f. & cert. ef. 4-1-99; OMAP 37-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 32-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 8-2002, f. & cert. ef. 4-1-02; OMAP 47-2002, f. & cert. ef. 10-1-02; OMAP 44-2004, f. & cert. ef. 7-1-04; OMAP 94-2004, f. 12-30-04, cert. ef. 1-1-05; OMAP 25-2006, f. 6-14-06, cert. ef. 7-1-06; OMAP 47-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 17-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 15-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-122-0662

Ankle-Foot Orthoses and Knee-Ankle-Foot Orthoses

(1) Indications and limitations of coverage and medical appropriateness: The Division of Medical Assistance Programs (Division) may cover some ankle-foot orthotics (AFOs) and knee-ankle-foot Orthotics (KAFOs) and related services for a covered condition, for this episode, when the covered device has not been billed to the Division with a Current Procedure Terminology (CPT) code, Healthcare Common Procedure Coding System (HCPCS) code or diagnosis code by any other healthcare provider, and in addition specifically for:

(a) AFOs not used during ambulation: A static AFO (L4396) may be covered when (A)-(E) are met:

(A) The client has a plantar flexion contracture of the ankle (Internal Classification of Diseases (ICD)-10 diagnosis code M24.571, M24.572) with dorsiflexion on passive range of motion testing of at least 10 degrees (i.e., a nonfixed contracture);

(B) There is a reasonable expectation of the ability to correct the contracture;

(C) The contracture is interfering or expected to interfere significantly with the client's functional abilities;

(D) The static AFO is used as a component of a therapy program that includes active stretching of the involved muscles and/or tendons;

(E) The pre-treatment passive range of motion is measured with a goniometer and an appropriate stretching program carried out by professional staff (in a nursing facility) or caregiver (at home) is documented in the client's treatment plan;

(b) AFOs and KAFOs used during ambulation:

(A) AFOs described by codes L1900, L1902-L1990, L2106-L2116, L4350, L4360 and L4386 with weakness or deformity of the foot and ankle requiring stabilization fro medical reasons and with potential to benefit functionally;

(B) KAFOs described by codes L2000-L2038, L2126-L2136 and L4370 when conditions of coverage are met for an AFO and additional knee stability is required:

(C) AFOs and KAFOs that are molded-to-patient model, or custom-fabricated when basic coverage criteria for an AFO or KAFO are met and one of the following criteria is met:

(i) The client could not be fit with a prefabricated AFO;

(ii) The condition necessitating the orthotic is expected to be permanent or of longstanding duration (more than six months);

(iii) There is a need to control the knee, ankle or foot in more than one plane;

(iv) The client has a documented neurological, circulatory, or orthopedic status that requires custom fabricating over a model to prevent tissue injury;

(v) The client has a healing fracture that lacks normal anatomical integrity or anthropometric proportions;

(c) No more than one replacement interface (L4392) may be covered every six months for a covered static AFO;

(d) Evaluation of the client, measurement and/or casting and fitting of the orthotic are included in the allowance for the orthotic;

(e) Repairs/Replacement:

(A) Repairs to a covered orthotic due to wear or to accidental damage when necessary to make the orthotic functional. If the expense for repairs exceeds the estimated expense of providing another entire orthot, no payment will be made for the amount in excess;

(B) Replacement of a complete orthotic or component of an orthotic due to loss, significant change in the client's condition or irreparable accidental damage if the device is still medically appropriate and conditions of coverage are met;

(C) L4205 (Repair of orthotic device, labor component, per 15 minutes):

(i) May only bill for the actual time involved in the repair of an orthotic;

(ii) May not use this code for any labor involved in the evaluation, fabrication or fitting of a new or full replacement orthotic;

(iii) Use for the labor component of repair of a previously provided orthotic;

(D) Labor Allowance:

(i) Included in the replacement of an orthotic component coded with a specific L code;

(ii) Not included in the replacement of an orthotic component coded with L4210;

(E) Replacement items with specific HCPCS codes:

(i) Use L4392 and L4394 for replacement soft interfaces used with ankle contracture orthotics or foot drop splints;

(ii) Use L2999 (Lower extremity orthotics, not otherwise specified) for replacement components that do not have a specific HCPCS code;

(iii) Addition codes L4002 — L4130, L4392 for replacement components are not payable at initial issue of a base orthotic;

(f) The codes specified in this rule may be covered for a client residing in a nursing facility;

(g) Quantities of supplies greater than those described in the policy as the usual maximum amounts only when supported by documentation clearly and maximum amounts only when supported by documentation clearly and specifically explaining the medical appropriateness of the excess quantities.

(2) Exclusions: The following services are not covered;

(a) A static AFO and replacement interface for:

(A) A fixed contracture; or

(B) A foot drop without an ankle flexion contracture;

(C) When used solely for the prevention or treatment of a heel pressure ulcer;

(b) A component of a static AFO that is used to address positioning of the knee or hip;

(c) A foot drop splint/recumbent positioning device (L4398) or replacement interface (L4394) for a non-ambulatory client when used solely for the prevention or treatment of a pressure ulcer;

(d) An AFO or KAFO and any related addition for an ambulatory client when used solely for treatment of edema and/or prevention or treatment of a pressure ulcer;

(e) Walking boots used primarily to relieve pressure, especially on the sole of the foot or used solely for the prevention or treatment of a pressure ulcer;

(f) Elastic support garments (L1901);

(g) Socks (L2840, L2850) used in conjunction with orthotics;

(h) Replacement components (e.g., soft interfaces) that are provided on a routine basis, without regard to whether the original item is worn out;

(i) A foot pressure off-loading/supportive device (A9283);

(j) L coded additions to AFOs and KAFOs (L2180-L2550, L2750-L2768, L2780-L2830) if either the coverage criteria for the base orthotic is not met or the specific addition is not medically appropriate.

(3) Coding Guidelines:

(a) A prefabricated orthotic is one that is manufactured in quantity without a specific client in mind. A prefabricated orthotic may be trimmed, bent, molded (with or without heat), or otherwise modified for use by a specific client (i.e., custom fitted). An orthotic that is assembled from prefabricated components is considered prefabricated. Any orthotic that does not meet the definition of a custom-fabricated orthotic is considered prefabricated;

(b) A custom-fabricated orthotic is individually made for a specific client starting with basic materials including, but not limited to, plastic, metal, leather, or cloth in the form of sheets, bars, etc. It involves substantial work such as cutting, bending, molding, sewing, etc. It may involve some prefabricated components. It involves more than trimming, bending, or making other modifications to a substantially prefabricated item;

(c) A molded-to-patient model orthotic is a particular type of custom-fabricated orthotic in that an impression of the specific body part is made (by means of a plaster cast, computer-aided design and computer-aided manufacturing (CAD-CAM) technology, etc.). This impression is used to make a positive model (of plaster or other material) of the body part. The orthotic is then molded on this positive model;

(d) Ankle-foot orthotics extend well above the ankle (usually to near the top of the calf) and are fastened around the lower leg above the ankle. These features distinguish them from foot orthotics that are shoe inserts that do not extend above the ankle. A nonambulatory ankle-foot orthotic may be either an ankle contracture splint, night splint or a foot drop splint;

(e) A static AFO (L4396) is a prefabricated ankle-foot orthotic that has all of the following characteristics:

(A) Designed to accommodate an ankle with a plantar flexion contracture up to 45°;

(B) Applies a dorsiflexion force to the ankle;

(C) Used by a client who is minimally ambulatory or nonambulatory;

(D) Has a soft interface;

(f) A foot drop splint/recumbent positioning device (L4398) is a prefabricated ankle-foot orthotic that has all of the following characteristics:

(A) Designed to maintain the foot at a fixed position of 0° (i.e., perpendicular to the lower leg);

(B) Not designed to accommodate an ankle with a plantar flexion contracture;

(C) Used by a client who is nonambulatory;

(D) Has a soft interface.

(4) HCPCS Modifiers:

(a) EY — No physician or other licensed health care provider order for this item or service;

(b) GY — Item or service statutorily excluded or does not meet the definition of any Medicare benefit:

(A) If an AFO or a KAFO is used solely for the treatment of edema and/or for the prevention or treatment of a pressure ulcer, the GY modifier must be added to the base code and any related additional code;

(B) If a walking boot (L4360, L4386), static AFO (L4396) or foot drop splint/recumbent positioning device (L4398) is used solely for the prevention or treatment of a pressure ulcer, the GY modifier must be added to the base code and to the code for the replacement liner (L4392, L4394);

(C) When the GY modifier is added to a code there must be a short narrative statement indicating why the GY modifier was used — e.g., "used to prevent pressure ulcer" or "used to treat pressure ulcer" or "used to treat edema". This statement must be entered in the narrative field of an electronic claim or attached to a hard copy claim;

(c) KX — Requirements specified in the medical policy have been met. The provider must add a KX modifier to the AFO/KAFO base and additional codes only if all the coverage criteria of this policy have been met and evidence of such is retained in the provider's files;

(d) LT — Left Side; RT — Right Side:

(A) The right (RT) and left (LT) modifiers must be used with orthotic base codes, additions and replacement parts;

(B) When the same code for bilateral items (left and right) is billed on the same date of service, bill both items on the same claim line using the LTRT modifiers and 2 units of service.

(5) Documentation Requirements:

(a) L2999 is the only code in this rule that requires prior authorization (PA): For a PA request, submit documentation for review that supports conditions of coverage as specified in this rule are met, including the plan of care, if applicable;

(b) For services that do not require PA: Documentation from the medical record that supports conditions of coverage as specified in this rule are

met must be kept on file with the durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) provider;

(c) Prior to billing for each new or full replacement item, the DMEPOS provider must first have received a completed written, signed and dated physician's order that includes:

(A) The treating diagnosis code that justifies the need for the orthotic device;

(B) Detailed description of the item including all options or additional features;

(C) The unique features of the base code plus every addition that will be billed on a separate claim line;

(d) For custom-fabricated orthotics, documentation must support the medical appropriateness of that type device rather than a prefabricated orthotic;

(e) For L2999:

(A) The request for PA must include the following information:

(i) A narrative description of the item (for custom fabricated items); or

(ii) The manufacturer's name and model name/number (for pre-fabricated items); and

(iii) Justification of medical appropriateness for the item;

(iv) For replacement components, a HCPCS code or the manufacturer's name and model name/number of the base orthotic;

(v) The manufacturer's name and model name/number must be entered in the narrative field of an electronic claim;

(f) Repair of orthotic devices:

(A) A physician's order is not required;

(B) A detailed description of the reason for the repair, part that is being repaired or replaced must be on file with the DMEPOS provider;

(C) The following information must be entered in the narrative field of an electronic claim:

(i) L4210 must include a description of each item that is billed;

(ii) L4205 must include an explanation of what is being repaired;

(D) All codes for repairs of orthotics billed with the same date of service must be submitted on the same claim;

(g) The provider must include the ICD-10 diagnosis code for the underlying condition on the claim for a static AFO (L4396) or replacement interface material (L4392);

(h) All codes for orthotics billed with the same date of service must be submitted on the same claim;

(i) When billing for quantities of supplies greater than those described in the policy as the usual maximum amounts, there must be documentation in the client's medical record supporting the medical appropriateness for the higher utilization;

(j) The client's medical record must support the medical appropriateness for items and all additions billed to the Division and this documentation must be made available to the Division on request.

(5) **Table 122-0662**

Stat. Auth.: ORS 413.042 & 414.065
Stats. Implemented: ORS 414.065
Hist.: DMAP 15-2007, f. 12-5-07, cert. ef. 1-1-08; DMAP 40-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 13-2010, f. 6-10-10, cert. ef. 7-1-10; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-123-1260
OHP Plus Dental Benefits

(1) GENERAL:

(a) Early and Periodic Screening, Diagnosis and Treatment (EPSDT):

(A) Refer to Code of Federal Regulations (42 CFR 441, Subpart B) and OAR chapter 410, division 120 for definitions of the EPSDT program, eligible clients, and related services. EPSDT dental services include, but are not limited to:

(i) Dental screening services for eligible EPSDT individuals; and

(ii) Dental diagnosis and treatment that is indicated by screening at as early an age as necessary, needed for relief of pain and infections, restoration of teeth, and maintenance of dental health;

(B) Providers shall provide EPSDT services for eligible Division of Medical Assistance Programs (Division) clients according to the following documents:

(i) The Dental Services Program administrative rules (OAR chapter 410, division 123), for dentally appropriate services funded on the Oregon Health Evidence Review Commission's Prioritized List of Health Services (Prioritized List); and

(ii) The "Oregon Health Plan (OHP) — Recommended Dental Periodicity Schedule," dated January 1, 2010, incorporated in rule by reference and posted on the Division website in the Dental Services Provider Guide document at www.oregon.gov/oha/healthplan/Pages/dental.aspx;

(b) Restorative, periodontal, and prosthetic treatments:

(A) Documentation shall be included in the client's charts to support the treatment. Treatments shall be consistent with the prevailing standard of care and may be limited as follows:

(i) When prognosis is unfavorable;

(ii) When treatment is impractical;

(iii) A lesser-cost procedure would achieve the same ultimate result; or

(iv) The treatment has specific limitations outlined in this rule;

(B) Prosthetic treatment, including porcelain fused to metal crowns, are limited until rampant progression of caries is arrested and a period of adequate oral hygiene and periodontal stability is demonstrated; periodontal health needs to be stable and supportive of a prosthetic.

(2) ENHANCED ORAL HEALTH SERVICES IN PRIMARY CARE SETTINGS:

(a) Topical fluoride treatment:

(A) For children under 19 years of age, topical fluoride varnish may be applied by a licensed medical practitioner during a medical visit. Providers must bill:

(i) The Division directly when the client is fee-for-service (FFS), is enrolled in a Coordinated Care Organization (CCO) that does not include integrated medical and dental services, or is enrolled in a PHP that does not include integrated medical and dental services;

(ii) The client's CCO if the client is enrolled in a CCO that includes integrated medical and dental services;

(iii) Using a professional claim format with the appropriate Current Dental Terminology (CDT) code (D1206-Topical Fluoride Varnish) or the appropriate Current Procedural Terminology (CPT) code (99188 — Application of topical fluoride varnish by a physician or other qualified health care professional);

(B) Topical fluoride treatment from a medical practitioner counts toward the overall maximum number of fluoride treatments, as described in subsection (4) of this rule;

(b) Assessment of a patient:

(A) For children under six years of age, CDT code D0191-Assessment of a Patient is covered as an enhanced oral health service in medical settings;

(B) For reimbursement in a medical setting, D0191-Assessment of a patient must include all of the following components:

(i) Caries risk assessment using a standardized tool endorsed by Oregon Oral Health Coalition, the American Dental Association, the American Academy of Pediatric Dentistry, or the American Academy of Pediatrics;

(ii) Anticipatory guidance and counseling with the client's caregiver on good oral hygiene practices and nutrition;

(iii) Referral to a dentist in order to establish a dental home;

(iv) Documentation in medical chart of risk assessment findings and service components provided;

(C) For reimbursement, the performing provider must meet all of the following criteria:

(i) Be a physician (MD or DO), an advance practice nurse, or a licensed physician assistant; and

(ii) Hold a certificate of completion from one of the following approved training programs within the previous three years:

(I) Smiles for Life; or

(II) First Tooth through the Oregon Oral Health Coalition;

(D) For reimbursement, the medical practitioners must bill:

(i) The Division directly when the client is fee-for-service (FFS), is enrolled in a Coordinated Care Organization (CCO) that does not include integrated medical and dental services, or is enrolled in a PHP that does not include integrated medical and dental services;

(ii) The client's CCO if the client is enrolled in a CCO that includes integrated medical and dental services;

(iii) Using a professional claim format with the appropriate CDT code (D0191—Assessment of a Patient);

(E) D0191 Assessment of a Patient may be reimbursed under this subsection up to a maximum of once every 12 months;

(F) D0191 Assessment of a Patient from a medical practitioner does not count toward the maximum number of CDT code D0191-Assessment of a Patient services performed by a dental practitioner described in subsection three (3) of this rule;

(c) For tobacco cessation services provided during a medical visit, follow criteria outlined in OAR 410-130-0190;

(3) DIAGNOSTIC SERVICES:

(a) Exams:

(A) For children under 19 years of age:

(i) The Division shall reimburse exams (billed as CDT codes D0120, D0145, D0150, or D0180) a maximum of twice every 12 months with the following limitations:

(I) D0150: once every 12 months when performed by the same practitioner;

(II) D0150: twice every 12 months only when performed by different practitioners;

(III) D0180: once every 12 months;

(ii) The Division shall reimburse D0160 only once every 12 months when performed by the same practitioner;

(B) For adults 19 years of age and older, the Division shall reimburse exams (billed as CDT codes D0120, D0150, D0160, or D0180) once every 12 months;

(C) For problem focused exams (urgent or emergent problems), the Division shall reimburse D0140 for the initial exam. The Division shall reimburse D0170 for related problem-focused follow-up exams. Providers must not bill D0140 and D0170 for routine dental visits;

(D) The Division only covers oral exams performed by medical practitioners when the medical practitioner is an oral surgeon;

(E) As the American Dental Association's Current Dental Terminology (CDT) codebook specifies, the evaluation, diagnosis, and treatment planning components of the exam are the responsibility of the dentist. The Division may not reimburse dental exams when performed by a dental hygienist (with or without an expanded practice permit);

(b) Assessment of a patient (D0191):

(A) When performed by a dental practitioner, the Division shall reimburse:

(i) If performed by a dentist outside of a dental office;

(ii) If performed by a dental hygienist with an expanded practice dental hygiene permit;

(iii) Only if an exam (D0120-D0180) is not performed on the same date of service. Assessment of a patient (D0191) is included as part of an exam (D0120-D0180);

(iv) For children under 19 years of age, a maximum of twice every 12 months; and

(v) For adults age 19 and older, a maximum of once every 12 months;

(B) An assessment does not take the place of the need for oral evaluations/exams;

(c) Radiographs:

(A) The Division shall reimburse for routine radiographs once every 12 months;

(B) The Division shall reimburse bitewing radiographs for routine screening once every 12 months;

(C) The Division shall reimburse a maximum of six radiographs for any one emergency;

(D) For clients under age six, radiographs may be billed separately every 12 months as follows:

(i) D0220 — once;

(ii) D0230 — a maximum of five times;

(iii) D0270 — a maximum of twice, or D0272 once;

(E) The Division shall reimburse for panoramic (D0330) or intra-oral complete series (D0210) once every five years, but both cannot be done within the five-year period;

(F) Clients shall be a minimum of six years old for billing intra-oral complete series (D0210). The minimum standards for reimbursement of intra-oral complete series are:

(i) For clients age six through 11- a minimum of ten periapicals and two bitewings for a total of 12 films;

(ii) For clients ages 12 and older - a minimum of ten periapicals and four bitewings for a total of 14 films;

(G) If fees for multiple single radiographs exceed the allowable reimbursement for a full mouth complete series (D0210), the Division shall reimburse for the complete series;

(H) Additional films may be covered if dentally or medically appropriate, e.g., fractures (Refer to OAR 410-123-1060 and 410-120-0000);

(I) If the Division determines the number of radiographs to be excessive, payment for some or all radiographs of the same tooth or area may be denied;

(J) The exception to these limitations is if the client is new to the office or clinic and the office or clinic is unsuccessful in obtaining radiographs from the previous dental office or clinic. Supporting documentation outlining the provider's attempts to receive previous records shall be included in the client's records;

(K) Digital radiographs, if printed, shall be on photo paper to assure sufficient quality of images.

(4) PREVENTIVE SERVICES:

(a) Prophylaxis:

(A) For children under 19 years of age — Limited to twice per 12 months;

(B) For adults 19 years of age and older — Limited to once per 12 months;

(C) Additional prophylaxis benefit provisions may be available for persons with high risk oral conditions due to disease process, pregnancy, medications, or other medical treatments or conditions, severe periodontal disease, rampant caries and for persons with disabilities who cannot perform adequate daily oral health care;

(D) Are coded using the appropriate Current Dental Terminology (CDT) coding:

(i) D1110 (Prophylaxis — Adult) — Use for clients 14 years of age and older; and

(ii) D1120 (Prophylaxis — Child) — Use for clients under 14 years of age;

(b) Topical fluoride treatment:

(A) For adults 19 years of age and older — Limited to once every 12 months;

(B) For children under 19 years of age — Limited to twice every 12 months;

(C) Additional topical fluoride treatments may be available, up to a total of four treatments per client within a 12-month period, when high-risk conditions or oral health factors are clearly documented in chart notes for clients who:

(i) Have high-risk oral conditions due to disease process, medications, other medical treatments or conditions, or rampant caries;

(ii) Are pregnant;

(iii) Have physical disabilities and cannot perform adequate, daily oral health care;

(iv) Have a developmental disability or other severe cognitive impairment that cannot perform adequate, daily oral health care; or

(v) Are under seven years old with high-risk oral health factors, such as poor oral hygiene, deep pits and fissures (grooves) in teeth, severely crowded teeth, poor diet, etc.;

(D) Fluoride limits include any combination of fluoride varnish (D1206) or other topical fluoride (D1208);

(c) Sealants (D1351):

(A) Are covered only for children under 16 years of age;

(B) The Division limits coverage to:

(i) Permanent molars; and

(ii) Only one sealant treatment per molar every five years, except for visible evidence of clinical failure;

(d) Tobacco cessation:

(A) For services provided during a dental visit, bill as a dental service using CDT code D1320 when the following brief counseling is provided:

(i) Ask patients about their tobacco-use status at each visit and record information in the chart;

(ii) Advise patients on their oral health conditions related to tobacco use and give direct advice to quit using tobacco and a strong personalized message to seek help; and

(iii) Refer patients who are ready to quit, utilizing internal and external resources, to complete the remaining three A's (assess, assist, arrange) of the standard intervention protocol for tobacco;

(B) The Division allows a maximum of ten services within a three-month period;

(e) Space management:

(A) The Division shall cover fixed and removable space maintainers (D1510, D1515, D1520, and D1525) only for clients under 19 years of age;

(B) The Division may not reimburse for replacement of lost or damaged removable space maintainers.

(5) RESTORATIVE SERVICES:

(a) Amalgam and resin-based composite restorations, direct:

(A) Resin-based composite crowns on anterior teeth (D2390) are only covered for clients under 21 years of age or who are pregnant;

(B) The Division reimburses posterior composite restorations at the same rate as amalgam restorations;

(C) The Division limits payment for replacement of posterior composite restorations to once every five years;

(D) The Division limits payment of covered restorations to the maximum restoration fee of four surfaces per tooth. Refer to the American

Dental Association (ADA) CDT codebook for definitions of restorative procedures;

(E) Providers shall combine and bill multiple surface restorations as one line per tooth using the appropriate code. Providers may not bill multiple surface restorations performed on a single tooth on the same day on separate lines. For example, if tooth #30 has a buccal amalgam and a mesial-occlusal-distal (MOD) amalgam, then bill MOD, B, using code D2161 (four or more surfaces);

(F) The Division may not reimburse for an amalgam or composite restoration and a crown on the same tooth;

(G) Interim therapeutic restoration on primary dentition (D2941) is covered to restore and prevent progression of dental caries. Interim therapeutic restoration is not a definitive restoration.

(H) Reattachment of tooth fragment (D2921) is covered once in the lifetime of a tooth when there is no pulp exposure and no need for endodontic treatment.

(I) The Division reimburses for a surface not more than once in each treatment episode regardless of the number or combination of restorations;

(J) The restoration fee includes payment for occlusal adjustment and polishing of the restoration;

(b) Indirect crowns and related services:

(A) General payment policies:

(i) The fee for the crown includes payment for preparation of the gingival tissue;

(ii) The Division shall cover crowns only when:

(I) There is significant loss of clinical crown and no other restoration will restore function; and

(II) The crown-to-root ratio is 50:50 or better, and the tooth is restorable without other surgical procedures;

(iii) The Division shall cover core buildup (D2950) only when necessary to retain a cast restoration due to extensive loss of tooth structure from caries or a fracture and only when done in conjunction with a crown. Less than 50 percent of the tooth structure must be remaining for coverage of the core buildup.

(iv) Reimbursement of retention pins (D2951) is per tooth, not per pin;

(B) The Division shall not cover the following services:

(i) Endodontic therapy alone (with or without a post);

(ii) Aesthetics (cosmetics);

(iii) Crowns in cases of advanced periodontal disease or when a poor crown/root ratio exists for any reason;

(C) The Division shall cover acrylic heat or light cured crowns (D2970 temporary crown, fractured tooth) — allowed only for anterior permanent teeth;

(D) The Division shall cover the following only for clients under 21 years of age or who are pregnant:

(i) Prefabricated plastic crowns (D2932) are allowed only for anterior teeth, permanent or primary;

(ii) Stainless steel crowns (D2930/D2931) are allowed only for anterior primary teeth and posterior permanent or primary teeth;

(iii) Prefabricated stainless steel crowns with resin window (D2933) are allowed only for anterior teeth, permanent or primary;

(iv) Prefabricated post and core in addition to crowns (D2954/D2957);

(v) Permanent crowns (resin-based composite — D2710 and D2712, and porcelain fused to metal (PFM) — D2751 and D2752) as follows:

(I) Limited to teeth numbers 6–11, 22 and 27 only, if dentally appropriate;

(II) Limited to four in a seven-year period. This limitation includes any replacement crowns allowed according to (E)(i) of this rule;

(III) Only for clients at least 16 years of age; and

(IV) Rampant caries are arrested, and the client demonstrates a period of oral hygiene before prosthetics are proposed;

(vi) PFM crowns (D2751 and D2752) shall also meet the following additional criteria:

(I) The dental practitioner has attempted all other dentally appropriate restoration options and documented failure of those options;

(II) Written documentation in the client's chart indicates that PFM is the only restoration option that will restore function;

(III) The dental practitioner submits radiographs to the Division for review; history, diagnosis, and treatment plan may be requested. (See OAR 410-123-1100 Services Reviewed by the Division);

(IV) The client has documented stable periodontal status with pocket depths within 1–3 millimeters. If PFM crowns are placed with pocket depths of 4 millimeters and over, documentation shall be maintained in the client's chart of the dentist's findings supporting stability and why the increased pocket depths will not adversely affect expected long-term prognosis;

(V) The crown has a favorable long-term prognosis; and

(VI) If the tooth to be crowned is a clasp/abutment tooth in partial denture, both prognosis for the crown itself and the tooth's contribution to partial denture shall have favorable expected long-term prognosis;

(E) Crown replacement:

(i) Permanent crown replacement limited to once every seven years;

(ii) All other crown replacement limited to once every five years; and

(iii) The Division may make exceptions to crown replacement limitations due to acute trauma, based on the following factors:

(I) Extent of crown damage;

(II) Extent of damage to other teeth or crowns;

(III) Extent of impaired mastication;

(IV) Tooth is restorable without other surgical procedures; and

(V) If loss of tooth would result in coverage of removable prosthetic;

(F) Crown repair (D2980) is limited to only anterior teeth.

(6) ENDODONTIC SERVICES:

(a) Endodontic therapy:

(A) Pulpal therapy on primary teeth (D3230 and D3240) is covered only for clients under 21 years of age;

(B) For permanent teeth:

(i) Anterior and bicuspid endodontic therapy (D3310 and D3320) is covered for all OHP Plus clients; and

(ii) Molar endodontic therapy (D3330):

(I) For clients through age 20, is covered only for first and second molars; and

(II) For clients age 21 and older who are pregnant, is covered only for first molars;

(C) The Division covers endodontics only if the crown-to-root ratio is 50:50 or better and the tooth is restorable without other surgical procedures;

(b) Endodontic retreatment and apicoectomy:

(A) The Division does not cover retreatment of a previous root canal or apicoectomy for bicuspid or molars;

(B) The Division limits either a retreatment or an apicoectomy (but not both procedures for the same tooth) to symptomatic anterior teeth when:

(i) Crown-to-root ratio is 50:50 or better;

(ii) The tooth is restorable without other surgical procedures; or

(iii) If loss of tooth would result in the need for removable prosthodontics;

(C) Retrograde filling (D3430) is covered only when done in conjunction with a covered apicoectomy of an anterior tooth;

(c) The Division does not allow separate reimbursement for open-and-drain as a palliative procedure when the root canal is completed on the same date of service or if the same practitioner or dental practitioner in the same group practice completed the procedure;

(d) The Division covers endodontics if the tooth is restorable within the OHP benefit coverage package;

(e) Apexification/recalcification procedures:

(A) The Division limits payment for apexification to a maximum of five treatments on permanent teeth only;

(B) Apexification/recalcification procedures are covered only for clients under 21 years of age or who are pregnant.

(7) PERIODONTIC SERVICES:

(a) Surgical periodontal services:

(A) Gingivectomy/Gingivoplasty (D4210 and D4211) — limited to coverage for severe gingival hyperplasia where enlargement of gum tissue occurs that prevents access to oral hygiene procedures, e.g., Dilantin hyperplasia; and

(B) Includes six months routine postoperative care;

(C) The Division shall consider gingivectomy or gingivoplasty to allow for access for restorative procedure, per tooth (D4212) as part of the restoration and will not provide a separate reimbursement for this procedure;

(b) Non-surgical periodontal services:

(A) Periodontal scaling and root planing (D4341 and D4342):

(i) For clients through age 20, allowed once every two years;

(ii) For clients age 21 and over, allowed once every three years;

(iii) A maximum of two quadrants on one date of service is payable, except in extraordinary circumstances;

(iv) Quadrants are not limited to physical area, but are further defined by the number of teeth with pockets 5 mm or greater:

(I) D4341 is allowed for quadrants with at least four or more teeth with pockets 5 mm or greater;

(II) D4342 is allowed for quadrants with at least two teeth with pocket depths of 5 mm or greater;

(v) Prior authorization for more frequent scaling and root planing may be requested when:

(I) Medically/dentally necessary due to periodontal disease as defined above is found during pregnancy; and

(II) Client's medical record is submitted that supports the need for increased scaling and root planing;

(B) Full mouth debridement (D4355):

(i) For clients through age 20, allowed only once every two years;

(ii) For clients age 21 and older, allowed once every three years;

(c) Periodontal maintenance (D4910):

(A) For clients through age 20, allowed once every six months;

(B) For clients age 21 and older:

(i) Limited to following periodontal therapy (surgical or non-surgical) that is documented to have occurred within the past three years;

(ii) Allowed once every twelve months;

(iii) Prior authorization for more frequent periodontal maintenance may be requested when:

(I) Medically/dentally necessary, such as due to presence of periodontal disease during pregnancy; and

(II) Client's medical record is submitted that supports the need for increased periodontal maintenance (chart notes, pocket depths and radiographs);

(d) Records shall clearly document the clinical indications for all periodontal procedures, including current pocket depth charting and/or radiographs;

(e) The Division may not reimburse for procedures identified by the following codes if performed on the same date of service:

(A) D1110 (Prophylaxis — adult);

(B) D1120 (Prophylaxis — child);

(C) D4210 (Gingivectomy or gingivoplasty — four or more contiguous teeth or bounded teeth spaces per quadrant);

(D) D4211 (Gingivectomy or gingivoplasty — one to three contiguous teeth or bounded teeth spaces per quadrant);

(E) D4341 (Periodontal scaling and root planning — four or more teeth per quadrant);

(F) D4342 (Periodontal scaling and root planning — one to three teeth per quadrant);

(G) D4355 (Full mouth debridement to enable comprehensive evaluation and diagnosis); and

(H) D4910 (Periodontal maintenance).

(8) REMOVABLE PROSTHODONTIC SERVICES:

(a) Clients age 16 years and older are eligible for removable resin base partial dentures (D5211-D5212) and full dentures (complete or immediate, D5110-D5140);

(b) The Division limits full dentures for clients age 21 and older to only those clients who are recently edentulous:

(A) For the purposes of this rule:

(i) "Edentulous" means all teeth removed from the jaw for which the denture is being provided; and

(ii) "Recently edentulous" means the most recent extractions from that jaw occurred within six months of the delivery of the final denture (or, for fabricated prosthetics, the final impression) for that jaw;

(B) See OAR 410-123-1000 for detail regarding billing fabricated prosthetics;

(c) The fee for the partial and full dentures includes payment for adjustments during the six-month period following delivery to clients;

(d) Resin partial dentures (D5211-D5212):

(A) The Division may not approve resin partial dentures if stainless steel crowns are used as abutments;

(B) For clients through age 20, the client shall have one or more anterior teeth missing or four or more missing posterior teeth per arch with resulting space equivalent to that loss demonstrating inability to masticate. Third molars are not a consideration when counting missing teeth;

(C) For clients age 21 and older, the client shall have one or more missing anterior teeth or six or more missing posterior teeth per arch with documentation by the provider of resulting space causing serious impairment to mastication. Third molars are not a consideration when counting missing teeth;

(D) The dental practitioner shall note the teeth to be replaced and teeth to be clasped when requesting prior authorization (PA);

(e) Replacement of removable partial or full dentures, when it cannot be made clinically serviceable by a less costly procedure (e.g., reline, rebase, repair, tooth replacement), is limited to the following:

(A) For clients at least 16 years and under 21 years of age, the Division shall replace full or partial dentures once every ten years, only if dentally appropriate. This does not imply that replacement of dentures or partials shall be done once every ten years, but only when dentally appropriate;

(B) For clients 21 years of age and older, the Division may not cover replacement of full dentures but shall cover replacement of partial dentures once every ten (10) years only if dentally appropriate;

(C) The ten year limitations apply to the client regardless of the client's OHP or Dental Care Organization (DCO)/Coordinated Care Organization (CCO) enrollment status at the time the client's last denture or partial was received. For example: A client receives a partial on February 1, 2002, and becomes a FFS OHP client in 2005. The client is not eligible for a replacement partial until February 1, 2012. The client gets a replacement partial on February 3, 2012 while FFS and a year later enrolls in a DCO or CCO. The client would not be eligible for another partial until February 3, 2022, regardless of DCO, CCO, or FFS enrollment;

(D) Replacement of partial dentures with full dentures is payable ten years after the partial denture placement. Exceptions to this limitation may be made in cases of acute trauma or catastrophic illness that directly or indirectly affects the oral condition and results in additional tooth loss. This pertains to, but is not limited to, cancer and periodontal disease resulting from pharmacological, surgical, and medical treatment for aforementioned conditions. Severe periodontal disease due to neglect of daily oral hygiene may not warrant replacement;

(f) The Division limits reimbursement of adjustments and repairs of dentures that are needed beyond six months after delivery of the denture as follows for clients 21 years of age and older:

(A) A maximum of four times per year for:

(i) Adjusting complete and partial dentures, per arch (D5410-D5422);

(ii) Replacing missing or broken teeth on a complete denture, each tooth (D5520);

(iii) Replacing broken tooth on a partial denture, each tooth (D5640);

(iv) Adding tooth to existing partial denture (D5650);

(B) A maximum of two times per year for:

(i) Repairing broken complete denture base (D5510);

(ii) Repairing partial resin denture base (D5610);

(iii) Repairing partial cast framework (D5620);

(iv) Repairing or replacing broken clasp (D5630);

(v) Adding clasp to existing partial denture (D5660);

(g) Replacement of all teeth and acrylic on cast metal framework (D5670, D5671):

(A) Is covered for clients age 16 and older a maximum of once every ten (10) years, per arch;

(B) Ten years or more shall have passed since the original partial denture was delivered;

(C) Is considered replacement of the partial so a new partial denture may not be reimbursed for another ten years; and

(D) Requires prior authorization as it is considered a replacement partial denture;

(h) Denture rebase procedures:

(A) The Division shall cover rebases only if a reline may not adequately solve the problem;

(B) For clients through age 20, the Division limits payment for rebase to once every three years;

(C) For clients age 21 and older:

(i) There shall be documentation of a current reline that has been done and failed; and

(ii) The Division limits payment for rebase to once every five years;

(D) The Division may make exceptions to this limitation in cases of acute trauma or catastrophic illness that directly or indirectly affects the oral condition and results in additional tooth loss. This pertains to, but is not limited to, cancer and periodontal disease resulting from pharmacological, surgical, and medical treatment for aforementioned conditions. Severe periodontal disease due to neglect of daily oral hygiene may not warrant rebasing;

(i) Denture reline procedures:

(A) For clients through age 20, the Division limits payment for reline of complete or partial dentures to once every three years;

(B) For clients age 21 and older, the Division limits payment for reline of complete or partial dentures to once every five years;

(C) The Division may make exceptions to this limitation under the same conditions warranting replacement;

(D) Laboratory relines:

(i) Are not payable prior to six months after placement of an immediate denture; and

(ii) For clients through age 20, are limited to once every three years;

(iii) For clients age 21 and older, are limited to once every five years;

(j) Interim partial dentures (D5820-D5821, also referred to as "flippers"):

(A) Are allowed if the client has one or more anterior teeth missing; and

(B) The Division shall reimburse for replacement of interim partial dentures once every five years but only when dentally appropriate;

(k) Tissue conditioning:

(A) Is allowed once per denture unit in conjunction with immediate dentures; and

(B) Is allowed once prior to new prosthetic placement.

(9) MAXILLOFACIAL PROSTHETIC SERVICES:

(a) Fluoride gel carrier (D5986) is limited to those patients whose severity of oral disease causes the increased cleaning and fluoride treatments allowed in rule to be insufficient. The dental practitioner shall document failure of those options prior to use of the fluoride gel carrier;

(b) All other maxillofacial prosthetics (D5900-D5999) are medical services. Refer to the "Covered and Non-Covered Dental Services" document and OAR 410-123-1220:

(A) Bill for medical maxillofacial prosthetics using the professional (CMS1500, DMAP 505 or 837P) claim format:

(B) For clients receiving services through a CCO or PHP, bill medical maxillofacial prosthetics to the CCO or PHP;

(C) For clients receiving medical services through FFS, bill the Division.

(10) ORAL SURGERY SERVICES:

(a) Bill the following procedures in an accepted dental claim format using CDT codes:

(A) Procedures that are directly related to the teeth and supporting structures that are not due to a medical condition or diagnosis, including such procedures performed in an ambulatory surgical center (ASC) or an inpatient or outpatient hospital setting;

(B) Services performed in a dental office setting or an oral surgeon's office:

(i) Such services include, but are not limited to, all dental procedures, local anesthesia, surgical postoperative care, radiographs, and follow-up visits;

(ii) Refer to OAR 410-123-1160 for any PA requirements for specific procedures;

(b) Bill the following procedures using the professional claim format and the appropriate American Medical Association (AMA) CPT procedure and ICD10 diagnosis codes:

(A) Procedures that are a result of a medical condition (i.e., fractures, cancer);

(B) Services requiring hospital dentistry that are the result of a medical condition/diagnosis (i.e., fracture, cancer);

(c) Refer to the "Covered and Non-Covered Dental Services" document to see a list of CDT procedure codes on the Prioritized List that may also have CPT medical codes. See OAR 410-123-1220. The procedures listed as "medical" on the table may be covered as medical procedures, and the table may not be all-inclusive of every dental code that has a corresponding medical code;

(d) For clients enrolled in a DCO or CCO responsible for dental services, the DCO or CCO shall pay for those services in the dental plan package;

(e) Oral surgical services performed in an ASC or an inpatient or outpatient hospital setting:

(A) Require PA;

(B) For clients enrolled in a CCO or FCHP, the CCO or FCHP shall pay for the facility charge and anesthesia services. For clients enrolled in a Physician Care Organization (PCO), the PCO shall pay for the outpatient facility charge (including ASCs) and anesthesia. Refer to the current Medical Surgical Services administrative rules in OAR chapter 410, division 130 for more information;

(C) If a client is enrolled in a CCO or PHP, the provider shall contact the CCO or PHP for any required authorization before the service is rendered;

(f) All codes listed as "by report" require an operative report;

(g) The Division covers payment for tooth re-implantation only in cases of traumatic avulsion where there are good indications of success;

(h) Biopsies collected are reimbursed as a dental service. Laboratory services of biopsies are reimbursed as a medical service;

(i) The Division does not cover surgical excisions of soft tissue lesions (D7410-D7415);

(j) Extractions — Includes local anesthesia and routine postoperative care, including treatment of a dry socket if done by the provider of the extraction. Dry socket is not considered a separate service;

(k) Surgical extractions:

(A) Include local anesthesia and routine post-operative care;

(B) The Division limits payment for surgical removal of impacted teeth or removal of residual tooth roots to treatment for only those teeth that have acute infection or abscess, severe tooth pain, and unusual swelling of the face or gums;

(C) The Division does not cover alveoloplasty in conjunction with extractions (D7310 and D7311) separately from the extraction;

(D) The Division covers alveoplasty not in conjunction with extractions (D7320-D7321) only for clients under 21 years of age or who are pregnant;

(l) Frenulectomy/frenulotomy (D7960) and frenuloplasty (D7963):

(A) The Division covers either frenulectomy or frenuloplasty once per lifetime per arch only for clients under age 21;

(B) The Division covers maxillary labial frenulectomy only for clients age 12 through 20;

(C) The Division shall cover frenulectomy/frenuloplasty in the following situations:

(i) When the client has ankyloglossia;

(ii) When the condition is deemed to cause gingival recession; or

(iii) When the condition is deemed to cause movement of the gingival margin when the frenum is placed under tension;

(m) The Division covers excision of pericoronal gingival (D7971) only for clients under age 21 or who are pregnant.

(11) ORTHODONTIA SERVICES:

(a) The Division limits orthodontia services and extractions to eligible clients:

(A) With the ICD-10-CM diagnosis of:

(i) Cleft palate; or

(ii) Cleft palate with cleft lip; and

(B) Whose orthodontia treatment began prior to 21 years of age; or

(C) Whose surgical corrections of cleft palate or cleft lip were not completed prior to age 21;

(b) PA is required for orthodontia exams and records. A referral letter from a physician or dentist indicating diagnosis of cleft palate or cleft lip shall be included in the client's record and a copy sent with the PA request;

(c) Documentation in the client's record shall include diagnosis, length, and type of treatment;

(d) Payment for appliance therapy includes the appliance and all follow-up visits;

(e) Orthodontists evaluate orthodontia treatment for cleft palate/cleft lip as two phases. Stage one is generally the use of an activator (palatal expander), and stage two is generally the placement of fixed appliances (banding). The Division shall reimburse each phase separately;

(f) The Division shall pay for orthodontia in one lump sum at the beginning of each phase of treatment. Payment for each phase is for all orthodontia-related services. If the client transfers to another orthodontist during treatment, or treatment is terminated for any reason, the orthodontist shall refund to the Division any unused amount of payment after applying the following formula: Total payment minus $300.00 (for banding) multiplied by the percentage of treatment remaining;

(g) The Division shall use the length of the treatment plan from the original request for authorization to determine the number of treatment months remaining;

(h) As long as the orthodontist continues treatment, the Division may not require a refund even though the client may become ineligible for medical assistance sometime during the treatment period;

(i) Code:

(A) D8660 — PA required (reimbursement for required orthodontia records is included);

(B) Codes D8010-D8690 — PA required.

(12) ADJUNCTIVE GENERAL AND OTHER SERVICES:

(a) Fixed partial denture sectioning (D9120) is covered only when extracting a tooth connected to a fixed prosthesis and a portion of the fixed prosthesis is to remain intact and serviceable, preventing the need for more costly treatment;

(b) Anesthesia:

(A) Only use general anesthesia or IV sedation for those clients with concurrent needs: age; physical, medical or mental status; or degree of difficulty of the procedure (D9220, D9221, D9241 and D9242);

(B) The Division reimburses providers for general anesthesia or IV sedation as follows:

(i) D9220 or D9241: For the first 30 minutes;

(ii) D9221 or D9242: For each additional 15-minute period, up to three hours on the same day of service. Each 15-minute period represents a quantity of one. Enter this number in the quantity column;

(C) The Division reimburses administration of Nitrous Oxide (D9230) per date of service, not by time;

(D) Oral pre-medication anesthesia for conscious sedation (D9248):

(i) Limited to clients under 13 years of age;

(ii) Limited to four times per year;

(iii) Includes payment for monitoring and Nitrous Oxide; and

(iv) Requires use of multiple agents to receive payment;

(E) Upon request, providers shall submit a copy of their permit to administer anesthesia, analgesia, and sedation to the Division;

(F) For the purpose of Title XIX and Title XXI, the Division limits payment for code D9630 to those oral medications used during a procedure and is not intended for "take home" medication;

(c) The Division limits reimbursement of house/extended care facility call (D9410) only for urgent or emergent dental visits that occur outside of a dental office. This code is not reimbursable for provision of preventive services or for services provided outside of the office for the provider or facilities' convenience;

(d) Oral devices/appliances (E0485, E0486):

(A) These may be placed or fabricated by a dentist or oral surgeon but are considered a medical service;

(B) Bill the Division, CCO, or the PHP for these codes using the professional claim format.

Stat. Auth.: ORS 413.042 & 414.065
Stats. Implemented: ORS 414.065
Hist.: HR 3-1994, f. & cert. ef. 2-1-94; HR 20-1995, f. 9-29-95, cert. ef. 10-1-95; OMAP 13-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 28-1998, f. & cert. ef. 9-1-98; OMAP 23-1999, f. & cert. ef. 4-30-99; OMAP 8-2000, f. 3-31-00, cert. ef. 4-1-00; OMAP 17-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 48-2002, f. & cert. ef. 10-1-02; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 65-2003, f. 9-10-03 cert. ef. 10-1-03; OMAP 55-2004, f. 9-10-04, cert. ef. 10-1-04; OMAP 12-2005, f. 3-11-05, cert. ef. 4-1-05; DMAP 25-2007, f. 12-11-07, cert, ef. 1-1-08; DMAP 18-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 38-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 16-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 41-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 14-2010, f. 6-10-10, cert. ef. 7-1-10; DMAP 31-2010, f. 12-15-10, cert. ef. 1-1-11; DMAP 17-2011, f. & cert. ef. 7-12-11; DMAP 41-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 46-2011, f. 12-23-11, cert. ef. 1-1-12; DMAP 13-2013, f. 3-27-13, cert. ef. 4-1-13; DMAP 28-2013(Temp), f. 6-26-13, cert. ef. 7-1-13 thru 12-28-13; DMAP 68-2013, f. 12-5-13, cert. ef. 12-23-13; DMAP 75-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 10-2014(Temp), f. & cert. ef. 2-28-14 thru 8-27-14; DMAP 19-2014(Temp), f. 3-28-14, cert. ef. 4-1-14 thru 6-30-14; DMAP 36-2014, f. & cert. ef. 6-27-14; DMAP 56-2014, f. 9-26-14, cert. ef. 10-1-14; DMAP 7-2015(Temp), f. & cert. ef. 2-17-15 thru 8-15-15; DMAP 28-2015, f. & cert. ef. 5-1-15; DMAP 46-2015(Temp), f. 8-26-15, cert. ef. 10-1-15 thru 3-28-16; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-123-1620
Procedure and Diagnosis Codes

(1) The Division requires providers to use the standardized code sets adopted by the Health Insurance Portability and Accountability Act (HIPAA) and the Centers for Medicare and Medicaid Services (CMS). Unless otherwise directed in rule, providers must accurately code claims according to the national standards in effect for the date the service(s) was provided.

(2) Procedure codes:

(a) For dental services, use Current Dental Terminology (CDT) codes as maintained and distributed by the American Dental Association. Contact the American Dental Association (ADA) to obtain a current copy of the CDT reference manual. Current Dental Terminology (including procedure codes, definitions (descriptors) and other data) is copyrighted by the ADA. © 2012 American Dental Association. All rights reserved. Applicable Federal Acquisition Regulation Clauses/Department of Defense Federal Acquisition Regulation Supplement (FARS/DFARS) apply;

(b) For physician services and other health care services, use Health Care Common Procedure Coding System (HCPCS) and Current Procedural Terminology (CPT) codes.

(3) Diagnosis codes:

(a) International Classification of Diseases 10th Clinical Modification (ICD-10-CM) diagnosis codes are not required for dental services submitted on an ADA claim form;

(b) When Oregon Administrative Rule (OAR) 410-123-1260 requires services to be billed on a professional claim form, ICD-10-CM diagnosis codes are required. Refer to the Medical-Surgical administrative rules for additional information, OAR 410 division 130.

Stat. Auth.: ORS 413.042, 414.065
Stats. Implemented: ORS 414.065
Hist.: OMAP 23-1999, f. & cert. ef. 4-30-99; OMAP 17-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 48-2002, f. & cert. ef. 10-1-02; OMAP 65-2003, f. 9-10-03 cert. ef. 10-1-03; DMAP 25-2007, f. 12-11-07, cert, ef. 1-1-08; DMAP 38-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 16-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 13-2013, f. 3-27-13, cert. ef. 4-1-13; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-124-0000
Transplant Services

(1) The Division of Medical Assistance Programs (Division) will make payment for prior authorized and emergency transplant services identified in these rules as covered for eligible clients receiving the OHP Plus benefit package and when the Division transplant criteria described in OAR 410-124-0010 and 410-124-0060 through 410-124-0160 is met. All other Benefit Packages do not cover transplant.

(2) The Division will only prior authorize and reimburse for transplants if:

(a) All Division criteria are met; and

(b) Both the transplant center's and the specialist's evaluations recommend that the transplant be authorized; and

(c) The ICD-10-CM diagnosis code(s) and CPT transplant procedure code(s) are paired on the same currently funded line on the Prioritized List of Health Services adopted under OAR 410-141-0520.

(3) Simultaneous multiple organ transplants are covered only if specifically identified as paired on the same currently funded line on the Oregon Health Plan (OHP) Prioritized List of Health Services whether the transplants are for the same underlying disease or for unrelated, but concomitant, underlying diseases.

(4) Not Covered Transplant Services: The following types of transplants are not covered by the Division:

(a) Transplants which are considered experimental or investigational or which are performed on an experimental or investigational basis, as determined by the Division;

(b) Transplant services which are contraindicated, as described in OAR 410-124-0060 through 410-124-0160;

(c) Transplants which have not been prior authorized for payment by the Division or the client's managed health care plan;

(d) Transplants which do not meet the guidelines for an emergency transplant in OAR 410-124-0040;

(e) Transplants which are not described as covered in OAR 410-141-0480 and 410-141-0520.

(5) Selection of Transplant Centers: Transplant services will be reimbursed only when provided in a transplant center that provides quality services, demonstrates good patient outcomes and compliance with all Division facility criteria. The transplant center must have provided transplant services for a period of at least two years and must have completed a minimum of 12 cases in the most recent year. The patient-and-graft-survival rates must be equal to or greater than the appropriate standard indicated in this rule. A transplant center which has had at least two years of experience in transplantation of any solid organ (heart, liver, lung, pancreas) and which has met or exceeded the appropriate standards may be considered for reimbursement for the transplantation of other solid organs and/or autologous or allogeneic bone marrow transplantation:

(a) An experienced and proficient transplant team and a well established transplant support infrastructure at the same physical location as the transplant service is required for transplant services rendered to Division clients. These transplant criteria are crucial to successful transplant outcome. Therefore, consortia will not be approved or contracted with for the provision of transplant services for Division clients. No Division transplant contract, prior approval or reimbursement will be made to consortia for transplant services where, as determined by the Division, there is no assurance that the individual facilities that make up the consortia independently meet Division criteria. The Division's transplant criteria must be met individually by a facility to demonstrate substantial experience with the procedure;

(b) Once a transplant facility has been approved and contracted for Division transplant services, it is obliged to report immediately to the Division any events or changes that would affect its approved status. Specifically, a transplant facility is required to report, within a reasonable period of time, any significant decrease in its experience level or survival rates, the departure of key members of the transplant team or any other major changes that could affect the performance of transplants at the facility. Changes from the terms of approval may lead to prospective withdraw-

al of approval for Division coverage of transplants performed at the facility;

(c) Coordinated care organizations (CCOs) that contract with non-Division contracted facilities for OHP Plus clients will develop and use appropriate transplant facility criteria to evaluate and monitor for quality services at the transplant facility;

(d) Transplant centers which have less than two years' experience in solid organ transplant may be reimbursed, at the Division's discretion, for allogeneic or autologous bone marrow transplants upon completion of two years of experience in bone marrow transplantation with patient survival rates equal to or exceeding those defined in section (5) of this rule;

(e) The Division will discontinue the contract with a transplant center when the graft and/or survival rates fall below the standards indicated in this rule for a period of two consecutive years.

(6) Standards for Transplant Centers:

(a) Heart, heart-lung and lung transplants:

(A) Heart: One-year patient survival rate of at least 80%;

(B) Heart-Lung: One-year patient survival rate of at least 65%;

(C) Lung: One-year patient survival rate of at least 65%.

(b) Bone Marrow (autologous and allogeneic), peripheral stem cell (autologous and allogeneic) and cord blood (allogeneic) transplants: One-year patient survival rate of at least 50%;

(c) Liver transplants: One year patient survival rate of at least 70% and one year graft survival rate of at least 60%;

(d) Simultaneous pancreas-kidney and pancreas-after-kidney transplants: One year patient survival rate of at least 90% and one year graft survival rate of at least 60%;

(e) Kidney transplants: One year patient survival rate of at least 92% and one year graft survival rate of at least 85%.

(7) Selection of transplant centers by geographic location: If the services are available in the state of Oregon, reimbursement will not be made to out-of-state transplant centers. Out-of-state centers will be considered only if:

(a) The type of transplant required is not available in the state of Oregon and/or the type of transplant (for example, liver transplant) is available in the state of Oregon but the Oregon transplant center does not provide that type of transplant for all clients or all covered diagnoses, (e.g., pediatric transplants); and

(b) An in-state transplant center requests the out-of-state transplant referral; and

(c) An in-state transplant facility recommends transplantation based on in-state facility and Division criteria; or

(d) It would be cost effective as determined by the Division. For example, if the transplant service is covered by the client's benefit package and the client's primary insurer (i.e., Medicare) requires the use of an out-of-state transplant center; or

(e) It is a contiguous, out-of-state transplant center that has a contract or special agreement for reimbursement with the Division.

(8) Professional and other services will be covered according to administrative rules in the applicable provider guides.

(9) Reimbursement for covered transplants and follow-up care for transplant services is as follows:

(a) For transplants for fee-for-service clients:

(A) Transplant facility services — by contract with the Division;

(B) Professional services — at the Division's maximum allowable rates.

(b) For emergency services, when no special agreement has been established, the rate will be:

(A) 75% of standard inpatient billed charge; and

(B) 50% of standard outpatient billed charge; or

(C) The payment rate set by the Medical Assistance program of the state in which the center is located, whichever is lower.

(c) For clients enrolled in CCOs, reimbursement for transplant services will be by agreement between the CCO and the transplant center.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065

Hist.: HR 8-1990(Temp), f. 3-30-90, cert. ef. 4-1-90; HR 22-1990, f. & cert. ef. 7-17-90; HR 37-1990, f. 11-6-90, cert. ef. 11-9-90; HR 17-1992, f. & cert. ef. 7-1-92; HR 4-1994, f. & cert. ef. 2-1-94; HR 19-1995, f. 9-28-95, cert. ef. 10-1-95; HR 17-1997, f. & cert. ef. 7-11-97; OMAP 18-2000 f. 9-28-00, cert. ef. 10-1-00; OMAP 21-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 34-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 1-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 68-2004(Temp), f. 9-14-04, cert. ef. 10-1-04 thru 3-15-05; OMAP 92-2004(Temp), f.& cert. ef. 12-10-04 thru 3-15-05; OMAP 95-2004(Temp), f. & cert. ef, 12-30-04 thru 3-15-05; Administrative correction, 3-17-05; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-124-0020

Prior Authorization for All Covered Transplants, Except Cornea and Kidney

(1) The following services require prior authorization:

(a) All non-emergency transplant services, except for kidney alone and cornea transplants which require prior authorization only if performed out-of-state;

(b) Pre-transplant evaluations provided by the transplant center (for covered transplants only).

(2) The prior authorization request for all covered transplants is initiated by the client's in-state referring physician or the transplant physician. The initial request should contain all available information outlined in subsection (3) of this rule, below:

(a) For fee-for-service clients, the request should be sent to the Division of Medical Assistance Programs (Division);

(b) For clients enrolled in a coordinated care organization (CCO), requests for transplant services should be sent directly to the CCO.

(3) A completed request for authorization must contain the following information. Failure to submit all the information will delay processing of the request. An optional form (DMAP 3084 – Request for Transplant or Transplant Evaluation) is provided on the Transplant Services Web page at www.oregon.gov/OHA/healthplan/pages/transplant.aspx for provider convenience in submitting requests:

(a) The name, age, Oregon Health ID number, and birth date of the client;

(b) A description of the medical condition and full ICD-10-CM coding which necessitates a transplant;

(c) The type of transplant proposed, with CPT code;

(d) The results of a current HIV test, (completed within 6 months of request for transplant authorization);

(e) Any other evidence of contraindications for the type of transplant being considered (see contraindications under each transplant type);

(f) The client's prognosis, with and without a transplant, including estimated life expectancy with and without the transplant;

(g) Transplant treatment alternatives:

(A) A history of other treatments which have been tried;

(B) Treatments that have been considered and ruled out, including discussion of why they have been ruled out.

(h) An evaluation based upon a comprehensive examination completed by a board certified specialist in a field directly related to the condition of the client which necessitates the transplant;

(i) If already done before requesting prior authorization, the results of any medical and/or social evaluation completed by a transplant center should be included in the prior authorization request. The completion of an evaluation by a transplant center before receiving prior authorization from the Division does not obligate the Division to reimburse that transplant center for the evaluation or for any other transplant services not prior authorized.

(4) Prior authorization approval process and requirements:

(a) For clients receiving services on a fee-for-service basis:

(A) After receiving a completed request, the Division will notify the referring physician within two weeks if an evaluation at a transplant center is approved or denied;

(B) A final determination for the actual transplant requires an evaluation by a selected transplant center, which will include:

(i) A medical evaluation;

(ii) An estimate of the client's motivation and ability, both physical and psychological, to adhere to the post-transplant regimen;

(iii) The transplant center's assessment of the probability of a successful outcome, based on the type of transplant requested, the condition of the client, and the client's ability to adhere to the post-transplant regimen; and

(iv) A recommendation using both the transplant center's own criteria, and the Division criteria.

(b) For Oregon Health Plan (OHP) transplant eligible clients who are in an CCO: Refer to the CCO for approval process and requirements;

(c) The prior authorization request will be approved if:

(A) All Division criteria are met; and

(B) Both the transplant center's and the specialist's evaluations recommend that the transplant be authorized; and

(C) The ICD-10-CM diagnosis code(s) and CPT transplant procedure code(s) are paired on the same currently funded line on the Prioritized List of Health Services.

(5) The referring physician, transplant center, and the client will be notified in writing by the Division or the CCO of the prior authorization decision.

(6) Prior authorization of a transplant does not guarantee reimbursement for the services of any provider if, at the time the transplant is performed, intercurrent events have caused the individual's medical condition to deteriorate to the point at which survival with or without transplant for a period of more than sixty days is unlikely.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: HR 8-1990(Temp), f. 3-30-90, cert. ef. 4-1-90; HR 22-1990, f. & cert. ef. 7-17-90; HR 17-1992, f. & cert. ef. 7-1-92; HR 4-1994, f. & cert. ef. 2-1-94; HR 19-1995, f. 9-28-95, cert. ef. 10-1-95; HR 17-1997, f. & cert. ef. 7-11-97; OMAP 18-2000 f. 9-28-00, cert. ef. 10-1-00; OMAP 21-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 34-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 1-2003, f. 1-31-03, cert. ef. 2-1-03; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-124-0060
Criteria and Contraindications for Heart Transplants

(1) Prior authorization for a heart transplant will only be approved for a client in whom irreversible heart disease has advanced to the point where conventional therapy offers no prospect for prolonged survival, there is no reasonable alternative medical or surgical therapy and the client's five (5) year survival rate, subsequent to the transplant, is at least 20 percent as supported by medical literature.

(2) A client considered for a heart transplant must have a poor prognosis (i.e., less than a 50% chance of survival for 18 months without a transplant) as a result of poor cardiac functional status or cardio/pulmonary functional status.

(3) All alternative medically accepted treatments that have a one year survival rate comparable to that of heart transplantation must have been tried or considered.

(4) Requests for transplant services for children suffering from early congenital heart disease may be approved before attempting alternative treatments if medical evidence suggests an early date of transplant is likely to improve the outcome.

(5) A client with one or more of the following contraindications is ineligible for heart transplant services:

(a) Untreatable systemic vasculitis;
(b) Incurable malignancy;
(c) Diabetes with end-organ damage;
(d) Active infection which will interfere with the client's recovery;
(e) Refractory bone marrow insufficiency;
(f) Irreversible renal disease;
(g) Irreversible hepatic disease;
(h) HIV positive test results.

(6) The following may be considered contraindications to the extent that the evaluating transplant center and/or the specialist who completed the comprehensive evaluation of the client believe the following condition(s) may interfere significantly with the recovery process:

(a) Hyperlipoproteinemia;
(b) Curable malignancy;
(c) Significant cerebrovascular or peripheral vascular disease;
(d) Unresolved or continuing thromboembolic disease or pulmonary infarction;
(e) Irreversible pulmonary hypertension;
(f) Serious psychological disorders;
(g) Drug or alcohol abuse.

(7) The Division of Medical Assistance Programs (Division) will only prior authorize and reimburse for heart transplants if:

(a) All Division criteria are met; and
(b) Both the transplant center's and the specialist's evaluations recommend that the transplant be authorized; and
(c) The ICD-10-CM diagnosis code(s) and CPT transplant procedure code(s) are paired on the same currently funded line on the Prioritized List of Health Services adopted under OAR 410-141-0520.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: HR 8-1990(Temp), f. 3-30-90, cert. ef. 4-1-90; HR 22-1990, f. & cert. ef. 7-17-90; HR 17-1992, f. & cert. ef. 7-1-92; HR 4-1994, f. & cert. ef. 2-1-94; OMAP 18-2000 f. 9-28-00, cert. ef. 10-1-00; OMAP 21-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 34-2001, f. 9-24-01, cert. ef. 10-1-01; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-124-0063
Criteria and Contraindications for Heart-Lung Transplants

(1) Prior authorization for a heart-lung transplant will only be approved for a client in whom irreversible cardio-pulmonary disease has advanced to the point where conventional therapy offers no prospect for prolonged survival, there is no reasonable alternative medical or surgical therapy and the client's five (5) year survival rate, subsequent to the transplant, is at least 20 percent as supported by medical literature.

(2) A client considered for a heart-lung transplant must have cardio-pulmonary failure with a poor prognosis (i.e., less than a 50% chance of survival for 18 months without a transplant) as a result of poor cardiac functional status or cardio/pulmonary functional status.

(3) All alternative medically accepted treatments that have a one year survival rate comparable to that of heart-lung transplantation must have been tried or considered.

(4) Requests for transplant services for children suffering from early cardio-pulmonary disease may be approved before attempting alternative treatments if medical evidence suggests an early date of transplant is likely to improve the outcome.

(5) A client with one or more of the following contraindications is ineligible for heart-lung transplant services:

(a) Untreatable systemic vasculitis;
(b) Incurable malignancy;
(c) Diabetes with end-organ damage;
(d) Active infection which will interfere with the client's recovery;
(e) Refractory bone marrow insufficiency;
(f) Irreversible renal disease;
(g) Irreversible hepatic disease;
(h) HIV positive test results.

(6) The following may be considered contraindications to the extent that the evaluating transplant center and/or the specialist who completed the comprehensive evaluation of the client believe the following condition(s) may interfere significantly with the recovery process:

(a) Hyperlipoproteinemia;
(b) Curable malignancy;
(c) Significant cerebrovascular or peripheral vascular disease;
(d) Unresolved or continuing thromboembolic disease or pulmonary infarction;
(e) Serious psychological disorders;
(f) Drug or alcohol abuse.

(7) The Division of Medical Assistance Programs (Division) will only prior authorize and reimburse for heart-lung transplants if:

(a) All Division criteria are met; and
(b) Both the transplant center's and the specialist's evaluations recommend that the transplant be authorized; and
(c) The ICD-10-CM diagnosis code(s) and CPT transplant procedure code(s) are paired on the same currently funded line on the Prioritized List of Health Services adopted under OAR 410-141-0520.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: HR 4-1994, f. & cert. ef. 2-1-94; HR 19-1995, f. 9-28-95, cert. ef. 10-1-95; OMAP 18-2000 f. 9-28-00, cert. ef. 10-1-00; OMAP 34-2001, f. 9-24-01, cert. ef. 10-1-01; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-124-0065
Criteria and Contraindications for Single Lung Transplants

(1) Prior authorization for a single lung transplant will only be approved for a client in whom irreversible lung disease has advanced to the point where conventional therapy offers no prospect for prolonged survival, there is no reasonable alternative medical or surgical therapy and the client's five (5) year survival rate, subsequent to the transplant, is at least 20 percent as supported by medical literature.

(2) The client must have a poor prognosis (i.e., less than a 50% chance of survival for 18 months without a transplant) as a result of poor pulmonary functional status.

(3) All alternative medically accepted treatments that have a one year survival rate comparable to that of single lung transplantation must have been tried or considered.

(4) Requests for transplant services for children suffering from early pulmonary disease may be approved before attempting alternative treatments if medical evidence suggests an early date of transplant is likely to improve the outcome.

(5) A client with one or more of the following contraindications is ineligible for single lung transplant services:

(a) Untreatable systemic vasculitis;
(b) Incurable malignancy;
(c) Diabetes with end-organ damage;
(d) Active infection which will interfere with the client's recovery;
(e) Refractory bone marrow insufficiency;
(f) Irreversible renal disease;
(g) Irreversible hepatic disease;
(h) HIV positive test results.

(6) The following may be considered contraindications to the extent that the evaluating transplant center and/or the specialist who completed the comprehensive evaluation of the client believe the following condition(s) may interfere significantly with the recovery process:

(a) Hyperlipoproteinemia;

(b) Curable malignancy;

(c) Significant cerebrovascular or peripheral vascular disease;

(d) Unresolved continuing thromboembolic disease or pulmonary infarction;

(e) Serious psychological disorders;

(f) Drug or alcohol abuse.

(7) The Division of Medical Assistance Programs (Division) will only prior authorize and reimburse for single lung transplants if:

(a) All Division criteria are met; and

(b) Both the transplant center's and the specialist's evaluations recommend that the transplant be authorized; and

(c) The ICD-10-CM diagnosis code(s) and CPT transplant procedure code(s) are paired on the same currently funded line on the Prioritized List of Health Services adopted under OAR 410-141-0520.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065

Hist.: HR 4-1994, f. & cert. ef. 2-1-94; HR 19-1995, f. 9-28-95, cert. ef. 10-1-95; OMAP 18-2000 f. 9-28-00, cert. ef. 10-1-00; OMAP 21-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 34-2001, f. 9-24-01, cert. ef. 10-1-01; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-124-0070

Criteria and Contraindications for Bilateral Lung Transplants

(1) Prior authorization for a bilateral lung transplant will only be approved for a client in whom irreversible lung disease has advanced to the point where conventional therapy offers no prospect for prolonged survival, there is no reasonable alternative medical or surgical therapy and the client's five (5) year survival rate, subsequent to the transplant, is at least 20 percent as supported by medical literature.

(2) The client must have a poor prognosis (i.e., less than a 50% chance of survival for 18 months without a transplant) as a result of poor pulmonary functional status.

(3) All alternative medically accepted treatments that have a one year survival rate comparable to that of bilateral lung transplantation must have been tried or considered.

(4) Requests for transplant services for children suffering from early pulmonary disease may be approved before attempting alternative treatments if medical evidence suggests an early date of transplant is likely to improve the outcome.

(5) A client with one or more of the following contraindications is ineligible for bilateral lung transplant services:

(a) Untreatable systemic vasculitis;

(b) Incurable malignancy;

(c) Diabetes with end-organ damage;

(d) Active infection which will interfere with the client's recovery;

(e) Refractory bone marrow insufficiency;

(f) Irreversible renal disease;

(g) Irreversible hepatic disease;

(h) HIV positive test results.

(6) The following may be considered contraindications to the extent that the evaluating transplant center and/or the specialist who completed the comprehensive evaluation of the client believe the following condition(s) may interfere significantly with the recovery process:

(a) Hyperlipoproteinemia;

(b) Curable malignancy;

(c) Significant cerebrovascular or peripheral vascular disease;

(d) Unresolved continuing thromboembolic disease or pulmonary infarction;

(e) Serious psychological disorders;

(f) Drug or alcohol abuse.

(7) The Division of Medical Assistance Programs (Division) will only prior authorize and reimburse for bilateral lung transplants if:

(a) All Division criteria are met; and

(b) Both the transplant center's and the specialist's evaluations recommend that the transplant be authorized; and

(c) The ICD-10-CM diagnosis code(s) and CPT transplant procedure code(s) are paired on the same currently funded line on the Prioritized List of Health Services adopted under OAR 410-141-0520.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065

Hist.: HR 4-1994, f. & cert. ef. 2-1-94; HR 19-1995, f. 9-28-95, cert. ef. 10-1-95; OMAP 18-2000 f. 9-28-00, cert. ef. 10-1-00; OMAP 21-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 34-2001, f. 9-24-01, cert. ef. 10-1-01; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-124-0080

Criteria and Contraindications for Autologous and Allogeneic Bone Marrow, Autologous and Allogeneic Peripheral Stem Cell and Allogeneic Cord Blood Transplants

(1) The following criteria will be used to evaluate the prior authorization request for all bone marrow and peripheral stem cell transplants:

(a) Transplantation must be the most effective medical treatment, when compared to other alternatives, in prolonging life expectancy to a reasonable degree;

(b) The client must have a maximum probability of a successful clinical outcome and the expectation of not less than a 20 percent five (5) year survival rate, subsequent to the transplant, as supported by medical literature considering each of the following factors:

(A) The type of transplant (i.e., autologous or allogeneic);

(B) The specific diagnosis of the individual;

(C) The stage of illness (i.e., in remission, not in remission, in second remission);

(D) Satisfactory antigen match between donor and recipient in allogeneic transplants;

(c) All alternative treatments with a one-year survival rate comparable to that of bone marrow transplantation must have been tried or considered.

(2) Allogeneic transplants will be approved for payment only when there is a minimum of 5-out-of-6 antigen match for bone marrow and peripheral stem cell transplants, or 4-out-of-6 match for cord blood transplants, considering the HLA-A, B, and DR loci. Donor search costs up to an amount of $15,000 will be covered only if prior authorized.

(3) Donor leukocyte infusions are covered only when:

(a) An early failure or relapse post allogeneic bone marrow transplant occurs; and

(b) Peripheral stem cells are from the original donor.

(4) The following are contraindications for autologous and allogeneic bone marrow, autologous and allogeneic peripheral stem cell and allogeneic cord blood transplants:

(a) Irreversible terminal state (moribund or on life support);

(b) An irreversible disease of any other major organ system likely to limit life expectancy to five (5) years or less;

(c) Positive HIV test results;

(d) Positive pregnancy test.

(5) The following may be considered contraindications to the extent the evaluating transplant center and/or the specialist who completed the comprehensive evaluation of the client believe these condition(s) may interfere significantly with the recovery process:

(a) Serious psychological disorders;

(b) Alcohol or drug abuse.

(6) The Division of Medical Assistance Programs (Division) will prior authorize and reimburse for autologous and allogeneic bone marrow, autologous and allogeneic peripheral stem cell and allogeneic cord blood transplants only if:

(a) All Division criteria are met; and

(b) Both the transplant center's and the specialist's evaluations recommend that the transplant be authorized; and

(c) The ICD-10-CM diagnosis code(s) and CPT transplant procedure code(s) are paired on the same currently funded line on the Prioritized List of Health Services adopted under OAR 410-141-0520.

(7) The Division will prior authorize and reimburse for autologous and allogeneic bone marrow, autologous and allogeneic peripheral stem cell and allogeneic cord blood transplants for pediatric solid malignancies only if:

(a) Requirements of 410-124-0080(6)(a), (b) and (c) are met; and

(b) There is documentation of a morphology code listed on the currently funded line for pediatric solid tumor in the Prioritized List of Health Services adopted under OAR 410-141-0520.

(8) Prior authorization for harvesting of autologous bone marrow or peripheral stem cells does not guarantee reimbursement for the transplant; the patient must meet the criteria specified above and in 410-124-0020 at the time the transplant is performed.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065

Hist.: HR 8-1990(Temp), f. 3-30-90, cert. ef. 4-1-90; HR 22-1990, f. & cert. ef. 7-17-90; HR 35-1991(Temp), f. & cert. ef. 8-29-91; HR 47-1991, f. & cert. ef. 10-16-91; HR 17-1992, f. & cert. ef. 7-1-92; HR 4-1994, f. & cert. ef. 2-1-94; HR 34-1994, f. & cert. ef. 12-1-94; HR 19-1995, f. 9-28-95, cert. ef. 10-1-95; HR 17-1997, f. & cert. ef. 7-11-97; OMAP 14-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 29-1998, f. & cert. ef. 9-1-98; OMAP 33-1999(Temp), f. & cert. ef. 10-1-99 thru 2-1-00; OMAP 34-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 49-2002, f. & cert. ef. 10-1-02; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-124-0090
Criteria and Contraindications for Harvesting Autologous Bone Marrow and Peripheral Stem Cells

(1) The following are contraindications for the harvesting and storage of autologous bone marrow or peripheral stem cells for a potential transplant. The potential transplant recipient has:

(a) Irreversible terminal state (moribund or on life support);

(b) An irreversible disease of any other major organ system likely to limit life expectancy to five (5) years or less;

(c) Positive HIV test results;

(d) Positive pregnancy test.

(2) The following may be considered contraindications for the harvesting and storage of autologous bone marrow or peripheral stem cells for a transplant to the extent the evaluating transplant center and/or the specialist who completed the comprehensive evaluation of the client believe these condition(s) may interfere significantly with the recovery process. The potential transplant recipient has:

(a) Serious psychological disorders;

(b) Alcohol or drug abuse.

(3) The Division of Medical Assistance Programs (Division) will prior authorize and reimburse for the harvesting and storage of autologous bone marrow or autologous peripheral stem cells for a potential transplant recipient only if:

(a) All Division criteria are met; and

(b) Both the transplant center's and the specialist's evaluations recommend that the transplant be authorized; and

(c) The ICD-10-CM diagnosis code(s) and the CPT bone marrow or peripheral stem cell harvesting for transplantation procedure code(s) are paired on a currently funded line on the Prioritized List of Health Services adopted under OAR 410-141-0520; and

(d) There is documentation of a morphology code listed on the currently funded line for pediatric solid tumor in the Prioritized List of Health Services adopted under OAR 410-141-0520; and

(e) The client's marrow meets the clinical standards of remission at the time of storage; and

(f) A board certified hematologist/oncologist with specific experience in bone marrow transplant (BMT) services (i.e., cryopreservation and immunosuppressive treatment) has recommended the storage of autologous bone marrow or peripheral stem cell collection for possible future transplant/reinfusion; and

(g) The client has no contraindications for the harvesting and storage of autologous bone marrow or peripheral stem cells; and

(h) The client has no contraindications for bone marrow transplant or peripheral stem cell transplant.

(4) Prior authorization for harvesting of autologous bone marrow or peripheral stem cells does not guarantee reimbursement for the transplant. The client must meet the criteria specified in this rule and OAR 410-124-0080, and the transplant must be prior authorized by the Division before reimbursement will be approved.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: OMAP 34-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 49-2002, f. & cert. ef. 10-1-02; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-124-0100
Criteria and Contraindications for Liver and Liver-Kidney Transplants

(1) Prior authorization for liver or liver-kidney transplants will be approved only for a client in whom irreversible, progressive liver disease has advanced to the point where conventional therapy offers no prospect for prolonged survival, there is no reasonable alternative medical or surgical therapy and the client's five (5) year survival rate, subsequent to the transplant, is at least 20 percent as supported by medical literature.

(2) Liver-kidney transplant is covered only for a medically documented diagnosis of Caroli's disease (ICD-10-CM Q44.6).

(3) The following are contraindications for liver or liver-kidney transplants:

(a) Incurable and untreatable malignancy outside the hepatobiliary system;

(b) Terminal state due to diseases other than liver disease;

(c) Uncontrolled sepsis, or active systemic infection;

(d) HIV positive test results;

(e) Active alcoholism or active substance abuse;

(f) Alternative effective medical or surgical therapy;

(g) Presence of uncorrectable significant organ system failure other than liver (excluding short-bowel syndrome or congenital intractable diarrhea).

(4) The following may be considered contraindications to the extent that the evaluating transplant center and/or the specialist who completed the comprehensive evaluation of the client believe these condition(s) may interfere significantly with the recovery process:

(a) Crigler-Najjar Syndrome Type II;

(b) Amyloidosis;

(c) Other major system diseases affecting brain, lung, heart, or renal systems;

(d) Major, not correctable congenital anomalies;

(e) Serious psychological disorders.

(5) The transplant center will review for current risk of alcohol or other substance abuse and risk of recidivism and will inform the Division of Medical Assistance Programs (Division) of its findings prior to the provision of the transplant.

(6) The Division will only prior authorize and reimburse for liver and liver-kidney transplants if:

(a) All Division criteria are met; and

(b) Both the transplant center's and the specialist's evaluations recommend that the transplant be authorized; and

(c) The ICD-10-CM diagnosis code(s) and CPT transplant procedure code(s) are paired on the same currently funded line on the Prioritized List of Health Services adopted under OAR 410-141-0520.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: HR 8-1990(Temp), f. 3-30-90, cert. ef. 4-1-90; HR 22-1990, f. & cert. ef. 7-17-90; HR 17-1992, f. & cert. ef. 7-1-92; HR 4-1994, f. & cert. ef. 2-1-94; HR 19-1995, f. 9-28-95, cert. ef. 10-1-95; OMAP 18-2000 f. 9-28-00, cert. ef. 10-1-00; OMAP 21-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 34-2001, f. 9-24-01, cert. ef. 10-1-01; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-124-0105
Criteria and Contraindications for Intestine and Intestine-Liver Transplants

(1) Prior authorization for intestine and intestine-liver transplants will be approved only for:

(a) A client who has failed Total Parenteral Nutrition (TPN) or who has developed life-threatening complications from TPN;

(b) A client in whom irreversible, progressive intestine and/or liver disease has advanced to the point where conventional therapy offers no prospect for prolonged survival, there is no reasonable alternative medical or surgical therapy and the client's five (5) year survival rate subsequent to the transplant, is at least twenty (20) percent as supported by the medical literature.

(2) Intestine and Intestine-Liver transplant is covered only for a medically documented diagnosis of Short Bowel Syndrome and for patients age 5 years or under with diagnosis of ICD-10-CM K55.0-K55.9, ICD-10-CM K91.2, or ICD-10-CM P77.9.

(3) Small intestine transplant using a living related donor is considered investigational and will not be covered by The Division of Medical Assistance Programs (Division).

(4) The following are contraindications for intestine or intestine-liver transplants:

(a) Incurable and untreatable malignancy outside the hepatobiliary system;

(b) Terminal state due to diseases other than liver or intestinal disease;

(c) Uncontrolled sepsis, or active systemic infection;

(d) HIV positive test results;

(e) Alternative effective medical or surgical therapy;

(f) Presence of uncorrectable significant organ system failure other than liver or Short-Bowel Syndrome.

(5) The following may be considered contraindications to the extent that the evaluating transplant center and/or specialist who completed the comprehensive evaluation of the client believe these condition(s) may interfere significantly with the recovery process:

(a) Crigler-Najjar Syndrome Type II;

(b) Amyloidosis;

(c) Other major system diseases affecting brain, lung, heart, or renal systems;

(d) Major, non-correctable congenital anomalies;

(e) Serious psychological disorders.

(6) The Division will prior authorize and reimburse for intestine and intestine-liver transplant if:

(a) All Division criteria are met; and

(b) Both the transplant center's and the specialist's evaluations recommend that the transplant be authorized; and

(c) The ICD-10-CM diagnosis code(s) and CPT procedure code(s) are paired on the same currently funded line on the Prioritized List of Health Services adopted under OAR 410-141-0520.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: OMAP 19-2005, f. 3-21-05, cert. ef. 4-1-05; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-124-0120
Criteria and Contraindications for Simultaneous Pancreas-Kidney and Pancreas After Kidney Transplants

(1) Prior authorization for a Simultaneous Pancreas-Kidney (SPK) or Pancreas after Kidney (PAK) transplant will be approved only for a client in whom irreversible kidney and/or pancreatic disease has advanced to the point where conventional therapy offers no prospect for prolonged survival, there is no reasonable alternative medical or surgical therapy and the client's five (5) year survival rate, subsequent to the transplant, is at least 20 percent as supported by medical literature.

(2) Simultaneous pancreas-kidney (SPK) transplant is covered only for Type I diabetes mellitus with end stage renal disease (ICD-10-CM codes E10.21, E10.22, E10.29, E10.21, E10.65).

(3) Pancreas after kidney (PAK) transplantation will be considered for clients suffering from insulin dependent Type I diabetes after prior successful renal transplant. Pancreas after kidney (PAK) transplant is covered only for Type I diabetes mellitus (ICD-10-CM codes E10.8-E10.11, E10.31, E10.36, E10.39-E10.40-E10.41, E10.44, E10.49, E10.311, E10.319, E10.321, E10.329, E10.331, E10.339, E10.349, E10.351, E10.359, E10.610, E10.618, E10.620-E10.622, E10.628, E10.630, E10.638-E10.649, E10.69, T86.10-T86.13, T86.19, T86.890-T86.92, T86.898-T86.99

(4) The following are contraindications to SPK and PAK transplants:

(a) Uncorrectable severe coronary artery disease;

(b) Major irreversible disease of any other major organ system likely to limit life expectancy to five years or less;

(c) HIV positive test results.

(5) The following may be considered contraindications to the extent that the evaluating transplant center and/or the specialist who completed the comprehensive evaluation of the client believe these condition(s) may interfere significantly with the recovery process:

(a) Serious psychological disorders;

(b) Drug abuse or alcohol abuse.

(6) The Division of Medical Assistance Programs (Division) will only prior authorize and reimburse for Simultaneous Pancreas-Kidney (SPK) or Pancreas after Kidney (PAK) transplants if:

(a) All Division criteria are met; and

(b) Both the transplant center's and the specialist's evaluations recommend that the transplant be authorized; and

(c) The ICD-10-CM diagnosis code(s) and CPT transplant procedure code(s) are paired on the same currently funded line on the Prioritized List of Health Services adopted under OAR 410-141-0520.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: HR 8-1990(Temp), f. 3-30-90, cert. ef. 4-1-90; HR 22-1990, f. & cert. ef. 7-17-90; HR 17-1992, f. & cert. ef. 7-1-92; HR 4-1994, f. & cert. ef. 2-1-94; HR 19-1995, f. 9-28-95, cert. ef. 10-1-95; OMAP 18-2000 f. 9-28-00, cert. ef. 10-1-00; OMAP 34-2001, f. 9-24-01, cert. ef. 10-1-01; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-125-0045
Coverage and Limitations

In general, most medically appropriate services are covered. There are, however, some restrictions and limitations. Please refer to the Division of Medical Assistance Programs' (Division) General Rules Program for information on general scope of coverage and limitations. Some of the limitations and restrictions that apply to hospital services are:

(1) Prior authorization (PA): Some services require PA for the Oregon Health Plan (OHP) Plus Benefit Package check OAR 410-125-0080.

(2) Non-covered services:

(a) Services that are not medically appropriate, unproven medical efficacy or services that are the responsibility of another Department of Human Services (Department) or Oregon Health Authority (Authority) Division are not covered by the Division of Medical Assistance Programs;

(b) Service coverage is based on the Health Evidence Review Commission's (HERC) Prioritized List of Services and the client's benefit package;

(c) See the General Rules Program (chapter 410, division 120) and other program divisions in chapter 410 for a list of not covered services. Further information on covered and non-covered services is found in the Revenue Code section in the Hospital Services Supplemental Information.

(3) Limitations on hospital benefit days: Clients have no hospital benefit day limitations for treatment of covered services.

(4) Dental services: Clients have dental/denturist services identified as covered on the HERC Prioritized List (OAR 410-141-520).

(5) Services provided outside of the hospital's licensed facilities; for example, in the client's home or in a nursing home, are not covered by Division as hospital services. The only exceptions to this are Maternity Case Management services and specific nursing or physician services provided during a ground or air ambulance transport.

(6) Dialysis services require a written physician prescription. The prescription must indicate the ICD-10 diagnosis code and must be retained by the provider of dialysis services for the period of time specified in the General Rules Program.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: HR 42-1991, f. & cert. ef. 10-1-91; HR 36-1993, f. & cert. ef. 12-1-93; HR 5-1994, f. & cert. ef. 2-1-94; HR 4-1995, f. & cert. ef. 3-1-95; HR 3-1997, f. 1-31-97, cert. ef. 2-1-97; OMAP 28-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04; DMAP 39-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 37-2011, f. 12-13-11, cert. ef. 1-1-12; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-125-0141
DRG Rate Methodology

(1) Diagnosis Related Groups:

(a) Diagnosis Related Groups (DRG) is a system of classification of diagnoses and procedures based on the International Classification of Diseases, 10th Revision, Clinical Modification (ICD-10-CM);

(b) The DRG classification methodology assigns a DRG category to each inpatient service, based on the patient's diagnoses, age, procedures performed, length of stay, and discharge status.

(2) Medicare Grouper: The Medicare Grouper is the software used to assign an individual claim to a DRG category. Medicare revises the Grouper program each year in October. The Division of Medical Assistance Programs (Division) uses the Medicare Grouper program in the assignment of inpatient hospital claims. The most recent version of the Medicare grouper will be installed each year within 90 days of the date it is implemented by Medicare. Where better assignment of claims is achieved through changes to the grouper logic, the Division may modify the logic of the grouper program. The Division will work with representatives of hospitals that may be affected by grouper logic changes in reaching a cooperative decision regarding changes. The Division DRG weight tables can be found on the Division web site.

(3) DRG Relative Weights:

(a) Relative weights are a measure of the relative resources required in the treatment of the average case falling within a specific DRG category;

(b) For most DRGs, the Division establishes a relative weight based on federal Medicare DRG weights. For state-specific Rehabilitation, Neonate, and Adolescent Psychiatric DRGs, Oregon Title XIX fee-for-service claims history is used. To determine whether enough claims exist to establish a reasonable weight for each state-specific Rehabilitation, Neonate, and Adolescent Psychiatric DRG, the Division uses the following methodology: Using the formula N = where Z = 1.15 (a 75% confidence level), S is the standard deviation, and R = 10% of the mean. The Division determines the minimum number of claims required to set a stable weight for each DRG (N must be at least 5). For state-specific Rehabilitation, Neonate, and Adolescent Psychiatric DRGs lacking sufficient volume, the Division sets a relative weight using:

(A) Division non-Title XIX claims data; or

(B) Data from other sources expected to reflect a population similar to the Division Title XIX caseload;

(c) When a test shows at the 90% confidence level that an externally derived weight is not representative of the average cost of services provided to the Division Title XIX population in that DRG, the weight derived from the Division Title XIX claims history is used instead of the externally derived weight for that DRG;

(d) Those relative weights based on Federal Medicare DRG weights, will be established when changes are made to the DRG Grouper logic. State specific relative weights shall be adjusted, as needed, as determined by the Division. When relative weights are recalculated, the overall Case Mix Index (CMI) will be kept constant. Reweighing of DRGs or the addition or modification of the grouper logic will not result in a reduction of overall payments or total relative weights.

(4) Case Mix Index: The hospital-specific case mix index is the total of all relative weights for all services provided by a hospital during a period, divided by the number of discharges.

(5) Unit Value: Hospitals larger than fifty (50) beds are reimbursed using the Diagnosis Related Grouper (DRG) as described in (2). Effective for services on or after:

(a) August 15, 2005, the operating unit payment is 100% of 2004 Medicare and related data published in Federal Register/Vol. 68, No. 148, August 1, 2003. The unit value is also referred to as the operating unit per discharge.

(b) May 1, 2009, the operating unit payment is 108.5% of the 2004 Medicare and related data published in Federal Register/Vol. 68, No. 148, August 1, 2003. The unit value is also referred to as the operating unit per discharge.

(c) Effective October 1, 2009 the operating unit payment is 100% of the most recent version of the Medicare base payment rates. The Division will revise the base payment rates each year in October when Medicare posts the rates.

(6) DRG Payment: The DRG payment to each Oregon DRG hospital is calculated by adding the unit value to the capital amount, then multiplied by the claim assigned DRG relative weight (out of state hospitals do not receive the capital amount).

(7) Cost Outlier Payments:

(a) Cost outlier payments are an additional payment made to in-state and contiguous hospitals for exceptionally costly services or exceptionally long lengths of stay provided to Title XIX and SF (State Facility) clients;

(b) For dates of service on and after March 1, 2004 the calculation to determine the cost outlier payment for Oregon DRG hospitals is as follows:

(A) Non-covered services (such as ambulance charges) are deducted from billed charges;

(B) The remaining billed charges are converted to hospital-specific costs using the hospital's cost-to-charge ratio derived from the most recent audited Medicare cost report and adjusted to the Medicaid caseload;

(C) If the hospital's net costs as determined above are greater than 270 percent of the DRG payment for the admission and are greater than $25,000, an additional cost outlier payment is made;

(D) Costs which exceed the threshold ($25,000 or 270% of the DRG payment, whichever is greater) are reimbursed using the following formula:

(i) Billed charges less non-covered charges, multiplied by;

(ii) Hospital-specific cost-to-charge ratio equals;

(iii) Net Costs, minus;

(iv) 270% of the DRG or $25,000 (whichever is greater), equals;

(v) Outlier Costs, multiplied by;

(vi) Cost Outlier Percentage, (cost outlier percentage is 50%), equals;

(vii) Cost Outlier Payment;

(E) Third party reimbursements are deducted from the Division calculation of the payable amount;

(F) When hospital cost reports are audited during the cost settlement process, an adjustment will be made to cost outlier payments to reflect the actual Medicaid hospital-specific cost-to-charge ratio during the time cost outlier claims were incurred. The cost-to-charge ratio in effect for that period of time will be determined from the audited Medicare Cost Report and DMAP 42, adjusted to reflect the Medicaid mix of services.

(8) Capital:

(a) The capital payment is a reimbursement to in-state hospitals for capital costs associated with the delivery of services to Title XIX, non-Medicare persons. The Division uses the Medicare definition and calculation of capital costs. These costs are taken from the Hospital Statement of Reimbursable Cost (Medicare Report);

(b) For the dates of service on and after March 1, 2004 the Capital cost per discharge is one hundred (100) percent of the published Medicare capital rate for fiscal year 2004, see (5). The capital cost is added to the Unit Value and paid per discharge.

(c) Effective October 1, 2009 the Capital cost per discharge is one hundred (100) percent of the current year Medicare capital rate and updated every October thereafter, see (5). The capital cost is added to the Unit Value and paid per discharge.

(9) Direct Medical Education:

(a) The direct medical education payment is a reimbursement to in-state hospitals for direct medical education costs associated with the delivery of services to Title XIX eligible persons. The Division uses the Medicare definition and calculation of direct medical education costs. These costs are taken from the Hospital Statement of Reimbursable Cost (Medicare Report);

(b) Direct medical education cost per discharge is calculated as follows:

(A) The direct medical education cost proportional to the number of Title XIX non-Medicare discharges during the period from July 1, 1986 through June 30, 1987 are divided by the number of Title XIX non-Medicare discharges. This is the Title XIX direct medical education cost per discharge;

(B) The Title XIX direct medical education cost per discharge for this period is inflated forward to January 1, 1992, using the compounded HCFA-DRI market basket adjustment;

(c) Direct medical education payment per discharge:

(A) The number of Title XIX non-Medicare discharges from each hospital for the quarterly period is multiplied by the inflated Title XIX cost per discharge. This determines the current quarter's Direct Medical Education costs. This amount is then multiplied by 85%. Payment is made within thirty days of the end of the quarter;

(B) The Direct Medical Education Payment per Discharge will be adjusted at an inflation factor determined by the Department in consideration of inflationary trends, hospital productivity and other relevant factors.

(C) Notwithstanding subsection (9) of this rule, this subsection becomes effective for dates of service:

(i) On July 1, 2006 and thereafter direct medical education payments will not be made to hospitals; and

(ii) On July 1, 2008 and thereafter direct medical education payments will be made to hospitals, but will not be operative as the basis for payments until the Division determines all necessary federal approvals have been obtained.

(10) Indirect Medical Education:

(a) The indirect medical education payment is a reimbursement made to instate hospitals for indirect medical education costs associated with the delivery of services to Title XIX non-Medicare clients;

(b) Indirect medical education costs are those indirect costs identified by Medicare as resulting from the effect of teaching activity on operating costs;

(c) Indirect medical education payments are made to in-state hospitals determined by Medicare to be eligible for such payments. The indirect medical education factor in use by Medicare for each of these eligible hospitals at the beginning of the State's fiscal year is the Division indirect medical education factor. This factor is used for the entire Oregon fiscal year;

(d) For dates of service on and after March 1, 2004 the calculation for the Indirect Medical Education quarterly payment is as follows: Total paid discharges during the quarter multiplied by the Case Mix Index, multiplied by the hospital specific February 29, 2004 Unit Value, multiplied by the Indirect Factor equals the Indirect Medical Education Payment;

(e) Effective October 1, 2009, the calculation of the Indirect Medical Education quarterly payment is as follows: Total paid discharges during the quarter multiplied by the Case Mix Index, multiplied by the hospital unit value, see (5)(c), multiplied by the indirect factor equals the Indirect Medical Education Payment.

(f) This determines the current quarter's Indirect Medical Education Payment. Indirect medical education payments are made quarterly to each eligible hospital. Payment for indirect medical education costs will be made within thirty days of the end of the quarter.

(g) Notwithstanding subsection (10) of this rule, this subsection becomes effective for dates of service:

(A) On July 1, 2006 and thereafter Indirect Medical Education payment will not be made to hospitals; and

(B) On July 1, 2008 and thereafter Indirect Medical Education payments will be made to hospitals, but will not be operative as the basis for payments until the Division determines all necessary federal approvals have been obtained.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065

Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 57-1980, f. 8-29-80, ef. 9-1-80; AFS 18-1982(Temp), f. & ef. 3-1-82; AFS 60-1982, f. & ef. 7-1-82; Renumbered from 461-015-0120(5); AFS 37-1983(Temp), f. & ef. 7-15-83; AFS 1-1984, f. & ef. 1-9-84; AFS 45-1984, f. & ef. 10-1-84; AFS 6-1985, f. 1-28-85, ef. 2-1-85; AFS 52-1985, f. 9-3-85, ef. 10-1-85; AFS 46-1986(Temp), f. 6-25-86, ef. 7-1-86; AFS 61-1986, f. 8-12-86, ef. 9-1-86; AFS 33-1987(Temp), f. & ef. 7-22-87; AFS 46-1987, f. & ef. 10-1-87; AFS 62-1987(Temp), f. 12-30-87, ef. 1-1-88; AFS 12-1988, f. 2-10-88, cert. ef. 6-1-88; AFS 26-1988, f. 3-31-88, cert. ef. 4-1-88; AFS 47-1988(Temp), f. 7-13-88, cert. ef. 7-1-88; AFS 63-1988, f. 10-3-88, cert. ef. 12-1-88; AFS 7-1989(Temp), f. 2-17-89, cert. ef. 3-1-89; AFS 15-1989(Temp), f. 3-31-89, cert. ef. 4-1-89; AFS 36-1989(Temp), f. & cert. ef. 6-30-89; AFS 37-1989(Temp), f. 6-30-89, cert. ef. 7-1-89; AFS 45-1989, f. & cert. ef. 8-21-89; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89, Renumbered from 461-015-0006, 461-015-0020 & 461-015-0124; HR 18-1990(Temp), f. 6-29-90, cert. ef. 7-1-90; HR 21-1990, f. & cert. ef. 7-9-90, Renumbered from 461-015-0570, 461-015-0590, 461-015-0600 & 461-015-0610; HR 31-1990(Temp), f. & cert. ef. 9-11-90; HR 36-1990(Temp), f. 10-29-90, cert. ef. 11-1-90; HR 42-1990, f. & cert. ef. 11-30-90; HR 3-1991, f. & cert. ef. 1-4-91; HR 28-

1991(Temp), f. & cert. ef. 7-1-91; HR 32-1991(Temp), f. & cert. ef. 7-29-91; HR 53-1991, f. & cert. ef. 11-18-91, Renumbered from 410-125-0840, 410-125-0880, 410-125-0900, 410-125-0920, 410-125-0960 & 410-125-0980; HR 35-1993(Temp), f. & cert. ef. 12-1-93; HR 23-1994, f. 5-31-94, cert. ef. 6-1-94; HR 11-1996(Temp), f. & cert. ef. 7-1-96; HR 22-1996, f. 11-29-96, cert. ef. 12-1-96; OMAP 45-1998, f. & cert. ef. 12-1-98; OMAP 34-1999, f. & cert. ef. 10-1-99; OMAP 35-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 13-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 16-2003(Temp), f. & cert. ef. 3-10-03 thru 8-1-03; OMAP 37-2003, f. & cert. ef. 5-1-03; OMAP 90-2003, f. 12-30-03 cert. ef. 1-1-04; OMAP 78-2004(Temp), f. & cert. ef. 10-1-04 thru 3-15-05; Administrative correction, 3-18-05; OMAP 21-2005, f. 3-21-05, cert. ef. 4-1-05; OMAP 37-2005(Temp) f. & cert. ef. 8-15-05 thru 1-15-06; OMAP 70-2005, f. 12-21-05, cert. ef. 1-1-06; OMAP 17-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 19-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 10-2009(Temp), f. 4-29-09, cert. ef. 5-1-09 thru 10-28-09; DMAP 31-2009, f. 9-22-09, cert. ef. 10-1-09; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-125-1080
Documentation

(1) Federal regulations require Medicaid providers to maintain records that fully support the extent of services for which payment has been requested, and that such records be furnished to the Division upon request (42 CFR 431.107).

(2) When requested by the Division or its medical review contractor, hospitals must submit sufficient medical documentation to verify the emergency nature, medical necessity, quality and appropriateness of treatment, and appropriateness of the length of stay for inpatient and outpatient hospital services. The Division may request sufficient information to evaluate the accuracy and appropriateness of ICD-10-CM Coding for the claim. In addition, the Division may request an itemized billing for all services provided. The Division will specify in its request what documentation is required.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 60-1982, f. & ef. 7-1-82; AFS 46-1987, f. & ef. 10-1-87; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89, Renumbered from 461-015-0040; HR 21-1990, f. & cert. ef. 7-9-90, Renumbered from 461-015-0680; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-125-2020
Post Payment Review

(1) All services provided by a hospital in the inpatient or outpatient setting are subject to post-payment review by the Division. Both emergency and non-emergency services may be reviewed. Claims for services may be reviewed to determine:

(a) The medical necessity of the admission or outpatient services provided;

(b) The appropriateness of the length of stay;

(c) The appropriateness of the plan of care;

(d) The accuracy of the ICD-10 coding and DRG assignment;

(e) The appropriateness of the setting selected for service delivery;

(f) The quality of care of the services provided;

(g) The nature of any service coded as emergent;

(h) The accuracy of the billing;

(i) The care furnished is appropriately documented.

(2) If the Division determines that a hospital service was not within Division coverage parameters, the hospital and attending physician shall be notified in writing and will have twenty days to provide additional written documentation to support the medical necessity of the admission and/or procedure(s).

(3) If the recommendation for denial is upheld by the Division, the hospital and/or practitioner may request a reconsideration of the denial within 30 days of the receipt of the denial.

(4) If the reconsidered decision is to uphold the denial, payment to all providers of service shall be recovered.

(5) The hospital and/or practitioner may appeal any final decision through the Division administrative appeals process.

(6) No payment shall be made by the Division for inpatient services if the Division or Medicare has determined the service is not medically necessary and/or appropriate.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: AFS 14-1980, f. 3-27-80, ef. 4-1-80; AFS 1-1984, f. & ef. 1-9-84; AFS 38-1986, f. 4-29-86, ef. 6-1-86; AFS 46-1987, f. & ef. 10-1-87; AFS 49-1989(Temp), f. 8-24-89, cert. ef. 9-1-89; AFS 72-1989, f. & cert. ef. 12-1-89, Renumbered from 461-015-0090; HR 21-1990, f. & cert. ef. 7-9-90, Renumbered from 461-015-0700; HR 42-1991, f. & cert. ef. 10-1-91; OMAP 34-1999, f. & cert. ef. 10-1-99; OMAP 28-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 70-2004, f. 9-15-04, cert. ef. 10-1-04; DMAP 32-2010, f. 12-15-10, cert. ef. 1-1-11; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-127-0040
Coverage

(1) Home health services are made available on a visiting basis to eligible clients in their homes as part of a written "plan of care."

(2) Home health services must be prescribed by a physician and the signed order must be on file at the home health agency. The prescription must include theICD-10-CM diagnosis code indicating the reason the home health services are requested. The orders on the plan of care must specify the type of services to be provided to the client, with respect to the professional who will provide them, the nature of the individual services, specific frequency and specific duration. The orders must clearly indicate how many times per day, each week and/or each month the services are to be provided. The plan of care must include the client's condition, the rationale for the care plan including justification for the required skill level of care, and the summary of care for additional certification periods.

(3) The plan of care must be reviewed and signed by the physician every two months to continue services.

(4) The following services or items are covered, if diagnoses are on the portion of the prioritized list above the line funded by the Legislature:

(a) Skilled nursing services;

(b) Skilled nursing evaluation (includes Outcome and Assessment Information Set (OASIS) assessment);

(c) Home Health aide services;

(d) Occupational therapy services;

(e) Occupational therapy evaluation (may include OASIS Assessment);

(f) Physical therapy services;

(g) Physical therapy evaluation (may include OASIS Assessment);

(h) Speech and language pathology services (may include OASIS Assessment;

(i) Speech and language pathology evaluation (may include OASIS assessment);

(j) Medical/surgical supplies.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: PWC 682, f. 7-19-74, ef. 8-11-74; PWC 798, f. & ef. 6-1-76; AFS 8-1979, f. 3-30-79, ef. 4-1-79; Renumbered from 461-019-0400 by Chapter 784, Oregon Laws 1981 & AFS 69-1981, f. 9-30-81, ef. 10-1-81; SSD 4-1983, f. 5-4-83, ef. 5-5-83; SSD 10-1990, f. 3-30-90, cert. ef. 4-1-90; HR 28-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 411-075-0000; HR 14-1992, f. & cert. ef. 6-1-92; HR 15-1995, f. & cert. ef. 8-1-95; OMAP 19-2000, f. 9-28-00, cert. ef. 10-1-00; DMAP 29-2013, f. & cert. ef. 6-27-13; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-129-0060
Prescription Required

(1) The prescription is the written order by the prescribing practitioner pursuant to state law governing speech-pathology, audiology and hearing aid services. Prescription must specify the ICD-10-CM diagnosis code for all speech-pathology, audiology and hearing aid services that require payment/prior authorization.

(2) The provision of speech therapy services must be supported by a written order and a therapy treatment plan signed by the prescribing practitioner. A practitioner means a person licensed pursuant to State law to engage in the provision of health care services within the scope of the practitioner's license and/or certification.

(3) A written order:

(a) Is required for the initial evaluation;

(b) For therapy, must specify the ICD-10-CM diagnosis code, service, amount and duration required.

(4) Written orders must be submitted with the payment (prior) authorization request and a copy must be on file in the provider's therapy record. The written order and the treatment plan must be reviewed and signed by the prescribing practitioner every six months.

(5) Authorization of payment to an audiologist or hearing aid dealer for a hearing aid will be considered only after examination for ear pathology and written prescription for a hearing aid by an ear, nose, and throat specialist (ENT) or general practitioner who has training to examine the ear and performs within the scope of his/her practice, i.e. primary care physician (not appropriate is an orthopedic specialist, chiropractor, gynecologist, etc.).

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.025 & 414.065
Hist.: AFS 67-1985, f. 11-19-85, ef. 12-1-85; HR 5-1991, f. 1-18-91, cert. ef. 2-1-91, Renumbered from 461-021-0301; HR 27-1993, f. & cert. ef. 10-1-93; HR 36-1994, f. 12-30-94, cert. ef. 1-1-95; OMAP 36-1999, f. & cert. ef. 10-1-99; DMAP 6-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-130-0160
Codes

(1) ICD-10-CM Diagnosis Codes:

(a) Always use the principal diagnosis code in the first position to the highest degree of specificity. List additional diagnosis codes if the claim includes charges for services that relate to the additional diagnoses.

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-10-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) The division may consider reimbursement for CPT category III codes included under the following headings: Adaptive Behavior Assessments, Adaptive Behavior Treatment, and Exposure Adaptive Behavior Treatment With Protocol Modification. All CPT category II (codes with fifth character of "F") and all other category III codes (codes with fifth character "T") are not Division of Medical Assistance Programs' (Division) covered services;

(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 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 and HCPCS codebook. Use the definitions to verify 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 Not Covered/Bundled Services rule, OAR 410-130-0220, provides more information regarding 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; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-130-0190
Tobacco Cessation

(1) Tobacco treatment interventions may include one or more of these services: basic, intensive, and telephone calls.

(2) Basic tobacco cessation treatment includes the following services:

(a) Ask — systematically identify all tobacco users — usually done at each visit;

(b) Advise — strongly urge all tobacco users to quit using;

(c) Assess — the tobacco user's willingness to attempt to quit using tobacco within 30 days;

(d) Assist — with brief behavioral counseling, treatment materials and the recommendation/prescription of tobacco cessation therapy products (e.g., nicotine patches, oral medications intended for tobacco cessation treatment and gum);

(e) Arrange — follow-up support and/or referral to more intensive treatments, if needed.

(3) When providing basic treatment, include a brief discussion to address client concerns and provide the support, encouragement, and counseling needed to assist with tobacco cessation efforts. These brief interventions, less than 6 minutes, generally are provided during a visit for other conditions, and additional billing is not appropriate.

(4) Intensive tobacco cessation treatment is on the Health Services Commission's Prioritized List of Health Services and is covered if a documented quit date has been established. This treatment is limited to ten sessions every three months. Treatment is reserved for those clients who are not able to quit using tobacco with the basic intervention measures.

(5) Intensive tobacco cessation treatment includes the following services:

(a) Multiple treatment encounters (up to ten in a 3 month period);

(b) Behavioral and tobacco cessation therapy products (e.g., nicotine patches, oral medications intended for tobacco cessation treatment and gum);

(c) Individual or group counseling, six minutes or greater.

(6) Telephone calls: the Division may reimburse a telephone call intended as a replacement for face-to-face contact with clients who are in intensive treatment as it is considered a reasonable adjunct to, or replacement for, scheduled counseling sessions:

(a) The call must last six to ten minutes and provides support and follow-up counseling;

(b) The call must be conducted by the provider or other trained staff under the direction or supervision of the provider;

(c) Enter proper documentation of the service in the client's chart.

(7) Diagnosis Code ICD-10-CM (F17.200-F17.299; Nicotine Dependence):

(a) Use as the principal diagnosis code when the client is enrolled in a tobacco cessation program or if the primary purpose of the visit is for tobacco cessation services;

(b) Use as a secondary diagnosis code when the primary purpose of this visit is not for tobacco cessation or when the tobacco use is confirmed during the visit.

(8) Billing Information: Coordinated care organizations and managed care plans may have tobacco cessation services and programs. This rule does not limit or prescribe services a Prepaid Health Plan provides to clients receiving OHP benefits.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.025 & 414.065
Hist.: HR 36-1992, f. & cert. ef. 12-1-92; OMAP 15-1998, f. & cert. ef. 5-1-98; OMAP 17-1999, f. & cert. ef. 4-1-99; OMAP 31-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 13-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 40-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 69-2003 f. 9-12-03, cert. ef. 10-1-03; OMAP 26-2006, f. 6-14-06, cert. ef. 7-1-06; DMAP 20-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-130-0562
Abortion

For medically induced abortions by oral ingestion of medication use S0199 for all visits, counseling, lab tests, ultrasounds, and supplies. S0199 is a global package except for medication:

(1) Bill medications with codes S0190-S0191 and appropriate HCPCS codes.

(2) For surgical abortions use CPT codes 59840 through 59857:

(3) For services related to surgical abortion such as lab, ultrasound and pathology bill separately. Add modifier U4 (a Division of Medical Assistance Programs (Division) modifier) for surgical abortion related services.

(4) Use the most appropriate ICD-10 diagnosis code.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.025 & 414.065
Hist.: HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 43-1991, f. & cert. ef. 10-1-91; 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 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 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; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-130-0585
Family Planning Services

(1) Family planning services are those intended to prevent or delay pregnancy, or otherwise control family size.

(2) The Division of Medical Assistance Programs (Division) covers family planning services for clients of childbearing age (including minors who are considered to be sexually active).

(3) Family Planning services include:

(a) Annual exams;

(b) Contraceptive education and counseling to address reproductive health issues;

(c) Laboratory tests;

(d) Radiology services;

(e) Medical and surgical procedures, including tubal ligations and vasectomies;

(f) Pharmaceutical supplies and devices.

(4) Clients may seek family planning services from any provider enrolled with the Division, even if the client is enrolled in a Prepaid Health

Plan (PHP). Reimbursement for family planning services is made either by the client's PHP or the Division. If the provider is:

(a) A participating provider with the client's PHP, bill the PHP;

(b) An enrolled Division provider, but is not a participating provider with the client's PHP, bill the Division and add modifier –FP to the billed code.

(5) Family planning methods include natural family planning, abstinence, intrauterine device, cervical cap, prescriptions, sub-dermal implants, condoms, and diaphragms.

(6) Bill all family planning services with the most appropriate ICD-10-CM diagnosis code the most appropriate CPT or HCPCS code and add modifier –FP.

(7) For annual family planning visits use the appropriate CPT code in the Preventative Medicine series (9938X-9939X) and add modifier -FP. These codes include comprehensive contraceptive counseling.

(8) When comprehensive contraceptive counseling is the only service provided at the encounter, use a CPT code from the Preventative Medicine, Individual Counseling series (99401-99404) and add modifier -FP.

(9) Bill contraceptive supplies with the most appropriate HCPCS codes.

(10) Where there are no specific CPT or HCPCS codes, use an appropriate unlisted code and add modifier -FP. Bill supplies at acquisition cost.

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

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.025, 414.065 & 414.152

Hist.: HR 19-1991, f. 4-12-91, cert. ef. 5-1-91; HR 43-1991, f. & cert. ef. 10-1-91; HR 8-1992, f. 2-28-92, cert. ef. 3-1-92; 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 13-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 2-2002, f. 2-15-02, cert. ef. 4-1-02; OMAP 51-2002, f. & cert. ef. 10-1-02; 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 13-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 45-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 26-2006, f. 6-14-06, cert. ef. 7-1-06; DMAP 34-2010, f. 12-15-10, cert. ef. 1-1-11; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-131-0080
Therapy Plan of Care and Record Requirements

(1) A therapy plan of care is required for prior authorization (PA) for payment.

(2) The therapy plan of care must include:

(a) Client's name, diagnosis, and type, amount, frequency and duration of the proposed therapy;

(b) Individualized, measurably objective functional goals;

(c) Documented need for extended service, considering 60 minutes as the maximum length of a treatment session;

(d) Plan to address implementation of a home management program as appropriate from the initiation of therapy forward;

(e) Dated signature of the therapist or the prescribing practitioner establishing the therapy plan of care; and

(f) For home health clients, any additional requirements included in Oregon Administrative Rule (OAR) 410 division 127.

(3) The therapy treatment plan and regimen will be taught to the client, family, foster parents, or caregiver during the therapy treatments. No extra treatments will be authorized for teaching.

(4) A therapy plan of care shall comply with the relevant state licensing authority's standards.

(5) If a state licensing authority has not adopted therapy plan of care standards, the therapy plan of care must include:

(a) The need for continuing therapy clearly stated;

(b) Changes to the therapy plan of care, including changes to duration and frequency of intervention, and

(c) Any changes or modifications to the plan of care shall be documented, signed, and dated by the prescribing practitioner or therapist who developed the plan.

(6) Therapy records must include:

(a) A written referral, including:

(A) The client's name;

(B) The ICD-10-CM diagnosis code; and

(C) Shall specify the type of services, amount, and duration required.

(b) A copy of the signed therapy plan of care must be on file in the provider's therapy record prior to billing for services;

(c) Documents, evaluations, re-evaluations, and progress notes to support the therapy treatment plan and prescribing provider's written orders for changes in the therapy treatment plan;

(d) Modalities used on each date of service;

(e) Procedures performed and amount of time spent performing the procedures is documented and signed by the therapist; and

(f) Documentation of splint fabrication and time spent fabricating the splint.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 688.135, 414.065

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410-133-0040
Definitions

(1) Adapted vehicle — Vehicle specifically designed or modified to transport passengers with disabilities.

(2) Adequate recordkeeping — In addition to General Rules OAR 410-120-0000, Definitions and 410-120-1360, Requirements for financial, clinical, and other records, documentation in the student's educational record and on the Individualized Education Plan (IEP) or Individualized Family Service Plan (IFSP) showing the necessary and appropriate health services provided to the student detailed in the School-Based Health Services (SBHS) administrative rules (410-133-0000 and 410-133-0320).

(3) Agent — means a third party or organization that contracts with a provider, allied agency, or Prepaid Health Plan (PHP) to perform designated services in order to facilitate a transaction or conduct other business functions on its behalf. Agents include billing agents, claims clearinghouses, vendors, billing services, service bureaus, and accounts receivable management firms. Agents may also be clinics, group practices, and facilities that submit billings on behalf of providers but the payment is made to a provider, including the following: an employer of a provider, if a provider is required as a condition of employment to turn over his fees to the employer; the facility in which the service is provided, if a provider has a contract under which the facility submits the claim; or a foundation, plan, or similar organization operating an organized health care delivery system, if a provider has a contract under which the organization submits the claim. Agents may also include electronic data transmission submitters.

(4) Allied Agency — Local and regional governmental agencies and regional authorities that contract with the Department of Human Services (Department) or the Oregon Health Authority (Authority) to provide the delivery of services to covered individuals. (e.g., local mental health authority, community mental health program, Oregon Youth Authority, Department of Corrections, local health departments, public schools, Education Service Districts (ESDs), developmental disability service programs, Area Agencies on Aging (AAAs), federally recognized American Indian tribes).

(5) Assessment — A process of obtaining information to determine if a student qualifies for or continues to qualify for the Division of Medical Assistance Programs (Division) covered school-based health services.

(6) Assistive technology service — Services provided by medically qualified staff within the scope of practice under State law with training and expertise in the use of assistive technology (see 410-133-0080 Coverage and 410-133-0200 Not Covered Services in these rules).

(7) Audiologist — A person licensed to practice audiology by the State Board of Examiners for Speech Pathology and Audiology or holds a Certificate of Clinical Competency (CCC) from the American Speech and Hearing Association (ASHA) and meet the requirements in 42 CFR 440.110.

(8) Audiology — Assessment of children with hearing loss; determination of the range, nature and degree of hearing loss, including the referral for medical or other professional attention for restoration or rehabilitation due to hearing disorders; provision of rehabilitative activities, such as language restoration or rehabilitation, auditory training, hearing evaluation and speech conversation, and determination of the child's need for individual amplification; obtaining and interpreting information; and coordinating care and integrating services relative to the student receiving services.

(9) "Authority" means the Oregon Health Authority (Please see General Rules 410-120-0000 Acronyms and Definitions)

(10) Automated Voice Response (AVR) — A computer system that provides information on clients' current eligibility status from the Division of Medical Assistance Programs by computerized phone or web-based response.

(11) Benefit Package — The "package" of covered health care services for which the Medicaid-eligible student is eligible. (See General Rules OAR 410-120-1210 Medical Assistance Benefit Packages and Delivery System)

(12) Billing agent or billing service — Third party or organization that contracts with a provider to perform designated services in order to facilitate an Electronic Data Interchange (EDI) transaction on behalf of the

provider. Also see definition for Electronic Data Interchange (EDI) Submitter

(13) Billing Provider (BP) — A person, agent, business, corporation, clinic, group, institution, or other entity who submits claims to and/or receives payment from the Division of Medical Assistance Programs (Division) on behalf of a performing provider and has been delegated the authority to obligate or act on behalf of the performing provider. (See the Department-wide Support Services (DWSS) administrative rules in, chapter 407, division 120 Provider Rules, and the Division's General Rules OAR 410-120-1260 and SBHS OAR 410-133-0140.)

(14) Billing time limit — Refers to the rules concerning the period of time allowed to bill services to the Division of Medical Assistance Programs (Division) see General Rules OAR 410-120-1300, Timely Submission of Claims. In general, those rules require initial submission within 12 months of the date of service or 18 months for resubmission.

(15) Centers for Medicare and Medicaid Services (CMS) — The federal regulatory agency for Medicaid programs.

(16) CMS-1500 — The standard federal billing form used to bill medical services.

(17) Certification — See "licensure."

(18) Children's Health Insurance Program (CHIP) — A federal and state funded portion of the Oregon Health Plan (OHP) established by Title XXI of the Social Security Act and administered in Oregon by the Oregon Health Authority (Authority) Division of Medical Assistance Programs (Division).

(19) Clinical Social Work Associate (CSWA) — A person working toward Licensed Clinical Social Worker (LCSW) licensure in compliance with Division 20, Procedure for Certification and Licensing, OAR 877-20-0000 through OAR 877-20-0060.

(20) Coordinated care — Services directly related to covered school-based health services (SBHS) specified in the individualized education program (IEP) or individualized family service plan (IFSP), performed by medically qualified staff, and allowed under OAR 410-133-0080, Coverage, to manage integration of those health services in an education setting. Coordinated care includes the following activities:

(a) Conference — The portion of a conference in a scheduled meeting, between medically qualified staff and interested parties, to develop, review, or revise components of school-based health services provided to a Medicaid-eligible student for the purpose to establish, re-establish or terminate a Medicaid covered health service on a Medicaid-eligible student's Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP); or to develop, review, or revise components of a health service currently provided to a Medicaid-eligible student to determine whether or not those covered health services continue to meet the student's needs as specified on the student's IEP or IFSP.

(b) Consultation — performed by medically qualified staff within the scope of practice providing technical assistance to or conferring with, special education providers, physicians, and families to assist them in providing a covered health service for Medicaid-eligible students related to a specific health service and health service goals and objectives in the individualized education program (IEP) or individualized family service plan (IFSP).

(c) Physician coordinated care — Meeting or communication with a physician in reference to oversight of care and treatment provided for a health service specified on a Medicaid-eligible student's individualized education program (IEP) or individualized family service plan (IFSP).

(21) Cost Determination — The process of establishing an annual discipline fee (cost rate), based on the prior-year actual audited costs, used by an EA for the purpose of billing for covered school-based health services (see 410-133-0245 Cost Determination and Payment in these rules).

(22) Covered entity — means a health plan, health care clearing house, health care provider, or allied agency that transmits any health information in electronic form in connection with a transaction, including direct data entry (DDE), and who must comply with the National Provider Identifier (NPI) requirements of 45 CFR 162.402 through 162.414. When a school provides covered SBHS services in the normal course of business and bills Medicaid for reimbursed covered transactions electronically in connection with that health care such as electronic claims, it is then a covered entity and must comply with the HIPAA Administrative Simplification Rules for Transactions and Code sets and Identifiers with respect to its transactions.

(23) Current Procedural Terminology (CPT) — The American Medical Association's CPT is a listing of descriptive terms and identifying codes for reporting medical services and procedures performed by physicians and other health care providers. See the Division of Medical Assistance Programs' General Rules Program (OAR 410-120-0000 Definitions).

(24) Data transmission — means the transfer or exchange of data between the Department and a web portal or electronic data interchange (EDI) submitter by means of an information system which is compatible for that purpose and includes without limitation, web portal, EDI, electronic remittance advice (ERA), or electronic media claims (EMC) transmissions.

(25) Delegated Health Care Aide — A non-licensed person trained and supervised by a licensed registered nurse (RN) or nurse practitioner (NP) to perform selected tasks of nursing care specific to the Medicaid-eligible student identified in the nursing plan of care pursuant to the Individualized Education Program/Individualized Family Service Plan (IEP/IFSP).

(26) Delegation of nursing task — A selected nursing task that is performed by an unlicensed person, trained and monitored by a licensed RN. Delegation and supervision of selected nursing tasks must comply with Oregon Administrative Rules (OARs), Board of Nursing, chapter 851, division(s) 45 and 47. A school medical (SM) provider must maintain documentation of the actual delegation, training, supervision and provision of the nursing service billed to Medicaid.

(27) "Department" means the Department of Human Services established in OAR chapter 407, including any divisions, programs and offices as may be established therein.

(28) Diagnosis code — As identified in the International Classification of Diseases 10th Revision, Clinical Modification (ICD-10-CM), the primary Diagnosis Code is shown in all billing claims, unless specifically excluded in individual Division provider rule(s). Where they exist, diagnosis codes shall be shown to the degree of specificity outlined in OAR 410-120-1280, Billing.

(29) Direct services — Face-to-face delivery of health services between the medically qualified staff who is the service provider and a Medicaid-eligible student.

(30) Division of Medical Assistance Programs (Division) — A Division within the Oregon Health Authority (Authority); the Division is responsible for coordinating the medical assistance programs within the State of Oregon including the Oregon Health Plan (OHP) Medicaid demonstration, the State Children's Health Insurance Program (SCHIP- Title XXI), and several other programs.

(31) Early Intervention/Early Childhood Special Education (EI/ECSE) – EI is a program designed to address the unique needs of a child age 0-3 years and ECSE is a program for preschool children with a disability ages 3-5 years or eligible for Kindergarten.

(32) Educational Agency (EA) — For purposes of these rules, any public school, school district, Education Service District (ESD), state institution, or youth care center providing educational services to students, birth to age 21 through grade 12, that receives federal or state funds either directly or by contract or subcontract with the Oregon Department of Education (ODE).

(33) Education records — Those records, files, documents and other materials which contain information directly related to a student and maintained by an Education Agency (EA) or by a person acting for such EA as set forth in OAR 581-021-0220. (A school-based health services (SBHS) provider is required to keep and maintain supporting documentation for Medicaid reimbursed school-based health services for a period of seven (7) years; this documentation is part of the student's education record but may be filed and kept separately by school health professionals.) See 410-133-0320 Documentation and Recordkeeping Requirements in these rules.

(34) Education Service District (ESD) — An education agency established to offer a resource pool of cost-effective, education-related, physical or mental health-related, state-mandated services to multiple local school districts within a geographic area described in ORS 334.010

(35) Electronic Data Interchange (EDI) — The exchange of business documents from application to application in a federally mandated format or, if no federal standard has been promulgated, using bulk transmission processes and other formats as the Department designates for EDI transactions. For purposes of these rules (OAR 407-120-0100 through 407-120-0200), EDI does not include electronic transmission by web portal.

(36) EDI submitter — An Individual or an entity authorized to establish an electronic media connection with the Department to conduct an EDI transaction. An EDI submitter may be a trading partner or an agent of a trading partner. Also see definition for billing agent in these rules.

(37) Electronic Verification System (EVS) — Eligibility information that have met the legal and technical specifications of the Division of Medical Assistance Programs (Division) in order to offer eligibility information to enrolled Division providers.

(38) Eligibility for special education services — A determination by a designated education agency (EA), through a team, that a child meets the eligibility criteria for early intervention (EI), early childhood special education (ECSE) or special education as defined in ORS 343 and OAR chapter 581, division 15.

(39) Evaluation — Evaluations are procedures performed by medically qualified staff to determine whether a Medicaid-eligible student is disabled and the nature and extent of the health services the student needs under the Individuals with Disabilities Education Act (IDEA) and in accordance with Oregon Department of Education OAR chapter 581 division 15. The Authority can only reimburse evaluations that establish, re-establish or terminate a school-based health services (SBHS) covered health service on a Medicaid-eligible student's Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP) under the Individuals with Disabilities Education Act (IDEA).

(40) Federal Medical Assistance Percentage (FMAP) — The percentage of federal matching dollars for qualified state medical assistance program expenditures.

(41) Healthcare Common Procedure Coding System (HCPCS) — A method for reporting health care professional services, procedures, and supplies. HCPCS consists of the Level I -American Medical Association's Physician's Current Procedural Terminology (CPT), Level II — National codes, and Level III – Local codes. The Division uses HCPCS codes. See General Rules (OAR 410-120-1280 Billing).

(42) Health assessment plan (nursing) — Systematic collection of data for the purpose of assessing a Medicaid-eligible student's health or illness status and actual or potential health care needs in the educational setting. Includes taking a nursing history, and an appraisal of the student's health status through interview, information from the family and information from the student's past health or medical record. A SBHS provider is required to keep and maintain the health assessment plan and supporting documentation for Medicaid reimbursed health services described in a Medicaid-eligible student's individualized education program (IEP) or individualized family service plan (IFSP) for a period of seven (7) years, as part of the student's education record, which may be filed and kept separately by school health professionals. (See 410-133-0320 Documentation and Recordkeeping Requirements.)

(43) Health care practitioner — A person licensed pursuant to state law to engage in the provision of health care services within the scope of the health care practitioner's license and/or certification standards established by their health licensing agency. Medical provider and health care practitioner are interchangeable terms. See Definition for medical provider in these rules.

(44) Health services — Medical evaluation services provided by a physician for diagnostic and evaluation purposes for a Medicaid-eligible student that is found eligible under the Individuals with Disabilities Education Act (IDEA) and leads to an established Individualized Education Program (IEP) or Individualized Family service Plan (IFSP), physical or mental health evaluations, and assessment or treatment performed by medically qualified staff to achieve the goals set forth in a Medicaid-eligible student's IEP or IFSP. A covered health service is one that is covered by the medical assistance program and is provided to enable the Medicaid-eligible student to benefit from a special education program (age 3-21) or to achieve developmental milestones in an early intervention program (age 0-3). "Health services" are synonymous with "medical services" in these rules. To determine whether a health service specified on an Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP) is a covered School-Based Health Service (SBHS) (See 410-133-0080 Coverage and 410-133-0200 Not Covered Services).

(45) Health Evidence Review Commission (HERC) — A 13-member commission that is charged with reporting to the Governor the ranking of health benefits from most to least important, and representing the comparable benefits of each service to the entire population to be serviced.

(46) ID number — A number issued by the Authority used to identify Medicaid-eligible students. This number may also be referred to as recipient identification number; prime number; client medical ID Number or medical assistance program ID number.

(47) Individuals with Disabilities Education Act (IDEA) — The federal law ensuring the rights of children with disabilities to a "free and appropriate education" (FAPE).

(48) Individualized Education Plan (IEP) — A written statement of an educational program for a child with a disability which is developed, reviewed, or revised in a meeting in accordance with Oregon Department of Education OAR chapter 581, division 15. When an IEP is used as a prescription for Medicaid reimbursement for covered School-Based Health Services (SBHS), it must include: type of health service, amount, duration and frequency for the service provided. In order to bill Medicaid for covered health services they must be delivered by or under the supervision of medically qualified staff and must be recommended by a physician or appropriate health care practitioner acting within the scope of practice. See definition medically qualified staff.

(49) Individualized Family Service Plan (IFSP) — A written plan of early childhood special education (ECSE) services, early intervention (EI) services, and other services developed in accordance with criteria established by the Oregon Department of Education (ODE) for each child (age's birth to 5 years) eligible for IFSP services. The plan is developed to meet the needs of a child with disabilities in accordance with requirements and definitions in OAR chapter 581, division 15. When an IFSP is used as a prescription for Medicaid reimbursement for SBHS covered services, it must include: type of health service, amount, duration and frequency for the service provided. In order to bill Medicaid for covered health services they must be delivered by or under the supervision of medically qualified staff and must be recommended by a physician or appropriate health care practitioner acting within their scope of practice. See definition medically qualified staff.

(50) Individualized Education Plan/Individualized Family Service Plan (IEP/IFSP) Team — A group of teachers, specialists, and parents responsible for determining eligibility, developing, reviewing, and revising an IEP or IFSP in compliance with the Oregon Department of Education (ODE) OAR chapter 581, division 15.

(51) Licensed Clinical Social Worker (LCSW) — A person licensed to practice clinical social work pursuant to State law.

(52) Licensed Physical Therapist Assistant (LPTA) — A person licensed to assist in the administration of physical therapy, solely under the supervision and direction of a physical therapist.

(53) Licensed Practical Nurse (LPN) — A person licensed to practice under the direction of a licensed professional within the scope of practice as defined by State law.

(54) Licensure — Documentation from state agencies demonstrating that licensed or certified individuals are qualified to perform specific duties and a scope of services within a legal standard recognized by the licensing agency. In the context of health services, licensure refers to the standards applicable to health service providers by health licensing authorities. For health services provided in the state of Oregon, licensure refers to the standards established by the appropriate State of Oregon licensing agency.

(55) Medicaid-eligible student — The child or student who has been determined to be eligible for Medicaid health services by the Authority. For purposes of this rule, Medicaid-eligible student is synonymous with "recipient" or "Oregon Health Plan (OHP) client". For convenience, the term student used in these rules applies to both students covered by an Individualized Education Program (IEP) and children covered by an Individualized Family Service Plan (IFSP). Also for purposes of this rule, students or children whose eligibility is based on the Children's Health Insurance Program (CHIP) shall be referred to as Medicaid-eligible students.

(56) Medical Assistance Program — A program for payment of health services provided to eligible Oregonians. Oregon's medical assistance program includes Medicaid services including the Oregon Health Plan (OHP) Medicaid Demonstration, and the Children's Health Insurance Program (CHIP). The Medical Assistance Program is administered by the Division of Medical Assistance Programs (Division), of the Oregon Health Authority.

(57) Medical Management Information System (MMIS) — A data collection system for processing paper and electronic claims for payment of health services provided to Medicaid-eligible recipients.

(58) Medical provider — An individual licensed by the State to provide health services within their governing body's definitions and respective scope of practice. Medical provider and health care practitioner are interchangeable terms.

(59) Medical services — The care and treatment provided by a licensed health care practitioner to prevent, diagnose, treat, correct or address a medical problem; whether physical, mental or emotional. For the purposes of these rules, this term shall be synonymous with health services or health-related services listed on an Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP), as defined in OAR chapter 581, division 15. Not all health-related services listed on an IEP or IFSP are covered as SBHS. See 410-133-0080 Coverage and 410-133-0200 Not Covered Services.

(60) Medical transportation — Specialized transportation in a vehicle adapted to meet the needs of passengers with disabilities transported to and from a SBHS covered service.

(61) Medically qualified staff:

(a) Staff employed by and/or through contract with an EA; and

(b) Licensed by the State to provide health services in compliance with State law defining and governing the scope of practice, described further in OAR 410-133-0120.

(62) Medication management — A task performed only by medically qualified staff, pursuant to a student's Individualized Education Program/Individualized Family Service Plan (IEP/IFSP), which involves administering medications, observing for side effects, and monitoring signs and symptoms for medication administration.

(63) National Provider Identifer (NPI) — Federally directed Provider number mandated for use on Health Insurance Portability Accountability Act (HIPAA) covered transactions; individuals, provider organizations, and subparts of provider organizations that meet the definition of health care provider (45 CFR 160.103) and who conduct HIPAA covered transactions electronically are eligible to apply for an NPI; Medicare covered entities are required to apply for an NPI.

(64) "Necessary and appropriate" health services — Those health services described in a Medicaid-eligible student's IEP or IFSP which are:

(a) Consistent with the symptoms of a health condition or treatment of a health condition;

(b) Appropriate with regard to standards of good health practice and generally recognized by the relevant scientific community and professional standards of care as effective;

(c) Not solely for the convenience of the Medicaid-eligible student or provider of the service; and

(d) The most cost-effective of the alternative levels of health services, which can safely be provided to a Medicaid-eligible student.

(65) Nursing Diagnosis and Management Plan — A written plan that describes a Medicaid-eligible student's actual and anticipated health conditions that are amenable to resolution by nursing intervention.

(66) Nursing Plan of Care — Written guidelines that are made a part of, and attached to the Individualized Education Program (IEP) or individualized Family Service Plan (IFSP) that identify specific health conditions of the Medicaid-eligible student, and the nursing regimen that is "necessary and appropriate" for the student. Development and maintenance of this plan includes establishing student and nursing goals, and identifying nursing interventions (including location, frequency, duration and delegation of care) to meet the medical care objective identified in their IEP or IFSP, see Oregon State Board of Nursing Practice Act, Division 47. The SBHS provider is responsible for developing the nursing plan of care and is required to keep and maintain a copy of the nursing plan of care as supporting documentation for Medicaid reimbursed health services. (See definition "Education records".)

(67) Nurse practitioner — A person licensed as a registered nurse and certified by the Board of Nursing to practice as a nurse practitioner pursuant to State law.

(68) Nursing services — Services provided by a nurse practitioner (NP), registered professional nurse (RN), a licensed practical nurse (LPN) or delegated health care aide, within the scope of practice as defined by State law. Nursing services include preparation and maintenance of the health assessment plan, nursing diagnosis and management plan, nursing plan of care, consultation, and coordination and integration of health service activities, as well as direct patient care and supervision.

(69) Observation — Surveillance or visual monitoring performed by medically qualified staff as part of an evaluation, assessment, direct service, or care coordination for a necessary and appropriate Medicaid covered health service specified on a Medicaid-eligible student's Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP) to better understand the child's medical needs and progress in their natural environment. An observation by itself is not billable.

(70) Occupational therapist (OT) — A person licensed by the State's Occupational Therapy Licensing Board.

(71) Occupational Therapist Assistant — A person who is licensed as an occupational therapy assistant assisting in the practice of occupational therapy under the supervision of a licensed occupational therapist.

(72) Occupational therapy — Assessing, improving, developing, or restoring functions impaired or lost through illness, injury or deprivation, to improve the ability to perform tasks for independent functioning when functions are lost or impaired, preventing through early intervention, initial or further impairment or loss of function. Obtaining and interpreting information, coordinating care, and integrating necessary and appropriate occupational therapy services relative to the Medicaid-eligible student.

(73) Oregon Department of Education (ODE) — The state agency that provides oversight to public educational agencies for ensuring compliance with Federal and State laws relating to the provision of services required by the individuals with disabilities education act (IDEA).

(74) Orientation and mobility training — Services provided to blind or visually impaired students by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community. These services are not covered under School-Based Health Services (SBHS) (See OAR 410-133-0200 Not Covered Services).

(75) Performing provider — A person, agent, business, corporation, clinic, group, institution, or other entity that is the provider of a service or item with the authority to delegate fiduciary responsibilities to a billing provider, also termed billing agent, to obligate or act on the behalf of the performing provider regarding claim submissions, receivables, and payments relative to the Medical Assistance Program. For the purposes of these SBHS rules, the school medical (SM) provider is the performing provider.

(76) Physical Therapist — A person licensed by the relevant State licensing authority to practice physical therapy (See OAR chapter 848, division10 Licensed Physical Therapists and Licensed Physical therapist Assistants; chapter 848 division, 040 Minimum Standards For Physical therapy Practice and Records

(77) Physical Therapy — Assessing, preventing or alleviating movement dysfunction and related functional problems. Obtaining and interpreting information: coordinating care and integrating necessary and appropriate physical therapy services relative to the student receiving treatments.

(78) Prime Number — See definition of ID Number.

(79) Prioritized List of Health Services — Also referred to as the Prioritized List, the Oregon Health Evidence Review Commission's (HERC) listing of health services with "expanded definitions' of ancillary services and preventative services and the HERC practice guidelines, as presented to the Oregon Legislative Assembly. The Prioritized List is generated and maintained by HERC. The Prioritized List governs medical assistance programs' health services and Benefit Packages pursuant to the Division of Medical Assistance Programs' General Rules OAR 410-120-0000 et seq., and OAR 410-141-0480 through 410-141-0520 (for the listing of condition and treatment pairs).

(80) Procedure code — See definition of HCPC healthcare common procedure code.

(81) Provider — An individual, facility, institution, corporate entity, or other organization which supplies health care services or items, also termed a performing provider, or bills, obligates and receives reimbursement on behalf of a performing provider of services, also termed a billing provider (BP). The term "Provider" refers to both performing providers and billing providers unless otherwise specified. Payment can only be made to Division-enrolled providers who have by signature on the provider enrollment forms and attachments, agreed to provide services and to bill in accordance with General Rules OAR 410-120-1260, and the SBHS OAR 410-133-0140. If a provider submits claims electronically, the provider must become a trading partner with the Authority and comply with the requirements of the Electronic Data Interchange (EDI) rules pursuant to OAR 407-120-0100 through 407-120-0200.

(82) Provider enrollment agreement — An agreement between the provider and the Oregon Health Authority (Authority) that sets forth the conditions for being enrolled as a provider with the Authority and to receive a provider number in order to submit claims for reimbursement for covered SBHS provided to Medicaid-eligible students. Payment can only be made to Division of Medical Assistance Programs' (Division)-enrolled providers who have by signature on the provider enrollment forms and program applicable attachments agree to provide services and to bill in accordance with Provider Rules chapter 407, division 120 and the Division's General Rules chapter 410, division 120, and these SBHS rules. Also see definitions for Trading Partner and Trading Partner Agreement in these rules.

(83) Psychiatrist — A person licensed to practice medicine and surgery in the state of Oregon and possesses a valid license from the Oregon Licensing Board for the Healing Arts.

(84) Psychologist — A person with a doctoral degree in psychology and licensed by the State Board of Psychologist Examiners See 858-010-0010.

(85) Psychologist Associate — A person who does not possess a doctoral degree that is licensed by the Board of Psychologists Examiners, to perform certain functions within the practice of psychology under the supervision of a psychologist. See 858-010-0037 through 858-010-

0038.An exception would be psychologist associate with the authority to function without immediate supervision, see OAR 858-010-0039.

(86) Recordkeeping requirements — A SBHS SM provider is required to keep and maintain the supporting documentation for Medicaid reimbursed health services described in a Medicaid-eligible student's Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP) for a period of seven (7) years, as part of the student's education record, which may be filed and kept separately by school health professionals (See OAR 410-133-0320).

(87) Re-evaluation — Procedures used to measure a Medicaid-eligible student's health status compared to an initial or previous evaluation, are focused on evaluation of progress toward current goals, modifying goals or treatment, or making a professional judgment to determine whether or not the student will continue to receive continued care for a covered service pursuant to an IEP or IFSP under the Individuals with Disabilities Education Act (IDEA). Continuous assessment of the student's progress as a component of ongoing therapy services is not billable as a re-evaluation.

(88) Regional program — Regional program services are provided on a multi-county basis, under contract from the Oregon Department of Education (ODE) to eligible children (birth to 21) visually impaired, hearing impaired, deaf-blind, autistic, and/or severely orthopedically impaired. A regional program may be reimbursed for covered health services it provides to Medicaid-eligible students through the school medical (SM) provider (e.g., public school district or ESD) that administers the program.

(89) Registered Nurse (RN) — A person licensed and certified by the Oregon Board of Nursing to practice as a registered nurse pursuant to State law.

(90) Rehabilitative services — For purposes of the School-Based Health Services (SBHS) program, any health service that is covered by the Medical Assistance Program and that is a medical, psychological or remedial health service recommended by a physician or other licensed health care practitioner within the scope of practice under State law, and provided to a Medicaid-eligible student pursuant to an Individualized Education Program/Individualized Family Service Plan (IEP/IFSP) under the Individuals with Disabilities Education Act (IDEA), for reduction, correction, stabilization or functioning improvement of physical or mental disability of a Medicaid-eligible student (See 410-133-0060).

(91) Related services — For purposes of this rule, related services as listed on an Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP) may include: transportation and such developmental, corrective and other supportive services (e.g., speech language, audiology services, psychological services, physical therapy, occupational therapy, social work services in schools, and nursing services) as are required to assist a child or student with a disability to benefit from special education; and includes early identification and assessment of disabling conditions in children.

NOTE: Not all "related services" are covered for payment by Medicaid. To determine whether a particular related service is a covered health service for a Medicaid-eligible student (see OAR 410-133-0080, Coverage and OAR 410-133-0200, Not Covered Services).

(92) School-Based Health Services (SBHS) — Health services provided in the educational setting, meeting the requirements of these rules, and applicable federal and state laws and rules.

(93) School medical (SM) provider — An enrolled provider type established by the Division to designate the provider of school-based health services eligible to receive reimbursement from the Division. See the Authority's general rules chapter 943 division 120, the Division's General Rules OAR 410-120-1260, and School-Based Health Services Program OAR 410-133-0140 (School Medical (SM) Provider Enrollment Provisions).

(94) Screening — A limited examination to determine a Medicaid-eligible student's need for a diagnostic medical evaluation. See OAR 410-133-0200 (Not Covered Services).

(95) Special Education Services — Specially designed instruction to meet the unique needs of a child with a disability, including regular classroom instruction, instruction in physical education, home instruction, and instruction in hospitals, institutions, special schools, and other settings.

(96) Speech Language Pathology Assistant (SLPA) — A person who is licensed by the Oregon State Board of Examiners for Speech Pathology and Audiology and provides speech-language pathology services under the direction and supervision of a speech-language pathologist licensed under ORS 681.250.

(97) Speech-Language Pathologist — A person licensed by the Oregon Board of Examiners for Speech Pathology and Audiology or holds a Certificate of Clinical Competency (CCC) from the American Speech and Hearing Association (ASHA) (See Medically Qualified Staff 410-133-0120).

(98) Speech-language pathology services — Assessment of children with speech/language disorders, diagnosis and appraisal of specific speech/language disorders, referral for medical and other professional attention necessary for the rehabilitation of speech/language disorders and provision of speech/language services for the prevention of communicative disorders. Obtaining and interpreting information, coordinating care, and integrating necessary and appropriate speech-language pathology services relative to the student receiving services.

(99) State Education Agency (SEA) — See "Oregon Department of Education (ODE)".

(100) State-operated school — The Oregon School for the Deaf. See "Educational Agency."

(101) Student health/medical/nursing records — Education records that document, for Medical Assistance Program purposes, the Medicaid-eligible student's diagnosis or the results of tests, screens or treatments, treatment plan, the Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP), and the record of treatments or health services provided to the child or student.

(102) Teachers' Standards and Practices Commission (TSPC) — The Commission that governs licensing of teachers, personnel, service specialists, and administrators as set forth in OAR chapter 584. In order for schools or school providers to participate in the Medicaid program and receive Medicaid reimbursement, they must meet the Medicaid provider qualifications. It is not sufficient for a state to use Department of Education provider qualifications for reimbursement of Medicaid-covered health services provided in an education setting.

(103) Testing — See "Assessment".

(104) Testing Technician — A person/technician adequately trained to administer and score specific tests, as delegated under the direction and supervision of a licensee, and maintains standards for the testing environment and testing administration as set forth in the American Psychological Association Standards for Educational and Psychological Tests (1999) and Ethical Principles for Psychologists (2002). See ORS 675.010(4), OAR 858-010-0001, and 858-010-0002.

(105) Third-party billing — A process of sending a bill to a public or private insurance company for a medical or health service given to someone who is insured.

(106) Trading partner — means a provider, prepaid health plan (PHP), clinic, or allied agency that has entered into a trading partner agreement with the Department in order to satisfy all or part of its obligations under a contract by means of electronic data interchange (EDI), electronic remittance advice (ERA), or electronic media claims (EMC), or any other mutually agreed means of electronic exchange or transfer of data. EDI transactions must comply with the requirements of the EDI rules OAR 407-120-0100 through 407-120-0200 for the purposes of these rules EDI does not include electronic transmission by web portal.

(107) Trading partner agreement (TPA) — means a specific request by a provider, PHP, clinic, or allied agency to conduct EDI transactions that governs the terms and conditions for EDI transactions in the performance of obligations under a contract. A provider, PHP, clinic, or allied agency that has executed a TPA will be referred to as a trading partner in relation to those functions.

(108) Transportation Aide — An individual trained for health and safety issues to accompany a Medicaid-eligible student transported to and from a covered Health Service as specified in the Individualized Education Program/individualized Family Service Plan (IEP/IFSP). The School Medical (SM) Provider must maintain documentation of the training, supervision and provision of the services billed to Medicaid. For the purposes of these rules, individual transportation aides are included in the cost calculation for transportation costs and will not be billed separately. This computation will not include delegated health care aides for whom costs are direct costs.

(109) Transportation as a related service — Specialized transportation adapted to serve the needs of a Medicaid-eligible student to and from a covered health service that is necessary and appropriate, and described in the Individualized Education Program/individualized Family Service Plan (IEP/IFSP) as outlined in OAR 410-133-0080 (Coverage).

(110) Transportation vehicle trip log — A record or log kept specifically for tracking each transportation trip a Medicaid-eligible student receives transportation to or from a covered health service. (See OAR 410-136-0280 Medical Transportation rules – Required Documentation and SBHS OAR 410-133-0245, Cost Determination and Payment).

(111) Treatment Plan — A written plan of care services, including treatment with proposed location, frequency and duration of treatment as required by the health care practitioner's health licensing agency.

(112) Unit — Is a service measurement of time for billing and reimbursement efficiency. One (1) unit equals 15 minutes unless otherwise stated.

(113) Web Portal submitter — means an individual or entity authorized to establish an electronic media connection with the Department of Human Services to conduct a direct data entry transaction. A web portal submitter may be a provider or a provider's agent.

Stat. Auth.: ORS 413.042
Stats. Implemented: 413.042, 414.065
Hist.: HR 39-1991, f. & cert. ef. 9-16-91; HR 29-1993, f. & cert. ef. 10-1-93; HR 21-1995, f. & cert. ef. 12-1-95;OMAP 31-1998, f. & cert. ef. 9-1-98; OMAP 38-1999, f. & cert. ef. 10-1-99; OMAP 15-2000, f. 9-28-00, cert. ef 10-1-00; OMAP 31-2003, f. & cert. ef. 4-1-03; OMAP 53-2003, f. 8-13-03 cert. ef. 9-1-03; OMAP 24-2005(Temp), f. & cert. ef. 4-5-05 thru 10-1-05; OMAP 53-2005, f. 9-30-05, cert. ef. 10-1-05; DMAP 43-2008, f. 12-17-08, cert. ef. 12-28-08; DMAP 19-2009, f. 6-12-09, cert. ef. 7-1-09; DMAP 15-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-140-0040
Prior Authorization

(1) Prior Authorization (PA) is defined in Oregon Administrative Rule (OAR) 410-120-0000 Acronyms and Definitions. Providers must obtain a PA from the:

(a) Enrolled member's Prepaid Health Plan (PHP) or Coordinated Care Organization (CCO) (See OAR 410-140-0020 and refer to 410-120-0250, PHP or CCOs.); and

(b) Division of Medical Assistance Programs (Division) for clients who receive services on a fee-for-services basis and are not enrolled with a PHP or CCO.

(2) A PA does not guarantee eligibility or reimbursement. It is the responsibility of the provider to verify the client's eligibility on the date of service and whether a PHP, CCO or the Division is responsible for reimbursement. Refer to OAR 410-120-1140 Verification of Eligibility.

(3) A PA is not required for clients with both Medicare and Division coverage when the service or item is covered by Medicare.

(4) It is the provider's responsibility to determine if a PA is required and to comply with all PA requirements outlined in these Visual Services administrative rules. See also OAR 410-120-1320 Authorization of Payment.

(5) It is the provider's responsibility to ensure:

(a) PA requests are completed and submitted correctly. The Division does not accept PA requests via the phone. Refer to the Visual Services Supplemental Information Guide found on this Division website at www.oregon.gov/OHA/healthplan/pages/vision.aspx;

(b) PA requests include:

(A) A statement of medical appropriateness showing the need for the item or service and why other options are inappropriate;

(B) Diopter information and appropriate International Classification of Diseases, 10th revision, Clinical Modification (ICD-10-CM) diagnosis codes;

(C) All relevant documentation that is needed for Division staff to make a determination for authorization of payment, including clinical data or evidence, medical history, any plan of treatment, or progress notes;

(c) The service is adequately documented. (See OAR 410-120-1360 Requirements for Financial, Clinical and Other Records.) Providers must maintain documentation in the provider's files to adequately determine the type, medical appropriateness, or quantity of services provided;

(d) The services or items provided are consistent with the information submitted when authorization was requested;

(e) The services billed are consistent with those services provided; and

(f) The services are provided within the timeframe specified on the authorization of payment document.

(6) It is the providers' responsibility to comply with the Division's PA requirements or other policies necessary for reimbursement before providing services to any OHP client who is not enrolled in a PHP. Services or items denied due to provider error (e.g., required documentation not submitted, prior authorization not obtained, etc.), cannot be billed to the client. (See OAR 410-120-1280.)

(7) Vision services requiring PA include:

(a) Contact lenses for adults (age 21 and older) and excludes a primary keratoconus diagnosis, which is exempt from the PA requirement. See OAR 410-140-0160 Contact Lens Services for service and supply coverage and limitations;

(b) Vision therapy greater than six sessions. Six sessions are allowed per calendar year without PA. See also 410-140-0280 Vision Therapy Services; and

(c) Specific vision materials (See OAR 410-140-0260 Purchase of Ophthalmic Materials for more information.):

(A) Frames not included in the Division's contract with contractor, SWEEP Optical;

(B) Deluxe frames; and

(C) Specialty lenses or lenses considered as "not otherwise classified" by Health Care Common Procedure Coding System (HCPCS);

(d) An unlisted ophthalmological service or procedure, or "By Report" (BR) procedures.

(8) The Division sends Notice of all approved PA requests for vision materials to DMAP's contractor, SWEEP Optical; who forwards a copy of the PA approval and confirmation number to the requesting provider. (See OAR 410-140-0260 Purchase of Ophthalmic Materials.)

(9) Table 140-0040-1. [Table not included. See ED. NOTE.]

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 343.146, 414.065, 683.010 & 743A.250
Hist.: AFS 9-1978, f. & ef. 2-1-78; AFS 2-1979, f. 2-6-79, ef. 3-1-79; AFS 2-1982(Temp), f. 1-20-82, ef. 2-1-82; AFS 45-1982, f. 4-29-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82 for providers located in the geographical areas covered by the AFS branch offices located in North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 55-1983, f. 11-15-83, ef. 12-1-83; AFS 6-1984(Temp), f. 2-28-84, ef. 3-1-84; AFS 24-1984(Temp), f. & ef. 5-29-84; AFS 31-1984(Temp), f. 7-26-84, ef. 8-1-84; AFS 5-1985, f. & ef. 1-25-85; AFS 22-1987, f. 5-29-87, ef. 7-1-87; AFS 75-1989, f. & cert. ef. 12-15-89, Renumbered from 461-018-0010; HR 15-1992, f. & cert. ef. 6-1-92, Renumbered from 461-018-0170; HR 1-1996, f. 1-12-96, cert. ef. 1-15-96; OMAP 20-1999, f. & cert. ef. 4-1-99; OMAP 24-2000, f. 9-28-00, cert. ef. 10-1-00; DMAP 21-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 26-2014, f. 4-29-14, cert. ef. 5-8-14; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-140-0120
ICD-9-CM Diagnosis, CPT/HCPCs Procedure Codes, and Modifiers

(1) The Division of Medical Assistance Program (Division) requires an International Classification of Diseases, 10th revision, Clinical Modification (ICD-10-CM) diagnosis code on all claims. Refer to OAR 410-120-1280 Billing for diagnosis code requirements.

(2) Providers are responsible to provide the client's diagnosis to ancillary service providers (e.g. SWEEP Optical Laboratories) when prescribing services, equipment, and supplies.

(3) The Division requires providers to use the standardized code sets required by the Health Insurance Portability and Accountability Act (HIPAA) and adopted by the Centers for Medicare and Medicaid Services (CMS). Providers are required to accurately code claims using the combination of Health Care Common Procedure Coding System (HCPCS) and Current Procedural Terminology (CPT) codes in effect for the date the service(s) was provided:

(a) Providers shall comply with published guidelines. Providers may not bill CPT or HCPCS procedure codes for separate procedures when a single CPT or HCPCS code includes all services provided.

(b) Intermediate and comprehensive ophthalmological services as described under the ophthalmology section of the CPT codebook shall be billed using codes included under this section and not those included under the Evaluation and Management section.

(c) When there is no appropriate descriptive procedure code to bill the Division, the provider shall use the code for "unlisted services." See OAR 410-140-0040 Prior Authorization.

(4) The Division recognizes HIPAA compliant modifiers.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.025 & 414.065
Hist.: AFS 75-1989, f. & cert. ef. 12-15-89; HR 15-1992, f. & cert. ef. 6-1-92, Renumbered from 461-018-0210; HR 37-1992, f. & cert. ef. 12-18-92; HR 1-1996, f. 1-12-96, cert. ef. 1-15-96; HR 15-1996(Temp), f. & cert. ef. 7-1-96; HR 26-1996, f. 11-29-96, cert. ef. 12-1-96; OMAP 20-1999, f. & cert. ef. 4-1-99; OMAP 24-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 44-2001, f. 9-24-01 cert. ef. 10-1-01; OMAP 11-2002, f. & cert. ef. 4-1-02; OMAP 11-2002, f. & cert. ef. 4-1-02; DMAP 26-2014, f. 4-29-14, cert. ef. 5-8-14; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-140-0260
Purchase of Glasses

(1) The Division of Medical Assistance Programs (Division) contracts with SWEEP Optical Laboratories (also referred to herein as contractor) to buy vision materials (e.g., frames, lenses and miscellaneous items), excluding contact lenses. (See OAR 410-140-0160 Contact Lens Services and Supplies.) Rates for materials are negotiated by the Oregon Department of Administrative Services. All frames, lenses and miscellaneous items are to be provided:

(a) Only by contractor, unless the client has primary Medicare coverage; or

(b) By any visual materials supplier when the client has primary Medicare coverage for a Medicare-covered item. See Oregon Administrative Rule (OAR) 410-140-0080 Medicare/Medicaid Assistance Program Claims; and

(c) It is the provider's responsibility to verify the client's eligibility prior to ordering vision materials. See OAR 410-140-0050 Eligibility and Benefit Coverage and refer to 410-120-1140 Verification of Eligibility.

(2) Buying-up, defined in OAR 410-120-0000 Acronyms and Definitions, is prohibited. See 410-120-1350 Buying Up.

(3) The Division covers glasses for:

(a) Eligible adults (age 21 and older) once every 24 months (see OAR 410-140-0050).

(b) Clients once within 120 days following cataract surgery. When ordering glasses from contractor, the date of surgery is required on the order form.

(c) Eligible children (birth through age 20) without limitation when it is documented in the physician's or optometrist's clinical record as medically appropriate.

(4) Division non-covered ophthalmic materials include, but are not limited to, the following:

(a) Glasses with a prescription that is equal to or less than +/-.25 diopters in both eyes are not covered;

(b) Two pair of glasses in lieu of bifocals or trifocals in a single frame;

(c) Hand-held, low vision aids;

(d) Non-spectacle mounted aids;

(e) Single lens spectacle mounted low vision aids;

(f) Telescopic and other compound lens systems, including distance vision telescopic, near vision telescopes and compound microscopic lens systems;

(g) Extra or spare pairs of glasses;

(h) Anti-reflective lens coating;

(i) U-V lens;

(j) Progressive and blended lenses;

(k) Bifocals and trifocals segments over 28mm including executive;

(l) Aniseikonic lenses;

(m) Sunglasses; and

(n) Frame styles outside of the contract between the Division and contractor based on client preference and are not medically necessary.

(5) Costs for the following are included in reimbursement for the lens and are not separately reimbursed by the Division:

(a) Scratch coating;

(b) Prism;

(c) Special base curve; and

(d) Tracings.

(6) Materials that require Prior Authorization (PA) are included in OAR 410-140-0040 Prior Authorization.

(7) If a frame cannot be located in the contractor's catalog at www.sweepoptical.com that meets the medical needs of the client:

(a) Providers should contact contractor for assistance with locating a frame to meet the client's need; and

(b) Frames not included in the contract between the Division and contractor may be purchased through contractor with prior authorization.

(8) Contractor is not responsible if the Division determines the documentation in the client's record does not allow for the service as directed by the limitations indicated in the administrative rules.

(9) The following services do not require PA, are subject to strict limitations and require the physician or optometrist to submit appropriate documentation to contractor:

(a) Replacement parts (e.g., frame fronts, cable temple arm) for non-contracted frame styles are limited to frames purchased with prior authorization approval. See section (7) of this rule;

(b) Tints and Photochromic lenses: Limited to clients with documented albinism and pupillary defects. Documentation provided to contractor shall include the most appropriate International Classification of Diseases, 10th Revision, Clinical Modification (ICD-10-CM) code selected by a physician or optometrist;

(c) Other medically necessary items for a contract frame (i.e., cable temples, head-strap frame), when a client has a medical condition that requires the use of a specialty temple, nose pieces, head strap frame;

(d) Nonprescription glasses: Limited to clients that do not require any correction in one eye and where there is blindness in one eye. The purpose of this exception is to offer maximum protection for the remaining functional eye;

(e) High Index Lenses:

(A) Power is +/- 10 or greater in any meridian in either eye; or

(B) Prism diopters are 10 or more diopters in either lens;

(f) Polycarbonate lenses are limited to the following populations:

(A) Eligible children (birth through age 20);

(B) Clients with developmental disabilities; and

(C) Clients who are blind in one eye and need protection for the other eye, regardless of whether a vision correction is required.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 279A.140, 414.025 & 414.065

Hist.: AFS 55-1983, f. 11-15-83, ef. 12-1-83; AFS 75-1989, f. & cert. ef. 12-15-89, Renumbered from 461-018-0011; HR 15-1992, f. & cert. ef. 6-1-92, Renumbered from 461-018-0280; HR 37-1992, f. & cert. ef. 12-18-92; HR 1-1996, f. 1-12-96, cert. ef. 1-15-96; HR 15-1996(Temp), f. & cert. ef. 7-1-96; HR 26-1996, f. 11-29-96, cert. ef. 12-1-96; OMAP 20-1999, f. & cert. ef. 4-1-99; OMAP 24-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 11-2002, f. & cert. ef. 4-1-02; OMAP 56-2002, f. & cert. ef. 10-1-02; DMAP 21-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 44-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 33-2011, f. 12-5-11, cert. ef. 12-6-11; DMAP 26-2014, f. 4-29-14, cert. ef. 5-8-14; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-141-0480

Oregon Health Plan Benefit Package of Covered Services

(1) Division members are eligible to receive, subject to section (11) of this rule, those treatments for the condition/treatment pairs funded on the Health Evidence Review Commission (HERC) Prioritized List of Health Services adopted under OAR 410-141-0520 when such treatments are medically or dentally appropriate, except that services shall also meet the prudent layperson standard defined in 410-141-0140. Refer to 410-141-0520 for funded line coverage information.

(2) Medical Assistance Benefit Packages follow practice guidelines adopted by the HERC in conjunction with the Prioritized List of Health Services unless otherwise specified in rule.

(3) Diagnostic services that are necessary and reasonable to diagnose the member's presenting condition are covered services regardless of the placement of the condition on the Prioritized List of Health Services.

(4) Comfort care is a covered service for a member with a terminal illness.

(5) Preventive services promoting health and reducing the risk of disease or illness are covered services for members. These services include, but are not limited to, periodic medical and dental exams based on age, sex, and other risk factors; screening tests; immunizations; and counseling regarding behavioral risk factors (See OAR 410-141-0520 Prioritized List of Health Services).

(6) Ancillary services are covered subject to the service limitations of the OHP program rules when the services are medically or dentally appropriate for the treatment of a covered condition/treatment pair, or the provision of ancillary services will enable the member to retain or attain the capability for independence or self-care.

(7) The provision of SUD services shall comply with Addictions and Mental Health Division (AMH) administrative rules, OAR 415-012-0000 "Standards for Approval/Licensure of Alcohol and Other Drug Abuse Programs," OAR 415-020 "Standards for Outpatient Synthetic Opiate Treatment Programs," OAR 415-050 "Standards for Alcohol Detoxification Centers," OAR 309-018 "Residential Substance Use Disorders and Problem Gambling Treatment and Recovery Services," OAR 309-019 "Outpatient Addictions and Mental Health Services," OAR 309-022 "Intensive Treatment Services for Children and Adolescents and Children's Emergency Safety Intervention Specialist," and the requirements in the SUD subsection of the Statement of Work in the CCO and PCO contracts.

(8) In addition to the coverage available under section (1) of this rule, a member may be eligible to receive, subject to section (11), services for treatments that are below the funded line or not otherwise excluded from coverage:

(a) Services may be provided if it can be shown that:

(A) The OHP member has a funded condition for which documented clinical evidence shows that the funded treatments are not working or are contraindicated; and

(B) Concurrently has a medically related unfunded condition that is causing or exacerbating the funded condition; and

(C) Treating the unfunded medically related condition would significantly improve the outcome of treating the funded condition;

(D) Ancillary services that are excluded and other services that are excluded are not subject to consideration under this rule;

(E) Any unfunded or funded co-morbid conditions or disabilities shall be represented by an ICD-10-CM diagnosis code or when the condition is a mental disorder, represented by DSM-V diagnosis coding to the highest level of axis specificity; and

(F) In order for the treatment to be covered, there shall be a medical determination and finding by the Division for fee-for-service OHP clients or a finding by the Prepaid Health Plan (PHP) for members that the terms of subsection (a)(A)–(C) of this rule have been met based upon the applicable:

(i) Treating physician opinion;

(ii) Medical research;

(iii) Community standards; and

(iv) Current peer review.

(b) Before denying treatment for an unfunded condition for any member, especially a member with a disability or with a co-morbid condition, providers shall determine whether the member has a funded condition/treatment pair that would entitle the member to treatment under the program, and both the funded and unfunded conditions shall be represented by an ICD- 10-CM diagnosis code, or when the condition is a mental disorder, represented by DSM-V diagnosis coding to the highest level of axis specificity.

(9) The Division shall maintain a telephone information line for the purpose of providing assistance to practitioners in determining coverage under the OHP Benefit Package of Covered Services. The telephone information line shall be staffed by registered nurses who shall be available during regular business hours. If an emergency need arises outside of regular business hours, the Division shall make a retrospective determination under this section, provided the Division is notified of the emergency situation during the next business day. If the Division denies a requested service, the Division shall provide written notification and a notice of the right to an administrative hearing to both the OHP member and the treating physician within five working days of making the decision.

(10) If a condition/treatment pair is not on the HERC Prioritized List of Health Services and the Division determines the condition/treatment pair has not been identified by the HERC for inclusion on the list, the Division shall make a coverage decision in consultation with the HERC.

(11) Coverage of services available through the OHP Benefit Package of Covered Services is limited by OAR 410-141-0500 (Excluded Services and Limitations for Oregon Health Plan Clients).

(12) General anesthesia for dental procedures that are medically and dentally appropriate to be performed in a hospital or ambulatory surgical setting may be used only for those members as detailed in OAR 410-123-1490.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 7-1994, f. & cert. ef. 2-1-94; HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; HR 26-1995, f. 12-29-95, cert. ef. 1-1-96; HR 19-1996, f. & cert. ef. 10-1-96; HR 1-1997(Temp), f. 1-31-97, cert. ef. 2-1-97; HR 12-1997, f. 5-30-97, cert. ef. 6-1-97; HR 15-1997, f. & cert. ef 7-1-97; HR 26-1997, f. & cert. ef. 10-1-97; OMAP 17-1998(Temp), f. & cert. ef. 5-1-98 thru 9-1-98; OMAP 32-1998, f. & cert. ef. 9-1-98; OMAP 39-1998, f. & cert. ef. 10-1-98; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 53-2001, f. & cert. ef. 10-1-01; OMAP 88-2002, f. 12-24-02, cert. ef. 1-1-03; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; 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 35-2004, f. 5-26-04 cert. ef. 6-1-04; OMAP 51-2004, f. 9-9-04, cert. ef. 10-1-04; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 23-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 46-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 23-2007, f. 12-11-07 cert. ef. 1-1-08; DMAP 11-2010(Temp), f. & cert. ef. 6-3-10 thru 11-15-10; DMAP 25-2010, f. & cert. ef. 9-1-10; DMAP 45-2014, f. 7-15-14, cert. ef. 8-1-14; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-146-0040

ICD-9-CM Diagnosis Codes and CPT/HCPCs Procedure Codes

(1) The Division of Medical Assistance Program (Division) requires diagnosis codes on all claims, including those submitted by independent laboratories and portable radiology, including nuclear medicine and diagnostic ultrasound providers. A clinic must always provide the client's diagnosis to ancillary service providers when prescribing services, equipment, and supplies.

(2) The appropriate ICD-10-CM code must be used to identify:

(a) Diagnoses;

(b) Symptoms;

(c) Conditions;

(d) Problems;

(e) Complaints; or

(f) Other reasons for the encounter/visit.

(3) Clinics must list the principal diagnosis in the first position on the claim. Use the principal diagnosis code for the diagnosis, condition, problem, or other reason for an encounter/visit shown in the medical record to be chiefly responsible for the services provided. Clinics may list up to three additional diagnosis codes on the claim for documented conditions that coexist at the time of the encounter/visit and require or affect client care, treatment, or management.

(4) Clinics must list the diagnosis codes using the highest degree of specificity available in the ICD-10-CM. The Division considers a diagnosis code invalid if it has not been coded to its highest specificity.

(5) The Division requires providers to use the standardized code sets required by the Health Insurance Portability and Accountability Act (HIPAA) and adopted by the Centers for Medicare and Medicaid Services (CMS). Unless otherwise directed in rule, providers must accurately code claims according to the national standards in effect for the date the service(s) was provided.

(a) For dental services, use codes that are in effect for the date the services(s) was provided that are found in Dental Procedures and Nomenclature as maintained and distributed by the American Dental Association;

(b) For health care services, use the combination of Health Care Common Procedure Coding System (HCPCS) and Current Procedural Terminology (CPT) codes in effect for the date the services(s) was provided. These services include, but are not limited to, the following:

(A) Physician services;

(B) Physical and occupational therapy services;

(C) Radiology procedures;

(D) Clinical laboratory tests;

(E) Other medical diagnostic procedures;

(F) Hearing and vision services.

(6) The Division maintains unique coding and claim submission requirements for administrative exams and Death With Dignity services. Refer to OAR 410 division 150, Administrative Examination and Billing Services, and OAR 410-130-0670, Death with Dignity Services for specific requirements.

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: OMAP 2-1999, f. & cert. ef. 2-1-99; OMAP 25-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 6-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 45-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 59-2002, f. & cert. ef. 10-1-02; OMAP 68-2003, f. 9-12-03, cert. ef. 10-1-03; OMAP 62-2004, f. 9-10-04, cert. ef. 10-1-04; DMAP 19-2007, f. 12-5-07, cert. ef. 1-1-08; DMAP 41-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-146-0085

Encounter and Recognized Practitioners

(1) The Division of Medical Assistance Programs (Division) will reimburse enrolled American Indian/Alaska Native (AI/AN) providers as follows:

(a) For services, items and supplies that meet the criteria of a valid encounter in sections (5) through (7) of this rule;

(b) Reimbursement is limited to the Division's Medicaid-covered services according to a client's Oregon Health Plan (OHP) benefit package. These services include ambulatory services included in the State Plan under Title XIX or Title XXI of the Social Security Act. Other services that are not defined in this rule or the State Plan under Title XIX or Title XXI of the Social Security Act are not reimbursed by the Division.

(2) AI/AN providers reimbursed according to a cost-based rate under the Prospective Payment System (PPS) are directed to Oregon administrative rule (OAR) 410-147-0120, Encounter and Recognized Practitioners, in the Division's Federally Qualified Health Centers and Rural Health Clinics Program.

(3) AI/AN providers reimbursed according to the IHS rate are subject to the requirements of this rule.

(4) Services provided to Citizen/Alien-Waived Emergency Medical (CAWEM) and Qualified Medicare Beneficiary (QMB) only clients are not billed according to encounter criteria and not reimbursed at the IHS encounter rate (refer to OAR 410-120-1210, Medical Assistance Benefit Packages and Delivery System).

(5) For the provision of services defined in Titles XIX and XXI, and provided through an IHS or Tribal 638 facility, an "encounter" is defined as a face-to-face or telephone contact between a health care professional and an eligible OHP client within a 24-hour period ending at midnight, as documented in the client's medical record. Section (7) of this rule outlines limitations for telephone contacts that qualify as encounters.

(6) An encounter includes all services, items and supplies provided to a client during the course of an office visit, and "incident-to" services (except as excluded in section (15) of this rule). The following services are inclusive of the visit with the core provider meeting the criteria of a reimbursable valid encounter and are not reimbursed separately:

(a) Drugs or medication treatments provided during the clinic visit, with the exception of contraception supplies and medications as costs for these items are excluded from the IHS encounter rate calculation (refer to OAR 410-146-0200, Pharmacy);

(b) Medical supplies, equipment, or other disposable products (e.g. gauze, band-aids, wrist brace); and

(c) Venipuncture for laboratory tests.

(7) Telephone encounters only qualify as a valid encounter for services provided in accordance with OAR 410-130-0595, Maternity Case Management (MCM) and OAR 410-130-0190, Tobacco Cessation (refer to OAR 410-120-1200). Telephone encounters must include all the same components of the service when provided face-to-face. Providers must not make telephone contacts at the exclusion of face-to-face visits.

(8) The following services may be Medicaid-covered services according to an OHP client's benefit package as a stand-alone service; however, when furnished as a stand-alone service, are not reimbursable:

(a) Case management services for coordinating care for a client;

(b) Sign language and oral interpreter services;

(c) Supportive rehabilitation services including, but not limited to, environmental intervention, supported employment, or skills training and activity therapy to promote community integration and job readiness.

(9) AI/AN providers may provide certain services, items and supplies that are prohibited from being billed under the health centers provider enrollment and that require separate enrollment (see OAR 410-146-0021, AI/AN Provider Enrollment). These services include:

(a) Durable medical equipment, prosthetics, orthotics or medical supplies (DMEPOS) (e.g. diabetic supplies) not generally provided during the course of a clinic visit (refer to OAR chapter 410, division 122, DMEPOS);

(b) Prescription pharmaceutical and/or biologicals not generally provided during the clinic visit must be billed to the Division through the pharmacy program (refer to OAR chapter 410, division 121, Pharmaceutical Services);

(c) Targeted case management (TCM) services. For specific information, refer to OAR chapter 410, division 138, TCM.

(10) Client contact with more than one health professional for the same diagnosis or multiple encounters with the same health professional that take place on the same day and at a single location constitute a single visit. For exceptions to this rule, see OAR 410-146-0086 for reporting multiple encounters.

(11) For claims that require a procedure and diagnosis code the provider must bill as instructed in the appropriate Division program rules and must use the appropriate HIPAA procedure Code Set established according to 45 CFR 162.1000 to 162.1011, which best describes the specific service or item provided (refer to OARs 410-120-1280, Billing and 410-146-0040, ICD-10-CM Diagnosis Codes and CPT/HCPCs Procedure Codes).

(12) Services furnished by AI/AN enrolled providers that may meet the criteria of a valid encounter (refer to individual program administrative rules for service limitations.):

(a) Medical (OAR chapter 410, division 130);

(b) Diagnostic: The Division covers reasonable services for diagnosing conditions, including the initial diagnosis of a condition that is below the funding line on the Oregon Health Evidence Review Commission's Prioritized List of Health Services. Once a diagnosis is established for a service, treatment or item that falls below the funding line, the Division will not cover any other services related to the diagnosis;

(c) Tobacco Cessation (OAR 410-130-0190);

(d) Dental (OAR 410-146-0380 and OAR chapter 410, division 123);

(e) Vision (OAR chapter 410, division 140);

(f) Physical Therapy (OAR chapter 410, division 131);

(g) Occupational Therapy (OAR chapter 410, division 131);

(h) Podiatry (OAR chapter 410, division 130);

(i) Mental Health (refer to the Division of Addiction and Mental Health (AMH) for appropriate OARs);

(j) Alcohol, Chemical Dependency, and Addiction services (OAR 410-146-0021). Requires a letter or licensure of approval by AMH (refer to AMH for appropriate OARs);

(k) Maternity Case Management (OAR 410-146-0120);

(l) Speech (OAR 410 Division 129);

(m) Hearing (OAR 410 Division 129);

(n) The Division considers a home visit for assessment, diagnosis, treatment or maternity case management (MCM) as an encounter. The Division does not consider home visits for MCM as home health services;

(o) Professional services provided in a hospital setting;

(p) Other Title XIX or XXI services as allowed under Oregon's Medicaid and CHIP State Plan Amendments and the Division's administrative rules.

(13) The following practitioners are recognized by the Division:

(a) Doctors of medicine, osteopathy and naturopathy;

(b) Licensed physician assistants;

(c) Nurse practitioners;

(d) Registered nurses — may accept and implement orders within the scope of their license for client care and treatment under the supervision of a licensed health care professional recognized by the Division in this section and who is authorized to independently diagnose and treat according to appropriate State of Oregon's Board of Nursing OARs;

(e) Nurse midwives;

(f) Dentists;

(g) Dental hygienists who hold a Limited Access Permit (LAP) — may provide dental hygiene services without the supervision of a dentist in certain settings. For more information, refer to the section on Limited Access Permits in Oregon Revised Statute (ORS) 680.200 and the appropriate Oregon Board of Dentistry OARs;

(h) Pharmacists;

(i) Psychiatrists;

(j) Licensed Clinical Social Workers;

(k) Clinical psychologists;

(l) Acupuncturists — refer to OAR chapter 410, division 130 for service coverage and limitations;

(m) Licensed professional counselor;

(n) Licensed marriage and family therapist; and

(o) Other health care professionals providing services within their scope of practice and working under the supervision requirements of:

(A) Their individual provider's certification or license; or

(B) A clinic's mental health certification or alcohol and other drug program approval or licensure by AMH (see OAR 410-146-0021).

(14) Encounters with a registered professional nurse or a licensed practical nurse and related medical supplies (including drugs and biologicals) furnished on a part-time or intermittent basis to home-bound AI/AN clients residing on tribal land and any other ambulatory services covered by the Division are also reimbursable as permitted within the clinic's scope of services (see OAR 410-146-0080).

(15) The Division reimburses the following services fee-for-service outside of the IHS all-inclusive encounter rate and according to the physician fee schedule:

(a) Laboratory and/or radiology services;

(b) Contraception supplies and medications (see OAR 410-146-0200, Pharmacy);

(c) Administrative medical examinations and report services (refer to OAR chapter 410, division 150);

(d) Death with Dignity services (refer to OAR 410-130-0670); and

(e) Comprehensive environmental lead investigation (refer to OAR 410-130-0245, Early and Periodic Screening, Diagnostic and Treatment Program).

(16) Federal law requires that state Medicaid agencies take all reasonable measures to ensure that in most instances the Division will be the payer of last resort. Providers must make reasonable efforts to obtain payment first from other resources before billing the Division (refer to OAR 410-120-1140, Verification of Eligibility).

(17) When a provider receives a payment from any source prior to the submission of a claim to the Division, the amount of the payment must be shown as a credit on the claim in the appropriate field (refer to OARs 410-120-1280, Billing and 410-120-1340, Payment).

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: OMAP 2-1999, f. & cert. ef. 2-1-99; OMAP 25-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 6-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 45-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 59-2002, f. & cert. ef. 10-1-02; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 68-2003, f. 9-12-03, cert. ef. 10-1-03; OMAP 49-2004, f. 7-28-04 cert. ef. 8-1-04; OMAP 16-2005, f. 3-11-05, cert. ef. 4-1-05; Renumbered from 410-146-0080, DMAP 19-2007, f. 12-5-07, cert. ef. 1-1-08; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 21-2009, f. 6-12-09, cert. ef. 7-1-09; DMAP 46-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 37-2010, f. 12-15-10, cert. ef. 1-1-11; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-147-0040

ICD-9-CM Diagnosis and CPT/HCPCs Procedure Codes

(1) The appropriate ICD-10-CM diagnosis code or codes from 001.0 through V99.9 must be used to identify:

(a) Diagnoses;

(b) Symptoms;

(c) Conditions;

(d) Problems;

(e) Complaints; or

(f) Other reasons for the encounter/visit.

(2) The Division of Medical Assistance Program (DMAP) requires diagnosis codes on all claims, including those submitted by independent laboratories and portable radiology, including nuclear medicine and diag-

nostic ultrasound providers. A clinic must always provide the client's diagnosis to ancillary service providers when prescribing services, equipment, and supplies.

(3) Clinics must list the principal diagnosis in the first position on the claim. Use the principal diagnosis code for the diagnosis, condition, problem, or other reason for an encounter/visit shown in the medical record to be chiefly responsible for the services provided. Clinics may list up to three additional diagnosis codes on the claim for documented conditions that coexist at the time of the encounter/visit and require or affect client care, treatment, or management.

(4) Clinics must list the diagnosis codes using the highest degree of specificity available in the ICD-10-CM. Use a three-digit diagnosis code only if the diagnosis code is not further subdivided. Whenever fourth-digit or fifth-digit subcategories are provided, the provider must report the diagnosis at that specificity. DMAP considers a diagnosis code invalid if it has not been coded to its highest specificity.

(5) DMAP requires providers to use the standardized code sets required by the Health Insurance Portability and Accountability Act (HIPAA) and adopted by the Centers for Medicare and Medicaid Services (CMS). Unless otherwise directed in rule, providers must accurately code claims according to the national standards in effect for the date the service(s) was provided:

(a) For dental services, use codes that are in effect for the date the service(s) was provided that are found in Dental Procedures and Nomenclature as maintained and distributed by the American Dental Association for dental services;

(b) For health care services, use the combination of Health Care Common Procedure Coding System (HCPCS) and Current Procedural Terminology (CPT) codes in effect for the date the service(s) was provided. These services include, but are not limited to, the following:

(A) Physician services;

(B) Physical and occupational therapy services;

(C) Radiology procedures;

(D) Clinical laboratory tests;

(E) Other medical diagnostic procedures;

(F) Hearing and vision services.

(6) DMAP maintains unique coding and claim submission requirements for Administrative Exams and Death with Dignity services. Refer to OAR 410 division 150, Administrative Examination and Billing Services, and 410-130-0670, Death with Dignity Services, for specific requirements.

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: HR 4-1991, f. 1-15-91, cert. ef. 2-1-91; HR 7-1995, f. 3-31-95, cert. ef. 4-1-95; OMAP 19-1999, f. & cert. ef. 4-1-99; OMAP 35-1999, f. & cert. ef. 10-1-99; OMAP 20-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 21-2000, f. 9-28-00, cert. ef 10-1-00; OMAP 8-2001, f. 3-30-01, cert. ef. 4-1-01; OMAP 19-2001, f. 3-30-01, cert, ef, 4-1-01; OMAP 62-2002, f. & cert. ef. 10-1-02, Renumbered from 410-128-0020; OMAP 63-2002, f. & cert. ef. 10-1-02, Renumbered from 410-135-0060; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03; OMAP 27-2006, f. 6-14-06, cert. ef. 7-1-06; DMAP 10-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 25-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 42-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-147-0120

Division Encounter and Recognized Practitioners

(1) The Division of Medical Assistance Programs (Division) reimburses Federally Qualified Health Center (FQHC) and Rural Health Clinic (RHC) services according to the Prospective Payment System (PPS) as follows:

(a) When the service(s) meet the criteria of a valid encounter as defined in Sections (2) through (4) of this rule;

(b) Reimbursement is limited to the Division's Medicaid-covered services according to a client's Oregon Health Plan (OHP) benefit package. These services include ambulatory services included in the State Plan under Title XIX or Title XXI of the Social Security Act. Other services that are not defined in this rule or the State Plan under Title XIX or Title XXI of the Social Security Act are not reimbursed by the Division.

(2) For the provision of services defined in Titles XIX and XXI and provided through an FQHC or RHC, an "encounter" is defined as a face-to-face or telephone contact between a health care professional and an eligible OHP client within a 24-hour period ending at midnight, as documented in the client's medical record. Section (4) of this rule outlines limitations for telephone contacts that qualify as encounters.

(3) An encounter includes all services, items and supplies provided to a client during the course of an office visit (except as excluded in Sections (6) and (12) of this rule) and those services considered "incident-to." These services are inclusive of the visit with the core provider meeting the criteria a valid encounter and reimbursed at the PPS all-inclusive encounter rate. These services include:

(a) Drugs or medication treatments provided during a clinic visit are inclusive of the encounter, with the exception of contraception supplies and medications as costs for these items are excluded from the PPS encounter rate calculation (see OAR 410-147-0280 Drugs and OAR 410-147-0480 Cost Statement (DMAP 3027) Instructions);

(b) Medical supplies, equipment, or other disposable products (e.g. gauze, band-aids, wrist brace) are inclusive of an office visit;

(c) Laboratory and/or radiology services (even if performed on another day);

(d) Venipuncture for lab tests. The Division does not deem a visit for lab test only to be a clinic encounter;

(4) Telephone encounters only qualify as a valid encounter for services provided in accordance with OAR 410-130-0595, Maternity Case Management (MCM) and 410-130-0190, Tobacco Cessation (see also OAR 410-120-1200). Telephone encounters must include all the same components of the service when provided face-to-face. Providers must not make telephone contacts at the exclusion of face-to-face visits.

(5) Extended care services furnished under a contract between a county Community Mental Health Program (CMHP) of the FQHC and Addictions and Mental Health Division (AMH) are reimbursed outside of the PPS. Extended care services are those services provided under AMH's licensure requirements and reimbursed under AMH's terms and conditions.

(6) Some Division Medicaid-covered services are not reimbursable when furnished according to Oregon Health Plan (OHP) client's benefit package as a stand alone service. Although costs incurred for furnishing these services are inclusive of the PPS all-inclusive rate calculation, visits where these services were furnished as a stand-alone service were excluded from the denominator for the PPS rate calculation (see OAR 410-147-0480, Cost Statement (DMAP 3027) Instructions). The following services when furnished as a stand-alone service are not reimbursable:

(a) Sign language and oral interpreter services;

(b) Supportive rehabilitation services including, but not limited to, environmental intervention, supported housing and employment, or skills training and activity therapy to promote community integration and job.

(7) FQHCs and RHCs may provide certain services, items and supplies that are prohibited from being billed under the health centers provider enrollment, and requires separate enrollment (see OAR 410-147-0320(1)(b) Federally Qualified Health Center (FQHC)/Rural Health Clinics (RHC) Enrollment). These services include:

(a) Durable medical equipment, prosthetics, orthotics or medical supplies (DMEPOS) (e.g. diabetic supplies) not generally provided during the course of a clinic visit (refer to OAR chapter 410, division 122, DMEPOS);

(b) Prescription pharmaceutical and/or biologicals not generally provided during the clinic visit must be billed to DMAP through the pharmacy program (refer to OAR chapter 410, division 121, Pharmaceutical Services);

(c) Targeted case management (TCM) services (refer to OAR chapter 410, division 138).

(8) Client contact with more than one health professional for the same diagnosis or multiple encounters with the same health professional that take place on the same day and at a single location constitute a single encounter. For exceptions to this rule, see OAR 410-147-0140 for reporting multiple encounters.

(9) Providers are advised to include all services that can appropriately be reported using a procedure code on the claim and bill as instructed in the appropriate Division program rules and must use the appropriate HIPAA procedure code set such as CPT, HCPCS, ICD-10-CM, ADA CDT, NDC, established according to 45 CFR 162.1000 to 162.1011, which best describes the specific service or item provided. For claims that require the listing of a diagnosis or procedure code as a condition of payment, the code listed on the claim form must be the code that most accurately describes the client's condition and the service(s) provided. Providers must use the ICD-10-CM diagnosis coding system when a diagnosis is required unless otherwise specified in the appropriate individual provider rules (refer to OAR 410-120-1280 Billing and see OAR 410-147-0040 ICD-10-CM Diagnosis and CPT/HCPCs Procedure Codes).

(10) FQHC and RHC services that may meet the criteria of a valid encounter are (refer to individual program administrative rules for service limitations.):

(a) Medical (OAR chapter 410, division 130);

(b) Diagnostic: The Division covers reasonable services for diagnosing conditions, including the initial diagnosis of a condition that is below the funding line on the Prioritized List of Health Services. Once a diagnosis is established for a service, treatment or item that falls below the fund-

ing line, the Division will not cover any other services related to the diagnosis;

(c) Tobacco Cessation (OAR 410-130-0190);

(d) Dental (see to OAR 410-147-0125, and refer to OAR chapter 410, division 123);

(e) Vision (OAR chapter 410, division 140);

(f) Physical Therapy (OAR chapter 410, division 131);

(g) Occupational Therapy (OAR chapter 410, division 131);

(h) Podiatry (OAR chapter 410, division 130);

(i) Mental Health (Refer to the Division of Addiction and Mental Health (AMH) for appropriate OARs);

(j) Alcohol, Chemical Dependency, and Addiction services (see also OAR 410-147-0320). Requires a letter or licensure of approval by AMH (refer to AMH for appropriate OARs);

(k) Maternity Case Management (MCM) (OAR 410-147-0200);

(l) Speech (OAR chapter 410, division 129);

(m) Hearing (OAR chapter 410, division 129);

(n) The Division considers a home visit for assessment, diagnosis, treatment or MCM as an encounter. The Division does not consider home visits for MCM as home health services;

(o) Professional services provided in a hospital setting; and

(p) Other Title XIX or XXI services as allowed under Oregon's Medicaid and CHIP State Plan Amendments and the Division's administrative rules.

(11) The following practitioners are recognized by the Division:

(a) Doctors of medicine, osteopathy and naturopathy;

(b) Licensed Physician Assistants;

(c) Dentists;

(d) Dental Hygienists who hold a Limited Access Permit (LAP) — may provide dental hygiene services without the supervision of a dentist in certain settings. For more information, refer to the section on Limited Access Permits, ORS 680.200 and the appropriate Oregon Board of Dentistry OARs;

(e) Pharmacists;

(f) Nurse Practitioners;

(g) Nurse Midwives;

(h) Other specialized nurse practitioners;

(i) Registered nurses — may accept and implement orders within the scope of their license for client care and treatment under the supervision of a licensed health care professional recognized by the Division in this section and who is authorized to independently diagnose and treat according to appropriate State of Oregon's Board of Nursing OARs;

(j) Psychiatrists;

(k) Licensed Clinical Social Workers;

(l) Clinical psychologists;

(m) Acupuncturists — Refer to OAR chapter 410, division 130 for service coverage and limitations;

(n) Licensed professional counselor;

(o) Licensed marriage and family therapist; or

(p) Other health care professionals providing services within their scope of practice and working under the supervision requirements of:

(A) Their individual provider's certification or license; or

(B) A clinic's mental health certification or alcohol and other drug program approval or licensure by the Addictions and Mental Health Division (AMH) (see OAR 410-147-0320).

(12) Encounters with a registered professional nurse or a licensed practical nurse and related medical supplies (other than drugs and biologicals) furnished on a part-time or intermittent basis to home-bound clients (limited to areas in which the Secretary has determined that there is a shortage of home health agencies — Code of Federal Regulations 42 § 405.2417), and any other ambulatory services covered by the Division are also reimbursable as permitted within the clinic's scope of services (see OAR 410-147-0020).

(13) FQHCs and RHCs may furnish services that are reimbursed outside of the PPS all-inclusive encounter rate and according to the physician fee schedule. These services include:

(a) Administrative medical examinations and report services (refer to OAR chapter 410, division 150);

(b) Death with Dignity services (refer to OAR 410-130-0670);

(c) Services provided to Citizen/Alien-Waived Emergency Medical (CAWEM) clients (refer to OARs 410-120-1210, 461-135-1070 and 410-130-0240);

(d) Services provided to Qualified Medicare Beneficiary (QMB) only clients (refer to OAR 410-120-1210, Medical Assistance Benefit Packages and Delivery System). Specific billing information is located in the FQHC and RHC Supplemental Information billing guide; and

(e) Comprehensive environmental lead investigation (refer to OAR 410-130-0245, Early and Periodic Screening, Diagnostic and Treatment Program).

(14) OHP benefit packages and delivery system are described in OAR 410-120-1210. Most OHP clients have prepaid health services, contracted for by the Authority through enrollment in a Prepaid Health Plan (PHP). Non-PHP-enrolled clients, receive services on an "open card" or "fee-for-service" (FFS) basis.

(a) The Division is responsible for making payment for services provided to open card clients. The provider will bill the Division the clinic's encounter rate for Medicaid-covered services provided to these clients according to their OHP benefit package (see OAR 410-147-0360, Encounter Rate Determination).

(b) A PHP is responsible to provide, arrange and make reimbursement arrangements for covered services for their Division members (refer to OAR 410-120-0250, and OAR chapter 410, division 141, OHP administrative rules governing PHPs). The provider must bill the PHP directly for services provided to an enrolled client (See also OARs 410-147-0080, Prepaid Health Plans, and 410-147-0460, PHP Supplemental Payment). Clinics must not bill the Division for PHP-covered services provided to eligible OHP clients enrolled in PHPs. Exceptions include:

(A) Family planning services provided to a PHP-enrolled client when the clinic does not have a contract with the PHP, and if the PHP denies payment (see OAR 410-147-0060); and

(B) HIV/AIDS prevention provided to a PHP-enrolled client when the clinic does not have a contract with the PHP, and if the PHP denies payment (see OAR 410-147-0060).

(15) Federal law requires that state Medicaid agencies take all reasonable measures to ensure that in most instances the Division will be the payer of last resort. Providers must make reasonable efforts to obtain payment first from other resources before billing the Division (refer to OAR 410-120-1140 Verification of Eligibility).

(16) When a provider receives a payment from any source prior to the submission of a claim to the Division, the amount of the payment must be shown as a credit on the claim in the appropriate field (refer to OARs 410-120-1280 Billing and 410-120-1340 Payment).

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: HR 13-1993, f. & cert. ef. 71-1-93; HR 7-1995, f. 3-31-95, cert. ef. 4-1-95; OMAP 19-1999, f. & cert. ef. 4-1-99; OMAP 35-1999, f. & cert. ef. 10-1-99; OMAP 20-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 21-2000, f. 9-28-00, cert. ef 10-1-00; OMAP 37-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 62-2002, f. & cert. ef. 10-1-02, Renumbered from 410-128-0390; OMAP 63-2002, f. & cert. ef. 10-1-02, Renumbered from 410-135-0150; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03; OMAP 49-2004, f. 7-28-04 cert. ef. 8-1-04; OMAP 27-2006, f. 6-14-06, cert. ef. 7-1-06; OMAP 44-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 22-2009, f. 6-12-09, cert. ef. 7-1-09; DMAP 47-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 38-2010, f. 12-15-10, cert. ef. 1-1-11; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-147-0500

Total Encounters for Cost Reports

(1) Federally Qualified Health Centers and Rural Health Clinics (FQHC/RHCs) are required to report the total number of encounters for furnishing services outlined in 42 USC 1396d(a)(2)(C) and 1396d(a)(2)(B), respectively.

(2) In general, the Division of Medical Assistance Programs (DMAP) calculates a FQHC or RHC's Prospective Payment System (PPS) encounter rate by dividing the total costs incurred by a clinic for furnishing services as defined in 42 USC 1396d(a)(2)(B) or (C) by the total number of all clinic visits, or "encounters." The intent of PPS is to calculate the average cost of an encounter, and not the average cost of a Medicaid billable encounter.

(3) This rule provides guidance for cost reporting of all encounters. It is the responsibility of the FQHC and RHC to report all encounters, except when expressly directed not to elsewhere in this rule. FQHCs and RHCs are required to include ALL:

(a) Encounters for all clients regardless of payor;

(b) Encounters for FQHC or RHC services that are not covered by Medicaid, Medicare, Third Party Payor or other party, but otherwise have an associated cost for providing the service whether billed to the client (e.g. uninsured, signed waiver on file) or absorbed by the clinic; and;

(c) Encounters regardless of line placement on the Health Evidence Review Commission's (HERC) Prioritized List of Health Services. For the purpose of reporting encounters according to this rule, encounters are not subject to the HERC Prioritized List, or service limitations and benefit reductions implemented by the Division of Medical Assistance Programs (DMAP).

(4) FQHCs and RHCs must report all encounters furnished to all client populations irrespective of coverage or payor source. Examples of client populations include, but are not limited to:

(a) Oregon Health Plan (OHP) clients (includes both fee-for-service and prepaid health plan (PHP) clients). Refer to OAR 410-147-0120 for more information regarding OHP encounters;

(b) Citizen/Alien-Waived Emergency Medical (CAWEM) clients. Refer also to OAR 410-120-1210(3)(f).

(c) Family Planning Expansion Program (FPEP) Title X, clients;

(d) Uninsured and/or self-pay clients;

(e) Medicare clients;

(f) Third party or private pay insurance clients;

(g) County- and/or clinic-pay clients (services paid or funded by the county or clinic); and

(h) Clients funded by federal, state, local or other grants.

(5) FQHCs and RHCs must exclude from the total number of reported encounters:

(a) Encounters attributed to non-allowable costs:

(A) Services performed under the auspices of a Women, Infant and Children (WIC) program or a WIC contract;

(B) Services performed and reimbursed under separate enrollment (e.g., Targeted Case Management);

(C) Services provided by patient advocates/ombudsmen and Outstationed Outreach Workers, employed by or under contract with the FQHC or RHC, for the primary purpose of providing outreach and/or group education sessions;

(D) Provider participation in a community meeting or group session that is not designed to provide clinical services. This includes, and is not limited to, information sessions for prospective Medicaid beneficiaries, and information presentations about available health services at the FQHC or RHC; and

(E) Health services provided as part of a large-scale "free to the public" or "nominal fee" effort, such as a mass immunization program, screening program, or community-wide service program (e.g., a health fair);

(b) Encounters for specific services outlined in 42 USC 1396d(a)(2)(B) and (C), that do not meet the criteria of a valid encounter when furnished as a stand-alone service. Costs for furnishing these services is an allowed administrative program cost and should be reported on a clinic's cost statement for calculating a clinic's PPS encounter rate. Refer to OAR 410-147-0480, Costs Statement (DMAP 3027) Instructions. Examples include, but are not limited to:

(A) Case management services for coordinating health care for a client;

(B) Enabling services, including but not limited to, sign language and oral interpreter services;

(C) Supportive, rehabilitation services including, but not limited to, environmental intervention, and supported housing and employment; skills training and activity therapy to promote community integration and job readiness;

(D) Laboratory and radiology services, including venipuncture and tuberculosis (TB) tests (the initial visit for the TB test administered to the epidermis);

(E) Prescription refills; and

(F) Services provided without the client present, except for telephone contacts as specified in this rule section (6)(c).

(6) FQHCs and RHCs are required to include encounters for services furnished by practitioners recognized by DMAP in OAR 410-147-0120(6). Examples of encounters that may be overlooked but should be included are:

(a) Encounters below the funding line on the Health Services Commission's Prioritized List of Health Services. All encounters are to be reported regardless of line placement;

(b) Encounters outside of the clinic by primary care practitioners (e.g. services furnished in a hospital or residential treatment setting);

(c) Telephone contacts as provided for in the Tobacco Cessation, OAR 410-130-0190; and Maternity Case Management (MCM), 410-130-0595, programs. See also 410-120-1200(2)(y);

(d) Medication management-only encounters by a behavioral health practitioner;

(e) Encounters by Registered and Licensed Practical Nurses:

(A) Home encounters in an area in which the Secretary of the Health Resources and Services Administration, Health and Human Services, has determined that there is a shortage of home health agencies (OAR 410-147-0120(10));

(B) Administration of immunizations/vaccinations encounters;

(C) "99211" encounters; and

(D) Maternity Case Management (MCM) encounters.

(7) Global procedures require attention for accurate reporting of encounters:

(a) Obstetrics procedures: Each antepartum, delivery and postpartum encounter included in a global procedure for maternity and delivery services should be reported as a separate encounter;

(b) Dental procedures: Multiple contacts for global dental procedures should be reported as a single encounter. Refer to OAR 410-147-0040(5) ICD-10-CM Diagnosis and CPT/HCPCs Procedure Codes, for more information;

(c) Surgical procedures: Refer to OAR 410-147-0040(5), ICD-10-CM Diagnosis and CPT/HCPCs Procedure Codes, for more information:

(A) Services within a surgical package and "included" in a given CPT surgical code are reported as a single encounter. Refer to OAR 410-130-0380, Surgical Guidelines, for more information; and

(B) The initial consultation or evaluation of the problem by the provider to determine the need for surgery, and separate from a preoperative appointment, is a separate encounter.

(8) A surgical procedure furnished to an OHP client and provided by more than one surgeon employed by the FQHC or RHC does not count as multiple encounters. The exception to this rule is major surgery, including a cesarean delivery, furnished to a CAWEM client. Services provided by the primary surgeon and the assistant surgeon, when both are employed with the FQHC or RHC, may be eligible as multiple encounters if medically necessary.

(9) When two or more services are provided on the same date of service:

(a) With distinctly different diagnoses, a clinic should report multiple encounters when the criteria in OAR 410-147-0140, Multiple Encounters, is met; or

(b) With similar diagnoses, a clinic must report one encounter.

(10) Clinics must maintain, for no less than five years, all documentation relied upon by the clinic to calculate the number of encounters reported on the cost statement (DMAP 3027):

(a) All documentation supporting the number of encounters reported on the cost statement must be sufficient to withstand an audit; and

(b) The total number of encounters calculated from all sources of documentation must reconcile to the total number of encounters reported on the cost statement, and subtotaled encounters must reconcile to each documentation source relied upon.

Stat. Auth.: ORS 413.042 & 414.065
Stats. Implemented: ORS 414.065
Hist.: HR 4-1991, f. 1-15-91, cert. ef. 2-1-91; HR 13-1993, f. & cert. ef. 7-1-93; HR 7-1995, f. 3-31-95, cert. ef. 4-1-95; OMAP 35-1999, f. & cert. ef. 10-1-99; OMAP 20-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 37-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 62-2002, f. & cert. ef. 10-1-02, Renumbered from 410-128-0380; OMAP 71-2003, f. 9-15-03, cert. ef. 10-1-03; OMAP 27-2006, f. 6-14-06, cert. ef. 7-1-06; DMAP 10-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

410-148-0020
Home Enteral/Parenteral Nutrition and IV Services

(1) The Division of Medical Assistance Programs (Division) will make payment for medically appropriate goods, supplies and services for home enteral/parenteral nutrition and IV therapy on written order or prescription. (a) The order or prescription must be dated and signed by a licensed prescribing practitioner, legible and specify the service required, the ICD-10-CM diagnosis codes, number of units and length of time needed.

(b) The prescription or written physician order for solutions and medications must be retained on file by the provider of service for the period of time specified in the Division's General Rules.

(c) An annual assessment and a new prescription are required once a year for ongoing services.

(d) Also covered are services for subcutaneous, epidural and intrathecal injections requiring pump or gravity delivery.

(2) All claims for enteral/parenteral nutrition and IV services require a valid ICD-10-CM diagnosis code. It is the provider's responsibility to obtain the actual diagnosis code(s) from the prescribing practitioner. Reimbursement will be made according to covered services on funded lines of the Health Services Commission's Prioritized List of Health Services, and these rules.

(3) The Division requires one initial nursing service visit to assess the home environment and appropriateness of enteral/parenteral nutrition or IV services in the home setting and to establish the client's treatment plan.

(a) This nursing service visit for assessment purposes does not require payment authorization.

(b) The nursing service assessment visit is not required when:

(A) The only service provided is oral nutritional supplementation;

(B) The services are performed in an Ambulatory Infusion Suite of the home infusion therapy provider.

(4) Nursing service visits specific to this Home Enteral/Parenteral and IV services program are provided in the home, or an Ambulatory Infusion Suite of the Home Infusion Therapy Provider (AIS) and will be reimbursed by the Division only when prior authorized, and performed by a person who is licensed by the Oregon State Board of Nursing to practice as a Registered Nurse. All registered nurse delegated or assigned nursing care tasks must comply with the Oregon State Board of Nursing, Nurse Practitioner Act and Administrative Rules regulating the practice of nursing.

(5) Payment for services identified in the Home Enteral/Parenteral Nutrition and IV Services provider rules will be made only when provided in the client's place of residence (i.e., home or nursing facility) or an Ambulatory Infusion Suite (AIS).

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; HR 26-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 461-016-0290; HR 9-1992, f. & cert. ef. 4-1-92; HR 26-1993, f. & cert. ef. 10-1-93; HR 3-1995, f. & cert. ef. 2-1-95; OMAP 7-1998, f. 2-27-98, cert. ef. 3-1-98; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 46-2001, f. 9-24-01, cert. ef. 10-1-01, Renumbered from 410-121-0640; OMAP 22-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 63-2003, f. 9-5-03, cert. ef. 10-1-03; OMAP 15-2004, f. 3-11-04, cert. ef. 4-1-04; OMAP 64-2004, f. 9-10-04, cert. ef. 10-1-04; DMAP 11-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 51-2015, f. 9-22-15, cert. ef. 10-1-15

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Rule Caption: Hospital Assessment Sunset Date Change; Update Language in Rules to Match Oregon Law
Adm. Order No.: DMAP 52-2015
Filed with Sec. of State: 9-22-2015
Certified to be Effective: 10-1-15
Notice Publication Date: 9-1-2015
Rules Amended: 410-050-0700, 410-050-0710, 410-050-0720, 410-050-0730, 410-050-0740, 410-050-0750, 410-050-0760, 410-050-0770, 410-050-0780, 410-050-0790, 410-050-0800, 410-050-0810, 410-050-0820, 410-050-0830, 410-050-0840, 410-050-0850, 410-050-0860, 410-050-0861, 410-050-0870
Subject: The Authority is amending OAR 410-050-0870 to extend the sunset date of the hospital assessment four more years, as required by the passage of House Bill 2395 (2015 Regular Session). The Authority is amending OARs 410-050-0700 through 410-050-0870 to change agency references from the Department of Human Services to the Oregon Health Authority and to change the word "tax" to "assessment" to be consistent with Oregon law. The Authority is amending OAR 410-050-0820 to conform to the agency's current practice for identifying a hospital's address and contact person for any notice required under the hospital assessment rules.
Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-050-0700
Definitions

The following definitions apply to OAR 410-050-0700 to 410-050-0870:

(1) "Authority" means the Oregon Health Authority.

(2) "Bad Debt" means the current period charge for actual or expected uncollectible accounts resulting from the extension of credit on inpatient and outpatient hospital services. Bad debt charges shall be offset by any recoveries received on accounts receivable during that current period, subject to final assessment reporting and reconciliation processes required in these rules.

(3) "Charges for Inpatient Care" means gross inpatient charges generated from room, board, general nursing, and ancillary services provided to patients, who are expected to remain in the hospital at least overnight, and occupy a bed (as distinguished from categories of health care items or services identified in 42 CFR 433.56(a)(2)-(19) that are not charges for inpatient hospital services). Charges for inpatient care include all payors, and are not limited to Medicaid patients.

(4) "Charges for Outpatient Care" means gross outpatient charges, generated from services provided by the hospital to a patient who is not confined overnight. These services include all ancillary and clinic facility charges (as distinguished from categories of health care items or services identified in 42 CFR 433.56(a)(1) and (3)-(19) that are not charges for outpatient hospital services). Charges of outpatient care include all payors and are not limited to Medicaid charges.

(5) "Charity Care" means costs for providing inpatient or outpatient care services free of charge or at a reduced charge because of the indigence or lack of health insurance of the patient receiving the care services. Charity care results from a hospital's policy as reflected in its official financial statements to provide inpatient or outpatient hospital care services free of charge or at a reduced charge to individuals who meet financial criteria. Charity care does not include any amounts above the payments by the Authority that constitute payment in full under ORS 414.065(3), or above the payment rate established by contract with a prepaid managed care health services organization or health insurance entity for inpatient or outpatient care provided pursuant to such contract, or above the payment rate established under ORS 414.743 for inpatient or outpatient care reimbursed under that statute.

(6) "Contractual Adjustments" means the difference between the amounts charged based on the hospital's full, established charges and the amount received or due from the payor.

(7) "Declared Fiscal Year" means the fiscal year declared to the Internal Revenue Service (IRS).

(8) "Deficiency" means the amount by which the assessment, as correctly computed, exceeds the assessment, if any, reported and paid by the hospital. If, after the original deficiency has been assessed, subsequent information shows the correct amount of assessment to be greater than previously determined, an additional deficiency arises.

(9) "Delinquency" means the hospital failed to file a report when due as required under these rules or failed to pay the assessment as correctly computed when the assessment was due.

(10) "Director" means the Director of the Authority.

(11) "Hospital" means a hospital with an organized medical staff, with permanent facilities that include inpatient beds, and with medical services, including physician services and continuous nursing services under the supervision of registered nurses, to provide diagnosis and medical or surgical treatment primarily for, but not limited to, acutely ill patients and accident victims, or to provide treatment for the mentally ill. Hospital, as used in this section, does not include special inpatient care facilities as that term is defined in ORS 442.015. For purposes of these rules, the hospital shall be identified by using the federal payer identification number for the hospital.

(12) "Net Revenue" means the total amount of charges for inpatient or outpatient care provided by the hospital to patients, less charity care, bad debts, and contractual adjustments. Net revenue does not include revenue derived from sources other than inpatient or outpatient operations, including but not limited to, interest and guest meals and any revenue that is taken into account in computing a long term care assessment under the long term facility assessment.

(13) "Waivered Hospital" means a Type A or Type B hospital as described in ORS 442.470, or a hospital that provides only psychiatric care.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 413.042
Stats. Implemented: 2015 HB 2395
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08; DMAP 33-2009, f. & cert. ef. 10-1-09; DMAP 52-2015, f. 9-22-15, cert. ef. 10-1-15

410-050-0710
General Administration

(1) The purpose of these rules is to implement the assessment imposed on hospitals in Oregon.

(2) The Authority shall administer, enforce, and collect the hospital assessment. The Authority may assign employees, auditors, and other agents as designated by the Director to assist in the administration, enforcement, and collection of the assessments.

(3) The Authority may adopt forms and reporting requirements, and change the forms and reporting requirements, as necessary, to administer, enforce, and collect the assessments.

(4) The Authority may not use moneys from the Hospital Quality Assurance Fund to supplant, directly or indirectly, other moneys made available to fund services described in Section 9, Chapter 736, Oregon Laws 2003 as amended by Section 2, Chapter 757, Oregon Laws 2005.

Stat. Auth.: ORS 413.042
Stats. Implemented: 2015 HB 2395
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08; DMAP 52-2015, f. 9-22-15, cert. ef. 10-1-15

410-050-0720
Disclosure of Information

(1) Except as otherwise provided by law, the Authority may not publicly divulge or disclose the amount of income, expense, or other particu-

lars set forth or disclosed in any report or return required in the administration of the assessments. Particulars include but are not limited to social security numbers, employer numbers, or other hospital identification numbers, and any business records required to be submitted to or inspected by the Authority or its designee to allow it to determine the amounts of any assessments, delinquencies, deficiencies, penalties, or interest payable or paid, or otherwise administer, enforce, or collect a health care assessment to the extent that such information shall be exempt from disclosure under ORS 192.501(5) or other basis for exemption under Oregon's public records law.

(2) The Authority may:

(a) Furnish any hospital, or its authorized representative, upon request of the hospital or representative, with a copy of the hospital's report filed with the Authority for any quarter, or with a copy of any report filed by the hospital in connection with the report, or with a copy of any other information the Authority considers necessary;

(b) Publish information or statistics so classified as to prevent the identification of income or any particulars contained in any report or return;

(c) Disclose and give access to an officer or employee of the Authority or its designee, or to the authorized representatives of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, the Controller General of the United States, the Oregon Secretary of State, the Oregon Department of Justice, the Oregon Department of Justice Medicaid Fraud Control Unit, and other employees of the state or federal government to the extent the Authority deems disclosure or access necessary or appropriate for the performance of official duties in the Authority's administration, enforcement, or collection of the assessments.

Stat. Auth.: ORS 413.042
Stats. Implemented: 2015 HB 2395
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08; DMAP 52-2015, f. 9-22-15, cert. ef. 10-1-15

410-050-0730
Entities Subject to the Hospital Assessment

Each hospital in Oregon is subject to the hospital assessment except:

(1) Hospitals operated by the United States Department of Veterans Affairs;

(2) Pediatric specialty hospitals providing care to children at no charge; and

(3) Waivered hospitals, as that term is defined in OAR 410-050-0700.

Stat. Auth.: ORS 413.042, 410.070, 411.060
Stats. Implemented: 2015 HB 2395§ 2
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08; DMAP 52-2015, f. 9-22-15, cert. ef. 10-1-15

410-050-0740
The Hospital Assessment: Calculation, Report, Due Date

(1) The amount of the assessment equals the assessment rate multiplied by the hospital's net revenue, consistent with OAR 410-050-0750, 410-050-0860, and 410-050-0861. The assessment shall be imposed on net revenues earned by the hospital on or after January 1, 2004, based on calendar quarters. The first calendar quarter begins on January 1; the second calendar quarter begins on April 1; the third calendar quarter begins on July 1; and the fourth calendar quarter begins on October 1.

(2) The assessment rate shall be determined in accordance with OAR 410-050-0860 and 410-050-0861.

(3) The hospital shall file the quarterly report on a form approved by the Authority on or before the 75th day following the end of the calendar quarter for which an assessment is due. The quarterly payment is due and shall be paid at the same time required for filing the quarterly report. The hospital shall provide all information required on the quarterly report when due. Failure to file or pay when due shall be a delinquency.

(4) The assessment becomes operative on July 1, 2004. The first due date for a quarterly assessment and report shall be 75 days from September 30, which is December 13, 2004.

(5) The fiscal year reconciliation report, including the financial statement and reconciliation statement, is due and shall be submitted to the Authority no later than the final day of the sixth calendar month after the hospital's declared fiscal year end. The fiscal year reconciliation assessment payment is due and shall be paid at the same time required for filing the fiscal year reconciliation report. The hospital shall provide all information required on the fiscal year reconciliation report when due. Failure to file or pay when due shall be a delinquency.

(6) Any report, statement, or other document required to be filed under any provision of these rules must be certified by the hospital's chief financial officer or designee. The certification shall attest, based on best knowledge, information, and belief, to the accuracy, completeness, and truthfulness of the document.

(7) Payments may be made electronically or by paper check. If the hospital pays electronically, the accompanying report may either be faxed to the Authority at the fax number provided on the report form or mailed to the address provided on the report form. If the hospital pays by paper check, the accompanying report shall be mailed with the check to the address provided on the report form.

(8) The Authority may charge the hospital a fee of $100 if, for any reason, the check, draft, order, or electronic funds transfer request is dishonored. This charge is in addition to any penalty for nonpayment of the assessment that may also be due.

Stat. Auth.: ORS 413.042
Stats. Implemented: 2015 HB 2395
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08; DMAP 52-2015, f. 9-22-15, cert. ef. 10-1-15

410-050-0750
Reporting Total Net Revenue, Use of Estimated Revenue for Quarterly Reports

(1) A hospital shall submit quarterly reports and quarterly payments for the calendar quarters for which an assessment is due consistent with sections (2) and (5) of this rule, and shall submit a fiscal year reconciliation report that includes a reconciliation statement, audited financial statement, and any fiscal year reconciliation assessment payment based on the hospital's declared fiscal year end consistent with sections (3) and (5) of this rule.

(2) The quarterly reports and quarterly assessment payments shall be based on estimated net revenue, which shall be referred to as estimated assessment. Estimated assessment is the amount of assessment the hospital expects to owe for the current calendar quarter. The hospital shall calculate the estimated assessment based on net revenues using the hospital's interim financial results for the quarter for which the assessment is due. An estimated quarterly report is due for each calendar quarter for which an assessment is due, based on the rate of assessment applicable to that quarter. The quarterly payment is due and shall be paid at the same time required for filing the quarterly report.

(3) The fiscal year reconciliation report and fiscal year reconciliation assessment payment shall be based on the amount of assessment the hospital actually owes based on annual net revenue for all calendar quarters for which an estimated assessment payment is due during the hospital's declared fiscal year. The hospital shall calculate the annual net revenue for the hospital's declared fiscal year. The fiscal year reconciliation assessment payment due shall be the calculated assessment (using the assessment rate applicable to the appropriate quarter, described in subsection (c) below for fiscal year reconciliation assessment calculation purposes) on the annual net revenue reduced by the estimated assessment payments made for each assessment quarter of the hospital's declared fiscal year. The hospital shall provide all information required in the fiscal year reconciliation report when due, even if no fiscal year reconciliation assessment payment is owed:

(a) When the fiscal year reconciliation report is submitted, it shall be accompanied by the hospital's declared fiscal year end audited financial statement for the declared fiscal year on which the fiscal year reconciliation report and fiscal year reconciliation assessment payments are based;

(b) The fiscal year reconciliation report shall include a reconciliation statement describing the relationship between the audited financial statement and annual net revenues subject to the assessment. The reconciliation statement may be descriptive in form and shall be consistent with the accounting principles used in the audited financial statement;

(c) The rate applicable to the final assessment shall be calculated as follows:

(A) If all assessment quarters were subject to the same rate established in OAR 410-050-0160 and 410-050-0861, then the rate applicable to the final reconciliation is the assessment rate applicable to all such quarters. For example, if the hospital's declared fiscal year is July 1, 2004 to June 30, 2005, then the assessment rate is .93 percent of annual net revenue;

(B) If different assessment rates apply to calendar quarters in the hospital's declared fiscal year, the hospital shall apply a blended rate to the total annual net revenue to determine the fiscal year reconciliation assessment due. A blended rate is the average of the rates applicable to all assessment quarters. The Authority shall notify the hospital of the amount of the applicable blended rate. For example, if the hospital's declared fiscal year overlaps two quarters assessed at a rate of .93 percent and two quarters assessed at .50 percent, then the blended rate for purposes of the annual reconciliation is .715 percent. For purposes of calculating the fiscal year rec-

onciliation assessment due, the hospital shall multiply the annual net revenue by the blended rate.

(d) If the total estimated assessment payments already paid by the hospital for the declared fiscal year exceed the amount of the fiscal year reconciliation assessment actually due, the fiscal year reconciliation report shall identify the difference and the hospital shall adjust the fiscal year reconciliation assessment due amount in the fiscal year reconciliation report for that assessment year;

(e) The fiscal year reconciliation report, audited financial statement, and reconciliation statement shall be due and submitted to the Authority no later than the final day of the sixth calendar month after the hospital's declared fiscal year end. The fiscal year reconciliation assessment payment (if owed) is due and shall be paid at the same time required for filing the fiscal year reconciliation report. Failure to file or pay when due shall be a delinquency;

(f) If the declared fiscal year end audited financial statement for the hospital is not available within the time required in subsection (e), a fiscal year reconciliation assessment payment (if owed) and fiscal year reconciliation report must be submitted within the time period specified under subsection (e). The hospital may use interim financial statements to determine the amount of the fiscal year reconciliation assessment due and may submit a justification statement with the fiscal year reconciliation report due no later than the date specified in subsection (e) signed by the hospital's chief financial officer informing the Authority when the audited financial statement is due and certifying that an amended fiscal year reconciliation report, including the reconciliation statement, shall be provided to the Authority within 30 days of the hospital's receipt of the audited financial statement. Reports and payments made after the time period required in subsection (e) shall be submitted in compliance with OAR 401-050-0760;

(g) If the hospital does not receive audited financial statements, then internal financial statements signed by the hospital's chief financial officer shall be submitted where these rules otherwise require audited financial statements;

(h) If the effective date of the assessment is not at the start of the hospital's declared fiscal year, then the annual net revenue for the first fiscal year reconciliation report shall be calculated based on the number of quarters subject to the assessment versus the total number of quarters in the hospital's declared fiscal year. For example, if the assessment is effective on July 1, 2004 for a hospital with a declared fiscal year ending December 31, 2004, the annual net revenues shall be calculated as follows: total net revenues for the declared fiscal year divided by two (two of four quarters subject to the assessment).

(4) The Authority may not find a payment deficiency for estimated quarterly assessments as long as the hospital paid the estimated assessments and submitted the quarterly report no later than the quarterly due date and the estimated assessment amount was not less than the equivalent of the assessment payment that would have been determined based on the hospital's annual net revenue for its most recent prior declared fiscal year divided by four and multiplied times the assessment rate for the quarter in which the actual estimated assessment is due. Annual net revenue for purposes of section (4) of this rule means the twelve month period in which the hospital's most recent prior declared fiscal year occurred, regardless of whether the prior quarters were subject to an assessment. For example, if the annual net revenue for the most recent prior declared fiscal year was $4 million; divide that total by 4 ($1 million) and multiply the product times the current assessment rate for the assessment quarter (.93 percent). In this example, the estimated quarterly assessment payment may not be less than $9,300 in order to receive the benefit of section (4) of this rule:

(a) If the hospital seeks to use the process in section (4) of this rule, no later than the date on which the first quarterly estimated assessment and report is due (for example, December 13, 2004, for the first assessment quarter), the hospital shall provide the Authority with a copy of the hospital's audited financial statement for the hospital's most recent prior declared fiscal year and identify the hospital's annual net revenue amount for that declared fiscal year, regardless of whether any assessments were due for that year;

(b) If the hospital does not receive audited financial statements, then internal financial statements from the hospital's most recent prior declared fiscal year signed by the chief financial officer may be used for this purpose.

(5) All of the due dates for filing reports or paying assessments are established in OAR 410-050-0740, unless the Authority permits a later payment date. If a hospital requests an extension, the Authority, in its sole discretion, shall determine whether to grant an extension. There shall be a delinquency for each quarter the hospital fails to pay the estimated assessment or file the quarterly report when due. There shall be a delinquency if the hospital fails to pay the fiscal year reconciliation assessment or file the fiscal year reconciliation report, including financial statements and reconciliation statement, when due.

(6) A hospital shall declare the date of the hospital's declared fiscal year end for purposes of establishing final assessment reporting requirements under this rule. The declaration shall be filed with the Authority no later than December 13, 2004, or the first date that an estimated quarterly report and assessment is due. The hospital shall notify the Authority within 30 days of a change to the hospital's declared fiscal year end. A change in declared fiscal year end shall be applied to the hospital's next future declared fiscal year for purposes of calculating the final assessment and filing the final report.

Stat. Auth.: ORS 413.042
Stats. Implemented: 2015 HB 2395
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08; DMAP 13-2008(Temp), f. & cert. ef. 6-12-08 thru 12-8-08; DMAP 29-2008, f. 8-29-08, cert. ef. 9-1-08; DMAP 52-2015, f. 9-22-15, cert. ef. 10-1-15

410-050-0760
Filing an Amended Report

(1) A hospital that submits a fiscal year reconciliation report without an audited financial statement shall submit an amended fiscal year reconciliation report, an audited financial statement, and such additional fiscal year reconciliation payment (if owed) for assessments and deficiencies. The information shall be submitted within 180 days after the fiscal year reconciliation report due date.

(2) Claim for Refund:

(a) If the amount of the assessment in the amended fiscal year reconciliation report is less than the amount paid by the hospital, the Authority may refund the overpayment. A refund may not exceed the assessment amount actually paid by the hospital;

(b) The hospital shall provide all information required on the report. No refunds shall be made prior to the Authority receiving the hospital's audited financial statement for the declared fiscal year. The Authority may audit the hospital, request additional information, or request an informal conference prior to granting a refund or as part of its review;

(c) If there is an amount due from the hospital to the Authority for any past due assessments or penalties, any refund otherwise allowable shall first be applied to the unpaid assessments and penalties, and the hospital notified;

(d) A hospital may not deduct from current, prospective, or future assessment payments an amount to which it claims to be entitled as a refund for a prior period. The claim for refund shall be made to the Authority. .

(3) Payment of Delinquency:

(a) If the amount of the annual assessment imposed is more than the amount paid by the hospital, the hospital shall file an amended fiscal year reconciliation report and pay the additional fiscal year reconciliation assessment and deficiency. The penalty under OAR 410-050-0800 shall stop accruing after the Authority receives the amended fiscal year reconciliation report, the annual audited financial statement, and payment of the total fiscal year reconciliation assessment and deficiency for year; except to the extent provided in OAR 410-050-0750(4)(a);

(b) No refunds shall be made prior to the Authority receiving the hospital audited financial statement for the declared fiscal year. The Authority may audit the hospital, request additional information, or request an informal conference prior to granting a refund or as part of its review;

(c) If there is an error in the determination of the assessment due, the hospital may describe the circumstances of the late additional payment with the filing of the amended report. The Authority, in its sole discretion, may determine that the late additional payment does not constitute a failure to file a report or pay an assessment giving rise to the imposition of a penalty. In making this determination, the Authority shall consider the circumstances, including but not limited to: nature and extent of the error; hospital explanation of the circumstances related to the error; evidence of prior errors; and evidence of prior penalties (including evidence of informal dispositions or settlement agreements). This provision only applies if the hospital has filed a timely original report and paid the assessment identified in the report.

(4) If the Authority discovers or identifies information in the administration of these assessment rules that it determines could give rise to the issuance of a notice of proposed action, the Authority shall issue notification pursuant to OAR 410-050-0810.

Stat. Auth.: ORS 413.042
Stats. Implemented: 2015 HB 2395

Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08; DMAP 52-2015, f. 9-22-15, cert. ef. 10-1-15

410-050-0770
Determining the Date Filed

(1) For the purposes of these rules, any reports, requests, appeals, payments, or other response by the hospital shall be received by the Authority either:

(a) Before the close of business on the date due; or

(b) If mailed, postmarked before midnight of the due date.

(2) When the due date falls on a Saturday, Sunday, or a legal holiday, the date filed is on the next business day following the Saturday, Sunday, or legal holiday.

Stat. Auth.: ORS 413.042
Stats. Implemented: 2015 HB 2395
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08; DMAP 52-2015, f. 9-22-15, cert. ef. 10-1-15

410-050-0780
Records Audit by the Authority

(1) The hospital shall maintain financial records necessary and adequate to determine the net revenue for any calendar period for which an assessment may be due.

(2) The Authority or its designee may audit the hospital's records at any time for a period of five years following the date the assessment is due to verify or determine the hospital's net revenue.

(3) The Authority may issue a notice of deficiency or issue a refund based upon its audit findings.

(4) Any audit, finding, or position may be reopened if there is evidence of fraud, malfeasance, concealment, misrepresentation of material fact, omission of income, or collusion either by the hospital or by the hospital and a representative of the Authority.

Stat. Auth.: ORS 413.042
Stats. Implemented: 2015 HB 2395
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08; DMAP 52-2015, f. 9-22-15, cert. ef. 10-1-15

410-050-0790
Determining Assessment for Hospital Failure to File

(1) The law places an affirmative duty on the hospital to file a timely and correct report.

(2) In the case of a failure by the hospital to file a report or to maintain necessary and adequate records, the Authority shall determine the hospital's assessment liability according to the best of its information and belief. Best of its information and belief means the Authority shall use evidence available to the Authority at the time of the determination on which a reasonable person would rely on in determining the assessment. The Authority's determination of assessment liability shall be the basis for the assessment due in any notice of proposed action.

Stat. Auth.: ORS 413.042
Stats. Implemented: 2015 HB 2395
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08; DMAP 52-2015, f. 9-22-15, cert. ef. 10-1-15

410-050-0800
Financial Penalty for Failure to File a Report or Failure to Pay Tax When Due

(1) A hospital that fails to file a quarterly report or pay a quarterly assessment when due shall be subject to a penalty of up to $500 per day of delinquency. The Authority, in its sole discretion, shall determine the penalty for failure to pay the assessment or file a report. In making this determination, the Authority shall consider evidence such as prior late payments, prior penalties, and circumstances related to delinquency. The penalty accrues from the date of delinquency, notwithstanding the date of any notice under these rules.

(2) A hospital that fails to file a fiscal year reconciliation report when due is subject to a penalty of up to $500 per day of delinquency. The Authority, in its sole discretion, shall determine the penalty for failure to pay the assessment or file a report. In making this determination, the Authority shall consider evidence such as prior late payments, prior penalties, and circumstances related to delinquency. The penalty accrues from the date of delinquency, notwithstanding the date of any notice under these rules.

(3) A hospital that files a fiscal year reconciliation report, but fails to pay a fiscal year reconciliation assessment when due is subject to a penalty of up to $500 per day of delinquency up to a maximum of five percent of the amount due. The Authority, in its sole discretion, shall determine the penalty for failure to pay the reconciliation assessment payment or file a fiscal year reconciliation report. In making this determination, the Authority shall consider evidence such as prior late payments, prior penalties, and circumstances related to delinquency. The penalty accrues from the date of delinquency, notwithstanding the date of any notice under these rules.

(4) The total amount of penalty imposed under this section for each reporting period may not exceed five percent of the assessment for the reporting period for which penalty is being imposed.

(5) The Authority shall collect any penalties imposed under this section and deposit the funds in the Authority's account established under ORS 413.101.

(6) Penalties paid under this section are in addition to the hospital's assessment liability.

(7) If the Authority determines that a hospital is subject to a penalty, the Authority shall issue a notice of proposed action as described in OAR 410-050-0810.

(8) If a hospital requests a contested case hearing pursuant to OAR 410-050-0830, the Director, at the Director's sole discretion, may waive or reduce the amount of penalty assessed.

Stat. Auth.: ORS 413.042
Stats. Implemented: 2015 HB 2395
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08; DMAP 33-2009, f. & cert. ef. 10-1-09; DMAP 52-2015, f. 9-22-15, cert. ef. 10-1-15

410-050-0810
Notice of Proposed Action

(1) Prior to issuing a notice of proposed action, the Authority shall notify the hospital of the potential deficiency or failure to report that could give rise to the imposition of a penalty. The Authority shall issue a notification letter within 30 calendar days of the report or payment due date. The hospital shall have 30 calendar days from the date of the notice to respond. The Authority may consider the response and any amended final report under OAR 410-050-0760 in its notice of proposed action. In all cases that the Authority has determined that a hospital has an assessment deficiency or failure to report, the Authority shall issue a notice of proposed action. The Authority may not issue a notice of proposed action if the issue is resolved satisfactorily within 59 days from the date of mailing the notification letter.

(2) The Authority shall issue a notice of proposed action within 60 calendar days from the date of mailing the notification letter.

(3) Contents of the notice of proposed action shall include:

(a) The applicable reporting period;

(b) The basis for determining the corrected amount of assessment;

(c) The corrected assessment due as determined by the Authority;

(d) The amount of assessment paid by the hospital;

(e) The resulting deficiency, which is the difference between the amount received by the Authority and the corrected amount due as determined by the Authority;

(f) Statutory basis for the penalty;

(g) Amount of penalty per day of delinquency;

(h) Date upon which the penalty began to accrue;

(i) Date the penalty stopped accruing or circumstances under which the penalty shall stop accruing;

(j) The total penalty accrued up to the date of the notice;

(k) Instructions for responding to the notice; and

(l) A statement of the hospital's right to a hearing.

Stat. Auth.: ORS 413.042
Stats. Implemented: 2015 HB 2395
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08; DMAP 29-2008, f. 8-29-08, cert. ef. 9-1-08; DMAP 52-2015, f. 9-22-15, cert. ef. 10-1-15

410-050-0820
Required Notice

(1) The Authority shall send any required notice to the address and contact person identified by the hospital on its most recently filed report.

(2) Any notice required to be sent to the Authority shall be sent to the point of contact identified on the communication from the Authority to the hospital.

Stat. Auth.: ORS 413.042
Stats. Implemented: 2015 HB 2395
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08; DMAP 52-2015, f. 9-22-15, cert. ef. 10-1-15

410-050-0830
Hearing Process

(1) Any hospital that receives a notice of proposed action may request a contested case hearing under ORS 183.

(2) The hospital may request a hearing by submitting a written request within 20 days of the date of the notice of proposed action.

(3) Prior to the hearing, the hospital shall meet with the Authority for an informal conference:

(a) The informal conference may be used to negotiate a written settlement agreement.

(b) If the settlement agreement includes a reduction or waiver of penalties, the agreement shall be approved and signed by the Director.

(4) Except as provided in section (5) of this rule, if the case proceeds to a hearing, the administrative law judge shall issue a proposed order. The Authority shall issue a final order.

(5) Nothing in this section shall preclude the Authority and the hospital from agreeing to informal disposition of the contested case at any time, consistent with ORS 183.415(5).

Stat. Auth.: ORS 413.042
Stats. Implemented: 2015 HB 2395
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08; DMAP 52-2015, f. 9-22-15, cert. ef. 10-1-15

410-050-0840
Final Order of Payment

A final order of payment is a final Authority action, expressed in writing, based on a notice of proposed action where a payment amount is due to the Authority. The Authority shall issue a final order of payment for deficiencies or penalties when:

(1) The hospital did not make a timely request for a hearing;

(2) Any part of the deficiency and penalty was upheld after a hearing; or

(3) Upon the agreement of the hospital and the Authority.

Stat. Auth.: ORS 413.042
Stats. Implemented: 2015 HB 2395
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08; DMAP 52-2015, f. 9-22-15, cert. ef. 10-1-15

410-050-0850
Remedies Available after Final Order of Payment

Any amounts due and owing under the final order of payment and any interest thereon may be recovered by Oregon as a debt to the state, using any available legal and equitable remedies. These remedies include, but are not limited to:

(1) Collection activities including, but not limited to, deducting the amount of the final deficiency or penalty from any sum then or later owed to the hospital by the Authority; and

(2) Every payment obligation owed by the hospital to the Authority under a final order of payment shall bear interest at the statutory rate of interest in ORS 82.010 accruing from the date of the final order of payment and continuing until the payment obligation, including interest, has been discharged.

Stat. Auth.: ORS 413.042
Stats. Implemented: 2015 HB 2395
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08; DMAP 52-2015, f. 9-22-15, cert. ef. 10-1-15

410-050-0860
Director Determines Assessment Rate

(1) The Director shall determine the assessment rate.

(2) The assessment rate for the period beginning January 1, 2004 through June 30, 2004 is 0 percent. The assessment rate for the period beginning July 1, 2004 through December 31, 2004 is .95 percent.

(3) The Director may reduce the rate of assessment to the maximum rate allowed under federal law if the reduction is required to comply with federal law. If the rate is reduced pursuant to this section, the Director shall notify the hospitals as to the effective date of the rate reduction.

(4) A hospital is not guaranteed that any additional moneys paid to the hospital in the form of payments for services will equal or exceed the amount of the assessment paid by the hospital.

Stat. Auth.: ORS 413.042
Stats. Implemented: 2015 HB 2395
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 91-2004(Temp), f. & cert. ef. 12-3-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; OMAP 28-2005(Temp), f. & cert. ef. 5-10-05 thru 11-5-05; OMAP 34-2005, f. 7-8-05, cert. ef. 7-11-05; DMAP 3-2008, f. & cert. ef. 1-25-08; DMAP 52-2015, f. 9-22-15, cert. ef. 10-1-15

410-050-0861
Assessment Rate

(1) The assessment rate for the period beginning January 1, 2005, and ending June 30, 2006, is .68 percent.

(2) The assessment rate for the period beginning July 1, 2006, and ending December 31, 2007, is .82 percent.

(3) The assessment rate for the period beginning January 1, 2008, and ending June 30, 2009, is .63 percent.

(4) The assessment rate for the period of January 1, 2008 through June 30, 2009 does not apply to the period beginning July 1, 2009.

(5) The assessment rate for the period beginning July 1, 2009, and ending September 30, 2009, is .15 percent.

(6) The assessment rate for the period beginning October 1, 2009, and ending June 30, 2010, is 2.8 percent.

(7) The assessment rate for the period beginning July 1, 2010, and ending June 30, 2011, is 2.32 percent.

(8) The assessment rate for the period beginning July 1, 2011, and ending September 30, 2011, is 5.25 percent.

(9) The assessment rate for the period beginning October 1, 2011, and ending December 31, 2011, is 5.08 percent.

(10) The assessment rate for the period beginning January 1, 2012, and ending March 31, 2013, is 4.32 percent.

(11) The assessment rate for the period beginning April 1, 2013 and ending September 30, 2014, is 5.30 percent.

(12) The assessment rate for the period beginning October 1, 2014, is 5.80 percent.

Stat. Auth.: ORS 413.042
Stats. Implemented: 2015 HB 2395
Hist.: OMAP 28-2005(Temp), f. & cert. ef. 5-10-05 thru 11-5-05; OMAP 34-2005, f. 7-8-05, cert. ef. 7-11-05; OMAP 14-2006, f. 6-1-06, cert. ef. 7-1-06; DMAP 29-2007, f. 12-31-07, cert. ef. 1-1-08; DMAP 3-2008, f. & cert. ef. 1-25-08; DMAP 24-2009, f. & cert. ef. 7-1-09; DMAP 25-2009(Temp), f. & cert. ef. 7-15-09 thru 1-10-10; DMAP 27-2009, f. & cert. ef. 9-1-09; DMAP 33-2009, f. & cert. ef. 10-1-09; DMAP 21-2010, f. 6-30-10, cert. ef. 7-1-10; DMAP 16-2011(Temp), f. & cert. ef. 7-1-11 thru 11-1-11; DMAP 26- 2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 11-1-11; DMAP 31-2011, f. 10-28-11, cert. ef. 11-1-11; DMAP 50-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 4-30-12; DMAP 8-2012, f. 2-27-12, cert. ef. 3-1-12; DMAP 15-2013(Temp), f. & cert. ef. 4-1-13 thru 9-27-13; DMAP 41-2013, f. & cert. ef. 8-1-13; DMAP 58-2014(Temp), f. & cert. ef. 10-1-14 thru 3-29-15; DMAP 68-2014, f. & cert. ef. 12-1-14; DMAP 52-2015, f. 9-22-15, cert. ef. 10-1-15

410-050-0870
Sunset Provisions

The hospital assessment applies to net revenue received by hospitals on or after January 1, 2004 and before October 1, 2019.

Stat. Auth.: ORS 413.042
Stats. Implemented: 2015 HB 2395
Hist.: OMAP 86-2004(Temp), f. & cert. ef. 11-9-04 thru 5-7-05; OMAP 25-2005, f. 4-15-05, cert. ef. 5-7-05; DMAP 3-2008, f. & cert. ef. 1-25-08; DMAP 33-2009, f. & cert. ef. 10-1-09; DMAP 53-2013(Temp), f. & cert. ef. 10-1-13 thru 3-29-14; DAMP 17-2014, f. & cert. ef. 3-25-14; DMAP 52-2015, f. 9-22-15, cert. ef. 10-1-15

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Rule Caption: Specific Requirements; Extended Medical Assistance
Adm. Order No.: DMAP 53-2015
Filed with Sec. of State: 9-22-2015
Certified to be Effective: 9-25-15
Notice Publication Date: 9-1-2015
Rules Amended: 410-200-0440
Rules Repealed: 410-200-0440(T)
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. On 4/14/15, the Senate past HR 2, which the president signed into law. HR 2, in part, maintains section 1925 of the Social Security Act permanently.
Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-200-0440
Specific Requirements; Extended Medical Assistance

(1) The following individuals may be eligible for Extended Medical Assistance (EXT) if they lose eligibility for Medical Assistance Assumed (MAA), Medical Assistance to Families (MAF), or MAGI Parent or Other Caretaker Relative (MAGI PCR) benefits:

(a) Individuals who lose eligibility for MAA, MAF, or MAGI PCR due to the receipt or increase of earned income are eligible for 12 months

of EXT if eligibility is redetermined and the individual is not eligible for any other Medicaid/CHIP program.

(b) Individuals who lose eligibility for MAA, MAF, or MAGI PCR due to the receipt or increase of spousal support are eligible for four months of EXT benefits if:

(A) Individuals were eligible for and receiving MAA, MAF, or MAGI PCR benefits for any three of the six months preceding the receipt or increase in spousal support that resulted in loss of eligibility, and;

(B) Eligibility is redetermined and the individual is not eligible for any other Medicaid/CHIP program.

(2) The EXT beneficiary must be a resident of Oregon.

(3) Individuals who lose EXT eligibility for one of the following reasons may regain EXT eligibility for the remainder of the original eligibility period if the requirements outlined in sections (1) and (2) are met:

(a) EXT eligibility is lost because the individual leaves the household during the EXT eligibility period. The individual may regain EXT eligibility if they return to the household; or

(b) EXT eligibility is lost due to a change in circumstance that results in eligibility for another OCCS medical program, and then a subsequent change in circumstance occurs that results in ineligibility for all OCCS medical programs, the individual may regain EXT eligibility.

(4) The effective date of EXT is the first of the month following the month in which MAA, MAF, or MAGI PCR program eligibility ends.

(5) If an individual receives MAA, MAF, or MAGI PCR benefits during months when they were eligible for EXT:

(a) Such months are not an overpayment;

(b) Any month in which an individual receives MAA, MAF, or MAGI PCR benefits when they were eligible for EXT is counted as a month of the EXT eligibility period.

(6) If a beneficiary of MAA, MAF, or MAGI PCR benefits experiences another change in conjunction with the receipt or increase of earned income or spousal support, and the other change, by itself, makes the beneficiary ineligible for the current program, the beneficiary is not eligible for EXT.

Stat. Auth.: ORS 411.095, 411.402, 411.404, 413.038, 414.025

Stats. Implemented: ORS 411.095, 411.400, 411.402, 411.404, 411.406, 411.439, 411.443, 413.032, 413.038, 414.025, 414.231, 411.447, 414.706

Hist.: DMAP 54-2013(Temp), f. & cert. ef. 10-1-13 thru 3-30-14; DMAP 4-2014(Temp), f. & cert. ef. 1-15-14 thru 3-30-14; DMAP 20-2014, f. & cert. ef. 3-28-14: DMAP 67-2014(Temp), f. 11-14-14, cert. ef. 11-15-14 thru 5-13-15; DMAP 3-2015, f. & cert. ef. 1-30-15; DMAP 19-2015(Temp), f. & cert. ef. 4-2-15 thru 9-28-15; DMAP 31-2015(Temp), f. & cert. ef 6-16-15 thru 9-28-15; DMAP 53-2015, f. 9-22-15, cert. ef. 9-25-15

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Rule Caption: Consolidation of Managed Care Organization Definitions into Chapter 410-120-0000 General Programs Definition Rule

Adm. Order No.: DMAP 54-2015

Filed with Sec. of State: 9-22-2015

Certified to be Effective: 10-1-15

Notice Publication Date: 9-1-2015

Rules Amended: 410-141-0000

Subject: The Authority is amending this rule to remove duplicative language and consolidate definitions into one overarching definition rule. The Authority is moving several definitions from OAR 410-141-0000 to OAR 410-120-0000. The definitions being moved apply to general programs and are being consolidated in the Authority's general definition rule. Definitions applicable only to Managed Care Organizations are being retained in OAR 410-141-0000. Additional non-substantive edits are being made to correct formatting and punctuation and improve organization and readability.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-141-0000

Definitions

In addition to the definitions in OAR 410-120-0000, the following definitions apply:

(1) "Action" means in the case of a Prepaid Health Plan (PHP) or Coordinated Care Organization (CCO):

(a) The denial or limited authorization of a requested service including the type or level of service;

(b) The reduction, suspension, or termination of a previously authorized service;

(c) The denial in whole or in part of payment for a service;

(d) The failure to provide services in a timely manner as defined by the Division of Medical Assistance Programs (Division);

(e) The failure of a PHP or CCO to act within the timeframes provided in 42 CFR 438.408(b); or

(f) For a member who resides in a rural service area where the PHP or CCO is the only PHP or CCO, the denial of a request to obtain covered services outside of the PHP or CCO provider network under any of the following circumstances:

(A) From any other provider (in terms of training, experience, and specialization) not available within the network;

(B) From a provider not part of the network that is the main source of a service to the member as long as the provider is given the same opportunity to become a participating provider as other similar providers. If the provider does not choose to join the network or does not meet the qualifications, the member is given a choice of participating providers and is transitioned to a participating provider within 60 days;

(C) Because the only plan or provider available does not provide the service due to moral or religious objections;

(D) Because the member's provider determines the member needs related services that would subject the member to unnecessary risk if received separately, and not all related services are available within the network; or

(E) The Authority determines that other circumstances warrant out-of-network treatment for moral or religious objections.

(2) "Adjudication" means the act of a court or entity in authority when issuing an order, judgment, or decree; as in a final CCO or MCO claims decision or OHA issuing a final hearings decision. This function is non-delegable under the Coordinated Care contracts in the context of hearings and appeals.

(3) "Capitated Services" means those covered services that a PHP agrees to provide for a capitation payment under contract with the Authority.

(4) "Capitation Payment" means monthly prepayment to a PHP for health services the PHP provides to members.

(5) "CCO Payment" means the monthly payment to a CCO for services the CCO provides to members in accordance with the global budget.

(6) "Certificate of Authority" means the certificate issued by DCBS to a licensed health entity granting authority to transact insurance as a health insurance company or health care service contractor.

(7) "Cold Call Marketing" means a PCP's or CCO's unsolicited personal contact with a potential member for the purpose of marketing.

(8) "Community Advisory Council" means the CCO-convened council that meets regularly to ensure the CCO is addressing the health care needs of CCO members and the community consistent with ORS 414.625.

(9) "Community Standard" means typical expectations for access to the health care delivery system in the member's community of residence. Except where the community standard is less than sufficient to ensure quality of care, the Division requires that the health care delivery system available to Division members in PHPs take into consideration the community standard and be adequate to meet the needs of the Division.

(10) "Contract" means an agreement between the State of Oregon acting by and through the Authority and a PHP or CCO to provide health services to eligible members.

(11) "Converting MCO" means a CCO that:

(a) Is the legal entity that contracted as an MCO with the Authority as of July 1, 2011, or;

(b) Was formed by one or more MCOs that contracted with the Authority as of July 1, 2011.

(12) "Coordinated Care Organization (CCO)" means a corporation, governmental agency, public corporation, or other legal entity that is certified as meeting the criteria adopted by the Oregon Health Authority under ORS 414.625 to be accountable for care management and to provide integrated and coordinated health care for each of the organization's members.

(13) "Coordinated Care Services" means a CCO's fully integrated physical health, behavioral health services pursuant to ORS 414.651, and dental health services pursuant to ORS 414.625(3) that a CCO agrees to provide under contract with the Authority.

(14) "Corrective Action or Corrective Action Plan" means a Division-initiated request for a contractor or a contractor-initiated request for a subcontractor to develop and implement a time specific plan for the correction of identified areas of noncompliance.

(15) "Dental Care Organization (DCO)" means a PHP that provides and coordinates dental services as capitated services under OHP.

(16) "Dental Case Management Services" means services provided to ensure the member receives dental services including a comprehensive, ongoing assessment of the member's dental and medical needs related to

dental care and the development and implementation of a plan to ensure the member receives those services.

(17) "DCBS Reporting CCO" means for the purpose of OAR 410-141-3340 through 410-141-3395 a CCO that reports its solvency plan and financial status to DCBS, not a CCO holding a certificate of authority.

(18) "Department of Consumer and Business Services (DCBS)" means Oregon's business regulatory and consumer protection agency.

(19) "Disenrollment" means the act of removing a member from enrollment with a PHP or CCO.

(20) "Exceptional Needs Care Coordination (ENCC)" means, for PHPs, a specialized case management service provided by FCHPs to members identified as aged, blind, or disabled who have complex medical needs, consistent with OAR 410-141-0405. ENCC includes:

(a) Early identification of those members who are aged, blind, or disabled who have complex medical needs;

(b) Assistance to ensure timely access to providers and capitated services;

(c) Coordination with providers to ensure consideration is given to unique needs in treatment planning;

(d) Assistance to providers with coordination of capitated services and discharge planning; and

(e) Aid with coordinating community support and social service systems linkage with medical care systems, as necessary and appropriate.

(21) "Enrollment" means the assignment of a member to a PHP or CCO for management and receipt of health services.

(22) "Free-Standing Mental Health Organization (MHO)" means the single MHO in each county that provides only behavioral services and is not affiliated with a fully capitated health plan for that service area.

(23) "Fully-Capitated Health Plan (FCHP)" means PHPs that contract with the Authority to provide capitated health services including inpatient hospitalization.

(24) "Global Budget" means the total amount of payment as established by the Authority to a CCO to deliver and manage health services for its members including providing access to and ensuring the quality of those services.

(25) "Grievance" means a member's complaint to a PHP, CCO, or to a participating provider about any matter other than an action.

(26) "Grievance System" means the overall system that includes:

(a) Grievances to a PHP or CCO on matters other than actions;

(b) Appeals to a PHP or CCO on actions; and

(c) Contested case hearings through the state on actions and other matters for which the member is given the right to a hearing by rule or state statute.

(27) "Health Services" means:

(a) For purposes of CCOs, the integrated services authorized to be provided within the medical assistance program as defined in ORS 414.025 for the physical medical, behavioral health that includes mental health and substance use disorders, and dental services funded by the Legislative Assembly based upon the Prioritized List of Health Services;

(b) For all other purposes, the services authorized to be provided within the medical assistance program as defined in ORS 414.025 for the physical medical, behavioral health, and dental services funded by the Legislative Assembly based upon the Prioritized List of Health Services.

(28) "Holistic Care" means incorporating the care of the entire member in all aspects of well-being including physical, psychological, cultural, linguistic, and social and economic needs of the member. Holistic care utilizes a process whereby providers work with members to guide their care and identify needs. This also involves identifying with principles of holism in a system of therapeutics, especially one considered outside the mainstream of scientific medicine as naturopathy or chiropractic and often involving nutritional measures.

(29) "Home CCO" means enrollment in a CCO, in a given service area, based upon a client's most recent permanent residency, determined at the time of original eligibility determination or most current point of CCO enrollment prior to hospitalization.

(30) "Intensive Case Management (ICM)" means a specialized case management service provided by CCOs to members identified as aged, blind, or disabled who have complex medical needs including:

(a) Early identification of members eligible for ICM services;

(b) Assistance to ensure timely access to providers and capitated services;

(c) Coordination with providers to ensure consideration is given to unique needs in treatment planning;

(d) Assistance to providers with coordination of capitated services and discharge planning; and

(e) Aid with coordinating necessary and appropriate linkage of community support and social service systems with medical care systems.

(31) "Licensed Health Entity" means a CCO that has a Certificate of Authority issued by DCBS as a health insurance company or health care service contractor.

(32) "Line Items" means condition/treatment pairs or categories of services included at specific lines in the Prioritized List of Health Services.

(33) "Marketing" means any communication from a PHP or a CCO to a potential member who is not enrolled in the PHP or CCO, and the communication can reasonably be interpreted as intended to compel or entice the potential member to enroll in that particular CCO.

(34) "Medical Case Management Services" means services provided to ensure members obtain health services necessary to maintain physical and emotional development and health.

(35) "Mental Health Organization (MHO)" means a PHP that provides capitated behavioral services for clients.

(36) "National Association of Insurance Commissioners (NAIC)" means the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia, and five U.S. territories.

(37) "Net Premium" means the premium, net of reinsurance premiums paid, HRA and GME payments, and MCO tax expenses.

(38) "Non-Participating Provider" means a provider that does not have a contractual relationship with a PHP or CCO and is not on their panel of providers.

(39) "Oregon Health Authority or Authority Reporting CCO" means a CCO that reports its solvency plan and financial status to the Authority under these rules.

(40) "Other Non-Medical Services" means non-state plan, health related services, also referred to as "flexible services". These services are provided in–lieu of traditional benefits and are intended to improve care delivery, member health, and lower costs. Services may effectively treat or prevent physical or behavioral healthcare conditions. Services are consistent with the member's treatment plan as developed by the member's primary care team and documented in the member's medical record.

(41) "Participating Provider" means a provider that has a contractual relationship with a PHP or CCO and is on their panel of providers.

(42) "Physician Care Organization (PCO)" means a PHP that contracts with the Authority to provide partially-capitated health services under OHP exclusive of inpatient hospital services.

(43) "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 PHP or CCO.

(44) "Prioritized List of Health Services" means the listing of condition and treatment pairs developed by the Health Evidence Review Commission for the purpose of administering OHP health services.

(45) "Service Area" means the geographic area within which the PHP or CCO agreed under contract with the Authority to provide health services.

(46) "Treatment Plan" means a documented plan that describes the patient's condition and procedures that will be needed, detailing the treatment to be provided and expected outcome, and expected duration of the treatment prescribed by the healthcare professional. This therapeutic strategy is designed in collaboration with the member, the member's family or the member representative and may incorporate patient education, dietary adjustment, an exercise program, drug therapy, and the participation of nursing and allied health professionals.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 7-1994, f. & cert. ef. 2-1-94; OMAP 21-1998, f. & cert. ef. 7-1-98; 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 13-2002, f. & cert. ef. 4-1-02; OMAP 57-2002, f. & cert. ef. 10-1-02; OMAP 4-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 14-2003, f. 2-28-03, cert. ef. 3-1-03; 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 65-2005, f. 11-30-05, cert. ef. 1-1-06; OMAP 23-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 46-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 45-2009, f. 12-15-09, cert. ef. 1-1-10; 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 11-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 37-2012, f. & cert. ef. 8-1-12; DMAP 45-2014, f. 7-15-14, cert. ef. 8-1-14; DMAP 54-2015, f. 9-22-15, cert. ef. 10-1-15

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Rule Caption: Consolidation of Managed Care Organization Definitions into Chapter 410-120-0000 General Programs Definition Rule

Adm. Order No.: DMAP 55-2015

Filed with Sec. of State: 9-22-2015

Certified to be Effective: 10-1-15
Notice Publication Date: 9-1-2015
Rules Amended: 410-120-0000
Subject: The Authority is amending this rule to remove duplicative language and consolidate definitions into one overarching definition rule. The Authority is moving several definitions from OAR 410-141-0000 to OAR 410-120-0000. The definitions being moved apply to general programs and are being consolidated in the Authority's general definition rule. Definitions applicable only to Managed Care Organizations are being retained in OAR 410-141-0000. Additional non-substantive edits are being made to correct formatting and punctuation and improve organization and readability.
Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-120-0000
Acronyms and Definitions

Identification of acronyms and definitions within this rule specifically pertain to their use within the Oregon Health Authority (Authority), Division of Medical Assistance Programs (Division), or the Addictions and Mental Health Division (AMH) administrative rules, applicable to the medical assistance program. This rule does not include an exhaustive list of Division acronyms and definitions. For more information, see Oregon Health Plan (OHP) program OAR 410-141-0000, Acronyms and Definitions; 410-200-0015, General Definitions; and any appropriate governing acronyms and definitions in the Department of Human Services (Department) chapter 411 or 413 administrative rules; or contact the Division.

(1) "Abuse" means provider practices that are inconsistent with sound fiscal, business, or medical practices and result in an unnecessary cost to the Authority or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care. It also includes recipient practices that result in unnecessary cost to the Authority.

(2) "Action" means a termination, suspension, or reduction of eligibility or covered services.

(3) "Acupuncturist" means a person licensed to practice acupuncture by the relevant state licensing board.

(4) "Acupuncture Services" means services provided by a licensed acupuncturist within the scope of practice as defined under state law.

(5) "Acute" means a condition, diagnosis, or illness with a sudden onset and that is of short duration.

(6) "Acquisition Cost" means, unless specified otherwise in individual program administrative rules, the net invoice price of the item, supply, or equipment plus any shipping or postage for the item.

(7) "Addiction and Mental Health Division (AMH)" means a division within the Authority that administers mental health and addiction programs and services.

(8) "Adequate Record Keeping" means documentation that supports the level of service billed. See 410-120-1360, Requirements for Financial, Clinical, and Other Records, and the individual provider rules.

(9) "Administrative Medical Examinations and Reports" means examinations, evaluations, and reports, including copies of medical records, requested on the DMAP 729 form through the local Department branch office or requested or approved by the Authority to establish client eligibility for a medical assistance program or for casework planning.

(10) "Advance Directive" means an individual's instructions to an appointed person specifying actions to take in the event that the individual is no longer able to make decisions due to illness or incapacity.

(11) "Adverse Event" means an undesirable and unintentional, though not unnecessarily unexpected, result of medical treatment.

(12) "Aging and People with Disabilities (APD)" means the division in the Department of Human Services (Department) that administers programs for seniors and people with disabilities. This division was formerly named "Seniors and People with Disabilities (SPD)."

(13) "All-Inclusive Rate" or "Bundled Rate" means the nursing facility rate established for a facility. This rate includes all services, supplies, drugs, and equipment as described in OAR 411-070-0085 and in the Division's Pharmaceutical Services program administrative rules and the Home Enteral/Parenteral Nutrition and IV Services program administrative rules, except as specified in OAR 410-120-1340, Payment.

(14) "Allied Agency" means local and regional governmental agency and regional authority that contracts with the Authority or Department to provide the delivery of services to covered individuals (e.g., local mental health authority, community mental health program, Oregon Youth Authority, Department of Corrections, local health departments, schools, education service districts, developmental disability service programs, area agencies on aging (AAAs), federally recognized American Indian tribes).

(15) "Alternative Care Settings" means sites or groups of practitioners that provide care to members under contract with a PHP or CCO, including urgent care centers, hospice, birthing centers, out-placed medical teams in community or mobile health care facilities, long-term care facilities, and outpatient surgical centers.

(16) "Ambulance" means a specially equipped and licensed vehicle for transporting sick or injured persons that meets the licensing standards of the Authority or the licensing standards of the state in which the ambulance provider is located.

(17) "Ambulatory Payment Classification" means a reimbursement method that categorizes outpatient visits into groups according to the clinical characteristics, the typical resource use, and the costs associated with the diagnoses and the procedures performed. The groups are called Ambulatory Payment Classifications (APCs).

(18) "Ambulatory Surgical Center (ASC)" means a facility licensed as an ASC by the Authority.

(19) "American Indian/Alaska Native (AI/AN)" means a member of a federally recognized Indian tribe, band, or group, and an Eskimo or Aleut or other Alaska native enrolled by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. 1601, or a person who is considered by the Secretary of the Interior to be an Indian for any purpose.

(20) "American Indian/Alaska Native (AI/AN) Clinic" means a clinic recognized under Indian Health Services (IHS) law or by the Memorandum of Agreement between IHS and the Centers for Medicare and Medicaid Services (CMS).

(21) "Ancillary Services" means services supportive of or necessary for providing a primary service, such as anesthesiology, which is an ancillary service necessary for a surgical procedure.

(22) "Anesthesia Services" means administration of anesthetic agents to cause loss of sensation to the body or body part.

(23) "Appeal" means a request for review of an action.

(24) "Area Agency on Aging (AAA)" means the designated entity with which the Department contracts to meet the requirements of the Older Americans Act and ORS Chapter 410 in planning and providing services to the elderly or elderly and disabled population.

(25) "Atypical Provider" means an entity able to enroll as a billing provider (BP) or rendering provider for medical assistance programs related non-health care services but that does not meet the definition of health care provider for National Provider Identification (NPI) purposes.

(26) "Audiologist" means a person licensed to practice audiology by the State Board of Examiners for Speech Pathology and Audiology.

(27) "Audiology" means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, counseling, and instruction related to hearing and hearing impairment for the purpose of modifying communicative disorders involving speech, language, auditory function, including auditory training, speech reading and hearing aid evaluation, or other behavior related to hearing impairment.

(28) "Automated Voice Response (AVR)" means a computer system that provides information on clients' current eligibility status from the Division by computerized phone or web-based response.

(29) "Behavioral Health" means mental health, mental illness, addiction disorders, and

substance use disorders.

(30) "Behavioral Health Assessment" means a qualified mental health professional's determination of a member's need for mental health services.

(31) "Behavioral Health Case Management" means services provide to members who need assistance to ensure access to mental health benefits and services from local, regional, or state allied agencies or other service providers.

(32) "Behavioral Health Evaluation" means a psychiatric or psychological assessment used to determine the need for mental health or substance use disorder services.

(33) "Benefit Package" means the package of covered health care services for which the client is eligible.

(34) "Billing Agent or Billing Service" means third party or organization that contracts with a provider to perform designated services in order to facilitate an Electronic Data Interchange (EDI) transaction on behalf of the provider.

(35) "Billing Provider (BP)" means a person, agent, business, corporation, clinic, group, institution, or other entity who submits claims to or

receives payment from the Division on behalf of a rendering provider and has been delegated the authority to obligate or act on behalf of the rendering provider.

(36) "Buying Up" means the practice of obtaining client payment in addition to the Division or managed care plan payment to obtain a non-covered service or item. (See 410-120-1350 Buying Up.)

(37) "By Report (BR)": means services designated, as BR requires operative or clinical and other pertinent information to be submitted with the billing as a basis for payment determination. This information must include an adequate description of the nature and extent of need for the procedure. Information such as complexity of symptoms, final diagnosis, pertinent physical findings, diagnostic and therapeutic procedures, concurrent problems, and follow-up care will facilitate evaluation.

(38) "Case Management Services" means services provided to ensure that CCO members obtain health services necessary to maintain physical, mental, and emotional development and oral health. Case management services include a comprehensive, ongoing assessment of medical, mental health, substance use disorder or dental needs plus the development and implementation of a plan to obtain or make referrals for needed medical, mental, chemical dependency, or dental services, referring members to community services and supports that may include referrals to Allied Agencies.

(39) "Certified Traditional Health Worker" means an individual who has successfully completed a training program or doula training as required by OAR 410-180-0305, known to the Centers of Medicare and Medicaid as non-traditional health worker.

(40) "Child Welfare (CW)" means a division within the Department responsible for administering child welfare programs, including child abuse investigations and intervention, foster care, adoptions, and child safety.

(41) "Children's Health Insurance Program (CHIP)" means a federal and state funded portion of the Oregon Health Plan (OHP) established by Title XXI of the Social Security Act and administered by the Authority.

(42) "Chiropractor" means a person licensed to practice chiropractic by the relevant state licensing board.

(43) "Chiropractic Services" means services provided by a licensed chiropractor within the scope of practice as defined under state law and federal regulation.

(44) "Citizen/Alien-Waived Emergency Medical (CAWEM)" means aliens granted lawful temporary resident status or lawful permanent resident status under the Immigration and Nationality Act are eligible only for emergency services and limited service for pregnant women. Emergency services for CAWEM are defined in OAR 410-120-1210 (3)(f).

(45) "Claimant" means a person who has requested a hearing.

(46) "Client" means an individual found eligible to receive OHP health services. "Client" is inclusive of members enrolled in PHPs and CCOs.

(47) "Clinical Nurse Specialist" means a registered nurse who has been approved and certified by the Board of Nursing to provide health care in an expanded specialty role.

(48) "Clinical Social Worker" means a person licensed to practice clinical social work pursuant to state law.

(49) "Clinical Record" means the medical, dental, or mental health records of a client or member.

(50) "Co-morbid Condition" means a medical condition or diagnosis coexisting with one or more other current and existing conditions or diagnoses in the same patient.

(51) "Comfort Care" means medical services or items that give comfort or pain relief to an individual who has a terminal Illness, including the combination of medical and related services designed to make it possible for an individual with terminal Illness to die with dignity and respect and with as much comfort as is possible given the nature of the illness.

(52) "Community Health Worker" means an individual who:

(a) Has expertise or experience in public health;

(b) Works in an urban or rural community either for pay or as a volunteer in association with a local health care system;

(c) To the extent practicable, shares ethnicity, language, socioeconomic status, and life experiences with the residents of the community where the worker serves;

(d) Assists members of the community to improve their health and increases the capacity of the community to meet the health care needs of its residents and achieve wellness;

(e) Advocates for the individual patient and community health needs, building individual and community capacity to advocate for their health;

(f) Provides health education and information that is culturally appropriate to the individuals being served;

(g) Assists community residents in receiving the care they need;

(h) May give peer counseling and guidance on health behaviors; and

(i) May provide direct services such as first aid or blood pressure screening.

(53) "Community Mental Health Program (CMHP)" means the organization of all services for individuals with mental or emotional disorders operated by, or contractually affiliated with, a local Mental Health Authority operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Authority's Addictions and Mental Health Division (AMH).

(54) "Condition/Treatment Pair" means diagnoses described in the International Classification of Diseases Clinical Modifications, 9th edition (ICD-9-CM); the Diagnostic and Statistical Manual of Mental Disorders, 4th edition (DSM-IV); and treatments described in the Current Procedural Terminology, 4th edition (CPT-4); or American Dental Association Codes (CDT-2) or the Authority AMH Medicaid Procedure Codes and Reimbursement Rates, that, when paired by the Health Evidence Review Commission, constitute the line items in the Prioritized List of Health Services. Condition/treatment pairs may contain many diagnoses and treatments.

(55) "Contested Case Hearing" means a proceeding before the Authority under the Administrative Procedures Act when any of the following contests an action:

(a) A client or member or their representative;

(b) A PHP or CCO member's provider; or

(c) A PHP or CCO.

(56) "Contiguous Area" means the area up to 75 miles outside the border of the State of Oregon.

(57) "Contiguous Area Provider" means a provider practicing in a contiguous area.

(58) "Continuing Treatment Benefit" means a benefit for clients who meet criteria for having services covered that were either in a course of treatment or scheduled for treatment the day immediately before the date the client's benefit package changed to one that does not cover the treatment.

(59) "Coordinated Care Organization (CCO)" as defined in OAR 410-141-0000.

(60) "Co-Payments" means the portion of a claim or medical, dental, or pharmaceutical expense that a client must pay out of their own pocket to a provider or a facility for each service. It is usually a fixed amount that is paid at the time service is rendered. (See 410-120-1230 Client Copayment.)

(61) "Cost Effective" means the lowest cost health service or item that, in the judgment of Authority staff or its contracted agencies, meets the medical needs of the client.

(62) "Covered Services" means medically appropriate health services described in ORS Chapter 414 and applicable administrative rules that the legislature funds, based on the Prioritized List of Health Services.

(63) "Current Dental Terminology (CDT)" means a listing of descriptive terms identifying dental procedure codes used by the American Dental Association.

(64) "Current Procedural Terminology (CPT)" means the physicians' CPT is a listing of descriptive terms and identifying codes for reporting medical services and procedures performed by physicians and other health care providers.

(65) "Date of Receipt of a Claim" means the date on which the Authority receives a claim as indicated by the Internal Control Number (ICN) assigned to a claim. Date of receipt is shown as the Julian date in the 5th through 7th position of the ICN.

(66) "Date of Service" means the date on which the client receives medical services or items, unless otherwise specified in the appropriate provider rules. For items that are mailed or shipped by the provider, the date of service is the date on which the order was received, the date on which the item was fabricated, or the date on which the item was mailed or shipped.

(67) "Declaration for Mental Health Treatment" means a written statement of an individual's decisions concerning his or her mental health treatment. The individual makes the declaration when they are able to understand and make decisions related to treatment that is honored when the individual is unable to make such decisions.

(68) "Dental Emergency Services" means dental services provided for severe tooth pain, unusual swelling of the face or gums, or an avulsed tooth.

(69) "Dental Services" means services provided within the scope of practice as defined under state law by or under the supervision of a dentist or dental hygienist.

(70) "Dentist" means a person licensed to practice dentistry pursuant to state law of the state in which he or she practices dentistry or a person licensed to practice dentistry pursuant to federal law for the purpose of practicing dentistry as an employee of the federal government.

(71) "Denturist" means a person licensed to practice denture technology pursuant to state law.

(72) "Denturist Services" means services provided within the scope of practice as defined under state law by or under the personal supervision of a denturist.

(73) "Dental Hygienist" means a person licensed to practice hygiene under the direction of a licensed professional within the scope of practice pursuant to state law.

(74) "Dental Hygienist with an Expanded Practice Permit" means a person licensed to practice dental hygiene services as authorized by the Board of Dentistry with an Expanded Practice Dental Hygienist Permit (EPDHP) pursuant to state law.

(75) "Dentally Appropriate" means services that are required for prevention, diagnosis, or treatment of a dental condition and that are:

(a) Consistent with the symptoms of a dental condition or treatment of a dental condition;

(b) Appropriate with regard to standards of good dental practice and generally recognized by the relevant scientific community and professional standards of care as effective;

(c) Not solely for the convenience of the client or a provider of the service;

(d) The most cost effective of the alternative levels of dental services that can be safely provided to a client.

(76) "Department of Human Services (Department or DHS)" means the agency established in ORS Chapter 409, including such divisions, programs and offices as may be established therein.

(77) "Department Representative" means a person who represents the Department and presents the position of the Department in a hearing.

(78) "Diagnosis Code" means as identified in the International Classification of Diseases, 9th revision, Clinical Modification (ICD-9-CM). The primary diagnosis code is shown in all billing claims, unless specifically excluded in individual provider rules. Where they exist, diagnosis codes shall be shown to the degree of specificity outlined in OAR 410-120-1280, Billing.

(79) "Diagnosis Related Group (DRG)" means a system of classification of diagnoses and procedures based on the ICD-9-CM.

(80) "Diagnostic Services" mean those services required to diagnose a condition, including but not limited to: radiology, ultrasound, other diagnostic imaging, electrocardiograms, laboratory and pathology examinations, and physician or other professional diagnostic or evaluative services.

(81) "Division of Medical Assistance Programs (Division)" means a division within the Authority. The Division is responsible for coordinating the medical assistance programs within the State of Oregon including the Oregon Health Plan (OHP) Medicaid demonstration, the State Children's Health Insurance Program (SCHIP-Title XXI), and several other programs.

(82) "Durable Medical Equipment, Prosthetics, Orthotics and Medical Supplies (DMEPOS)" means equipment that can stand repeated use and is primarily and customarily used to serve a medical purpose. Examples include wheelchairs, respirators, crutches, and custom built orthopedic braces. Medical supplies are non-reusable items used in the treatment of illness or injury. Examples of medical supplies include diapers, syringes, gauze bandages, and tubing.

(83) "Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services (aka, Medicheck)" mean the Title XIX program of EPSDT services for eligible clients under age 21. It is a comprehensive child health program to assure the availability and accessibility of required medically appropriate health care services and to help Authority clients and their parents or guardians effectively use them.

(84) "Electronic Data Interchange (EDI)" means the exchange of business documents from application to application in a federally mandated format or, if no federal standard has been promulgated, using bulk transmission processes and other formats as the Authority designates for EDI transactions. For purposes of rules 407-120-0100 through 407-120-0200, EDI does not include electronic transmission by web portal.

(85) "EDI Submitter" means an individual or an entity authorized to establish an electronic media connection with the Authority to conduct an EDI transaction. An EDI submitter may be a trading partner or an agent of a trading partner.

(86) "Electronic Verification System (EVS)" means eligibility information that has met the legal and technical specifications of the Authority in order to offer eligibility information to enrolled providers of the Division.

(87) "Emergency Department" means the part of a licensed hospital facility open 24 hours a day to provide care for anyone in need of emergency treatment.

(88) "Emergency Medical Condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson who possesses an average knowledge of health and medicine could reasonably expect the absence of immediate medical attention to result in placing the health of the individual (or with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part. An emergency medical condition is determined based on the presenting symptoms (not the final diagnosis) as perceived by a prudent layperson (rather than a health care professional) and includes cases in which the absence of immediate medical attention would not in fact have had the adverse results described in the previous sentence. (This definition does not apply to clients with CAWEM benefit package. CAWEM emergency services are governed by OAR 410-120-1210(3)(f)(B)).

(89) "Emergency Medical Transportation" means transportation necessary for a client with an emergency medical condition as defined in this rule and requires a skilled medical professional such as an Emergency Medical Technician (EMT) and immediate transport to a site, usually a hospital, where appropriate emergency medical service is available.

(90) "Emergency Services" means health services from a qualified provider necessary to evaluate or stabilize an emergency medical condition, including inpatient and outpatient treatment that may be necessary to assure within reasonable medical probability that the patient's condition is not likely to materially deteriorate from or during a client's discharge from a facility or transfer to another facility.

(91) "Evidence-Based Medicine" means the conscientious, explicit, and judicious use of current best evidence in making decisions about the care of individual patients. The practice of evidence-based medicine means integrating individual clinical expertise with the best available external clinical evidence from systematic research. By individual clinical expertise we mean the proficiency and judgment that individual clinicians acquire through clinical experience and clinical practice. Increased expertise is reflected in many ways, but especially in more effective and efficient diagnosis and in the more thoughtful identification and compassionate use of individual patients' predicaments, rights, and preferences in making clinical decisions about their care. By best available external clinical evidence we mean clinically relevant research, often from the basic sciences of medicine, but especially from patient-centered clinical research into the accuracy and precision of diagnostic tests (including the clinical examination), the power of prognostic markers, and the efficacy and safety of therapeutic, rehabilitative, and preventive regimens. External clinical evidence both invalidates previously accepted diagnostic tests and treatments and replaces them with new ones that are more powerful, more accurate, more efficacious, and safer. (Source: BMJ 1996; 312:71-72 (13 January)).

(92) "False Claim" means a claim that a provider knowingly submits or causes to be submitted that contains inaccurate, misleading, or omitted information and such inaccurate, misleading, or omitted information would result, or has resulted, in an overpayment.

(93) "Family Planning Services" means services for clients of child bearing age (including minors who can be considered to be sexually active) who desire such services and that are intended to prevent pregnancy or otherwise limit family size.

(94) "Federally Qualified Health Center (FQHC)" means a federal designation for a medical entity that receives grants under Section 329, 330, or 340 of the Public Health Service Act or a facility designated as an FQHC by Centers for Medicare and Medicaid (CMS) upon recommendation of the U.S. Public Health Service.

(95) "Fee-for-Service Provider" means a health care provider who is not reimbursed under the terms of an Authority contract with a Coordinated Care Organization or Prepaid Health Plan (PHP). A medical provider participating in a PHP or a CCO may be considered a fee-for-service provider when treating clients who are not enrolled in a PHP or a CCO.

(96) "Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to him or some other person. It includes any act that constitutes fraud under applicable federal or state law.

(97) "Fully Dual Eligible" means for the purposes of Medicare Part D coverage (42 CFR 423.772), Medicare clients who are also eligible for

Medicaid, meeting the income and other eligibility criteria adopted by the Department for full medical assistance coverage.

(98) "General Assistance (GA)" means medical assistance administered and funded 100 percent with State of Oregon funds through OHP.

(99) "Health Care Interpreter" Certified or Qualified as defined in ORS 413.550.

(100) "Health Care Professionals" means individuals with current and appropriate licensure, certification, or accreditation in a medical, mental health, or dental profession who provide health services, assessments, and screenings for clients within their scope of practice, licensure, or certification.

(101) "Healthcare Common Procedure Coding System (HCPCS)" means a method for reporting health care professional services, procedures, and supplies. HCPCS consists of the Level 1 — American Medical Association's Physician's Current Procedural Terminology (CPT), Level II — National codes, and Level III — Local codes. The Division uses HCPCS codes; however, the Division uses Current Dental Terminology (CDT) codes for the reporting of dental care services and procedures.

(102) "Health Evidence Review Commission" means a commission that, among other duties, develops and maintains a list of health services ranked by priority from the most to the least important representing the comparative benefits of each service to the population served.

(103) "Health Insurance Portability and Accountability Act (HIPAA) of 1996 (HIPAA)" means the federal law (Public Law 104-191, August 21, 1996) with the legislative objective to assure health insurance portability, reduce health care fraud and abuse, enforce standards for health information, and guarantee security and privacy of health information.

(104) "Health Maintenance Organization (HMO)" means a public or private health care organization that is a federally qualified HMO under Section 1310 of the U.S. Public Health Services Act. HMOs provide health care services on a capitated, contractual basis.

(105) "Health Plan New/non-categorical client (HPN)" means an individual who is 19 years of age or older, is not pregnant, is not receiving Medicaid through another program, and who must meet all eligibility requirements to become an OHP client.

(106) "Hearing Aid Dealer" means a person licensed by the Board of Hearing Aid Dealers to sell, lease, or rent hearing aids in conjunction with the evaluation or measurement of human hearing and the recommendation, selection, or adaptation of hearing aids.

(107) "Home Enteral Nutrition" means services provided in the client's place of residence to an individual who requires nutrition supplied by tube into the gastrointestinal tract as described in the Home Enteral/Parenteral Nutrition and IV Services program provider rules.

(108) "Home Health Agency" means a public or private agency or organization that has been certified by Medicare as a Medicare home health agency and that is licensed by the Authority as a home health agency in Oregon and meets the capitalization requirements as outlined in the Balanced Budget Act (BBA) of 1997.

(109) "Home Health Services" means part-time or intermittent skilled nursing services, other therapeutic services (physical therapy, occupational therapy, speech therapy), and home health aide services made available on a visiting basis in a place of residence used as the client's home.

(110) "Home Intravenous Services" means services provided in the client's place of residence to an individual who requires that medication (antibiotics, analgesics, chemotherapy, hydrational fluids, or other intravenous medications) be administered intravenously as described in the Home Enteral/Parenteral Nutrition and IV Services program administrative rules.

(111) "Home Parenteral Nutrition" means services provided in the client's residence to an individual who is unable to absorb nutrients via the gastrointestinal tract, or for other medical reasons, requires nutrition be supplied parenterally as described in the Home Enteral/Parenteral Nutrition and IV Services program administrative rules.

(112) "Hospice" means a public agency or private organization or subdivision of either that is primarily engaged in providing care to terminally ill individuals and is certified by the federal Centers for Medicare and Medicaid Services as a program of hospice services meeting current standards for Medicare and Medicaid reimbursement and Medicare Conditions of Participation and is currently licensed by the Oregon Health Authority (Authority), Public Health Division.

(113) "Hospital" means a facility licensed by the Office of Public Health Systems as a general hospital that meets requirements for participation in OHP under Title XVIII of the Social Security Act. The Division does not consider facilities certified by CMS as long-term care hospitals, long-term acute care hospitals, or religious non-medical facilities as hospitals for reimbursement purposes. Out-of-state hospitals will be considered hospitals for reimbursement purposes if they are licensed as a short term acute care or general hospital by the appropriate licensing authority within that state and if they are enrolled as a provider of hospital services with the Medicaid agency within that state.

(114) "Hospital-Based Professional Services" means professional services provided by licensed practitioners or staff based on a contractual or employee/employer relationship and reported as a cost on the Hospital Statement of Reasonable Cost report for Medicare and the Calculation of Reasonable Cost (division 42) report for the Division.

(115) "Hospital Dentistry" means dental services normally done in a dental office setting, but due to specific client need (as detailed in OAR chapter 410 division 123) are provided in an ambulatory surgical center or inpatient or outpatient hospital setting under general anesthesia (or IV conscious sedation, if appropriate).

(116) "Hospital Laboratory" means a laboratory providing professional technical laboratory services as outlined under laboratory services in a hospital setting as either an inpatient or outpatient hospital service whose costs are reported on the hospital's cost report to Medicare and to the Division.

(117) "Indian Health Care Provider" means an Indian health program or an urban Indian organization.

(118) "Indian Health Program" means any Indian Health Service (IHS) facility, any federally recognized tribe or tribal organization, or any FQHC with a 638 designation.

(119) "Indian Health Service (IHS)" means an operating division (OPDIV) within the U.S. Department of Health and Human Services (HHS) responsible for providing medical and public health services to members of federally recognized tribes and Alaska Natives.

(120) "Indigent" means for the purposes of access to the Intoxicated Driver Program Fund (ORS 813.602), individuals with-out health insurance coverage, public or private, who meet standards for indigence adopted by the federal government as defined in 813.602(5).

(121) "Individual Adjustment Request Form (DMAP 1036)" means a form used to resolve an incorrect payment on a previously paid claim, including underpayments or overpayments.

(122) "Inpatient Hospital Services" means services that are furnished in a hospital for the care and treatment of an inpatient. (See Division Hospital Services program administrative rules in chapter 410, division 125 for inpatient covered services.)

(123) "Institutional Level of Income Standards (ILIS)" means three times the amount SSI pays monthly to a person who has no other income and who is living alone in the community. This is the standard used for Medicaid eligible individuals to calculate eligibility for long-term nursing care in a nursing facility, Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID), and individuals on ICF/IID waivers or eligibility for services under Aging and People with Disabilities (APD) Home and Community Based Services program.

(124) "Institutionalized" means a patient admitted to a nursing facility or hospital for the purpose of receiving nursing or hospital care for a period of 30 days or more.

(125) "International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM) (including volumes 1, 2, and 3, as revised annually)" means a book of diagnosis codes used for billing purposes when treating and requesting reimbursement for treatment of diseases.

(126) "Laboratory" means a facility licensed under ORS 438 and certified by CMS, Department of Health and Human Services (DHHS), as qualified to participate under Medicare and to provide laboratory services (as defined in this rule) within or apart from a hospital. An entity is considered to be a laboratory if the entity derives materials from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of or the assessment of the health of human beings. If an entity performs even one laboratory test, including waived tests for these purposes, it is considered to be a laboratory under the Clinical Laboratory Improvement Act (CLIA).

(127) "Laboratory Services" means those professional and technical diagnostic analyses of blood, urine, and tissue ordered by a physician or other licensed practitioner of the healing arts within his or her scope of practice as defined under state law and provided to a patient by or under the direction of a physician or appropriate licensed practitioner in an office or similar facility, hospital, or independent laboratory.

(128) "Licensed Direct Entry Midwife" means a practitioner who has acquired the requisite qualifications to be registered or legally licensed to practice midwifery by the Public Health Division.

(129) "Liability Insurance" means insurance that provides payment based on legal liability for injuries or illness. It includes, but is not limited to, automobile liability insurance, uninsured and underinsured motorist insurance, homeowner's liability insurance, malpractice insurance, product liability insurance, Worker's Compensation, and general casualty insurance. It also includes payments under state wrongful death statutes that provide payment for medical damages.

(130) "Managed Care Organization (MCO)" means a contracted health delivery system providing capitated or prepaid health services, also known as a Prepaid Health Plan (PHP). An MCO is responsible for providing, arranging, and making reimbursement arrangements for covered services as governed by state and federal law. An MCO may be a Chemical Dependency Organization (CDO), Fully Capitated Health Plan (FCHP), Dental Care Organization (DCO), Mental Health Organization (MHO), or Physician Care Organization (PCO).

(131) "Maternity Case Management" means a program available to pregnant clients. The purpose of maternity case management is to extend prenatal services to include non-medical services that address social, economic, and nutritional factors. For more information refer to the Division's Medical-Surgical Services program administrative rules.

(132) "Medicaid" means a joint federal and state funded program for medical assistance established by Title XIX of the Social Security Act as amended and administered in Oregon by the Authority.

(133) "Medical Assistance Eligibility Confirmation" means verification through the Electronic Verification System (EVS), AVR, Secure Web site or Electronic Data Interchange (EDI), or an authorized Department or Authority representative.

(134) "Medical Assistance Program" means a program for payment of health services provided to eligible Oregonians, including Medicaid and CHIP services under the OHP Medicaid Demonstration Project and Medicaid and CHIP services under the State Plan.

(135) "Medical Care Identification" means the card commonly called the "medical card" or medical ID issued to clients (called the Oregon Health ID starting Aug. 1, 2012).

(136) "Medical Services" means care and treatment provided by a licensed medical provider directed at preventing, diagnosing, treating, or correcting a medical problem.

(137) "Medical Transportation" means transportation to or from covered medical services.

(138) "Medically Appropriate" means services and medical supplies that are required for prevention, diagnosis, or treatment of a health condition that encompasses physical or mental conditions or injuries and that are:

(a) Consistent with the symptoms of a health condition or treatment of a health condition;

(b) Appropriate with regard to standards of good health practice and generally recognized by the relevant scientific community, evidence-based medicine, and professional standards of care as effective;

(c) Not solely for the convenience of an OHP client or a provider of the service or medical supplies; and

(d) The most cost effective of the alternative levels of medical services or medical supplies that can be safely provided to a Division client or CCO member in the Division or CCO's judgment.

(139) "Medicare" means a federally administered program offering health insurance benefits for persons aged 65 or older and certain other aged or disabled persons. This program includes:

(a) Hospital Insurance (Part A) for inpatient services in a hospital or skilled nursing facility, home health care, and hospice care; and

(b) Medical Insurance (Part B) for physicians' services, outpatient hospital services, home health care, end-stage renal dialysis, and other medical services and supplies;

(c) Prescription drug coverage (Part D) means covered Part D drugs that include prescription drugs, biological products, insulin as described in specified paragraphs of section 1927(k) of the Social Security Act, and vaccines licensed under section 351 of the Public Health Service Act. It also includes medical supplies associated with the injection of insulin. Part D covered drugs prohibit Medicaid Title XIX Federal Financial Participation (FFP). For limitations, see the Division's Pharmaceutical Services program administrative rules in chapter 410, division 121.

(140) "Medicare Advantage" means an organization approved by CMS to offer Medicare health benefits plans to Medicare beneficiaries.

(141) "Medicheck for Children and Teens" means services also known as Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services. The Title XIX program of EPSDT services is for eligible clients under age 21. It is a comprehensive child health program to assure the availability and accessibility of required medically appropriate health care services and to help Authority clients and their parents or guardians effectively use them.

(142) "Member" means an OHP client enrolled with a pre-paid health plan or coordinated care organization.

(143) "National Correct Coding Initiative (NCCI)" means the Centers for Medicare and Medicaid Services (CMS) developed the National Correct Coding Initiative (NCCI) to promote national correct coding methodologies and to control improper coding leading to inappropriate payment.

(144) "National Drug Code or (NDC)" means a universal number that identifies a drug. The NDC number consists of 11 digits in a 5-4-2 format. The Food and Drug Administration assigns the first five digits to identify the manufacturer of the drug. The manufacturer assigns the remaining digits to identify the specific product and package size. Some packages will display less than 11 digits, but the number assumes leading zeroes.

(145) "National Provider Identification (NPI)" means federally directed provider number mandated for use on HIPAA covered transactions; individuals, provider organizations, and subparts of provider organizations that meet the definition of health care provider (45 CFR 160.103) and who conduct HIPAA covered transactions electronically are eligible to apply for an NPI. Medicare covered entities are required to apply for an NPI.

(146) "Naturopathic physician" means a person licensed to practice naturopathic medicine by the Oregon Board of Naturopathic Medicine.

(147) "Naturopathic Services" means services provided within the scope of practice as defined under state law and by rules of the Oregon Board of Naturopathic Medicine..

(148) "Non-covered Services" means services or items for which the Authority is not responsible for payment or reimbursement. Non-covered services are identified in:

(a) OAR 410-120-1200, Excluded Services and Limitations; and

(b) 410-120-1210, Medical Assistance Benefit Packages and Delivery System;

(c) 410-141-0480, OHP Benefit Package of Covered Services;

(d) 410-141-0520, Prioritized List of Health Services; and

(e) Any other applicable Division administrative rules.

(149) "Non-Emergent Medical Transportation Services (NEMT)"means transportation to or from a source of covered service, that does not involve a sudden, unexpected occurrence which creates a medical crisis requiring emergency medical services as defined in OAR 410-120-0000(76) and requiring immediate transportation to a site, usually a hospital, where appropriate emergency medical care is available.

(150) "Non-Paid Provider" means a provider who is issued a provider number for purposes of data collection or non-claims-use of the Provider Web Portal (e.g., eligibility verification).

(151) "Nurse Anesthetist, C.R.N.A." means a registered nurse licensed in the State of Oregon as a CRNA who is currently certified by the National Board of Certification and Recertification for Nurse Anesthetists.

(152) "Nurse Practitioner" means a person licensed as a registered nurse and certified by the Board of Nursing to practice as a nurse practitioner pursuant to state law.

(153) "Nurse Practitioner Services" means services provided within the scope of practice of a nurse practitioner as defined under state law and by rules of the Board of Nursing.

(154) "Nursing Facility" means a facility licensed and certified by the Department and defined in OAR 411-070-0005.

(155) "Nursing Services" means health care services provided to a patient by a registered professional nurse or a licensed practical nurse under the direction of a licensed professional within the scope of practice as defined by state law.

(156) "Nutritional Counseling" means counseling that takes place as part of the treatment of a person with a specific condition, deficiency, or disease such as diabetes, hypercholesterolemia, or phenylketonuria.

(157) "Occupational Therapist" means a person licensed by the State Board of Examiners for Occupational Therapy.

(158) "Occupational Therapy" means the functional evaluation and treatment of individuals whose ability to adapt or cope with the task of living is threatened or impaired by developmental deficiencies, physical injury or illness, the aging process, or psychological disability. The treatment utilizes task-oriented activities to prevent or correct physical and emotional difficulties or minimize the disabling effect of these deficiencies on the life of the individual.

(159) "Ombudsman Services" means advocacy services provided by the Authority to clients whenever the client is reasonably concerned about access to, quality of, or limitations on the health services provided.

(160) "Oregon Health ID" means a card the size of a business card that lists the client name, client ID (prime number), and the date it was issued.

(161) "Oregon Health Plan (OHP)" means the Medicaid and Children's Health Insurance (CHIP) Demonstration Project that expands Medicaid and CHIP eligibility beyond populations traditionally eligible for Medicaid to other low-income populations and Medicaid and CHIP services under the State Plan

(162) "Optometric Services" means services provided within the scope of practice of optometrists as defined under state law.

(163) "Optometrist" means a person licensed to practice optometry pursuant to state law.

(164) "Oregon Health Authority (Authority)" means the agency established in ORS Chapter 413 that administers the funds for Titles XIX and XXI of the Social Security Act. It is the single state agency for the administration of the medical assistance program under ORS chapter 414. For purposes of these rules, the agencies under the authority of the Oregon Health Authority are the Public Health Division, the Addictions and Mental Health Division, and the Division of Medical Assistance Programs.

(165) "Oregon Youth Authority (OYA)" means the state department charged with the management and administration of youth correction facilities, state parole and probation services, and other functions related to state programs for youth corrections.

(166) "Out-of-State Providers" means any provider located outside the borders of the State of Oregon:

(a) Contiguous area providers are those located no more than 75 miles from the border of the State of Oregon;

(b) Non-contiguous area providers are those located more than 75 miles from the borders of the State of Oregon.

(167) "Outpatient Hospital Services" means services that are furnished in a hospital for the care and treatment of an outpatient. For information on outpatient-covered services, see the Division's Hospital Services administrative rules found in chapter 410, division 125.

(168) "Overdue Claim" means a valid claim that is not paid within 45 days of the date it was received.

(169) "Overpayment" means a payment made by the Authority to a provider in excess of the correct Authority payment amount for a service. Overpayments are subject to repayment to the Authority.

(170) "Overuse" means use of medical goods or services at levels determined by Authority medical staff or medical consultants to be medically unnecessary or potentially harmful.

(171) "Paid Provider" means a provider who is issued a provider number for purposes of submitting medical assistance program claims for payment by the Authority.

(172) "Panel" means the Hearing Officer Panel established by section 3, chapter 849, Oregon Laws 1999.

(173) "Payment Authorization" means authorization granted by the responsible agency, office, or organization for payment prior or subsequent to the delivery of services, as described in these General Rules and the appropriate program rules. See the individual program rules for services requiring authorization.

(174) "Peer Review Organization (PRO)" means an entity of health care practitioners of services contracted by the state to review services ordered or furnished by other practitioners in the same professional field.

(175) "Peer Wellness Specialist" means an individual who is responsible for assessing mental health service and support needs of the individual's peers through community outreach, assisting individuals with access to available services and resources, addressing barriers to services and providing education and information about available resources and mental health issues in order to reduce stigmas and discrimination toward consumers of mental health services and to provide direct services to assist individuals in creating and maintaining recovery, health, and wellness.

(176) "Person Centered Care" means care that reflects the individual patient's strengths and preferences, reflects the clinical needs of the patient as identified through an individualized assessment, is based upon the patient's goals, and will assist the patient in achieving the goals.

(177) "Personal Health Navigator" means an individual who provides information, assistance, tools, and support to enable a patient to make the best health care decisions in the patient's particular circumstances and in light of the patient's needs, lifestyle, combination of conditions, and desired outcome.

(178) "Pharmaceutical Services" means services provided by a pharmacist, including medications dispensed in a pharmacy upon an order of a licensed practitioner prescribing within his or her scope of practice.

(179) "Pharmacist" means a person licensed to practice pharmacy pursuant to state law.

(180) "Physical Capacity Evaluation" means an objective, directly observed measurement of a person's ability to perform a variety of physical tasks combined with subjective analysis of abilities of the person.

(181) "Physical Therapist" means a person licensed by the relevant state licensing authority to practice physical therapy.

(182) "Physical Therapy" means treatment comprising exercise, massage, heat or cold, air, light, water, electricity, or sound for the purpose of correcting or alleviating any physical or mental disability, or the performance of tests as an aid to the assessment, diagnosis, or treatment of a human being. Physical therapy may not include radiology or electrosurgery.

(183) "Physician" means a person licensed to practice medicine pursuant to state law of the state in which he or she practices medicine or a person licensed to practice medicine pursuant to federal law for the purpose of practicing medicine under a contract with the federal government. A physician may be an individual licensed under ORS 677 or ORS 685.

(184) "Physician Assistant" means a person licensed as a physician assistant in accordance with ORS 677. Physician assistants provide medical services under the direction and supervision of an Oregon licensed physician according to a practice description approved by the Board of Medical Examiners.

(185) "Physician Services" means services provided within the scope of practice as defined under state law by or under the personal supervision of a physician.

(186) "Podiatric Services" means services provided within the scope of practice of podiatrists as defined under state law.

(187) "Podiatrist" means a person licensed to practice podiatric medicine pursuant to state law.

(188) "Post-Payment Review" means review of billings or other medical information for accuracy, medical appropriateness, level of service, or for other reasons subsequent to payment of the claim.

(189) "Practitioner" means a person licensed pursuant to state law to engage in the provision of health care services within the scope of the practitioner's license or certification.

(190) "Prepaid Health Plan (PHP)" means a managed health, dental, chemical dependency, or mental health organization that contracts with the Authority on a case managed, prepaid, capitated basis under OHP. PHPs may be a Chemical Dependency Organization (CDO), Dental Care Organization (DCO), Fully Capitated Health Plan (FCHP), Mental Health Organization (MHO), or Physician Care Organization (PCO)

(191) "Primary Care Dentist (PCD)" means a dental practitioner who is responsible for supervising and coordinating initial and primary dental care within their scope of practice for their members.

(192) "Primary Care Provider (PCP)" means any enrolled medical assistance provider who has responsibility for supervising, coordinating, and providing initial and primary care within their scope of practice for identified clients. PCPs initiate referrals for care outside their scope of practice, consultations, and specialist care and assure the continuity of medically appropriate client care. A Federally qualified PCP means a physician with a specialty or subspecialty in family medicine, general internal medicine, or pediatric medicine as defined in OAR 410-130-0005.

(193) "Prior Authorization (PA)" means payment authorization for specified medical services or items given by Authority staff or its contracted agencies prior to provision of the service. A physician referral is not a PA.

(194) "Prioritized List of Health Services" means the listing of conditions and treatment pairs developed by the Health Evidence Review Commission for the purpose of administering OHP.

(195) "Private Duty Nursing Services" means nursing services provided within the scope of license by a registered nurse or a licensed practical nurse under the general direction of the patient's physician to an individual who is not in a health care facility.

(196) "Provider" means an individual, facility, institution, corporate entity, or other organization that supplies health services or items, also termed a rendering provider, or bills, obligates, and receives reimbursement on behalf of a rendering provider of services, also termed a billing provider (BP). The term provider refers to both rendering providers and BP unless otherwise specified.

(197) "Provider Organization" means a group practice, facility, or organization that is:

(a) An employer of a provider, if the provider is required as a condition of employment to turn over fees to the employer; or

(b) The facility in which the service is provided, if the provider has a contract under which the facility submits claims; or

(c) A foundation, plan, or similar organization operating an organized health care delivery system, if the provider has a contract under which the organization submits the claim; and

(d) Such group practice, facility, or organization is enrolled with the Authority, and payments are made to the group practice, facility, or organization;

(e) An agent if such entity solely submits billings on behalf of providers and payments are made to each provider. (See Subparts of Provider Organization.)

(198) "Public Health Clinic" means a clinic operated by a county government.

(199) "Public Rates" means the charge for services and items that providers, including hospitals and nursing facilities, made to the general public for the same service on the same date as that provided to Authority clients.

(200) "Qualified Medicare Beneficiary (QMB)" means a Medicare beneficiary as defined by the Social Security Act and its amendments.

(201) "Qualified Medicare and Medicaid Beneficiary (QMM)" means a Medicare beneficiary who is also eligible for Division coverage.

(202) "Quality Improvement" means the efforts to improve the level of performance of a key process or processes in health services or health care.

(203) "Quality Improvement Organization (QIO)" means an entity that has a contract with CMS under Part B of Title XI to perform utilization and quality control review of the health care furnished, or to be furnished, to Medicare and Medicaid clients; formerly known as a Peer Review Organization.

(204) "Radiological Services" means those professional and technical radiological and other imaging services for the purpose of diagnosis and treatment ordered by a physician or other licensed practitioner of the healing arts within the scope of practice as defined under state law and provided to a patient by or under the direction of a physician or appropriate licensed practitioner in an office or similar facility, hospital, or independent radiological facility.

(205) "Recipient" means a person who is currently eligible for medical assistance (also known as a client).

(206) "Recreational Therapy" means recreational or other activities that are diversional in nature (includes, but is not limited to, social or recreational activities or outlets).

(207) "Recoupment" means an accounts receivable system that collects money owed by the provider to the Authority by withholding all or a portion of a provider's future payments.

(208) "Referral" means the transfer of total or specified care of a client from one provider to another. As used by the Authority, the term referral also includes a request for a consultation or evaluation or a request or approval of specific services. In the case of clients whose medical care is contracted through a Prepaid Health Plan (PHP), or managed by a Primary Care Physician, a referral is required before non-emergency care is covered by the PHP or the Authority.

(209) "Remittance Advice (RA)" means the automated notice a provider receives explaining payments or other claim actions. It is the only notice sent to providers regarding claim actions.

(210) "Rendering provider" means an individual, facility, institution, corporate entity, or other organization that supplies health services or items, also termed a provider, or bills, obligates, and receives reimbursement on behalf of a provider of services, also termed a billing provider (BP). The term rendering provider refers to both providers and BP unless otherwise specified.

(211) "Request for Hearing" means a clear expression in writing by an individual or representative that the person wishes to appeal a Department or Authority decision or action and wishes to have the decision considered by a higher authority.

(212) "Representative" means an individual who can make OHP-related decisions for a client who is not able to make such decisions themselves.

(213) "Retroactive Medical Eligibility" means eligibility for medical assistance granted to a client retroactive to a date prior to the client's application for medical assistance.

(214) "Ride" means non-emergent medical transportation services for a client either to or from a location where covered services are provided. "Ride" does not include client-reimbursed medical transportation or emergency medical transportation in an ambulance.

(215) "Rural" means a geographic area that is ten or more map miles from a population center of 30,000 people or less.

(216) "Sanction" means an action against providers taken by the Authority in cases of fraud, misuse, or abuse of Division requirements.

(217) "School Based Health Service" means a health service required by an Individualized Education Plan (IEP) during a child's education program that addresses physical or mental disabilities as recommended by a physician or other licensed practitioner.

(218) "Self-Sufficiency" means the division in the Department of Human Services (Department) that administers programs for adults and families.

(219) "Service Agreement" means an agreement between the Authority and a specified provider to provide identified services for a specified rate. Service agreements may be limited to services required for the special needs of an identified client. Service agreements do not preclude the requirement for a provider to enroll as a provider.

(220) "Sliding Fee Schedule" means a fee schedule with varying rates established by a provider of health care to make services available to indigent and low-income individuals. The sliding-fee schedule is based on ability to pay.

(221) "Social Worker" means a person licensed by the Board of Clinical Social Workers to practice clinical social work.

(222) "Speech-Language Pathologist" means a person licensed by the Oregon Board of Examiners for Speech Pathology.

(223) "Speech-Language Pathology Services" means the application of principles, methods, and procedure for the measuring, evaluating, predicting, counseling, or instruction related to the development and disorders of speech, voice, or language for the purpose of preventing, habilitating, rehabilitating, or modifying such disorders in individuals or groups of individuals.

(224) "State Facility" means a hospital or training center operated by the State of Oregon that provides long-term medical or psychiatric care.

(225) "Subparts (of a Provider Organization)" means for NPI application, subparts of a health care provider organization would meet the definition of health care provider (45 CFR 160.103) if it were a separate legal entity and if it conducted HIPAA-covered transactions electronically or has an entity do so on its behalf and could be components of an organization or separate physical locations of an organization.

(226) "Subrogation" means right of the state to stand in place of the client in the collection of third party resources (TPR).

(227) "Substance Use Disorder (SUD) Services" means assessment, treatment, and rehabilitation on a regularly scheduled basis or in response to crisis for alcohol or other drug abuse for dependent members and their family members or significant others, consistent with Level I, Level II, or Level III of the American Society of Addiction Medicine Patient Placement Criteria 2-Revision (ASAM PPC-2R). SUD is an interchangeable term with Chemical Dependency (CD), Alcohol and other Drug (AOD), and Alcohol and Drug (A & D).

(228) "Supplemental Security Income (SSI)" means a program available to certain aged and disabled persons that is administered by the Social Security Administration through the Social Security office.

(229) "Surgical Assistant" means a person performing required assistance in surgery as permitted by rules of the State Board of Medical Examiners.

(230) "Suspension" means a sanction prohibiting a provider's participation in the medical assistance programs by deactivation of the provider's Authority-assigned billing number for a specified period of time. No payments, Title XIX, or State Funds will be made for services provided during the suspension. The number will be reactivated automatically after the suspension period has elapsed.

(231) "Targeted Case Management (TCM)" means activities that will assist the client in a target group in gaining access to needed medical, social, educational, and other services. This includes locating, coordinating, and monitoring necessary and appropriate services. TCM services are often provided by allied agency providers.

(232) "Termination" means a sanction prohibiting a provider's participation in the Division's programs by canceling the provider's Authority-assigned billing number and agreement. No payments, Title XIX, or state funds will be made for services provided after the date of termination. Termination is permanent unless:

(a) The exceptions cited in 42 CFR 1001.221 are met; or

(b) Otherwise stated by the Authority at the time of termination.

(233) "Third Party Liability (TPL), Third Party Resource (TPR), or Third party payer" means a medical or financial resource that, under law, is available and applicable to pay for medical services and items for an Authority client.

(234) "Transportation" means medical transportation.

(235) "Service Authorization Request" means a member's initial or continuing request for the provision of a service including member requests made by their provider or the member's authorized representative.

(236) "Type A Hospital" means a hospital identified by the Office of Rural Health as a Type A hospital.

(237) "Type B AAA" means an AAA administered by a unit or combination of units of general purpose local government for overseeing Medicaid, financial and adult protective services, and regulatory programs for the elderly or the elderly and disabled.

(238) "Type B AAA Unit" means a Type B AAA funded by Oregon Project Independence (OPI), Title III—Older Americans Act, and Title XIX of the Social Security Act.

(239) "Type B Hospital" means a hospital identified by the Office of Rural Health as a Type B hospital.

(240) "Urban" means a geographic area that is less than ten map miles from a population center of 30,000 people or more.

(241) "Urgent Care Services" means health services that are medically appropriate and immediately required to prevent serious deterioration of a client's health that are a result of unforeseen illness or injury.

(242) "Usual Charge (UC)" means the lesser of the following unless prohibited from billing by federal statute or regulation:

(a) The provider's charge per unit of service for the majority of non-medical assistance users of the same service based on the preceding month's charges;

(b) The provider's lowest charge per unit of service on the same date that is advertised, quoted, or posted. The lesser of these applies regardless of the payment source or means of payment;

(c) Where the provider has established a written sliding fee scale based upon income for individuals and families with income equal to or less than 200 percent of the federal poverty level, the fees paid by these individuals and families are not considered in determining the usual charge. Any amounts charged to third party resources (TPR) are to be considered.

(243) "Utilization Review (UR)" means the process of reviewing, evaluating, and assuring appropriate use of medical resources and services. The review encompasses quality, quantity, and appropriateness of medical care to achieve the most effective and economic use of health care services.

(244) "Valid Claim" means an invoice received by the Division or the appropriate Authority or Department office for payment of covered health care services rendered to an eligible client that:

(a) Can be processed without obtaining additional information from the provider of the goods or services or from a TPR; and

(b) Has been received within the time limitations prescribed in these General Rules (OAR 410 division 120).

(245) "Valid Preauthorization" means a document the Authority, a PHP, or CCO receives requesting a health service for a member who would be eligible for the service at the time of the service, and the document contains:

(a) A beginning and ending date not exceeding twelve months, except for cases of PHP or CCO enrollment where four months may apply; and

(b) All data fields required for processing the request or payment of the service including the appropriate billing codes.

(246) "Vision Services" means provision of corrective eyewear, including ophthalmological or optometric examinations for determination of visual acuity and vision therapy and devices.

(247) "Volunteer" (for the purposes of NEMT) means an individual selected, trained and under the supervision of the Department who is providing services on behalf of the Department in a non-paid capacity except for incidental expense reimbursement under the Department Volunteer Program authorized by ORS 409.360.

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: AFS 5-1981, f. 1-23-81, ef. 3-1-81; AFS 33-1981, f. 6-23-81, ef. 7-1-81; AFS 47-1982, f. 4-30-82 & AFS 52-1982, f. 5-28-82, ef. 5-1-82, for providers located in the geographical areas covered by the branch offices of North Salem, South Salem, Dallas, Woodburn, McMinnville, Lebanon, Albany and Corvallis, ef. 6-30-82 for remaining AFS branch offices; AFS 57-1982, f. 6-28-82, ef. 7-1-82; AFS 81-1982, f. 8-30-82, ef. 9-1-82; AFS 4-1984, f. & ef. 2-1-84; AFS 12-1984, f. 3-16-84, ef. 4-1-84; AFS 13-1984(Temp), f. & ef. 4-2-84; AFS 37-1984, f. 8-30-84, ef. 9-1-84; AFS 24-1985, f. 4-24-85, ef. 6-1-85; AFS 13-1987, f. 3-31-87, ef. 4-1-87; AFS 7-1988, f. & cert. ef. 2-1-88; AFS 69-1988, f. & cert. ef. 12-5-88; HR 2-1990, f. 2-12-90, cert. ef. 3-1-90, Renumbered from 461-013-0005; HR 25-1991(Temp), f. & cert. ef. 7-1-91; HR 41-1991, f. & cert. ef. 10-1-91; HR 32-1993, f. & cert. ef. 11-1-93; HR 2-1994, f. & cert. ef. 2-1-94; HR 31-1994, f. & cert. ef. 11-1-94; HR 40-1994, f. 12-30-94, cert. ef. 1-1-95; HR 5-1997, f. 1-31-97, cert. ef. 2-1-97; HR 21-1997, f. & cert. ef. 10-1-97; OMAP 20-1998, f. & cert. ef. 7-1-98; OMAP 10-1999, f. & cert. ef. 4-1-99; OMAP 31-1999, f. & cert. ef. 10-1-99; OMAP 11-2000, f. & cert. ef. 6-23-00; OMAP 35-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 42-2002, f. & cert. ef. 10-1-02; OMAP 3-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 62-2003, f. 9-8-03, cert. ef.10-1-03; OMAP 67-2004, f. 9-14-04, cert. ef. 10-1-04; OMAP 10-2005, f. 3-9-05, cert. ef. 4-1-05; OMAP 39-2005, f. 9-2-05, cert. ef. 10-1-05; OMAP 65-2005, f. 11-30-05, cert. ef. 1-1-06; OMAP 15-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 45-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 24-2007 f. 12-11-07 cert. ef. 1-1-08; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 13-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 11-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 36-2011, f. 12-13-11, cert. ef. 1-1-12; DMAP 11-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 28-2012, f. 6-21-12, cert. ef. 7-1-12; DMAP 49-2012, f. 10-31-12, cert. ef. 11-1-12; DMAP 37-2013(Temp), f. 6-27-13, cert. ef. 7-1-13 thru 12-24-13; DMAP 71-2013, f. & cert. ef. 12-27-13; DMAP 57-2014, f. 9-26-14, cert. ef. 10-1-14; DMAP 5-2015, f. & cert. ef. 2-10-15; DMAP 29-2015, f. & cert. ef. 5-29-15; DMAP 55-2015, f. 9-22-15, cert. ef. 10-1-15

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Rule Caption: Correcting a scrivener error, rule citation omitted in original pregnancy enrollment exemption process rule.

Adm. Order No.: DMAP 56-2015(Temp)

Filed with Sec. of State: 9-30-2015

Certified to be Effective: 10-1-15 thru 2-4-16

Notice Publication Date:

Rules Amended: 410-141-0060, 410-141-3060

Subject: These rules provide the framework for Coordinated Care Organization (CCO) and Managed Care Organizations (MCO) enrollment requirements, including any existing exemptions from CCO and MCO enrollment. The Authority requested stakeholder and public comment on the following: The Licensed Direct Entry Midwives (LDEM Staff Advisory Workgroup came out with recommendations related to perinatal service options for Medicaid enrollees.

The Authority Director, Suzanne Hoffman responded with a letter dated May 21, 2014, stating the Division would implement changes, necessitating the removal of the sunset date, allowing for time to make further program implementations and additional rule revisions, It has been decided to implement the CCO enrollment exemptions criteria on which to build additional program specific criteria later in 2015 outlining the detail level of the program requirements.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-141-0060

Oregon Health Plan Managed Care Enrollment Requirements

(1) For the purposes of this rule, the following definitions apply:

(a) Client means an individual found eligible to receive health services. "Client" is inclusive of members enrolled in PHPs and CCOs as stated in OAR 410-120-0000;

(b) Eligibility Determination means an approval or denial of eligibility and a renewal or termination of eligibility as stated in OAR 410-200-0015;

(c) Member means a client enrolled with a pre-paid health plan or coordinated care organization as stated in OAR 410-120-0000;

(d) Newly Eligible means recently determined through the eligibility determination process as having the right to obtain state health benefits, satisfying the appropriate conditions;

(e) Redetermination means a review of eligibility outside of regularly scheduled renewals. Redeterminations that result in the assignment of a new renewal date or a change in program are considered renewals as stated in OAR 410-200-0015;

(f) Renewal means a regularly scheduled periodic review of eligibility resulting in a renewal or change of program benefits, including the assignment of a new renewal date or a change in eligibility status.

(2) The following populations may not be enrolled into an MCO or any type of health care coverage including:

(a) Persons who are non-citizens and are Citizen/Alien Waivered-Emergency Medical program eligible for labor and delivery services and emergency treatment services;

(b) Clients receiving premium assistance through the Specified Low-Income Medicare Beneficiary, Qualified Individuals, Qualified Disabled Working Individuals and Qualified Medicare Beneficiary programs without other Medicaid;

(c) Persons who are dually eligible for Medicare and Medicaid and enrolled in a program of all-inclusive care for the elderly.

(3) The following populations may not be enrolled into an MCO under the following circumstances:

(a) Newly eligible clients are exempt from enrollment with an MCO but not exempt from enrollment in a DCO, if they became eligible when admitted as an inpatient in a hospital. The client shall receive health care services on a fee-for-service (FFS) basis only until the hospital discharges the client. The individual will receive dental services through the DCO.

(b) The client is covered under a major medical insurance policy or other third party resource (TPR) that covers the cost of services to be provided by a PHP as specified in and ORS 414.631 and, except as provided for children in Child Welfare though the BRS and PRTS programs, outlined OAR 410-141-3050. A client shall be enrolled with a DCO even if they have a dental TPR.

(4) Persons who are documented American Indian and Alaskan Native (AI/AN) beneficiaries are exempt from auto assignment mandatory enrollment for their managed care plans, as specified in 42 USC 1932, 2 (C), but may elect to be manually enrolled.

(5) Populations specified below are exempt from mandatory enrollment into a physical health MCO but are subject to mandatory enrollment into both dental and mental health plans as available in the member's service area. The member may be manually enrolled into a physical health plan as deemed appropriate by the Authority. These individuals are as follows:

(a) Children in the legal custody of the Department or Oregon Health Authority where the child is expected to be in a substitute care placement for less than 30 calendar days unless:

(A) Access to health care on a FFS basis is not available; or

(B) Enrollment would preserve continuity of care.

(b) Clients who are dually eligible for Medicare and Medicaid but not enrolled in a program of all-inclusive care for the elderly. The following apply to these clients:

(A) A client who is also a Medicare beneficiary and is in a hospice program may not enroll in an FCHP or PCO that is also a Medicare Advantage plan. The client may enroll in either an FCHP or PCO that does not have a Medicare Advantage plan unless exempt for some other reason listed in this rule;

(B) The client is enrolled in Medicare and the only FCHP or PCO in the service area is a Medicare Advantage plan. The client may choose not to enroll in an FCHP or PCO;

(C) Enrollment in a FCHP or PCO of a client who is receiving Medicare and who resides in a service area served by PHPs shall be as follows:

(i) If the client who is Medicare Advantage eligible selects a FCHP or PCO that has a corresponding Medicare Advantage plan, the client shall complete the 7208M or other CMS approved Medicare plan election form;

(ii) If the Medicare Advantage Plan Election form (OHP 7208M) described in this rule is signed by someone other than the client, the client's representative must complete and sign the Signature by Mark or State Approved Signature sections of the OHP 7208M;

(iii) If the client is a Medicare beneficiary who is capable of making enrollment decisions, the client's representative may not have authority to select FCHPs or PCOs that have corresponding Medicare Advantage components:

(I) If the FCHP or PCO has not received the form within ten calendar days after the date of enrollment, the FCHP or PCO shall send a letter to the member with a copy sent to the APD branch manager. The letter shall explain the need for the completion of the form; inform the member that if the form is not received within 30 days, the FCHP or PCO may request disenrollment; and instruct the member to contact their caseworker for other coverage alternatives.

(II) The FCHP or PCO shall choose whether to disenroll or maintain enrollment for all the clients from whom they do not receive a form at the end of 30 days, except as otherwise provided in this rule. The FCHP or PCO shall notify the PHP coordinator of the PHP's annual decision to disenroll or maintain enrollment for the clients in writing. This notification shall be submitted by January 31 of each year or another date specified by the Authority. If the FCHP or PCO has decided to:

(III) Disenroll the clients and has not received a client's form at the end of 30 days, the FCHP or PCO shall request disenrollment. HMU will disenroll the member effective the end of the month following the notification;

(D) Maintain enrollment. The FCHP or PCO may not request disenrollment at the end of 30 days.

(E) If the client is enrolled as a private member of a Medicare Advantage plan, the client may choose to remain enrolled as a private member or to enroll in the FCHP or PCO that corresponds to the Medicare Advantage plan:

(F) If the client chooses to remain as a private member in the Medicare Advantage plan, the client shall remain in the Medicaid FFS delivery system for physical health care services but shall select a DCO and MHO where available;

(G) If the client chooses to discontinue the Medicare Advantage enrollment and then, within 60 calendar days of disenrollment from the Medicare Advantage plan, chooses the FCHP or PCO that corresponds to the Medicare Advantage plan that was discontinued, the client shall be allowed to enroll in the FCHP or PCO even if the FCHP or PCO is not open for Enrollment to other clients;

(H) A Fully Dual Eligible (FDE) client who has been exempted from enrollment in an MHO may not be enrolled in a FCHP or PCO that has a corresponding Medicare Advantage plan unless the exemption was done for a provider who is on the FCHP's or PCO's panel.

(6) The Authority may temporarily exempt clients from mandatory enrollment for other just causes as determined by the Authority through medical review. The Authority may set an exemption period on a case-by-case basis for those as follows:

(a) Children under 19 years of age who are medically fragile and who have special health care needs. The Authority may enroll these children in MCOs on a case-by-case basis; children not enrolled in a MCO shall continue to receive services on a FFS basis;

(b) Until December 31, 2017, women who are pregnant and meet the qualifications in sub-sections A through E below may receive OHP benefits on a FFS basis for physical health only until 60 days after the birth of her child. Women meeting the criteria for the pregnancy enrollment exemption for their physical health plan coverage will continue to be enrolled in the appropriate MCO or CCO plan in their service area for dental and mental health coverage. After the 60 day period, the member shall enroll in a plan as appropriate. Those women under consideration for a pregnancy enrollment exemption for their physical health enrollment shall receive a response from the Authority within 30 working days of request. Upon approval of the FFS pregnancy exemption for physical health enrollment only, the client shall remain FFS for as long as she continues to meet the requirements in A through E below. In order to qualify for the FFS pregnancy exemption for physical health only, there shall be no home birth option available to the client through her plan and the client shall:

(A) Be pregnant;

(B) State that her intention is to have a home birth;

(C) Have an established relationship for the purpose of home birth with a licensed qualified practitioner who is not a participating provider with the client's MCO;

(D) Make a request to change to FFS. This request can be made at any point in the pregnancy prior to delivery; and

(E) Meet all administrative rules including, but not limited to, OAR 410-141-0240 and statutory requirements that define when a home birth is eligible for reimbursement by the Authority:

(i) Should a woman become unable to meet any of the requirements specified in OAR 333-076-0650(1), Table 1, either upon initial evaluation or once the exemption is granted, the exemption shall be withdrawn, and the client will be subject to MCO enrollment requirements as stated in OAR 410-141-3060;

(ii) Conditions arising during the pregnancy as listed in subsections (I) through (V) below shall be reviewed by the Authority on a case-by-case basis for continuation of the FFS enrollment exemption:

(I) Fetal presentation other than vertex when known;

(II) Abnormal bleeding;

(III) Low–lying placenta within 2 cm. or less of cervical os;

(IV) Genital herpes, primary; secondary uncoverable at onset of labor; and

(V) Current substance abuse that has the potential to adversely affect labor and the infant.

(c) The following apply to clients and exemptions relating to organ transplants:

(A) Newly eligible clients are exempt from enrollment with an MCO if the client is newly diagnosed and under the treatment protocol for an organ transplant;

(B) Newly eligible clients with existing transplants shall enroll into the appropriate MCO for their service area;

(d) Other just causes to preserve continuity of care include the following considerations:

(A) Enrollment would pose a serious health risk; and

(B) The Authority finds no reasonable alternatives.

(7) Unless exempted above, enrollment is mandatory in all areas served by an MCO.

(8) When a service area changes from mandatory to voluntary, the member will remain with their PHP for the remainder of their eligibility period unless the member meets the criteria stated in this rule or as provided by OAR 410-141-0080.

(9) If the client resides in a mandatory service area and fails to select a DCO, MHO, PCO, or FCHP at the time of application for the OHP, the

Authority shall enroll the client with a DCO, MHO, PCO, or FCHP as follows:

(a) The client shall be assigned to and enrolled with a DCO, MHO, PCO, or FCHP that meets the following requirements where MCO enrollment is not available or services are not available through the MCO:

(A) Is open for enrollment;

(B) Serves the county in which the client resides;

(C) Has practitioners located within the community-standard distance for average travel time for the client.

(b) Assignment shall be made first to an MCO;

(c) The Authority shall send a notice to the client informing the client of the assignments and the right to change assignments within 30 calendar days of enrollment. A change in assignment shall be honored if there is another DCO, MHO, PCO, or FCHP open for enrollment in the county in which the client resides;

(10) Clients shall be enrolled with PHPs according to the following criteria:

(a) Areas with sufficient physical health service capacity through a combination of Coordinated Care Organizations (CCOs), Fully Capitated Health Plans (FCHP), and Physician Care Organizations (PCO) shall be called mandatory service areas. In mandatory service areas, a client shall select:

(A) A CCO; or

(B) An FCHP or PCO:

(i) If the client has an existing relationship with a provider who is contracted with the FCHP or PCO; and

(ii) If approved by the Authority.

(b) Service areas without sufficient physical health service capacity shall be called voluntary service areas. In voluntary service areas, a client has the option to:

(A) Select a CCO; or

(B) Select an FCHP or PCO;

(i) If the client has an existing relationship with a provider who is contracted with the FCHP or PCO; and

(ii) If approved by the Authority; or

(C) Remain in the Medicaid fee-for-service (FFS) physical health care delivery system.

(c) Service areas with sufficient mental health and dental care service capacity through MHOs and DCOs shall be called mandatory MHO and DCO service areas. A client shall select an MHO and DCO in a mandatory MHO and DCO service area if mental health and dental services are not available through a CCO or the client is otherwise exempt from CCO enrollment;

(d) Service areas without sufficient dental care service capacity through MHOs and DCOs shall be called voluntary MHO and DCO service areas. In voluntary MHO and DCO service areas, a client may choose to:

(A) Select a CCO open to enrollment that offers dental services; or

(B) Select any MHO and DCO open for enrollment if CCO enrollment is not available; or

(C) Remain in the Medicaid FFS mental health and dental care delivery system;

(11) Enrollments resulting from assignments shall be effective the first of the month or week after the Department enrolls the client and notifies the client of enrollment and the name of the PHP: If enrollment is initiated by an Authority worker on or before Wednesday, the date of enrollment shall be the following Monday. If enrollment is initiated by an Authority worker after Wednesday, the date of enrollment shall be one week from the following Monday. Monthly enrollment in a mandatory service area, where there is only one plan or DCO, shall be initiated by an auto-enrollment program of the Authority, effective the first of the month following the month-end cutoff. Monthly enrollment in service areas, where there is a choice of PHPs, shall be auto-enrolled by computer algorithm.

(12) The provision of capitated services to a member enrolled with a PHP shall begin as of the effective date of enrollment with the MCO except for:

(a) A newborn whose mother was enrolled at the time of birth. The date of enrollment shall be the newborn's date of birth;

(b) Persons, other than newborns, who are hospitalized on the date enrolled. The date of enrollment shall be the first possible enrollment date after the date the client is discharged from inpatient hospital services;

(c) For members who are re-enrolled within 30 calendar days of disenrollment, the date of enrollment shall be the date specified by the Authority and may be earlier than the effective date outlined above.

Stat. Auth.: ORS 413.042, 414,615, 414.625, 414.635 & 414.651

Stats. Implemented: ORS 414.610 & 414.685

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 7-1994, f. & cert. ef. 2-1-94; HR 8-1994(Temp), f. & cert. ef. 2-1-94; DEQ 24-1994, f. 5-31-94, cert. ef. 6-1-94; HR 33-1994, f. & cert. ef. 11-1-94; HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1995, f. 9-28-95, cert. ef. 10-1-95; HR 19-1996, f. & cert. ef. 10-1-96; HR 21-1996(Temp), f. & cert. ef. 11-1-96; HR 29-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 21-1998, f. & cert. ef. 7-1-98; OMAP 49-1998(Temp), f. 12-31-98, cert. ef. 1-1-99 thru 6-30-99; Administrative correction 8-9-99; 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 12-2002, f. & cert. ef. 4-1-02; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; 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 65-2005, f. 11-30-05, cert. ef. 1-1-06; OMAP 10-2006(Temp), f. & cert. ef. 5-4-06 thru 10-27-06; OMAP 23-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 46-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 72-2014(Temp), f. 12-9-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 8-2015, f. 2-26-15, cert. ef. 3-1-15; DMAP 56-2015(Temp), f. 9-30-15, cert. ef. 10-1-15 thru 2-4-16

410-141-3060
Enrollment Requirements in a CCO

(1) For the purposes of this rule, the following definitions apply:

(a) Client means an individual found eligible to receive OHP health services. "Client" is inclusive of members enrolled in PHPs and CCOs as stated in OAR 410-120-0000;

(b) Eligibility Determination means an approval or denial of eligibility and a renewal or termination of eligibility as stated in OAR 410-200-0015;

(c) Member means a client enrolled with a pre-paid health plan or coordinated care organization as stated in OAR 410-120-0000;

(d) Newly Eligible means recently determined, through the eligibility determination process, as having the right to obtain state health benefits, satisfying the appropriate conditions;

(e) Redetermination means a review of eligibility outside of regularly scheduled renewals. Redeterminations that result in the assignment of a new renewal date or a change in program are considered renewals as stated in OAR 410-200-0015;

(f) Renewal means a regularly scheduled periodic review of eligibility resulting in a renewal or change of program benefits, including the assignment of a new renewal date or a change in eligibility status.

(2) The following populations may not be enrolled into a CCO for any type of health care coverage including:

(a) Persons who are non-citizens and are Citizen/Alien Waivered-Emergency Medical program eligible for labor and delivery services and emergency treatment services;

(b) Clients receiving premium assistance through the Specified Low-Income Medicare Beneficiary, Qualified Individuals, Qualified Disabled Working Individuals and Qualified Medicare Beneficiary programs without other Medicaid;

(c) Persons who are dually eligible for Medicare and Medicaid and enrolled in a program of all-inclusive care for the elderly.

(3) The following populations may not be enrolled into a CCO under the following circumstances:

(a) Newly eligible clients are exempt from enrollment with a CCO but not exempt from enrollment in a DCO if they became eligible when admitted as an inpatient in a hospital. The client shall receive health care services on a fee-for-service (FFS) basis only until the hospital discharges the client. The individual will receive dental services through the DCO;

(b) The client is covered under a major medical insurance policy or other third party resource (TPR) that covers the cost of services to be provided by a PHP as specified in ORS 414.631 and except as provided for children in Child Welfare through the BRS and PRTS programs outlined in OAR 410-141-3050. A client shall be enrolled with a DCO even if they have a dental TPR.

(4) Persons who are documented American Indian and Alaskan Native (AI/AN) beneficiaries are exempt mandatory enrollment into a managed care plan, as specified in 42 USC 1932, 2 (C), but may elect to be manually enrolled.

(5) Populations specified below are exempt from mandatory enrollment into a physical health CCO but are subject to mandatory enrollment into both dental and mental health plans as available in the member's service area. The member may be manually enrolled into a physical health plan as deemed appropriate by the Authority. These populations are as follows:

(a) Children in the legal custody of the Department or where the child is expected to be in a substitute care placement for less than 30 calendar days unless:

(A) Access to health care on a FFS basis is not available; or

(B) Enrollment would preserve continuity of care;

(b) Clients who are dually eligible for Medicare and Medicaid but not enrolled in a program of all-inclusive care for the elderly. The following apply to these:

(A) A client has the option to enroll in a CCO regardless of whether they are enrolled in Medicare Advantage;

(B) A client enrolled in Medicare Advantage, whether or not they pay their own premium, has the option to enroll in a CCO even if the CCO does not have a corresponding Medicare Advantage plan;

(C) A client has the option to enroll with a CCO, even if the client withdrew from that CCO's Medicare Advantage plan. The CCO shall accept the client's enrollment if the CCO has adequate health access and capacity;

(D) A client has the option to enroll with a CCO even if the client is enrolled in Medicare Advantage with another entity.

(6) The Authority may temporarily exempt clients for other just causes as determined by the Authority through medical review. The Authority may set an exemption period on a case-by-case basis for those as follows:

(a) Children under 19 years of age who are medically fragile and who have special health care needs. The Authority may enroll these children in CCOs on a case-by-case basis. Children not enrolled in a CCO shall continue to receive services on a FFS basis;

(b) Until December 31, 2017, women who are pregnant and meet the qualifications in sub-sections A through E below may receive OHP benefits on a FFS basis for physical health only until 60 days after the birth of her child. Women meeting the criteria for the pregnancy enrollment exemption for their physical health plan coverage will continue to be enrolled in the appropriate MCO or CCO plan in their service area for dental and mental health coverage. After the 60-day period the member shall enroll in a plan as appropriate. Those women under consideration for a pregnancy enrollment exemption for their physical health enrollment shall receive a response from the Authority within 30 working days of request. Upon approval of the FFS pregnancy exemption for physical health enrollment only, the client shall remain FFS for as long as she continues to meet the requirements in A through E below. In order to qualify for the FFS pregnancy exemption for physical health only, there must be no home birth option available to the client through her plan and the client must:

(A) Be pregnant;

(B) State that her intention is to have a home birth;

(C) Have an established relationship for the purpose of home birth with a licensed, qualified practitioner who is not a participating provider with the client's CCO; and

(D) Make a request to change to FFS. This request can be made at any point in the pregnancy prior to delivery; and

(E) Meet all administrative rules including, but not limited to, OAR 410-130-0240 and statutory requirements that define when a home birth is eligible for reimbursement by the Authority:

(i) Should a woman become unable to meet any of the requirements specified in OAR 333-076-0650(1) Table 1 either upon initial evaluation or once the exemption is granted, the exemption shall be withdrawn and the client will be subject to CCO enrollment requirements as stated in OAR 410-141-3060.

(ii) Conditions arising during the pregnancy as listed in subsections (I) through (V) below shall be reviewed by the Authority on a case-by-case basis for continuation of the FFS enrollment exemption:

(I) Fetal presentation other than vertex, when known;

(II) Abnormal Bleeding;

(III) Low–lying placenta within 2 cm. or less of cervical os;

(IV) Genital herpes, primary; secondary uncoverable at onset of labor; and

(V) Current substance abuse that has the potential to adversely affect labor and the infant;

(c) The following apply to clients and exemptions relating to organ transplants:

(A) Newly eligible clients are exempt from enrollment with a CCO if the client is newly diagnosed and under the treatment protocol for an organ transplant;

(B) Newly eligible clients with existing transplants shall enroll into the appropriate CCO for their service area;

(d) Other just causes to preserve continuity of care include the following considerations:

(A) Enrollment would pose a serious health risk; and

(B) The Authority finds no reasonable alternatives.

(7) Unless stated above, CCO enrollment is mandatory in all areas served by a CCO. A client who is eligible for or receiving health services must enroll in a CCO as required by ORS 414.631, except as provided in ORS 414.631(2), (3), (4), and (5) and this rule.

(8) Enrollment is voluntary in service areas without adequate access and capacity to provide health care services through a CCO or PHP.

(9) Enrollment is mandatory in service areas with adequate health care access and capacity to provide health care services through a CCO or PHP. If upon application or redetermination, a client does not select a CCO, the Authority shall auto-assign the client and the client's household to a CCO that has adequate health care access and capacity. The following outlines the priority of enrollment in service areas where enrollment is mandatory and a PHP remains available for enrollment:

(a) Priority 1: The client shall enroll in a CCO that serves that area and has adequate health care access and capacity;

(b) Priority 2: The client has the option to enroll in a PHP through a manual process if:

(A) The client has an established relationship with a provider who is only contracted with the PHP; or

(B) The PHP serves an area that a CCO serves, but the CCO has inadequate health care services capacity to accept new members. Clients will be FFS unless already established with a PHP's provider;

(c) Priority 3: The client shall receive services on a FFS basis.

(10) If a service area changes from mandatory enrollment to voluntary enrollment, the member shall remain with the PHP for the remainder of their eligibility period or until the Authority or Department redetermines eligibility, whichever comes sooner, unless otherwise eligible to disenroll pursuant to OAR 410-141-3080.

(11) Clients who are exempt from physical health services or who are enrolled with a PHP for physical health services will receive managed or coordinated mental health and oral health services as follows:

(a) The client shall be enrolled with a CCO if the CCO offers mental health and oral health services; or

(b) The client shall be enrolled with an MHO for mental health services and with a DCO for oral health services if the CCO does not offer those services; or

(c) The client shall be enrolled with a DCO for oral health services and remain FFS for mental health services if an MHO is not available; or

(d) The client shall remain FFS for both mental health and oral health services if an MHO or DCO is unavailable.

(12) The following pertains to the effective date of the enrollment. If the enrollment occurs:

(a) On or before Wednesday, the date of enrollment shall be the following Monday; or

(b) After Wednesday, the date of enrollment shall be one week from the following Monday.

(13) Coordinated care services shall begin as of the effective date of enrollment with the CCO except for:

(a) A newborn's date of birth when the mother was a member of a CCO at the time of birth;

(b) For persons other than newborns who are hospitalized on the date enrolled, the date of enrollment shall be the first possible enrollment date after the date the client is discharged from inpatient hospital services;

(c) For members who are re-enrolled within 30 calendar days of disenrollment, the date of enrollment shall be the date specified by the Authority and may be earlier than the effective date outlined above.

(d) For adopted children or children placed in an adoptive placement, the date of enrollment shall be the date specified by the Authority.

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 62-2012(Temp), f. 12-27-12, cert. ef. 1-1-13 thru 6-29-13; DMAP 4-2013(Temp), f. & cert. ef. 2-7-13 thru 6-29-13; DMAP 33-2013, f. & cert. ef. 6-27-13; DMAP 38-2013(Temp), f. 7-8-13, cert. ef. 7-9-13 thru 1-5-14; DMAP 65-2013, f. & cert. ef. 11-29-13; DMAP 35-2014(Temp), f. 6-25-14, cert. ef. 7-1-14 thru 12-27-14; DMAP 69-2014(Temp), f. 12-8-14, cert. ef. 12-27-14 thru 12-31-14; DMAP 70-2014, f. 12-8-14, cert. ef. 1-1-15; DMAP 72-2014(Temp), f. 12-9-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 8-2015, f. 2-26-15, cert. ef. 3-1-15; DMAP 56-2015(Temp), f. 9-30-15, cert. ef. 10-1-15 thru 2-4-16

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Rule Caption: Amending PDL March 26, May 28, 2015 DUR/P&T Action.

Adm. Order No.: DMAP 57-2015(Temp)

Filed with Sec. of State: 9-30-2015

Certified to be Effective: 10-1-15 thru 12-27-15

Notice Publication Date:

Rules Amended: 410-121-0030

Subject: The Pharmaceutical Services Program administrative rules (Division 121) govern Division payments for services provided to certain clients. The Division needs to amend rules as follows:

410-121-0030:

Preferred:

Viekiera Pak;

Laxative drug class;
Polyethylene glycol 3350;
Lactulose;
Senna products;
Bulk forming laxatives less than $1/unit;
Osmotic laxatives less than $1/unit;
Surfactant, stimulant, and saline laxatives;
Isosorbide dinitrate — capsule ER;
Nitroglycerin — capsule ER;
Adalimumab (Humira Pediatric Crohn's);
Calcium Citrate — tablet;
Buprenorphine HCL / Naloxone HCL;
Dexmethylphenidate HCL;
Chlorpromazine HCL;
Fluphenazine HCL;
Dabigatran;
Rivaroxaban;
Apixaban;
Edoxaban;
Linezolid;
Tobramycin (Tobi Poldhaler);
Tobramycin / Nebulizer (Kitabis Pak);
All rectal subclass products;
All acetaminophen with codeine products;
Ibuprofen containing products;
Hydrocodone APAP solution;
Metoprolol Succinate;
Non-Preferred:
Bulk forming laxatives $1/unit or more;
Osmotic laxatives $1/unit or more;
Lubricant laxatives;
Cimetidine — tablet;
Spinosad
Semprivir Sodium;
Tedizolid Phosphate;
Ivacaftor (Kalydeco);
All Butalbital subclass products.

Clerical — Various clerical changes were made to system class, drug and form names.

Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-121-0030
Practitioner-Managed Prescription Drug Plan

(1) The Practitioner-Managed Prescription Drug Plan (PMPDP) is a plan that ensures that OHP fee-for-service clients have access to the most effective prescription drugs appropriate for their clinical conditions at the best possible price:

(a) Licensed health care practitioners, who are informed by the latest peer reviewed research, make decisions concerning the clinical effectiveness of the prescription drugs;

(b) Licensed health care practitioners also consider the client's health condition, personal characteristics, and the client's gender, race, or ethnicity.

(2) PMPDP Preferred Drug List (PDL):

(a) The PDL is the primary tool the Division uses to inform licensed health care practitioners about the results of the latest peer-reviewed research and cost effectiveness of prescription drugs;

(b) The PDL contains a list of prescription drugs that the Division, in consultation with the Drug Use Review (DUR)/Pharmacy & Therapeutics Committee (P&T), has determined represent the most effective drugs available at the best possible price;

(c) The PDL shall include drugs that are Medicaid reimbursable and the Food and Drug Administration (FDA) has determined to be safe and effective.

(3) PMPDP PDL Selection Process:

(a) The Division shall utilize the recommendations made by the P&T that result from an evidence-based evaluation process as the basis for selecting the most effective drugs;

(b) The Division shall ensure the drugs selected in section (3)(a) that are available for the best possible price and shall consider any input from the P&T about other FDA-approved drugs in the same class that are available for a lesser relative price. The Division shall determine relative price using the methodology described in section (4);

(c) The Division shall evaluate selected drugs for the drug classes periodically:

(A) The Division may evaluate more frequently if new safety information or the release of new drugs in a class or other information makes an evaluation advisable;

(B) New drugs in classes already evaluated for the PDL shall be non-preferred until the new drug has been reviewed by the P&T;

(C) The Division shall make all revisions to the PDL using the rule-making process and shall publish the changes on the Division's Pharmaceutical Services provider rules website.

(4) Relative cost and best possible price determination:

(a) The Division shall determine the relative cost of all drugs in each selected class that are Medicaid reimbursable and that the FDA has determined to be safe and effective;

(b) The Division may also consider dosing issues, patterns of use, and compliance issues. The Division shall weigh these factors with any advice provided by the P&T in reaching a final decision.

(5) Pharmacy providers shall dispense prescriptions in the generic form unless:

(a) The practitioner requests otherwise pursuant to OAR 410-121-0155;

(b) The brand name medication is listed as preferred on the PDL.

(6) The exception process for obtaining non-preferred physical health drugs that are not on the PDL drugs shall be as follows:

(a) If the prescribing practitioner in their professional judgment wishes to prescribe a physical health drug not on the PDL, they may request an exception subject to the requirements of OAR 410-121-0040;

(b) The prescribing practitioner must request an exception for physical health drugs not listed in the PDL subject to the requirements of OAR 410-121-0060;

(c) Exceptions shall be granted when:

(A) The prescriber in their professional judgment determines the non-preferred drug is medically appropriate after consulting with the Division or the Oregon Pharmacy Call Center; or

(B) Where the prescriber requests an exception subject to the requirement of section (6)(b) and fails to receive a report of PA status within 24 hours, subject to OAR 410-121-0060.

(7) Table 121-0030-1, PMPDP PDL dated October 1, 2015 is adopted and incorporated by reference and is found at: www.orpdl.org.

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

Stat. Auth.: ORS 413.032, 413.042, 414.065, 414.325, 414.330 to 414.414, 414.312 & 414.316

Stats. Implemented: ORS 414.065; 414.325, 414.334, 414.361, 414.369, 414.371, 414.353 & 414.354

Hist.: OMAP 25-2002, f. 6-14-02 cert. ef. 7-1-02; OMAP 31-2002, f. & cert. ef. 8-1-02; OMAP 36-2002, f. 8-30-02, cert. ef. 9-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 35-2003, f. & cert. ef. 5-1-03; OMAP 47-2003, f. & cert. ef. 7-1-03; OMAP 57-2003, f. 9-5-03, cert. ef. 10-1-03; OMAP 70-2003(Temp), f. 9-15-03, cert. ef. 10-1-03 thru 3-15-04; OMAP 82-2003, f. 10-31-03, cert. ef. 11-1-03; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 29-2004, f. 4-23-04 cert. ef. 5-1-04; OMAP 34-2004, f. 5-26-04 cert. ef. 6-1-04; OMAP 45-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 81-2004, f. 10-29-04 cert. ef. 11-1-04; OMAP 89-2004, f. 11-24-04 cert. ef. 12-1-04; OMAP 19-2005, f. 3-21-05, cert. ef. 4-1-05; OMAP 32-2005, f. 6-21-05, cert. ef. 7-1-05; OMAP 58-2005, f. 10-27-05, cert. ef. 11-1-05; OMAP 16-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 32-2006, f. 8-31-06, cert. ef. 9-1-06; OMAP 48-2006, f. 12-28-06, cert. ef. 1-1-07; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 16-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 36-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10; DMAP 40-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 2-2011(Temp), f. & cert. ef. 3-1-11 thru 8-20-11; DMAP 19-2011, f. 7-15-11, cert. ef. 7-17-11; DMAP 44-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 12-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 18-2012, f. 3-30-12, cert. ef. 4-9-12; DMAP 26-2012, f. & cert. ef. 5-14-12; DMAP 29-2012, f. & cert. ef. 6-21-12; DMAP 33-2012(Temp), f. 7-18-12, cert. ef. 7-23-12 thru 1-18-13; DMAP 40-2012(Temp), f. & cert. ef. 8-20-12 thru 1-18-13; DMAP 44-2012(Temp), f. & cert. ef. 9-26-12 thru 1-18-13; DMAP 61-2012, f. 12-27-12, cert. ef. 1-1-13; DMAP 6-2013(Temp), f. & cert. ef. 2-21-13 thru 8-19-13; DMAP 23-2013(Temp), f. 4-30-13, cert. ef. 5-1-13 thru 8-19-13; Administrative correction, 7-18-13; DMAP 43-2013, f. & cert. ef. 8-16-13; DMAP 76-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 1-2014(Temp), f. & cert. ef. 1-10-14 thru 7-9-14; DMAP 15-2014, f. & cert. ef. 3-21-14 thru 9-17-14; DMAP 28-2014(Temp), f. & cert. ef. 5-2-14 thru 6-30-14; DMAP 37-2014, f. & cert. ef. 6-30-14; DMAP 47-2014(Temp), f. & cert. ef. 7-15-14 thru 1-11-15; DMAP 52-2014(Temp), f. & cert. ef. 9-16-14 thru 1-11-15; DMAP 64-2014(Temp), f. 10-24-14, cert. ef. 10-29-14 thru 12-30-14; DMAP 77-2014, f. & cert. ef. 12-12-14; DMAP 78-2014(Temp), f. & cert. ef. 12-12-14 thru 6-9-15; DMAP 88-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-29-15; DMAP 10-2015(Temp), f. & cert. ef. 3-3-15 thru 8-29-15; DMAP 26-2015(Temp), f. 4-17-15, cert. ef. 4-18-15 thru 6-26-15; DMAP 35-2015, f. 6-25-15, cert. ef. 6-26-15; DMAP 37-2015(Temp), f. & cert. ef. 7-1-15 thru 12-27-15; DMAP 57-2015(Temp), f. 9-30-15, cert. ef. 10-1-15 thru 12-27-15

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Rule Caption: Amending Prior Authorization Approval Criteria Guide

Adm. Order No.: DMAP 58-2015(Temp)
Filed with Sec. of State: 10-9-2015
Certified to be Effective: 10-9-15 thru 12-27-15
Notice Publication Date:
Rules Amended: 410-121-0040
Subject: The Pharmaceutical Services Program administrative rules (Division 121) govern Division payments for services provided to certain clients. The Division needs to amend rules as follows:

The Authority is amending this rule to update the Oregon Medicaid Fee for Service Prior Authorization Criteria Guide found at http://www.oregon.gov/oha/healthplan/Pages/pharmacy-policy.aspx based on the P&T (Pharmacy and Therapeutic) Committee recommendations.
Rules Coordinator: Sandy Cafourek—(503) 945-6430

410-121-0040
Prior Authorization Required for Drugs and Products

(1) Prescribing practitioners shall obtain prior authorization (PA) for the drugs and categories of drugs requiring PA in this rule, using the procedures set forth in OAR 410-121-0060.

(2) All drugs and categories of drugs including, but not limited to, those drugs and categories of drugs that require PA shall meet the following requirements for coverage:

(a) Each drug shall be prescribed for conditions funded by the Oregon Health Plan (OHP) in a manner consistent with the Health Evidence Review Commission (HERC) Prioritized List of Health Services (OAR 410-141-0480 through 410-141-0520). If the medication is for a non-covered diagnosis, the medication may not be covered unless there is a co-morbid condition for which coverage would be allowed. The use of the medication shall meet corresponding treatment guidelines and be included within the client's benefit package of covered services and not otherwise excluded or limited;

(b) Each drug shall also meet other criteria applicable to the drug or category of drug in these pharmacy provider rules, including PA requirements imposed in this rule.

(3) The Authority may require PA for individual drugs and categories of drugs to ensure that the drugs prescribed are indicated for conditions funded by OHP and consistent with the Prioritized List of Health Services and its corresponding treatment guidelines (see OAR 410-141-0480). The drugs and categories of drugs that the Authority requires PA for this purpose are found in the Oregon Medicaid Fee-for-Service Prior Authorization Approval Criteria (PA Criteria guide) dated October 9, 2015, adopted and incorporated by reference and found at: http://www.oregon.gov/OHA/healthplan/pages/pharmacy-policy.aspx

(4) The Authority may require PA for individual drugs and categories of drugs to ensure medically appropriate use or to address potential client safety risk associated with the particular drug or category of drug, as recommended by the Pharmacy & Therapeutics Committee (P&T) and adopted by the Authority in this rule. The drugs and categories of drugs for which the Authority requires PA for this purpose are found in the Pharmacy PA Criteria Guide.

(5) New drugs shall be evaluated when added to the weekly upload of the First Databank drug file:

(a) If the new drug is in a class where current PA criteria apply, all associated PA criteria shall be required at the time of the drug file load;

(b) If the new drug is indicated for a condition below the funding line on the Prioritized List of Health Services, PA shall be required to ensure that the drug is prescribed for a condition funded by OHP;

(c) PA criteria for all new drugs shall be reviewed by the DUR/P&T Committee.

(6) PA shall be obtained for brand name drugs that have two or more generically equivalent products available and that are not determined Narrow Therapeutic Index drugs by the DUR/P&T Committee:

(a) Immunosuppressant drugs used in connection with an organ transplant shall be evaluated for narrow therapeutic index within 180 days after United States patent expiration;

(b) Manufacturers of immunosuppressant drugs used in connection with an organ transplant shall notify the Authority of patent expiration within 30 days of patent expiration for section (5)(a) to apply;

(c) Criteria for approval are:

(A) If criteria established in section (3) or (4) of this rule applies, follow that criteria;

(B) If section (6)(A) does not apply, the prescribing practitioner shall document that the use of the generically equivalent drug is medically contraindicated and provide evidence that either the drug has been used and has failed or that its use is contraindicated based on evidence-based peer reviewed literature that is appropriate to the client's medical condition.

(7) PA shall be obtained for non-preferred Preferred Drug List (PDL) products in a class evaluated for the PDL except in the following cases:

(a) The drug is a mental health drug as defined in OAR 410-121-0000;

(b) The original prescription is written prior to 1/1/10;

(c) The prescription is a refill for the treatment of seizures, cancer, HIV, or AIDS; or

(d) The prescription is a refill of an immunosuppressant.

(8) PA may not be required:

(a) When the prescription ingredient cost plus the dispensing fee is less than the PA processing fees as determined by the Authority;

(b) For over-the-counter (OTC) covered drugs when prescribed for conditions covered under OHP; or

(c) If a drug is in a class not evaluated from the Practitioner-Managed Prescription Drug Plan under ORS 414.334.

Stat. Auth.: ORS 413.032, 413.042, 414.065, 414.330 - 414.414, 414.312, 414.316
Stats. Implemented: ORS 414.065, 414.334, 414.361, 414.371, 414.353, 414.354
Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; AFS 2-1990, f. & cert. ef. 1-16-90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 461-016-0170; HR 10-1991, f. & cert. ef. 2-19-91; HR 14-1993, f. & cert. ef. 7-2-93; HR 25-1994, f. & cert. ef. 7-1-94; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 18-1996(Temp), f. & cert. ef. 10-1-96; HR 8-1997, f. 3-13-97, cert. ef. 3-15-97; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 44-2002, f. & cert. ef. 10-1-02; OMAP 66-2002, f. 10-31-02, cert. ef. 11-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03; OMAP 43-2003(Temp), f. 6-10-03, cert. ef. 7-1-03 thru 12-15-03; OMAP 49-2003, f. 7-31-03 cert. ef. 8-1-03; OMAP 84-2003, f. 11-25-03 cert. ef. 12-1-03; OMAP 87-2003(Temp), f. & cert. ef. 12-15-03 thru 5-15-04; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 71-2004, f. 9-15-04, cert. ef. 10-1-04; OMAP 74-2004, f. 9-23-04, cert. ef. 10-1-04; OMAP 89-2004, f. 11-24-04 cert. ef. 12-1-04; OMAP 4-2006(Temp), f. & cert. ef. 3-15-06 thru 9-7-06; OMAP 32-2006, f. 8-31-06, cert. ef. 9-1-06; OMAP 41-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 26-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 9-2008, f. 3-31-08, cert. ef. 4-1-08; DMAP 16-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 14-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10; DMAP 40-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 27-2011(Temp), f. & cert. ef. 9-30-11 thru 3-15-12; DMAP 44-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 12-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 18-2012, f. 3-30-12, cert. ef. 4-9-12; DMAP 23-2012(Temp), f. & cert. ef. 4-20-12 thru 10-15-12; DMAP 27-2012(Temp), f. & cert. ef. 5-14-12 thru 10-15-12; DMAP 29-2012, f. & cert. ef. 6-21-12; DMAP 33-2012(Temp), f. 7-18-12, cert. ef. 7-23-12 thru 1-18-13; DMAP 40-2012(Temp), f. & cert. ef. 8-20-12 thru 1-18-13; DMAP 44-2012(Temp), f. & cert. ef. 9-26-12 thru 1-18-13; DMAP 61-2012, f. 12-27-12, cert. ef. 1-1-13; DMAP 6-2013(Temp), f. & cert. ef. 2-21-13 thru 8-19-13; DMAP 23-2013(Temp), f. 4-30-13, cert. ef. 5-1-13 thru 8-19-13; Administrative correction, 7-18-13; DMAP 43-2013, f. & cert. ef. 8-16-13; DMAP 76-2013(Temp), f. 12-31-13, cert. ef. 1-1-14 thru 6-30-14; DMAP 14-2014(Temp), f. & cert. ef. 3-21-14 thru 9-17-14; DMAP 27-2014(Temp), f. & cert. ef. 5-2-14 thru 6-30-14; DMAP 38-2014, f. & cert. ef. 6-30-14; DMAP 46-2014(Temp), f. & cert. ef. 7-15-14 thru 1-11-15; DMAP 49-2014(Temp), f. & cert. ef. 8-13-14 thru 1-11-15; DMAP 62-2014(Temp), f. 10-13-14, cert. ef. 10-14-14 thru 1-11-15; DMAP 75-2014, f. & cert. ef. 12-12-14; DMAP 76-2014(Temp), f. & cert. ef. 12-12-14 thru 6-7-15; DMAP 89-2014(Temp), f. 12-31-14, cert. ef. 1-1-15 thru 6-26-15; DMAP 4-2015(Temp), f. & cert. ef. 2-3-15 thru 6-26-15; DMAP 25-2015(Temp), f. 4-17-15, cert. ef. 4-18-15 thru 6-26-15; DMAP 34-2015, f. 6-25-15, cert. ef 6-26-15; DMAP 36-2015(Temp), f. 6-26-15, cert. ef. 7-1-15 thru 12-27-15; DMAP 41-2015(Temp), f. & cert. ef. 8-7-15 thru 2-2-16; DMAP 44-2015(Temp), f. 8-21-15, cert. ef. 8-25-15 thru 12-27-15; DMAP 58-2015(Temp), f. & cert. ef. 10-9-15 thru 12-27-15

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Oregon Health Authority, Health Licensing Office
Chapter 331

Rule Caption: House Bill 2796 created the Music Therapy Program for licensing; rules establish criteria and fees.
Adm. Order No.: HLO 4-2015
Filed with Sec. of State: 10-6-2015
Certified to be Effective: 12-1-15
Notice Publication Date: 9-1-2015
Rules Adopted: 331-300-0010, 331-300-0020, 331-310-0020, 331-310-0025, 331-310-0030, 331-320-0010, 331-320-0020, 331-330-0010, 331-340-0010
Subject: House Bill 2796 created the Music Therapy Program for licensing; rules establish criteria and fees.
Rules Coordinator: Samantha Patnode—(503) 373-1917

331-300-0010
Definitions

The following definitions apply to OAR 331-300-0010 to 331-350-0000:

(1) "CBMT" means the Certification Board for Music Therapists.

(2) "Good standing" means no unresolved or outstanding disciplinary actions.

(3) "Office" means the Health Licensing Office.

(4) "NMTR" means the National Music Therapy Registry.

Stat. Auth.: 2015 HB 2796
Stats. Implemented: 2015 HB 2796
Hist.: HLO 4-2015, f. 10-6-15, cert. ef. 12-1-15

331-300-0020
Fees

(1) An applicant or certificate holder is subject to the provisions of OAR 331-010-0010 and 331-010-0020 regarding the payment of fees, penalties and charges.

(2) Fees established by the Health Licensing Office pursuant to ORS 676.592 are as follows:

(a) Application: $150.

(b) License: $50 – valid for one year.

(c) Renewal: $50 – valid for one year.

(d) Replacement: $25.

(e) Late fee: $40 for each year of inactive status up to three years.

(f) Affidavit of licensure, as defined in OAR 331-030-0040: $50.

(g) Administrative fee: $25.

Stat. Auth.: 2015 HB 2796
Stats. Implemented: 2015 HB 2796
Hist.: HLO 4-2015, f. 10-6-15, cert. ef. 12-1-15

331-310-0020
Application Requirements for Initial Licensure for Music Therapist

(1) An individual applying for initial licensure as a music therapist must:

(a) Meet the requirements of OAR 331 division 30.

(b) Submit a completed application form prescribed by the Office, which must contain the information listed in OAR 331-030-0000 and be accompanied by payment of the required application fees.

(c) Be at least 18 years old.

(d) Arrange for official documentation to be mailed to the Office from the certifying organization proving that the applicant:

(A) Successfully passed the CBMT examination in the two years before the application date, or

(B) Possesses current CBMT certification, or

(C) Possesses the professional designation of "registered music therapist," "certified music therapist" or "advanced certified music therapist" from the NMTR.

(e) Pay all licensing fees.

(2) If an applicant is licensed or certified in another state, they must:

(a) Be in good standing in every state in which they are licensed or certified, and

(b) Ensure that the Office receives an affidavit of licensure pursuant to OAR 331-030-0040.

Stat. Auth.: 2015 HB 2796
Stats. Implemented: 2015 HB 2796
Hist.: HLO 4-2015, f. 10-6-15, cert. ef. 12-1-15

331-310-0025
Application Requirements for Reciprocity for Music Therapist

An individual applying for reciprocity for music therapist licensing must:

(1) Meet the requirements of OAR 331 Division 30.

(2) Submit a completed application form prescribed by the Office, which must contain the information listed in OAR 331-030-0000 and be accompanied by payment of the required application fees.

(3) Be at least 18 years old.

(4) Submit an affidavit of licensure pursuant to OAR 331-030-0040, proving that the applicant is in good standing in every state in which they are licensed or certified.

(5) Have a registration issued by another state or territory of the United States, and the requirements must be substantially equivalent to those in Oregon Laws 2015, Chapter 632.

(6) Pay all license fees.

Stat. Auth.: 2015 HB 2796
Stats. Implemented: 2015 HB 2796
Hist.: HLO 4-2015, f. 10-6-15, cert. ef. 12-1-15

331-310-0030
Licensure Issuance and Renewal

(1) Licensure and renewal: A license is subject to the provisions of OAR Chapter 331, division 30 regarding the issuance and renewal of a license, provisions regarding authorization to practice, identification, and requirements for issuance of a duplicate license.

(2) License renewal: To avoid delinquency penalties, a license must be renewed before the license becomes inactive as described in section (3) of this rule. The licensee must:

(a) Submit a renewal application form;

(b) Attest to having obtained the continuing education pursuant to 331-320-0010.

(c) Pass a state criminal background check pursuant to OAR 331-030-0004, and

(d) Pay the renewal fee pursuant to OAR 331-300-0020.

(3) Inactive license renewal: A license becomes inactive if it is not renewed before its "active through" date. A license may be inactive for up to three years, but an inactive license does not authorize its holder to practice music therapy or use the title or designation of "Music Therapist." To renew an inactive license, the licensee must:

(a) Submit a renewal application form;

(b) Attest to having obtained the continuing education pursuant to OAR 331-320-0010;

(c) Pass a state criminal background check pursuant to OAR 331-030-0004; and

(d) Pay the delinquency and renewal fees pursuant to OAR 331-300-0020.

(4) Expired license: A license that has been inactive for more than three years is expired, and the licensee must reapply for licensure and meet the requirements listed in OAR 331-310-0020 or OAR 331-310-0025.

Stat. Auth.: 2015 HB 2796
Stats. Implemented: 2015 HB 2796
Hist.: HLO 4-2015, f. 10-6-15, cert. ef. 12-1-15

331-320-0010
Continuing Education Requirements

(1) To maintain licensure, a music therapist must complete a minimum of 10 CE credits every year.

(2) CE credits obtained in excess of those required for the current one-year reporting period may be carried forward for up to four years. However, no more than 40 annual excess CE credits may be carried forward.

(3) Excess CE credits may not be used to reinstate an expired license.

(4) Each licensee shall document compliance with the CE credit requirement through attestation on the license renewal application. Licensees are subject to provisions of OAR 331-320-0020 pertaining to periodic audit of CE.

(5) Upon CE credit audit, the licensee must provide documentation supporting all credits claimed and all excess credits carried forward.

(6) CE credits must address a subject matter related to music therapy practice.

(7) CE credits will be awarded based on the following criteria:

(a) Completion and passing of academic courses taken from an accredited college or university are awarded 15 CE credits for each semester-based credit earned, 14 CE credits for each trimester-based credit earned or 10 CE credits for each quarter-based credit earned;

(b) Completion of professional courses that meet academic course requirements in content, instruction and evaluation will be assigned 15 CE credits for each semester-based credit earned, 14 CE credits for each trimester-based credit earned or 10 CE credits for each quarter-based credit earned;

(c) Courses that do not meet standards as set forth in paragraphs (a) and (b) of this subsection, such as workshops, symposiums, seminars, laboratory exercises, or any applied experience with or without formal classroom work may be assigned credit at the rate of 1.0 CE credit for each 50 minutes of attendance.

(8) Documentation supporting compliance with CE requirements must be maintained for a period of two years following renewal and be available to the Office upon request.

Stat. Auth.: 2015 HB 2796
Stats. Implemented: 2015 HB 2796
Hist.: HLO 4-2015, f. 10-6-15, cert. ef. 12-1-15

331-320-0020
Continuing Education Audit

(1) The Office will audit a percentage of licensees, as determined by the Office, to verify compliance with continuing education requirements of this rule.

(2) Licensees notified of selection for audit of continuing education attestation shall submit to the Office, within 30 calendar days of the date of issuance of the notification, satisfactory evidence of participation in required continuing education in accordance with OAR 331-150-0005.

(3) If selected for audit, the registrant must provide documentation of the required continuing education, which must include:

(a) For courses provided by an accredited college or university — a course syllabus and an official transcript from the accredited college or university;

(b) For CBMT or NMTR approved programs or courses — a certificate of completion that includes the CBMT or NMTR approval number; or

(c) For Office pre-approved programs or courses — a certificate of completion or other Office-approved documentation that includes the Office pre-approval number.

(4) If documentation of continuing education is incomplete, the registrant has an additional 30 calendar days from the date of notice of incompleteness to submit further documentation to substantiate having completed the required continuing education.

(5) Failure to meet continuing education requirements shall constitute grounds for disciplinary action, which may include, but is not limited to, assessment of a civil penalty and suspension or revocation of registration.

Stat. Auth.: 2015 HB 2796
Stats. Implemented: 2015 HB 2796
Hist.: HLO 4-2015, f. 10-6-15, cert. ef. 12-1-15

331-330-0010
Standards of Practice and Professional Responsibility

(1) A licensed music therapist must:

(a) Protect the confidentiality of information obtained in the course of practice, supervision, teaching or research.

(b) Comply with all local, state and federal regulations concerning the practice of music therapy.

(c) Abide by the American Music Therapy Association (AMTA) Code of Ethics (Revised 11/14) and the AMTA Standards of Clinical Practice (revised 11/23/13).

(2) A licensed music therapist must not:

(a) Discriminate in professional relationships with colleagues and clients because of race, ethnicity, language, religion, marital status, gender, gender identity of expression, sexual orientation, age, ability, socioeconomic status or political affiliation.

(b) Use deceptive or misleading advertising or make guarantees that lead to false expectations.

(c) Accept gratuities, gifts or favors that could interfere with decisions or judgment.

(d) Take financial advantage of a client or a client's family.

(3) Failure to comply with these standards may constitute unprofessional conduct, and that is subject to discipline under ORS 676.612.

Stat. Auth.: 2015 HB 2796
Stats. Implemented: 2015 HB 2796
Hist.: HLO 4-2015, f. 10-6-15, cert. ef. 12-1-15

331-340-0010
Investigative Authority

The Office may initiate and conduct investigations relating to the practice of music therapy pursuant to ORS 676.608, and may take appropriate disciplinary action in accordance with the provisions of 676.612 and 676.992.

Stat. Auth.: 2015 HB 2796
Stats. Implemented: 2015 HB 2796
Hist.: HLO 4-2015, f. 10-6-15, cert. ef. 12-1-15

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Oregon Health Authority, Health Policy and Analytics
Chapter 409

Rule Caption: Specifies percentage of low-income patients a facility must serve to qualify for J-1 Visa physician.
Adm. Order No.: OHP 6-2015(Temp)
Filed with Sec. of State: 9-22-2015
Certified to be Effective: 9-22-15 thru 3-1-16
Notice Publication Date:
Rules Amended: 409-035-0020
Subject: The rule is being amended to state that OAR 409-035-0020 is being temporarily amended to add specifications regarding the percentage of low income or Medicare patients a facility must serve in order to qualify for a J-1 Visa physician. The rule clarifies that at least 40 percent of patients must be Medicaid, Medicare or other low income patients.

The temporary rules are available at http://www.oregon.gov/OHA/OHPR/pages/rulemaking/index.aspx.
Rules Coordinator: Zarie Haverkate—(503) 931-6420

409-035-0020
Health Care Facility Participation Requirements

(1) Federally Qualified Health Centers with a:

(a) HPSA score at or above the requirements of 22 CFR 41.63 shall apply for a J-1 Waiver either through the Authority or through the United State Department of Health and Human Services (see: http://www.globalhealth.gov/global-programs-and-initiatives/exchange-visitor-program);

(b) HPSA score below the requirements of 22 CFR 41.63 shall apply for a J-1 Waiver through the Authority.

(2) If a health care facility is located in a Medically Underserved Area (MUA) or Medically Underserved Population (MUP) that is not a Health Professional Shortage Area (HPSA), or if the request is for a flex option, then the facility must obtain prior approval from the Authority and provide documentation substantiating the area's need for a physician.

(3) In order to qualify for the Oregon Physician Visa Waiver Program the health care facility must:

(a) Identify the nature of the business entity seeking to employ the physician, including but not limited to domestic or foreign professional corporation, domestic or foreign private corporation, LLC, or partnership, and provide a certificate of existence or proof of authorization to do business in Oregon;

(b) Have provided care for a minimum of six months in Oregon, or supply evidence of stability such as HRSA funding, prior to submitting an application;

(c) Currently serve Medicare, Medicaid, and low income uninsured patients that are members of the population of the local HRSA designation. At least 40 percent of patients must be Medicaid, Medicare or other low income patients. Medicaid patients must represent a share of the overall facility's patient population equal to or greater than the statewide percentage of the population eligible for Medicaid.

(d) Post a sliding fee schedule in the primary languages of the population being served;

(e) Document attempts to actively recruit an American doctor for at least six months prior to submission of the application;

(f) Execute an employment contract with the physician that includes the following provisions:

(A) Duration of at least three years;

(B) Wages and working conditions comparable to those for a graduate from an American medical school;

(C) A signed U.S. Department of Labor Prevailing Wage Form (ETA-9035);

(D) May not include a non-compete clause or restrictive covenant that prevents or discourages the physician from continuing to practice in any designated area after the term of the contract expires;

(E) Specifies the geographic shortage area within Oregon in which the physician will practice or, if requesting a flex option, the shortage area or areas where prospective patients live;

(F) The physician shall treat all patients regardless of their ability to pay;

(G) The physician shall provide patient care on a full-time basis, a minimum of 40 hours per week;

(4) The health care facility shall submit to the Authority a fee of $2,000 and two original copies of the application packet for each waiver requested.

Stat. Auth.: ORS 413.248
Stats. Implemented: ORS 413.248
Hist.: PH 14-2003(Temp), f. 9-25-03 cert. ef. 10-1-03 thru 3-29-04; PH 11-2004, f. 3-25-04, cert. ef. 3-29-04; Renumbered from 333-005-0020 by OHP 7-2010, f. 12-29-10, cert. ef. 1-1-11; OHP 3-2013, f. 1-24-13, cert. ef. 2-1-13; OHP 1-2015, f. 1-15-15, cert. ef. 2-1-15; OHP 6-2015(Temp), f. & cert. ef. 9-22-15 thru 3-1-16

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Rule Caption: Amends and clarifies capital project reporting requirements for Oregon hospitals.
Adm. Order No.: OHP 7-2015
Filed with Sec. of State: 9-24-2015
Certified to be Effective: 9-24-15
Notice Publication Date: 9-1-2015
Rules Amended: 409-024-0000, 409-024-0110, 409-024-0120, 409-024-0130
Subject: The Oregon Health Authority is amending the rule to clarify the definition "Reporting Entity" includes any Type A, Type B, and DRG hospital that is certified as a critical access hospital by the Centers for Medicare and Medicaid Services. "Oregon Health Pol-

icy and Research" is being changed to "Oregon Health Authority" to align with the current organizational structure.
Rules Coordinator: Zarie Haverkate—(503) 931-6420

409-024-0000
Definitions

The following definitions apply to OAR 409-024-0000 to 409-024-0130:

(1) "Authority" means the Oregon Health Authority.

(2) "Capital project" has the meaning described in ORS 442.361.

(3) "Community benefits" mean programs or activities that provide treatment or promote health and healing as a response to identified community needs and are not provided primarily for marketing purposes or to increase market share.

(4) "Reporting entity" includes the following if licensed pursuant to ORS 441.015:

(a) A type A hospital as described in ORS 442.470.

(b) A type B hospital as described in ORS 442.470.

(c) A diagnostic-related group (DRG) hospital as described in ORS 442.361.

(d) An ambulatory surgical center as defined in ORS 442.015.

(e) Any Type A, Type B, or DRG hospital as defined in (4)(a) through (c) above that is certified as a Critical Access Hospital by the Centers for Medicare and Medicaid Services.

Stat. Auth.: ORS 442.362
Stats. Implemented: ORS 442. 361 & 442.362
Hist.: OHP 3-2010, f. 6-24-10, cert. ef. 7-1-10; OHP 7-2015, f. & cert. ef. 9-24-15

409-024-0110
Capital Project Report

(1) Each reporting entity must submit to the Authority a report of pending or proposed capital projects using a Capital Project Reporting Form CPR-1 as defined by the Authority. The report must be completed in accordance with instructions in the capital project reporting guidelines published on the Authority's website.

(2) The Capital Project Reporting Form CPR-1 shall include but is not limited to:

(a) A summary of the information posted by the reporting entity under ORS 442.362.

(b) The procedure that the reporting entity used to collect public comment.

(c) A summary of expected community benefits for the project.

(d) The estimated cost of the project.

(3) Capital project reports must be submitted to the Authority no later than 30 days after financing for a project that has been approved for ambulatory surgical centers or within 30 days after the project has been approved by the hospital's board of directors or other governing body for hospitals. The report shall be considered submitted on the date the report is postmarked or electronically delivered to the Authority, whichever is first.

(4) The Authority shall maintain on its website a publicly available resource to enable interested parties to view capital project reports filed with the Authority.

Stat. Auth.: ORS 442.362
Stats. Implemented: ORS 442.361 & 442.362
Hist.: OHP 3-2010, f. 6-24-10, cert. ef. 7-1-10; OHP 7-2015, f. & cert. ef. 9-24-15

409-024-0120
Public Comments

(1) Each reporting entity must make available a means for interested persons to submit public comments on the capital project either on their website or by posting public notice in a major newspaper for a period of no less than seven days. Comments must be collected for a period of no less than 30 days and made available for public review.

(2) The hospital or ambulatory care center shall then notify the Authority after the 30 day public comment if the hospital or ambulatory care center chooses to complete the project as is or if the project has changed and an expected completion date. The Authority shall post this update on its website for 30 days.

Stat. Auth.: ORS 442.362
Stats. Implemented: ORS 442.361 & 442.362
Hist.: OHP 3-2010, f. 6-24-10, cert. ef. 7-1-10; OHP 7-2015, f. & cert. ef. 9-24-15

409-024-0130
Civil Penalties

(1) If the Authority learns that any reporting entity has failed to file a capital project report, the Authority shall contact the reporting entity by certified mail requesting the unfiled report. If the reporting entity fails to reply within 30 calendar days or continues to be non-compliant with the reporting requirements, the Authority shall assess a civil penalty pursuant to the following schedule:

(a) $250 per day for the first five days of failure to file in accordance with ORS 442.991; and

(b) $500 per day from the sixth day until filing in accordance with ORS 442.991 is completed.

(2) Any amount of civil penalty assessed by the Authority may not be allowed as a reimbursable cost item and may not be recoverable from any category of payment source or patient.

Stat. Auth.: ORS 442.362
Stats. Implemented: ORS 442.361, 442.362 & 442.991
Hist.: OHP 3-2010, f. 6-24-10, cert. ef. 7-1-10; OHP 7-2015, f. & cert. ef. 9-24-15

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Oregon Health Authority, Oregon Educators Benefit Board
Chapter 111

Rule Caption: Adopting language for a new medical plan offering
Adm. Order No.: OEBB 6-2015
Filed with Sec. of State: 10-7-2015
Certified to be Effective: 10-7-15
Notice Publication Date: 7-1-2015
Rules Adopted: 111-030-0011
Rules Repealed: 111-030-0011(T)
Subject: In order to assist OEBB participating entities with meeting the Shared Responsibility provision of the Affordable Care Act (ACA), the OEBB Board has approved the offering of a bronze level medical plan to certain individuals that meet strict requirements. The rule language defines who is eligible and what the limitations are.
Rules Coordinator: April Kelly—(503) 378-6588

111-030-0011
Bronze Medical Plan Offering

(1) Effective October 1, 2015, a bronze medical plan option or options will be available for entities to offer employees who:

(a) Meet the definition of a full-time employee under the Affordable Care Act (ACA);

(b) Are not employed in a benefit-eligible position or eligible for benefits under a collective bargaining agreement; and

(c) Do not receive any form of benefit contribution from the entity.

(2) The bronze medical plan option(s) will be limited to;

(a) Employee only and employee plus child(ren) coverage using the tiered rate structure; and

(b) Active employees as described in section (1) and COBRA participants eligible due to loss of coverage as an active employee, or dependent of an active employee, as described in section (1).

(3) The bronze medical plan availability, enrollments and application of criteria set forth in sections (1) and (2) are subject to ongoing monitoring and review by OEBB to confirm compliance.

(4) Employees eligible for coverage on the bronze medical plan option(s) may not be offered or enroll in any of the following OEBB benefits as an eligible subscriber: dental, vision, life, AD&D, disability, long term care or any other medical plan offered through OEBB.

(5) Employees eligible for coverage on the bronze medical plan option(s) may be included in an entity's Employee Assistance Program (EAP) if available, and at the entity's discretion.

(6) Use of the bronze medical plan option or options for any other purpose or by any unauthorized employee or employee group is prohibited and misuse of the options will result in loss of access to the bronze medical plan option(s).

Stat. Auth.: ORS 243.860 – 243.886
Stats. Implemented: ORS 243.864(1)(a)
Hist.: OEBB 2-2015(Temp), f. & cert. ef. 4-28-15 thru 10-24-15; OEBB 5-2015(Temp), f. & cert. ef. 7-10-15 thru 10-24-15; OEBB 6-2015, f. & cert. ef. 10-7-15

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Oregon Health Authority, Public Health Division
Chapter 333

Rule Caption: Limited Marijuana Retail Sales and Residency
Adm. Order No.: PH 16-2015(Temp)
Filed with Sec. of State: 9-22-2015
Certified to be Effective: 9-22-15 thru 3-19-16
Notice Publication Date:
Rules Adopted: 333-008-1500, 333-008-1501

Rules Amended: 333-008-0010, 333-008-0025, 333-008-1010, 333-008-1060, 333-008-1070, 333-008-1120
Rules Suspended: 333-008-1400
Subject: The Oregon Health Authority, Public Health Division is temporarily amending Oregon Administrative Rules in chapter 333, division 8 pertaining to limited marijuana retail sales. SB 460 (Oregon Laws 2015, chapter 784), passed during the 2015 legislative session, allows medical marijuana dispensaries to sell dried cannabis, seeds and plant starts to adults 21 years of age and older starting October 1. Under SB 460 the temporary sales program will end on December 31, 2016.

SB 460 directs the Oregon Health Authority to establish administrative rules allowing for limited amounts of marijuana products to be sold to persons 21 years of age or older without an Oregon Medical Marijuana card. Beginning January 4, 2016, dispensaries must collect a tax of 25% on limited marijuana retail products sold.

In addition, HB 3400, section 173, imposes immediate residency requirements on some Oregon Medical Marijuana Program growers and persons responsible for a dispensary and these rule amendments set out the residency requirements and the process for establishing residency.
Rules Coordinator: Brittany Sande—(971) 673-1291

333-008-0010
Definitions

For the purposes of OAR 333-008-0000 through 333-008-0120, the following definitions apply:

(1) "Act" means the Oregon Medical Marijuana Act.

(2) "Applicant" means a person applying for an Oregon Medical Marijuana registry identification card on a form prescribed by the Authority.

(3) "Attending physician" means a Doctor of Medicine (MD) or Doctor of Osteopathy (DO), licensed under ORS chapter 677, who has primary responsibility for the care and treatment of a person diagnosed with a debilitating medical condition.

(4) "Authority" means the Oregon Health Authority.

(5) "Debilitating medical condition" means:

(a) Cancer, glaucoma, agitation incident to Alzheimer's disease, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, or a side effect related to the treatment of these medical conditions;

(b) A medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:

(A) Cachexia;

(B) Severe pain;

(C) Severe nausea;

(D) Seizures, including but not limited to seizures caused by epilepsy; or

(E) Persistent muscle spasms, including but not limited to spasms caused by multiple sclerosis;

(c) Post-traumatic stress disorder; or

(d) Any other medical condition or side effect related to the treatment of a medical condition adopted by the Authority by rule or approved by the Authority pursuant to a petition submitted under OAR 333-008-0090.

(6) "Delivery" means the actual, constructive or attempted transfer, other than by administering or dispensing, from one person to another of a controlled substance, whether or not there is an agency relationship, but does not include transfer of marijuana from one patient to another patient if no consideration is paid for the transfer.

(7) "Designated primary caregiver" means an individual 18 years of age or older who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition and who is designated as such on that person's application for a registry identification card or in other written notification to the Authority. "Designated primary caregiver" does not include the person's attending physician.

(8) "Food stamps" means the Supplemental Nutrition Assistance Program as defined and governed by ORS 411.806 through 411.845.

(9) "Grow site" means a specific location registered by the Authority used by the grower to produce marijuana for medical use by a specific patient.

(10) "Grow site registration card" means the card issued to the patient and displayed at the grow site.

(11) "Grower" has the same meaning as "person responsible for a marijuana grow site."

(12) "Immature plant" means a marijuana plant that is not flowering

(13) "Marijuana" means all parts of the plant Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(14) "Mature plant" means a marijuana plant that does not fall within the definition of a seedling or a start.

(15) "Medical marijuana facility" is a facility, registered by the Authority, under OAR 333-008-1050.

(16) "Medical use of marijuana" means the production, possession, delivery, or administration of marijuana, or paraphernalia used to administer marijuana, as necessary for the exclusive benefit of a person to mitigate the symptoms or effects of his or her debilitating medical condition.

(17) "Oregon Health Plan (OHP)" means the medical assistance program administered by the Authority under ORS chapter 414.

(18) "OMMP" refers to the office within the Authority that administers the provisions of the OMMA, and all policies and procedures pertaining thereto, as set forth in these rules.

(19) "Parent or legal guardian" means the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age.

(20) "Patient" has the same meaning as "registry identification cardholder."

(21) "Person responsible for a marijuana grow site" means a person who has been selected by a patient to produce medical marijuana for the patient, and who has been registered by the Authority for this purpose.

(22) "Person responsible for a medical marijuana facility" has the meaning given that term in OAR 333-008-1010.

(23) "Primary responsibility" as that term is used in relation to an attending physician means that the physician:

(a) Provides primary health care to the patient; or

(b) Provides medical specialty care and treatment to the patient as recognized by the American Board of Medical Specialties; or

(c) Is a consultant who has been asked to examine and treat the patient by the patient's primary care physician licensed under ORS chapter 677, the patient's physician assistant licensed under ORS chapter 677, or the patient's nurse practitioner licensed under ORS chapter 678; and,

(d) Has reviewed a patient's medical records at the patient's request and has conducted a thorough physical examination of the patient, has provided or planned follow-up care, and has documented these activities in the patient's medical record.

(24) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

(25) "Registry identification card" means a document issued by the Authority that identifies a person authorized to engage in the medical use of marijuana, and the person's designated primary caregiver, if any.

(26) "Registry identification cardholder" means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Authority.

(27) "Replacement registry identification card" means a new card issued in the event that a registry identification cardholder's card, designated primary caregiver identification card, grower identification card, or grow site registration card is lost or stolen, or if a registry identification cardholder's designation of primary caregiver, grower, or grow site has changed.

(28) "Seedling or start" has the same meaning as "immature plant".

(29) "Supplemental Security Income (SSI)" means the monthly benefit assistance program administered by the federal government for persons who are age 65 or older, or blind, or disabled and who have limited income and financial resources.

(30) "Usable marijuana" means the dried leaves and flowers of the plant Cannabis family Moraceae and any mixture or preparation thereof, that are appropriate for medical use. "Usable marijuana" does not include the seeds, stalks and roots of the plant.

(31) "Written documentation" means a statement signed and dated by the attending physician of a person diagnosed with a debilitating medical

condition or copies of the person's relevant medical records, maintained in accordance with standard medical record practices.

Stat. Auth.: ORS 475.338
Stats. Implemented: ORS 475.300 - 475.346
Hist.: OHD 15-1998(Temp), f. & cert. ef. 12-24-98 thru 6-22-99; OHD 3-1999, f. & cert. ef. 4-29-99; OHD 13-2000(Temp), f. & cert. ef. 12-21-00 thru 6-15-01; OHD 18-2001, f. & cert. ef. 8-9-01; OHD 19-2001(Temp), f. & cert. ef. 8-10-01 thru 1-31-02; Administrative correction 3-14-02; OHD 6-2002, f. & cert. ef. 3-25-02; PH 9-2003, f. 6-26-03, cert. ef. 7-1-03; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 21-2010, f. & cert. ef. 9-13-10; PH 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; PH 8-2011, f. 9-30-11, cert. ef. 10-1-11; PH 1-2014, f. & cert. ef. 1-13-14; PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 16-2015(Temp), f. & cert. ef. 9-22-15 thru 3-19-16

333-008-0025
Marijuana Grow Site Registration

(1) A patient may register a marijuana grow site with the Authority. The address of a medical marijuana facility may not be listed by a patient on the application as the location of the marijuana grow site. The Authority will register only one grow site per patient, and will only register grow sites in Oregon.

(2) To register a marijuana grow site, an applicant or patient must submit to the Authority an application, prescribed by the Authority, that includes:

(a) The name of the grower;

(b) The date of birth of the grower;

(c) The physical address of the marijuana grow site where marijuana is to be produced;

(d) The mailing address of the grower;

(e) The registry identification card number of the patient, if known, for whom the marijuana is being produced; and

(f) A non-refundable grow site registration fee of $50 in the form of cash, bank check, money order, or personal check. If the grower is the applicant, he or she is not required to pay the grow site registration fee. The Authority shall place a 10-day hold on the issuance of a registry identification card for an application accompanied by a personal check. Upon receipt by the Authority of a notice of non-sufficient funds (NSF) or stop payment, an applicant will be allowed 14 days to submit payment in the form of a bank check or cash. Application fees paid in the form of cash must be hand-delivered. Applicants are advised not to make payments in cash through the United States mail or private delivery services. The Authority will not accept responsibility for payments of cash that are lost in the mail or stolen in transit.

(3) For a new patient application submitted on or after July 1, 2015, in addition to the application a patient must submit a residency form, prescribed by the Authority and completed by the grower, along with a copy of the grower's Oregon driver's license or Oregon identification card.

(a) If a grower was first registered with the Authority as a grower on or before January 1, 2015, and has been continuously registered as a grower, the grower must have been a resident of Oregon for at least one year immediately prior to the application being submitted to the Authority.

(b) If a grower was not first registered with the Authority as a grower on or before January 1, 2015, the grower must have been a resident of Oregon for at least two years immediately prior to the application being submitted to the Authority.

(c) If a grower was first registered with the Authority as a grower on or before January 1, 2015, but has not been continuously registered as a grower since first registered, the grower must have been a resident of Oregon for at least two years immediately prior to the application being submitted to the Authority.

(d) If a grower does not have an Oregon driver's license or Oregon identification card, or the grower's Oregon driver's license or Oregon identification card was not issued one or two years prior to the date of application, as applicable, the Authority will attempt to verify whether the grower has been a resident for the required length of time and may contact the grower and require the grower to submit additional information to the Authority to prove residency.

(4) The Authority shall conduct a criminal background check on the grower as authorized under ORS 475.304.

(a) A person convicted of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, if the offense occurred on or after January 1, 2006, may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder for five years from the date of conviction.

(b) A person convicted more than once of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, if the offenses occurred after January 1, 2006, may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder.

(c) The Authority shall notify a patient by certified mail that the grower is ineligible and the patient will be allowed the opportunity to identify another grower.

(5) The Authority shall issue a marijuana grow site registration card to a patient who has met the requirements of section (2) of this rule, unless the grower is disqualified under section (4) of this rule.

(6) A grower must display a marijuana grow site registration card for each patient for whom marijuana is being produced, at the marijuana grow site at all times.

(7) All usable marijuana, plants, seedlings and seeds, associated with the production of marijuana for a patient by a grower, are the property of the patient and must be provided to the patient, or, if the marijuana is usable marijuana or an immature marijuana plant, transferred to a registered medical marijuana facility, upon request.

(8) All marijuana produced for a patient must be provided to the patient or designated primary caregiver when the grower ceases producing marijuana for the patient.

(9) A grower must return the grow site registration card to the patient to whom the card was issued when requested to do so by the patient or when the grower ceases producing marijuana for the patient.

(10) A patient or the designated primary caregiver of the patient may reimburse the grower for the costs of supplies and utilities associated with production of marijuana for patient. No other costs associated with the production of marijuana for the patient, including the cost of labor, may be reimbursed.

(11) A grower may produce marijuana for no more than four patients or designated primary caregivers concurrently.

(12) The Authority may not register a grow site if the location of the grow site is the same location as a medical marijuana facility.

Stat. Auth.: ORS 475.338, sec. 173, ch. 614, OL 2015
Stats. Implemented: ORS 475.300 - 475.346, sec. 173, ch. 614, OL 2015
Hist.: PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 8-2011, f. 9-30-11, cert. ef. 10-1-11; PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 16-2015(Temp), f. & cert. ef. 9-22-15 thru 3-19-16

333-008-1010
Definitions

For the purposes of OAR 333-008-1000 through 333-008-1501 the following definitions apply:

(1) "Agricultural land" means land that is located within an exclusive farm use zone as that term is described in ORS 215.203.

(2) "Attended primarily by minors" means that a majority of the students are minors.

(3) "Authority" means the Oregon Health Authority.

(4) "Batch" means a quantity of usable marijuana of a single strain or a number of immature plants transferred at one time to a facility by a person authorized by a patient to transfer usable marijuana to a registered facility.

(5) "Business day" means Monday through Friday excluding legal holidays.

(6) "Career school" means any private proprietary professional, technical, business or other school instruction, organization or person that offers any instruction or training for the purpose or purported purpose of instructing, training or preparing persons for any profession at a physical location attended primarily by minors.

(7) "Conviction" means an adjudication of guilt upon a verdict or finding entered in a criminal proceeding in a court of competent jurisdiction.

(8)(a) "Designated primary caregiver" means an individual 18 years of age or older who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition and who is designated as such on that person's application for a registry identification card or in other written notification to the Authority.

(b) "Designated primary caregiver" does not include the person's attending physician.

(9) "Domicile" means the place of abode of an individual where the person intends to remain and to which, if absent, the individual intends to return.

(10) "Edible" means a product made with marijuana that is intended for ingestion.

(11) "Elementary school" means a learning institution containing any combination of grades Kindergarten through 8 or age level equivalent.

(12)(a) "Employee" means any person, including aliens, employed for remuneration or under any contract of hire, written or oral, express or implied, by an employer.

(b) "Employee" does not include a person who volunteers or donates services performed for no remuneration or without expectation or contemplation of remuneration as the adequate consideration for the services performed for a religious or charitable institution or a governmental entity.

(13) "Facility" means a medical marijuana facility.

(14) "Farm use" has the meaning given that term in ORS 215.203.

(15) "Finished product" means a usable marijuana product including but not limited to edible products, ointments, concentrates and tinctures. A finished product does not mean dried marijuana flowers.

(16) "Grower" has the same meaning as "person responsible for a marijuana grow site."

(17) "Grow site" means a specific location registered by the Authority and used by the grower to produce marijuana for medical use by a specific patient.

(18) "Immature marijuana plant or immature plant" means a marijuana plant that is not flowering.

(19) "Macroscopic screening" means visual observation without the aid of magnifying lens(es).

(20) "Microscopic screening" means visual observation with a minimum magnification of 40x.

(21) "Minor" means an individual under the age of 18.

(22) "Oregon Medical Marijuana Program" or "OMMP" means the program operated and administered by the Authority that registers patients, designated primary caregivers, and growers.

(23) "Patient" has the same meaning as "registry identification cardholder."

(24) "Person" means an individual.

(25) "Person responsible for a marijuana grow site" means a person who has been selected by a patient to produce medical marijuana for the patient, and who has been registered by the Authority for this purpose and has the same meaning as "grower".

(26) "Person responsible for a medical marijuana facility" or "PRF" means an individual who owns, operates, or otherwise has legal responsibility for a facility and who meets the qualifications established in these rules and has been approved by the Authority.

(27) "Pesticide" means any substance or mixture of substances, intended to prevent, destroy, repel, or mitigate any pest.

(28) "Premises" means a location registered by the Authority under these rules and includes all areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms, including all public and private areas where individuals are permitted to be present.

(29) "Random sample" means an amount of usable marijuana taken from a batch in which different fractions of the usable marijuana have an equal probability of being represented.

(30) "Registry identification cardholder" means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Authority.

(31) "Remuneration" means compensation resulting from the employer-employee relationship, including wages, salaries, incentive pay, sick pay, compensatory pay, bonuses, commissions, stand-by pay, and tips.

(32) "Resident" means an individual who has a domicile within this state.

(33) "Restricted area" means a secure area where usable marijuana and immature plants are present.

(34) "Safe" means:

(a) A metal receptacle with a locking mechanism capable of storing all usable marijuana at a registered facility that:

(A) Is rendered immobile by being securely anchored to a permanent structure of the building; or

(B) Weighs more than 750 pounds.

(b) A vault; or

(c) A refrigerator or freezer capable of being locked for storing edibles or other finished products that require cold storage that:

(A) Is rendered immobile by being securely anchored to a permanent structure of the building; or

(B) Weighs more than 750 pounds.

(35) "Secondary school" means a learning institution containing any combination of grades 9 through 12 or age level equivalent and includes those institutions that provide junior high schools which include 9th grade.

(36) "Secure area" means a room:

(a) With doors that are kept locked and closed at all times except when the doors are in use; and

(b) Where access is only permitted as authorized in these rules.

(37) "Single strain" means a pure breed or hybrid variety of Cannabis reflecting similar or identical combinations of properties such as appearance, taste, color, smell, cannabinoid profile, and potency.

(38) "These rules" means OAR 333-008-1000 through 333-008-1501.

(39) "Usable marijuana" has the meaning given that term is ORS 475.302 and includes "finished product".

(40) "Valid testing methodology" means a scientifically valid testing methodology described in a published national or international reference and validated by the testing laboratory.

(41) "Vault" means an enclosed area that is constructed of steel-reinforced or block concrete and has a door that contains a multiple-position combination lock or the equivalent, a relocking device or equivalent, and a steel plate with a thickness of at least one-half inch.

Stat. Auth.: ORS 475.314 & 475.338
Stats. Implemented: ORS 475.314
Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15; PH 16-2015(Temp), f. & cert. ef. 9-22-15 thru 3-19-16

333-008-1060
Denial of Application

(1) The Authority must deny a new or renewal application if:

(a) An application, supporting documentation provided by the PRF, or other information obtained by the Authority shows that the qualifications for a facility in ORS 475.314 or these rules have not been met; or

(b) The PRF has been:

(A) Convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II within five years from the date the application was received by the Authority; or

(B) Convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II; or

(C) Prohibited by a court from participating in the OMMP.

(c) The city or county in which the facility is located has prohibited facilities in accordance with sections 133 or 134, chapter 614, Oregon Laws 2015, unless the facility meets the criteria in sections 133(6) or 134(6), chapter 614, Oregon Laws 2015.

(2) If the PRF that is identified in the application is not qualified to be a PRF, the Authority will permit a change of PRF form to be submitted in accordance with OAR 333-008-1120, along with the applicable criminal background check fee. If the proposed PRF is not qualified to be a PRF, the Authority must deny the application in accordance with section (1) of this rule.

(3) If the Authority intends to deny an application for registration it must issue a Notice of Proposed Denial in accordance with ORS 183.411 through 183.470.

Stat. Auth.: ORS 475.314 & 475.338, sec. 133 & 134, ch. 614, OL 2015
Stats. Implemented: ORS 475.314, sec. 133 & 134, ch. 614, OL 2015
Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15; PH 16-2015(Temp), f. & cert. ef. 9-22-15 thru 3-19-16

333-008-1070
Expiration and Renewal of Registration

(1) A facility's registration expires one year following the date of application approval.

(2) If a PRF wishes to renew the facility's registration, the person must submit to the Authority within 60 calendar days of the registration's expiration:

(a) An application renewal form prescribed by the Authority;

(b) The required renewal fees;

(c) Forms required for the Authority to do a criminal background check on the PRF.

(3) A PRF that does not submit timely renewal documentation in accordance with section (2) of this rule may not operate the facility if the previous registration expires prior to the Authority issuing a renewed registration. The facility will remain registered until a renewal is either issued or denied, but the facility may not operate with an expired registration.

(4) If a PRF does not submit a renewal form and the required renewal fees prior to the registration's expiration, the registration is expired and is no longer valid, and the PRF may reapply for registration.

(5) Renewals will be processed in accordance with OAR 333-008-1040 to 333-008-1060.

Stat. Auth.: ORS 475.314 & 475.338, sec. 133 & 134, ch. 614, OL 2015.
Stats. Implemented: ORS 475.314, sec.133 & 134, ch.r 614, OL 2015.

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15; PH 16-2015(Temp), f. & cert. ef. 9-22-15 thru 3-19-16

333-008-1120
Person Responsible for a Medical Marijuana Facility (PRF)

(1) A PRF must:

(a) Be a resident of Oregon. For a new application or a change of PRF form submitted on or after July 1, 2015, a PRF must submit a residency form, prescribed by the Authority, along with a copy of the PRF's Oregon driver's license or Oregon identification card.

(A) If a PRF was first registered with the Authority as a PRF for a different facility on or before January 1, 2015, and has continuously remained a PRF, the PRF must have been a resident of Oregon for at least one year immediately prior to the application being submitted to the Authority.

(B) If a PRF was not first registered with the Authority as a PRF on or before January 1, 2015, the PRF must have been a resident of Oregon for at least two years immediately prior to the application being submitted to the Authority.

(C) If a PRF was first registered with the Authority as a PRF on or before January 1, 2015, but has not continuously remained a PRF for a dispensary since first registered, the PRF must have been a resident of Oregon for at least two years immediately prior to the application being submitted to the Authority.

(D) If a PRF does not have an Oregon driver's license or the PRF's Oregon driver's license or Oregon identification card was not issued one or two years prior to the date of application, as applicable, the Authority will attempt to verify whether the PRF has been a resident for the required length of time and may require the PRF to submit additional information to the Authority to prove residency.

(b) Have legal authority to act on behalf of the facility; and

(c) Be responsible for ensuring the facility complies with applicable laws, if registered.

(2) A PRF may not:

(a) Have been convicted in any state for the manufacture or delivery of a controlled substance in Schedule I or Schedule II within five years from the date of application; or

(b) Have been convicted more than once in any state for the manufacture or delivery of a controlled substance in Schedule I or Schedule II.

(3) A PRF is accountable for any intentional or unintentional action of its owners, officers, managers, employees or agents, with or without the knowledge of the PRF, who violate ORS 475.314 or these rules.

(4) If a PRF no longer meets the criteria of a PRF the Authority shall inform the PRF and the owner of the facility if different that:

(a) The PRF may no longer serve in that capacity;

(b) In order to remain registered, a change of PRF form must be submitted along with a criminal background check fee of $35; and

(c) The facility may not operate until the Authority has approved a PRF.

(5) If the Authority is notified that a change of PRF is needed, the current PRF is no longer able to serve as the PRF, or the PRF has been or will be removed by the owner of a facility, the owner of the facility must submit a change of PRF form to the Authority within 10 business days of the notification or the Authority will begin proceedings to revoke the registration of the facility.

(6) If the PRF of record for the facility is no longer serving in that capacity the facility may not operate until a new PRF has been approved by the Authority.

Stat. Auth.: ORS 475.314 & 475.338, sec. 173, ch. 614, OL 2015
Stats. Implemented: ORS 475.314, sec. 173, ch. 614, OL 2015
Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15; PH 16-2015(Temp), f. & cert. ef. 9-22-15 thru 3-19-16

333-008-1400
Moratoriums

(1) For purposes of this rule, "moratorium" means an ordinance, adopted by the governing body of a city or county by May 1, 2014, that specifically suspends the operation of registered medical marijuana facilities within the area subject to the jurisdiction of the city or county, for a period of time that does not extend past May 1, 2015.

(2) If a city or county adopts a moratorium it must notify the Authority and provide a copy of the ordinance.

(3) An applicant applying for registration of a facility proposing to operate in an area subject to a moratorium may submit a request, in writing, to withdraw the application and may request a refund of the fees.

(4) A PRF of a registered facility located in an area subject to a moratorium may submit a request, in writing, to surrender its registration and request a refund of the fees.

(5) Upon receipt of a request to withdraw an application or surrender a registration under sections (3) or (4) of this rule the Authority shall determine whether the ordinance falls within the definition of moratorium and inform the applicant or PRF in writing whether:

(a) The application is considered withdrawn and the fees refunded; or

(b) The registration has been surrendered and the fees refunded.

(6) The Authority may refund all fees, including the non-refundable registration fee.

(7) Notifications or requests described in sections (2) to (4) of this rule may be submitted to the Authority:

(a) By mail at P.O. Box 14116, Portland, OR 97293; or

(b) By electronic mail to medmj.dispensaries@state.or.us.

Stat. Auth.: 2014 OL, Ch. 79, Sec. 3
Stats. Implemented: 2014 OL, Ch. 79, Sec. 3
Hist.: PH 9-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14; PH 25-2014, f. & cert. ef. 9-24-14; Suspended by PH 16-2015(Temp), f. & cert. ef. 9-22-15 thru 3-19-16

333-008-1500
Limited Marijuana Retail Sales

(1) For purposes of this rule, the following definitions apply:

(a) "Dried leaves and flowers of marijuana" means the cured and dried leaves and flowers from a mature marijuana plant that have not been chemically altered or had anything added to them.

(b) "Individual" means a person 21 years of age or older who is not a patient or designated primary caregiver.

(c) "Limited marijuana retail product" means:

(A) The seeds of marijuana;

(B) The dried leaves and flowers of marijuana; and

(C) An immature marijuana plant.

(d) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

(e) "Medical marijuana dispensary" or "dispensary" means an entity registered with the Oregon Health Authority under ORS 475.314.

(f) "Photographic identification" means valid U.S. state or federal issued identification with a photograph of the individual that includes the individual's last name, first name, and date of birth.

(2) Unless the city or county in which the dispensary operates has adopted an ordinance prohibiting the sale of limited marijuana retail product, and notwithstanding any provision of ORS 475.314 or OAR 333-008-1000 to 333-008-1290 that is in conflict, on or after October 1, 2015, a medical marijuana dispensary may sell limited marijuana retail product to an individual if the dispensary:

(a) Five days prior to selling any limited marijuana retail product notifies the Authority, on a form prescribed by the Authority, that the dispensary intends to sell limited marijuana retail product.

(b) Examines the photo identification of all individuals before entering the dispensary to ensure the individual is 21 years of age or older;

(c) Verifies at the time of sale that the individual is 21 years of age or older by examining the individual's photographic identification;

(d) Sells no more than:

(A) One-quarter ounce of dried leaves and flowers per day to the same individual; and

(B) Four immature marijuana plants to the same individual at any time between October 1, 2015 and December 31, 2016.

(3) A dispensary may only sell limited marijuana retail products to an individual and may not offer or provide any other product containing marijuana to an individual.

(4) For each limited marijuana retail product sale, a dispensary must document:

(a) The limited marijuana retail product that was sold and the amount of dried leaves or flowers in metric units, amount of seeds or number of plants, as applicable;

(b) The birth date of the individual who bought the product;

(c) The sale price; and

(d) The date of sale.

(5) A dispensary is not required to maintain a record of the name of the individual to whom a limited marijuana retail product was sold but the dispensary must have a system in place that is outlined in their policies and procedures for ensuring that an individual is not sold more than one-quarter ounce of dried leaves and flowers in a day or more than four immature plants.

(6) Records of sale transactions and the documentation required in section (4) of this rule shall be maintained in accordance with OAR 333-008-1210(3) and (4).

(7) A dispensary that chooses to sell limited marijuana retail product to individuals must:

(a) Post at the point the sale, the following posters prescribed by the Authority, measuring 22 inches high by 17 inches wide that can be downloaded at www.healthoregon.org/marijuana:

(A) A Pregnancy Warning Poster; and

(B) A Poisoning Prevention Poster.

(b) Post at the point of sale a color copy of the "Educate Before You Recreate" flyer measuring 22 inches high by 17 inches wide that can be downloaded at WHATSLEGALOREGON.COM.

(c) Distribute to each individual at the time of sale, a Marijuana Information Card, prescribed by the Authority, measuring 3.5 inches high by 5 inches long that can be downloaded at www.healthoregon.org/marijuana.

(d) Comply with all rules in OAR 333-008-1000 to 333-008-1501, including but not limited to all security, testing, labeling, packaging and documentation rules except rules that:

(A) Prohibit individuals from entering or being present in a dispensary; and

(B) Prohibit a dispensary from transferring marijuana to an individual.

(e) On and after January 4, 2016:

(A) Collect a tax of 25 percent of the retail sales price of a limited marijuana retail product in the same manner that a marijuana retailer that holds a license under section 22, chapter 1, Oregon Laws 2015, collects the tax imposed under section 2, chapter 699, Oregon Laws 2015;

(B) Comply with all requirements in sections 1 through 13, chapter 699, Oregon Laws 2015, and any applicable administrative rules adopted by the Department of Revenue; and

(C) If requested by the Authority, sign an authorization to permit the sharing of information between the Authority and the Department of Revenue concerning tax collection required by section 21a, chapter 699, Oregon Laws 2015.

(8) The Authority may, if it determines that a dispensary has violated OAR 333-008-1500 to 333-008-1501:

(a) Prohibit a dispensary from selling limited marijuana retail product; and

(b) Take any action authorized under OAR 333-008-1270 or 333-008-1275.

(9) A dispensary may not sell limited marijuana retail product to individuals if the dispensary is located in a city or county that has adopted an ordinance prohibiting such sales in accordance with section 3, chapter 784, Oregon Laws 2015.

(10) A dispensary that has had its registration suspended may not sell limited marijuana retail product while the registration is suspended.

Stat. Auth.: ORS 475.314 & 475.338, OL 2015, ch. 784 & sec. 21a, ch. 699, OL 2015
Stats. Implemented: ORS 475.314, OL 2015, ch. 784 & sec. 21a, ch. 699, OL 2015
Hist.: PH 16-2015(Temp), f. & cert. ef. 9-22-15 thru 3-19-16

333-008-1501
Dispensary Signs

(1) Between October 1, 2015 and December 31, 2016, a registered dispensary must post signs at any point of public entry that read:

(a) "Medical Marijuana Patients Only"; or

(b) If a dispensary has properly notified the Authority that it intends to sell limited marijuana retail products:

(A) "Medical Marijuana Patients and Persons 21 and Older Permitted"; and

(B) "NO PERSON UNDER 21 PERMITTED ON THE PREMISES WITHOUT AN OMMP CARD".

(2) The signs described in section (1) of this rule must be:

(a) In bold, 80 point Times New Roman font; and

(b) Affixed to the exterior of the dispensary in a conspicuous location that can be easily seen by the public from outside the dispensary.

Stat. Auth.: ORS 475.314 & 475.338, OL 2015, ch. 784
Stats. Implemented: ORS 475.314, OL 2015, ch. 784
Hist.: PH 16-2015(Temp), f. & cert. ef. 9-22-15 thru 3-19-16

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Rule Caption: International Classification of Diseases, Tenth Revision, Clinical Modification (ICD-10-CM)
Adm. Order No.: PH 17-2015
Filed with Sec. of State: 9-30-2015
Certified to be Effective: 10-1-15
Notice Publication Date: 9-1-2015
Rules Amended: 333-004-0080, 333-010-0140, 333-010-0240, 333-010-0245
Subject: The Oregon Health Authority, Public Health Division is permanently amending rules in chapter 333, divisions 004 (Oregon Contraceptive Care (CCare)) and 010 (Breast and Cervical Cancer Program and WISEWOMAN) to update reference to the International Classification of Diseases (ICD) from the Ninth Revision (ICD-9) to the Tenth Revision, Clinical Modification (ICD-10-CM).
Rules Coordinator: Brittany Sande—(971) 673-1291

333-004-0080
Billing and Claims

(1) Only clinics providing contraceptive management services pursuant to an approved MSA, and who have been assigned a project number and site number may submit claims for CCare services.

(2) An agency may bill for contraceptive management services by submitting CVR data or by submitting the CVR form to RH. A claim is considered valid only if all required data are submitted.

(3) An agency may bill RH for supplies through the CVR at actual acquisition cost; that is, the amount or unit cost of the contraceptive supply the agency actually pays to the pharmaceutical manufacturer, supplier or distributor for the contraceptive supplies, after applying any discounts, promotions or other reductions. Shipping and handling may be included in the acquisition cost only if supported by an invoice.

(4) An agency shall include a primary diagnosis code on all claims. All billings must be coded with the most recent and appropriate International Classification of Diseases. All billings must be coded with the diagnosis codes in the Z30 Contraceptive Management series to the highest level of specificity. No other primary diagnosis code can be billed.

(5) An agency may bill RH for laboratory services related to contraceptive management through a fixed rate that includes clinical and laboratory services. The exception to this is the combined gonorrhea/Chlamydia (GC/CT) test occurring in the context of a CCare contraceptive initiation management visit. The combined GC/CT test shall be reimbursed separately from the fixed rate only if the appropriate medical service is indicated on the CVR.

(6) Birth control supplies billable to CCare must be approved by the Authority, be FDA approved, and may include intrauterine devices, cervical caps, oral contraceptives, subdermal implants, condoms, diaphragms, spermicides, patches, rings, injectibles, and emergency contraception.

(7) An agency must ensure that all laboratory tests done at the clinic site or by an outside clinic are conducted by CLIA certified laboratories.

(8) An agency enrolled with CCare must not seek payment from an eligible client, or from a financially responsible relative or representative of that client, for any services covered by CCare. The agency shall accept RH reimbursement for any CCare-covered services, pharmaceuticals, devices, or supplies as payment in full.

(a) If an agency has misrepresented client eligibility for services, the agency must assume responsibility for the full cost of services provided.

(b) A client may be billed for services that are not covered by CCare as outlined in the CCare enrollment form.

(9) Upon submission of a claim to RH for payment, the agency attests that it has complied with all rules of CCare.

(a) Except for services performed by a CLIA certified laboratory outside of the clinic, all billings must be for services provided within the agency and its provider's licensure or certification.

(b) It is the responsibility of an agency to submit true and accurate information when billing CCare.

(c) A claim may not be submitted prior to providing services.

(10) No agency shall submit to RH:

(a) Any false claim for payment;

(b) Any claim altered in such a way as to result in a payment for a service that has already been paid; or

(c) Any claim upon which payment has been made by another source unless the amount paid is clearly entered on the claim form.

(11) An agency is required to correct the billing error or to refund the amount of the overpayment, on any claim where the agency identifies an overpayment made by RH.

(12) An agency that, after having been previously warned in writing by the Authority or the Department of Justice regarding findings of improper billing practices as described in OAR 333-004-0140, is found to have continued such improper billing practices and has had an opportunity for a contested case hearing, shall be liable to RH for up to triple the amount of the established overpayment received as a result of such violation.

(13) Third Party Resources. The following subsections apply only to clients with private insurance coverage.

(a) Federal law requires that all reasonable efforts be taken to ensure that CCare is the payor of last resort, unless a client requests special confidentiality which must be documented on the CCare enrollment form. A client's request for special confidentiality ensures that the agency must not bill third party resources, but instead must bill CCare directly.

(b) An agency must make reasonable efforts to obtain payment from other resources before billing CCare. For the purposes of this rule "reasonable efforts" include:

(A) Determining the existence of insurance or other resource by asking the client.

(B) When third party coverage is known to the agency, prior to billing CCare:

(i) The agency must bill the third party resource; and

(ii) Resubmit a denied claim when the service is payable in whole or in part by an insurer.

(c) If the client has private insurance that has been billed for CCare services and the reimbursement from the insurance does not cover the entire cost of the services, the balance may be billed to CCare.

(d) An agency must report the reimbursement received from insurance, including both services and supplies, on box 17A, 2 of the CVR. The exact amount received from the insurance company must be reported in total.

(e) The CCare payment to the agency after the agency has received third party payment may not exceed the total of what CCare would pay for both services and supplies. The total amount of service and supply minus the amount paid by the primary insurance is the amount the agency shall be reimbursed.

(f) If third-party payment is received after CCare has been billed, agencies are required to submit a billing correction showing the amount of the third party payment or to refund the amount received from another source within 30 days of the date the payment is received. Failure to submit a billing correction within 30 days of receipt of the third party payment or to refund the appropriate amount within this time frame is considered concealment of material facts and grounds for recovery or sanction.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 413.032
Hist.: PH 4-2005, f. & cert. ef. 2-18-05; PH 3-2007(Temp), f. 2-23-07, cert. ef. 4-1-07 thru 9-28-07; PH 5-2007, f. 4-9-07, cert. ef. 4-23-07; PH 2-2009, f. & cert. ef. 3-2-09; PH 19-2012, f. & cert. ef. 12-26-12; PH 17-2015, f. 9-30-15, cert. ef. 10-1-15

333-010-0140
Billing

(1) Only clinics providing breast and cervical cancer screening and diagnostic services pursuant to an approved medical services agreement, and who have been assigned an agency number may submit claims for BCCP services.

(2) All services must be billed by submitting claim information in the method specified by the BCCP.

(3) A primary diagnosis code is required on all claims. All billings must be coded with the most current and appropriate International Classification of Diseases, 10th Revision, Clinical Modification (ICD-10-CM) diagnosis codes and the most appropriate Current Procedural Terminology (CPT) codes as noted in the BCCP Program Manual. Claims including primary diagnosis codes that are not in the BCCP Program Manual will not be paid.

(4) The provider must use CLIA certified laboratories for all tests whether done at the clinic site or by an outside clinic.

(5) Enrolled providers with BCCP must not seek payment from an eligible client, or from a financially responsible relative or representative of that individual, for any services covered by BCCP.

(a) A client may be billed for services that are not covered by BCCP. However, the provider must inform the client in advance of receiving the specific service that it is not covered, the estimated cost of the service, and that the client or client's representative is financially responsible for payment for the specific service. Providers must document in writing that the client was provided this information and the client knowingly and voluntarily agreed to be responsible for payment. The client or client's representative must sign the documentation.

(b) Services not covered by BCCP are those outside of the scope of standard breast and cervical cancer screening and diagnosis, or those not included in the ICD-10 and CPT code lists provided in the BCCP Program Manual.

(6) Prior to submission of a claim to the Center for payment, an approved provider agreement must be in place.

(7) All claims must be submitted with data, where described in the claims section of the rules. A claim is considered a "valid claim" only when all required data is received by the BCCP.

(a) Except for services performed by a CLIA certified laboratory outside of the clinic, all billings must be for services provided within the provider's licensure or certification.

(b) Providers must submit true and accurate information when billing the Center.

(c) A claim may not be submitted prior to providing services.

(8) Diagnosis Code Requirement:

(a) A primary diagnosis code is required on all claims.

(b) Use the highest degree of specificity within ICD-10-CM codes for breast and cervical screening or diagnostic testing as defined in the program manual.

(9) No provider shall submit to the Center:

(a) Any false claim for payment;

(b) Any claim altered in such a way as to result in a payment for a service that has already been paid;

(c) Any claim upon which payment has been made by another source unless the amount paid is clearly entered on the claim form;

(10) The provider must submit a billing error edit correction, or refund the amount of the overpayment, on any claim where the provider identifies an overpayment made by the Center.

(11) A provider who, after having been previously warned in writing by the Authority or the Department of Justice about improper billing practices, is found to have continued such improper billing practices and has had an opportunity for a contested case hearing, shall be liable to the Cneter for up to triple the amount of the established overpayment received as a result of such violation.

(12) Third Party Resources:

(a) Providers must make all reasonable efforts to ensure that BCCP will be the payor of last resort with the exception of clinic or offices operated by the Indian Health Service (IHS) or individual American Indian tribes;

(b) Providers must make all reasonable efforts to obtain payment first from other resources. For the purposes of this rule "reasonable efforts" include:

(A) Determining the existence of insurance coverage or other resource by asking the client;

(B) Except in the case of the underinsured, when third party coverage is known to the provider, by any other means available:

(i) The provider must bill the third party resource;

(ii) Comply with the insurer's billing and authorization requirements.

(C) Providers are required to submit a billing error edit correction showing the amount of the third party payment or to refund the amount received from another source within 30 days of the date the payment is received. Failure to submit a billing error edit correction within 30 days of receipt of the third party payment or to refund the appropriate amount within this time frame is considered concealment of material facts and grounds for recovery or sanction.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 413.042
Hist.: PH 9-2008, f. & cert. ef. 6-16-08; PH 17-2015, f. 9-30-15, cert. ef. 10-1-15

333-010-0240
Excluded Services

(1) Services and laboratory tests not directly related to heart disease, stroke and diabetes, or not included in the ICD-10 and CPT code lists provided in the WW Program Manual are not covered by the WW Program.

(2) No payment will be made for any expense incurred for any other medical service or laboratory tests whose primary purpose is for a reason other than heart disease, stroke, or diabetes screening and prevention.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 413.042, 431.250
Hist.: PH 1-2009, f. & cert. ef. 2-13-09; PH 17-2015, f. 9-30-15, cert. ef. 10-1-15

333-010-0245
Claims and Billing

(1) Only an enrolling or ancillary provider providing WW Program covered services pursuant to a fully executed medical services agreement, and who has been assigned an agency number may submit claims for payment to the Center for providing WW Program covered services.

(2) An enrolling or ancillary provider shall, as applicable:

(a) Submit claim information in the manner specified by the WW Program;

(b) Include a primary diagnosis code on all claims;

(c) Code all claims with the most current and appropriate International Classification of Diseases, 10th Revision, Clinical Modification (ICD-10-CM) diagnosis codes and the most appropriate Current Procedural Terminology (CPT) codes as noted in the WW Program Manual;

(d) Submit to the Center all claims for services within 12 months of the date of service;

(e) Submit a billing error edit correction, or refund the amount of the overpayment, on any claim where a provider identifies an overpayment made by the Center;

(f) Make all reasonable efforts to ensure that the WW Program is the payor of last resort with the exception of clinics or offices operated by the Indian Health Service (IHS) or individual American Indian tribes. For the purposes of this rule "reasonable efforts" include:

(A) Determining the existence of insurance coverage or other resource by asking the client; and

(B) Except in the case of the underinsured, billing any known insurer in compliance with that insurer's billing and authorization requirements.

(g) Submit to the Center a billing error edit correction if it receives a third party payment and refund to the Center the amount received from the other source within 30 days of the date the payment is received.

(3) The Center may not pay a claim older than 12 months, except as provided for in section (4) of this rule. An enrolling or ancillary provider that has a claim rejected because of an error must resolve the error within 12 months of the date of service.

(4) If the Center makes an error that makes it impossible for an enrolling or ancillary provider to bill within 12 months of the date of service, the enrolling or ancillary provider shall notify the Center of the alleged error and submit the claim to the Center. The Center shall confirm that it made an error prior to payment being made.

(5) The Center may not pay a claim that includes a primary diagnosis code that is not in the WW Program Manual.

(6) An enrolling or ancillary provider with the WW Program may not seek payment from a client, or from a financially responsible relative or representative of that client for any services covered by the WW Program.

(7) An enrolling or ancillary provider may bill a client for services that are not covered by the WW Program. However, the provider must inform the client in advance of receiving the specific service that it is not covered, the estimated cost of the service, and that the client or client's representative is financially responsible for payment for the specific service. Providers must document in writing that the client was provided this information and the client knowingly and voluntarily agreed to be responsible for payment. The client or client's representative must sign the documentation.

(8) Except for services performed by a CLIA certified laboratory outside of the clinic, all billings by an enrolling provider must be for services provided within the provider's licensure or certification.

(9) A provider who has been suspended or terminated from participation in a federal or state medical program, such as Medicare or Medicaid, or whose license to practice has been suspended or revoked by a state licensing board, may not submit claims for payment, either personally or through claims submitted by any billing provider or other provider, for any services or supplies provided under the WW Program, except those services provided prior to the date of suspension or termination.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 413.042, 431.250
Hist.: PH 1-2009, f. & cert. ef. 2-13-09; PH 12-2014(Temp), f. & cert. ef. 4-18-14 thru 10-15-14; PH 27-2014, f. & cert. ef. 10-10-14; PH 17-2015, f. 9-30-15, cert. ef. 10-1-15

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Rule Caption: Update the reference to the current School-Based Health Center (SBHC) Standards for Certification Manual
Adm. Order No.: PH 18-2015
Filed with Sec. of State: 9-30-2015
Certified to be Effective: 10-1-15
Notice Publication Date: 9-1-2015
Rules Amended: 333-028-0220
Rules Repealed: 333-028-0220(T)
Subject: The Oregon Health Authority (OHA), Public Health Division is permanently revising the version of the School-Based Health Center (SBHC) Standards for Certification that is currently referenced in OAR chapter 333, division 28. The 2014 SBHC Standards for Certification reflect the required elements that SBHCs must meet to be certified by OHA as a School-Based Health Center. Local Public Health Authorities (LPHA) are currently being held to the 2014 Standards for Certification for their currently certified SBHCs and/or planning grantees. This change would allow the rules to reflect the current practice in the field.
Rules Coordinator: Brittany Sande—(971) 673-1291

333-028-0220
Certification Requirements

In order to be certified as a SBHC, a SBHC must meet all requirements for certification in the following sections of the 2014 SBHC Standards for Certification Manual, incorporated by reference.

(1) Sponsoring agency, section B.1;
(2) Facility, section B.2;
(3) Hours of operation, section C.1;
(4) Staffing, section C.2;
(5) Eligibility for services, section C.3;
(6) Policies and procedures, section C.4;
(7) Laboratory/Diagnostic services, section D;
(8) Comprehensive Services, section E.1;
(9) Equipment, section E.2;
(10) Medication, section E.3;
(11) Data collection/reporting, section F; and
(12) Billing, section G.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 413.223
Stats. Implemented: ORS 413.223, 413.225
Hist.: PH 15-2013, f.12-26-13, cert. ef. 1-1-14; PH 9-2015(Temp), f. & cert. ef. 5-6-15 thru 11-1-15; PH 18-2015, f. 9-30-15, cert. ef. 10-1-15

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Rule Caption: Update of Radiation Protection Service's X-ray and radioactive materials program administrative rules
Adm. Order No.: PH 19-2015
Filed with Sec. of State: 9-30-2015
Certified to be Effective: 10-1-15
Notice Publication Date: 9-1-2015
Rules Adopted: 333-102-0033, 333-102-0102, 333-102-0104, 333-125-0001, 333-125-0005, 333-125-0010, 333-125-0015, 333-125-0020, 333-125-0025, 333-125-0030, 333-125-0035, 333-125-0040, 333-125-0045, 333-125-0050, 333-125-0055, 333-125-0060, 333-125-0065, 333-125-0070, 333-125-0075, 333-125-0080, 333-125-0085, 333-125-0090, 333-125-0095, 333-125-0100, 333-125-0105, 333-125-0110, 333-125-0115, 333-125-0120, 333-125-0125, 333-125-0130, 333-125-0135, 333-125-0140, 333-125-0145, 333-125-0150, 333-125-0155, 333-125-0165, 333-125-0170, 333-125-0175, 333-125-0180, 333-125-0185, 333-125-0190, 333-125-0195, 333-125-0200
Rules Amended: 333-100-0005, 333-102-0005, 333-102-0015, 333-102-0025, 333-102-0030, 333-102-0035, 333-102-0075, 333-102-0101, 333-102-0190, 333-102-0200, 333-102-0203, 333-102-0235, 333-102-0285, 333-102-0290, 333-102-0293, 333-102-0305, 333-102-0310, 333-103-0005, 333-105-0420, 333-106-0055, 333-106-0325, 333-116-0680, 333-118-0040, 333-118-0190, 333-120-0710
Rules Repealed: 333-102-0105, 333-120-0800
Rules Renumbered: 333-102-0103 to 333-102-0106
Subject: The Oregon Health Authority, Public Health Division, Center for Health Protection is permanently amending, repealing and adopting Oregon Administrative Rules related to the radioactive material licensing and X-ray programs within Radiation Protection Services (RPS).

The Radioactive Materials Licensing (RML) program is adopting and amending rules for compatibility with the Nuclear Regulatory Commission's regulations 10 CFR parts 20 through 71 within divisions 100, 102, 105, 116, 118, 120, and adopted division 125. The X-ray program is amending rules OAR 333-103-0005, 333-106-0055 and 333-106-0325.

Amended rules in division 101 are to adopt additional definitions; division 102 is amended to further clarify exempt quantities and general licensing requirements of by-product and source materials. OAR 333-103-0005 is being amended to reflect a 25% fee increase relating to X-ray device registration fees as directed by Senate Bill 228 (Oregon Laws 2015, chapter 778), passed during the 2015 legislative session. Division 105 is being amended to update the address of

the American National Standards Institute. Division 106 is being amended by providing better clarity relating to X-ray operator requirements and to repeal the requirement that patients being exposed to radiation from a dental X-ray device are not required to be provided a leaded apron or thyroid collar. OAR 333-116-0680 is being amended by revising one rule title for better clarity. OAR 333-118-0040, Transportation Exemptions, is being revised to meet federal compatibility requirements relating to the transportation of byproduct materials. Division 120 is amended to correct rule cross references and correct an error relating to shallow dose equivalent to the skin.

Within division 120, OAR 333-120-0800, Report of Transactions Involving Nationally Tracked Sources, is being repealed and moved to the adopted division 125. Division 125 is being adopted to meet the Nuclear Regulatory Commission's requirement to have rules developed in order to be compatible with the Physical Protection of Category 1 and Category 2 Quantities of Radioactive Materials federal regulations.

Rules Coordinator: Brittany Sande—(971) 673-1291

333-100-0005
Definitions

The following definitions apply to OAR chapter 333 divisions 100, 102, 103, 106, 111, 116, 118, 119, 120, 121, 122, 123, and 124. Additional definitions used only in a certain division can be found in that division.

(1) "Absorbed dose" means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

(2) "Accelerator" means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 MeV. For purposes of this definition, "particle accelerator" is an equivalent term.

(3) "Accelerator-produced material" means any material made radioactive by a particle accelerator.

(4) "Act" means Oregon Revised Statutes 453.605 through 453.807.

(5) "Activity" means the rate of disintegration or transformation or decay of radioactive material. The units of activity are the becquerel (Bq), defined as one disintegration per second, and the curie (Ci), defined as 3.7 x 1010 disintegrations per second.

(6) "Adult" means an individual 18 or more years of age.

(7) "Agreement State" means any state with which the U.S. Nuclear Regulatory Commission or the U.S. Atomic Energy Commission has entered into an effective agreement under subsection 274b. of the Atomic Energy Act of 1954, as amended (73 Stat. 689). States not entering an agreement under the Act are considered a non-agreement state.

(8) "Airborne radioactive material" means any radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors, or gases.

(9) "Airborne radioactivity area" means a room, enclosure, or area in which airborne radioactive material, composed wholly or partly of licensed material, exist in concentrations:

(a) In excess of the derived air concentrations (DACs) specified in Appendix B, Table I, column 3, to 10 CFR Part 20.1001 to 20.2401; or

(b) To such a degree that an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6 percent of the annual limit on intake (ALI) or 12 DAC-hours.

(10) "ALARA" (acronym for "As Low As Reasonably Achievable") means making every reasonable effort to maintain exposures to radiation as far below the dose limits in this part as is practical consistent with the purpose for which the licensed activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed materials in the public interest.

(11) "Alert" means events may occur, are in progress, or have occurred that could lead to a release of radioactive material but that the release is not expected to require a response by offsite response organizations to protect persons offsite.

(12) "Annual" means occurring every year or within a consecutive twelve month cycle.

(13) "Annual Limit on Intake" (ALI) means the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the Reference Man that could result in a committed effective dose equivalent of 0.05 Sv (5 rem) or a committed dose equivalent of 0.5 Sv (50 rem) to any individual organ or tissue. ALI values for intake by ingestion and by inhalation of selected radionuclides are given in Appendix B, Table I, Columns 1 and 2, to 10 CFR Part 20.1001 to 20.2401.

(14) "As Low As Reasonably Achievable" see "ALARA."

(15) "Authority" means the Oregon Health Authority.

(16) "Background radiation" means radiation from cosmic sources; naturally occurring radioactive materials, including radon, except as a decay product of source or special nuclear material, and including global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that contribute to background radiation and are not under the control of the licensee. "Background radiation" does not include sources of radiation from radioactive or special nuclear materials regulated by the Authority.

(17) "Becquerel" (Bq) means one disintegration per second.

(18) "Bioassay" means the determination of kinds, quantities or concentrations, and, in some cases, the locations, of radioactive material in the human body, whether by direct measurement (in vivo counting) or by analysis and evaluation of materials excreted or removed from the human body. For purposes of these rules, "radiobioassay" is an equivalent term.

(19) "Brachytherapy" means a method of radiation therapy in which sealed sources are utilized to deliver dose at a distance of up to a few centimeters, by surface, intracavitary, or interstitial application.

(20) "Byproduct material" means:

(a) Any radioactive material, except special nuclear material, yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or utilizing special nuclear material;

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction process. Underground ore bodies depleted by such solution extraction operations do not constitute "byproduct material" within this definition;

(c) Any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or

(d) Any material that:

(A) Has been made radioactive by use of a particle accelerator; and

(B) Is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and

(C) Any discrete source of naturally occurring radioactive material, other than source material, that:

(i) The Nuclear Regulatory Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate state and federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(ii) Before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.

(21) "Calendar quarter" means not less than 12 consecutive weeks nor more than 14 consecutive weeks. The first calendar quarter of each year must begin in January and subsequent calendar quarters must be so arranged such that no day is included in more than one calendar quarter and no day in any one year is omitted from inclusion within a calendar quarter. No licensee or registrant may change the method observed for determining calendar quarters except at the beginning of a calendar year.

(22) "Calibration" means the determination of:

(a) The response or reading of an instrument relative to a series of known radiation values over the range of the instrument; or

(b) The strength of a source of radiation relative to a standard.

(23) "CFR" means Code of Federal Regulations.

(24) "Chelating agent" means amine polycarboxylic acids, hydroxycarboxylic acids, gluconic acid, and polycarboxylic acids.

(25) "Class" means a classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. For purposes of these rules, "lung class" or "inhalation class" are equivalent terms. Materials are classified as D, W, or Y, which applies to a range of clearance half-times:

(a) For Class D, Days, of less than 10 days;

(b) For Class W, Weeks, from 10 to 100 days; and

(c) For Class Y, Years, of greater than 100 days.

(26) "Clinical laboratory" means a laboratory licensed pursuant to ORS 438.110 through 438.140.

(27) "Collective dose" means the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

(28) "Committed dose equivalent" (HT, 50) means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

(29) "Committed effective dose equivalent" (HE, 50) is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues (HE, 50 = ∑WT,HT,50).

(30) "Contamination" (Radioactive) means deposition or presence of radioactive material in any place where it is not desired, and particularly in any place where its presence can be harmful. The harm may be in compromising the validity of an experiment or a procedure, or in being a source of danger to persons. Contamination may be divided into two types: Fixed and removable. Removable contamination may be transferred easily from one object to another by light rubbing or by the use of weak solvents such as water or alcohol. Removable contamination is evaluated and recorded in units of microcuries or dpm. Fixed contamination is not easily transferred from one object to another and requires mechanical or strong chemicals to remove it from its current location. Fixed contamination is evaluated and recorded in units of mR/hr.

(31) "Curie" means that amount of radioactive materials which disintegrates at the rate of 37 billion atoms per second.

(32) "Declared pregnant woman" means a woman who has voluntarily informed the licensee, in writing, of her pregnancy and the estimated date of conception. The declaration remains in effect until the declared pregnant woman withdraws the declaration in writing or is no longer pregnant.

(33) "Decommission" means to remove (as a facility) safely from service and reduce residual radioactivity to a level that permits:

(a) Release of the property for unrestricted use and termination of license; or

(b) Release of the property under restricted conditions and termination of the license.

(34) "Deep dose equivalent" (Hd) which applies to external whole body exposure, means the dose equivalent at a tissue depth of 1 centimeter (1000 mg/cm2).

(35) "Depleted uranium" means source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.

(36) "Derived air concentration" (DAC) means the concentration of a given radionuclide in air which, if breathed by Reference Man for a working year of 2,000 hours under conditions of light work, results in an intake of one ALI. For purposes of these rules, the condition of light work is an inhalation rate of 1.2 cubic meters of air per hour for 2,000 hours in a year. DAC values are given in Table I, Column 3, of Appendix B to 10 CFR Part 20.1001 to 20.2401.

(37) "Derived air concentration-hour" (DAC-hour) means the product of the concentration of radioactive material in air, expressed as a fraction or multiple of the derived air concentration for each radionuclide, and the time of exposure to that radionuclide, in hours. A licensee may take 2,000 DAC-hours to represent one ALI, equivalent to a committed effective dose equivalent of 0.05 Sv (5 rem).

(38) "Dose" is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, total organ dose equivalent, or total effective dose equivalent. For purposes of these rules, "radiation dose" is an equivalent term.

(39) "Dose equivalent" (HT) means the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the sievert (Sv) and rem (see "Rem"). (See OAR 333-100-0070(2) for SI equivalent sievert.)

(40) "Dose limits" means the permissible upper bounds of radiation doses established in accordance with these rules. For purposes of these rules, "limits" is an equivalent term.

(41) "Dosimetry processor" means an individual or an organization that processes and evaluates individual monitoring equipment in order to determine the radiation dose delivered to the equipment.

(42) "Effective dose equivalent" (HE) means the sum of the products of the dose equivalent to the organ or tissue (HT) and the weighting factor (WT) applicable to each of the body organs or tissues that are irradiated (HE = WT HT).

(43) "Electronic product" means any manufactured product or device or component part of such a product or device that is capable of generating or emitting electromagnetic or sonic radiation such as, but not limited to, X-rays, ultrasonic waves, microwaves, laser light or ultraviolet light.

(44) "Embryo/fetus" means the developing human organism from conception until the time of birth.

(45) "Entrance or access point" means any opening through which an individual or extremity of an individual could gain access to radiation areas or to licensed or registered radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

(46) "Exclusive use" (also referred to in other regulations as "sole use" or "full load") means the sole use of a conveyance by a single consignor and for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee.

(47) "Explosive material" means any chemical compound, mixture, or device that produces a substantial instantaneous release of gas and heat spontaneously or by contact with sparks or flame.

(48) "Exposure" means:

(a) The quotient of dQ by dm where "dQ" is the absolute value of the total charge of the ions of one sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a volume element of air having mass "dm" are completely stopped in air. The SI unit of exposure is the coulomb per kilogram.

(b) Being exposed to ionizing radiation or to radioactive material.

(49) "Exposure rate" means the exposure per unit of time, such as roentgen per minute (R/min) and milliroentgen per hour (mR/hr).

(50) "External dose" means that portion of the dose equivalent received from any source of radiation outside the body.

(51) "Extremity" means hand, elbow, arm below the elbow, foot, knee, or leg below the knee.

(52) "Eye dose equivalent" means the external dose equivalent to the lens of the eye at a tissue depth of 0.3 centimeter (300 mg/cm2).

(53) "Fixed gauge" means a measuring or controlling device that is intended to be mounted at a specific location, stationary, not to be moved, and is not portable.

(54) "Former U.S. Atomic Energy Commission (AEC) or U.S. Nuclear Regulatory Commission (NRC) licensed facilities" means nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

(55) "General license" means a license granted by rule, in contrast to an issued license, to acquire, own, possess, use, or transfer radioactive material or a device that contains radioactive material.

(56) "Generally applicable environmental radiation standards" means standards issued by the U.S. Environmental Protection Agency (EPA) under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

(57) "Gray" (Gy) means the International System of Units (SI), unit of absorbed dose. One gray is equal to an absorbed dose of one joule per kilogram (100 rad). (See OAR 333-100-0070(2))

(58) "Hazardous waste" means those wastes designated as hazardous by U.S. Environmental Protection Agency regulations in 40 CFR Part 261.

(59) "Healing arts" means:

(a) The professional disciplines authorized by the laws of this state to use X-rays or radioactive material in the diagnosis or treatment of human or animal disease. For the purposes of this division they are Medical Doctors, Osteopaths, Dentists, Veterinarians, Chiropractors, and Podiatrists; or

(b) Any system, treatment, operation, diagnosis, prescription, or practice for the ascertainment, cure, relief, palliation, adjustment, or correction of any human disease, ailment, deformity, injury or unhealthy or abnormal physical or mental condition.

(60) "Human use" means the internal or external administration of radiation or radioactive material to human beings.

(61) "Individual" means any human being.

(62) "Individual monitoring" means:

(a) The assessment of dose equivalent by the use of devices designed to be worn by an individual;

(b) The assessment of committed effective dose equivalent by bioassay (see Bioassay) or by determination of the time-weighted air concentrations to which an individual has been exposed, that is, DAC-hours; or

(c) The assessment of dose equivalent by the use of survey data.

(63) "Individual monitoring devices" means devices designed to be worn by a single individual for the assessment of dose equivalent such as film badges, thermoluminescent dosimeters (TLDs), pocket ionization chambers, and personal ("lapel") air sampling devices.

(64) "Inhalation class" (see "Class").

(65) "Inspection" means an official examination or observation including, but not limited to, tests, surveys, and monitoring to determine compliance with rules, regulations, orders, requirements, and conditions of the Authority.

(66) "Interlock" means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

(67) "Internal dose" means that portion of the dose equivalent received from radioactive material taken into the body.

(68) "Ionizing radiation" means any electromagnetic or particulate radiation capable of producing ions, directly or indirectly, in its passage through matter. It includes any or all of the following: Alpha particles, beta particles, electrons, positrons, gamma rays, X-rays, neutrons, high-speed electrons, high-speed protons, fission fragments and other atomic and subatomic particles; but not sound or radio waves, or visible, infrared, or ultraviolet light.

(69) "Laser" means any device which, when coupled with an appropriate laser energy source, can produce or amplify electromagnetic radiation by the process of controlled stimulated emission.

(70) "License" means a license issued by the Authority in accordance with rules adopted by the Authority.

(71) "Licensed material" means radioactive material received, possessed, used, transferred or disposed of under a general or specific license granted or issued by the Authority. For the purpose of meeting the definition of a Licensing State by the Conference of Radiation Control Program Directors, Inc. (CRCPD), Naturally Occurring and Accelerator Produced Radioactive Material (NARM) refers only to discrete sources of NARM. Diffuse sources of NARM are excluded from consideration by the CRCPD for Licensing State designation purposes.

(72) "Licensee" means any person who is licensed by the Authority in accordance with these rules and the Act.

(73) "Licensing state" means any state with rules or regulations equivalent to the Suggested State Regulations for Control of Radiation relating to, and having an effective program for, the regulatory control of NARM.

(74) "Limits" (dose limits) means the permissible upper bounds of radiation doses.

(75) "Lost or missing licensed or registered source of radiation" means licensed or registered source(s) of radiation whose location is unknown. This definition includes licensed material that has been shipped but has not reached its planned destination and whose location cannot be readily traced in the transportation system.

(76) "Lung class" (see "Class").

(77) "Major processor" means a user processing, handling, or manufacturing radioactive material exceeding Type A quantities as unsealed sources or material, or exceeding four times Type B quantities as sealed sources, but does not include nuclear medicine programs, universities, industrial radiographers, or small industrial programs. Type A and B quantities are defined in division 118 of this chapter.

(78) "Member of the public" means an individual, except when that individual is receiving an occupational dose.

(79) "Minor" means an individual less than 18 years of age.

(80) "Monitoring" means the measurement of radiation, radioactive material concentrations, surface area activities or quantities of radioactive material and the use of the results of these measurements to evaluate potential exposures and doses. For purposes of these rules, "radiation monitoring" and "radiation protection monitoring" are equivalent terms.

(81) "NARM" means any naturally occurring or accelerator-produced radioactive material. It does not include byproduct, source, or special nuclear material.

(82) "Natural radioactivity" means radioactivity of naturally occurring nuclides.

(83) "Naturally-occurring radioactive material" (NORM) means any nuclide that is found in nature as a radioactive material (and not technologically produced).

(84) "Natural thorium" means thorium with the naturally occurring distribution of thorium isotopes (essentially 100 weight percent thorium-232).

(85) "Natural uranium" means a mixture of the uranium isotopes 234, 235 and 238 (approximately 0.7 weight percent uranium- 235 and the remainder by weight essentially uranium-238), found in nature, that is neither enriched nor depleted in the isotope uranium 235.

(86) "Nonstochastic effect" means a health effect that varies with the dose and a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect. For purposes of these rules, "deterministic effect" is an equivalent term.

(87) "Normal form radioactive material" means radioactive material that has not been demonstrated to qualify as "special form radioactive material". See "Special form."

(88) "NRC" is the acronym for Nuclear Regulatory Commission.

(89) "Nuclear Regulatory Commission" ("NRC" or "Commission") means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

(90) "Package" means the packaging together with its radioactive contents as presented for transport.

(91) "Particle accelerator" means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of one MeV.

(92) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing.

(93) "Personnel monitoring equipment" means devices such as film badges, pocket dosimeters, and thermoluminescent dosimeters designed to be worn or carried by an individual for the purpose of estimating the dose received by the individual. See "Individual monitoring devices."

(94) "Pharmacist" means an individual licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice pharmacy.

(95) "Physician" means an individual licensed by the Oregon Medical Board to dispense drugs in the practice of medicine.

(96) "Planned special exposure" means an infrequent exposure to radiation, separate from and in addition to the annual occupational dose limits.

(97) "Portable gauge" means a measuring or controlling device that is intended to be portable and is not fixed to a specific location. All portable gauges require a specific license (there is no general license granted for portable generally licensed devices in the State of Oregon).

(98) "Program" means the Radiation Protection Services section of the Public Health Division of the Oregon Health Authority.

(99) "Pyrophoric liquid" means any liquid that ignites spontaneously in dry or moist air at or below 130OF (54.4OC).

(100) "Pyrophoric solid" means any solid material, other than one classed as an explosive, which under normal conditions is liable to cause fires through friction, retained heat from manufacturing or processing, or which can be ignited readily and, when ignited, burns so vigorously and persistently as to create a serious transportation, handling, or disposal hazard. Included are spontaneously combustible and water-reactive materials.

(101) "Qualified expert" means an individual, approved by the Authority, who has demonstrated, pursuant to these rules, that he/she possesses the knowledge, skills, and training to measure ionizing radiation, to evaluate radiation parameters, to evaluate safety techniques, and to advise regarding radiation protection needs. The individual must:

(a) Be certified in the appropriate field by the American Board of Radiology, the American Board of Health Physics, the American Board of Medical Physics or the American Board of Nuclear Medicine Science; or

(b) Hold a master's or doctor's degree in physics, biophysics, radiological physics, health physics, or medical physics and have completed one year of documented, full time training in the appropriate field and also one year of documented, full time work experience under the supervision of a qualified expert in the appropriate field. To meet this requirement, the individual must have performed the tasks required of a qualified expert during the year of work experience; or

(c) Receive approval from the Authority for specific activities.

(102) "Quality factor" (Q) means the modifying factor (listed in Tables 1004(b).1 and 1004(b).2 of 10 CFR Part 20.1004 provided at the end of this division) that is used to derive dose equivalent from absorbed dose.

(103) "Quarter" means a period of time equal to one-fourth of the year observed by the licensee, approximately 13 consecutive weeks, providing that the beginning of the first quarter in a year coincides with the starting date of the year and that no day is omitted or duplicated in consecutive quarters.

(104) "Rad" means the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 erg per gram or 0.01 joule per kilogram (0.01 gray). See OAR 333-100-0070(2) for SI equivalent gray.

(105) "Radiation" means:

(a) Ionizing radiation including gamma rays, X-rays, alpha and beta particles, protons, neutrons, and other atomic or nuclear particles or rays;

(b) Any electromagnetic radiation which can be generated during the operations of electronic products and which the Authority has determined to present a biological hazard to the occupational or public health and safety but does not include electromagnetic radiation which can be generated during the operation of an electronic product licensed by the Federal Communications Commission;

(c) Any sonic, ultrasonic or infrasonic waves which are emitted from an electronic product as a result of the operation of an electronic circuit in such product and which the Authority has determined to present a biological hazard to the occupational or public health and safety.

(106) "Radiation area" means any area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem) in one hour at 30 centimeters from the source of radiation or from any surface that the radiation penetrates.

(107) "Radiation machine" means any device capable of producing radiation except those which produce radiation only from radioactive material.

(108) "Radiation safety officer" means:

(a) An individual who has the knowledge, responsibility, and authority to apply appropriate radiation protection rules; or

(b) The representative of licensee management, authorized by the Authority, and listed on the specific license as the radiation safety officer, who is responsible for the licensee's radiation safety program.

(109) "Radioactive material" means any solid, liquid, or gas that emits radiation spontaneously.

(a) Radioactive material, as used in these rules, includes: byproduct material, naturally occurring radioactive material, accelerator produced material, and source material, as defined in this rule.

(b) Radioactive material, as used in these rules, does not include special nuclear material.

(110) "Radioactive waste" means radioactive material that is unwanted or is unusable, as defined in division 50 of chapter 345. No radioactive material may be disposed of in Oregon except as provided in division 50 of chapter 345.

(111) "Radioactivity" means the transformation of unstable atomic nuclei by the emission of radiation.

(112) "Reference Man" means a hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health workers to standardize results of experiments and to relate biological insult to a common base. A description of the Reference Man is contained in the International Commission on Radiological Protection report, ICRP Publication 23, "Report of the Task Group on Reference Man."

(113) "Registrant" means any person who is registered with the Authority and is legally obligated to register with the Authority pursuant to these rules and the Act.

(114) "Registration" means the identification of any material or device emitting radiation, and the owner of such material or device must furnish information to the Authority in accordance with the rules adopted by the Authority.

(115) "Regulations of the U.S. Department of Transportation" means the regulations in 49 CFR Parts 100-189 and Parts 390-397.

(116) "Rem" means the special unit of any of the quantities expressed as dose equivalent. The dose equivalent rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem = 0.01 sievert).

(117) "Research and development" means:

(a) Theoretical analysis, exploration, or experimentation; or

(b) The extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and development does not include the internal or external administration of radiation or radioactive material to human beings.

(118) "Respiratory protective equipment" means an apparatus, such as a respirator, used to reduce an individual's intake of airborne radioactive materials.

(119) "Restricted area" means an area to which access is limited by the licensee or registrant for the purpose of protecting individuals against undue risks from exposure to sources of radiation. A restricted area does not include areas used as residential quarters, but separate rooms in a residential building may be set apart as a restricted area.

(120) "Roentgen" means the special unit of exposure. One roentgen (R) equals 2.58 x 10-4 Coulombs/kilogram of air (see "Exposure" and division 120).

(121) "Sanitary sewerage" means a system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee.

(122) "Screening" means the use of a systematic approach to obtain cursory examinations of a person or group of persons without regard to specific clinical indications.

(123) "Sealed source" means radioactive material that is encased in a capsule designed to prevent leakage or escape of the radioactive material.

(124) "Sealed Source and Device Registry" means the national registry that contains all the registration certificates, generated by both the U.S. Nuclear Regulatory Commission and Agreement States, that summarize the radiation safety information for sealed sources and devices and describe the licensing and use conditions approved for the product.

(125) "Shallow dose equivalent" (Hs), which applies to the external exposure of the skin or an extremity, means the dose equivalent at a tissue depth of 0.007 centimeter (7 mg/cm2) averaged over an area of one square centimeter.

(126) "SI" means the abbreviation for the International System of Units.

(127) "Sievert" means the International System of Units (SI), unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor (1 Sv = 100 rem). (See OAR 333-100-0070(2)).

(128) "Site boundary" means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee or registrant.

(129) "Source material" means:

(a) Uranium or thorium or any combination of uranium and thorium in any physical or chemical form; or

(b) Ores that contain by weight one-twentieth of one percent (0.05 percent) or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material.

(130) "Source material milling" means any activity that result in the production of byproduct material, as defined by this rule.

(131) "Source of radiation" means any radioactive material or any device or equipment emitting, or capable of producing, radiation. Source of radiation, pursuant to this rule, includes, but is not limited to, radiation facilities, radiation producing machines, radiation producing devices, radioactive material sealed and unsealed form (normal form and special form), and radioactive material uses.

(132) "Special form radioactive material" means radioactive material that satisfies the following conditions:

(a) It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

(b) The piece or capsule has at least one dimension not less than five millimeters (0.2 inch); and

(c) It satisfies the test requirements specified by the U.S. Nuclear Regulatory Commission. A special form encapsulation designed in accordance with the U.S. Nuclear Regulatory Commission requirements in effect on June 30, 1983, and constructed prior to July 1, 1985, and a special form encapsulation designed in accordance with the Nuclear Regulatory Commission requirements in effect on March 31. 1996, and constructed prior to April 1, 1998, may continue to be used. Any other special form encapsulation either designed or constructed after April 1, 1998, must meet requirements of this definition applicable at the time of its design or construction.

(133) "Special nuclear material" means:

(a) Plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and any other material that the U.S. Nuclear Regulatory Commission, pursuant to the provisions of section 51 of the Atomic Energy Act of 1954, as amended, determines to be special nuclear material, but does not include source material; or

(b) Any material artificially enriched by any of the foregoing but does not include source material.

(134) "Special nuclear material in quantities not sufficient to form a critical mass" means uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235; uranium-233 in quantities not exceeding 200 grams; plutonium in quantities not exceeding 200 grams; or any combination of them in accordance with the following formula: For each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of such ratios for all of the kinds of special nuclear material in combination must not exceed one.

For example, the following quantities in combination does not exceed the limitation and are within the formula: * * 175 (grams U-235)/350 + 50 (grams U-233)/200 + 50 (grams Pu)/200 = 1.

(135) "Specific activity of a radionuclide" means the radioactivity of the radionuclide per unit mass of that nuclide. The specific activity of a material in which the radionuclide is essentially uniformly distributed is the radioactivity per unit mass of the material.

(136) "Stochastic effect" means health effects that occur randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without threshold. Hereditary effects and cancer incidence are examples of stochastic effects.

(137) "Supervision" as used in these rules, means the responsibility for, and control of, the application, quality, radiation safety and technical aspects of all sources of radiation possessed, used and stored through authorization granted by the Authority.

(138) "Survey" means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of sources of radiation. When appropriate, such evaluation includes, but is not limited to, tests, physical examinations, and measurements of levels of radiation or concentrations of radioactive material present.

(139) "Termination" means:

(a) The end of employment with the licensee or registrant or, in the case of individuals not employed by the licensee or registrant, the end of work assignment in the licensee's or registrant's restricted area in a given calendar quarter, without expectation or specific scheduling of re-entry into the licensee's or registrant's restricted area during the remainder of that calendar quarter; or

(b) The closure of a registered or licensed facility and conclusion of licensed or registered activities, pursuant to a registration or specific license.

(140) "Test" means the process of verifying compliance with an applicable rule.

(141) "These rules," mean all parts of the Oregon Administrative Rules promulgated under ORS 453.605 through 453.807.

(142) "Total effective dose equivalent" (TEDE) means the sum of the deep dose equivalent for external exposures and the committed effective dose equivalent for internal exposures.

(143) "Total organ dose equivalent" (TODE) means the sum of the deep dose equivalent (DDE) and the committed dose equivalent (CDE) to the organ receiving the highest dose as described in OAR 333-120-0650(1)(d).

(144) "Transport index" means the dimensionless number (rounded up to the first decimal place) placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. The transport index is the number expressing the maximum radiation level in millirem per hour at one meter from the external surface of the package.

(145) "U.S. Department of Energy" means the Department of Energy established by Public Law 95-91, August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 et seq., to the extent that the Department exercises functions formerly vested in the U.S. Atomic Energy Commission, its Chairman, members, officers and components and transferred to the U.S. Energy Research and Development Administration and to the Administrator thereof pursuant to sections 104(b), (c) and (d) of the Energy Reorganization Act of 1974 (Public Law 93-438, October 11, 1974, 88 Stat. 1233 at 1237 42 U.S.C. 5814, effective January 19, 1975) and retransferred to the Secretary of Energy pursuant to section 301(a) of the Department of Energy Organization Act (Public Law 95-91, August 4, 1977, 91 Stat. 565 at 577-578, 42 U.S.C. 7151, effective October 1, 1977).

(146) "Unrefined and unprocessed ore" means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or refining. Processing does not include sieving or encapsulation of ore or preparation of samples for laboratory analysis.

NOTE: "Ore" refers to fuel cycle materials pursuant to 10 CFR Part 150.

(147) "Unrestricted area" means an area, access to which is neither limited nor controlled by the licensee or registrant. For purposes of these rules, "uncontrolled area" is an equivalent term.

(148) "Uranium — depleted, enriched" means:

(a) "Depleted uranium" means uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes.

(b) "Enriched uranium" means uranium containing more uranium-235 than the naturally occurring distribution of uranium isotopes.

(149) "Validation certificate" means the official document issued upon payment to the Authority of the appropriate fee listed in division 103 of this chapter. The license or registration is subject and void without the annual validation certificate.

(150) "Waste" means radioactive waste.

(151) "Week" means seven consecutive days starting on Sunday.

(152) "Weighting factor" (WT) for an organ or tissue (T) means:

(a) The proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of WT are:

(A) Gonads 0.25;

(B) Breast 0.15;

(C) Red Bone Marrow 0.12;

(D) Lung 0.12;

(E) Thyroid 0.03;

(F) Bone Surfaces 0.03;

(G) Remainder 0.30 (see note below);

(H) Whole Body 1.00.

NOTE: Assignment of 0.30 for the remaining organs results from a weighting factor of 0.06 for each of five "remainder" organs, excluding the skin and the lens of the eye, that receive the highest doses.

(b) For the purpose of weighting the external whole body dose, for adding it to the internal dose, a single weighting factor, WT = 1.0, has been specified. The use of other weighting factors for external exposure may be approved on a case-by-case basis until such time as specific guidance is issued.

(153) "Whole body" means, for purposes of external exposure, head, trunk including male gonads, arms above the elbow, or legs above the knee.

(154) "Worker" means an individual engaged in work under a license or registration issued by the Authority and controlled by a licensee or registrant, but does not include the licensee or registrant.

(155) "Working level" (WL) means any combination of short-lived radon progeny in one liter of air that will result in the ultimate emission of 1.3 x 105 MeV of potential alpha particle energy. The short-lived radon-222 progeny are: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220 the progeny are: polonium-216, lead-212, bismuth-212, and polonium-212.

(156) "Working level month" (WLM) means an exposure to one working level for 170 hours (2,000 working hours per year divided by 12 months per year is approximately equal to 170 hours per month.)

(157) "Year" means the period of time beginning in January used to determine compliance with the provisions of these rules. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

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

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 10-1987, f. & ef. 7-28-87; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; Administrative Reformatting 12-8-97; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 4-2013, f. & cert. ef. 1-29-13; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-102-0005
Unimportant Quantities of Source Material

(1) Any person is exempt from this division to the extent that such person receives, possesses, uses, owns or transfers source material in any chemical mixture, compound, solution or alloy in which the source material is by weight less than 1/20 of one percent (0.05 percent) of the mixture, compound, solution or alloy.

(2) Any person is exempt from this division to the extent that such person receives, possesses, uses or transfers unrefined and unprocessed ore containing source material; provided that, except as authorized in a specific license, such person must not refine or process such ore.

(3) Any person is exempt from this division to the extent that such person receives, possesses, uses or transfers:

(a) Any quantities of thorium contained in:

(A) Incandescent gas mantles;

(B) Vacuum tubes;

(C) Welding rods;

(D) Electric lamps for illuminating purposes provided that each lamp does not contain more than 50 milligrams of thorium;

(E) Germicidal lamps, sun lamps and lamps for outdoor or industrial lighting provided that each lamp does not contain more than two grams of thorium;

(F) Rare earth metals and compounds, mixtures and products containing not more than 0.25 percent by weight thorium, uranium or any combination of these; or

(G) Personnel neutron dosimeters, provided that each dosimeter does not contain more than 50 milligrams of thorium.

(b) Source material contained in the following products:

(A) Glazed ceramic tableware manufactured before August 27, 2013, provided that the glaze contains not more than 20 percent by weight source material;

(B) Piezoelectric ceramic containing not more than two percent by weight source material;

(C) Glassware containing more than two percent by weight source material or , for glassware manufactured before August 27, 2013, not more than ten percent by weight source material; but not including commercially manufactured glass brick, pane glass, ceramic tile or other glass or ceramic used in construction; or

(D) Glass enamel or glass enamel frit containing not more than ten percent by weight source material imported or ordered for importation into the United States, or initially distributed by manufacturers in the United States, before July 25, 1983.

(c) Photographic film, negatives and prints containing uranium or thorium;

(d) Any finished product or part fabricated of, or containing tungsten-thorium or magnesium-thorium alloys, provided that the thorium content of the alloy does not exceed four percent by weight and that this exemption must not be deemed to authorize the chemical, physical or metallurgical treatment or processing of any such product or part;

(e) Uranium contained in counterweights installed in aircraft, rockets, projectiles and missiles or stored or handled in connection with installation or removal of such counterweights, provided that:

(A) Each counterweight has been impressed with the following legend clearly legible through any plating or other covering: "DEPLETED URANIUM";

NOTE: The requirements specified in paragraphs (3)(e)(A) and (3)(e)(B) of this rule need not be met by counterweights manufactured prior to December 31, 1969 provided, that such counterweights were manufactured under a specific license issued by the Atomic Energy Commission and are impressed with the legend required by paragraph(3)(e)(B) of this rule in effect on June 30, 1969.

(B) Each counterweight is durably and legibly labeled or marked with the identification of the manufacturer and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED"; and

(C) This exemption must not be deemed to authorize the chemical, physical or metallurgical treatment or processing of any such counterweights other than repair or restoration of any plating or other covering.

(f) Natural or depleted uranium metal used as shielding constituting part of any shipping container, provided that:

(A) The shipping container is conspicuously and legibly impressed with the legend "CAUTION — RADIOACTIVE SHIELDING — URANIUM"; and

(B) The uranium metal is encased in mild steel or equally fire resistant metal of minimum wall thickness of 1/8 inch (3.2 mm).

(g) Thorium or uranium contained in finished optical lenses and mirrors, provided that each lens does not contain more than 10 percent by weight of thorium or uranium or, for lenses manufactured before August 27, 2013, 30 percent by weight of thorium; and that this exemption must not be deemed to authorize either:

(A) The shaping, grinding or polishing of such lens or mirrors or manufacturing processes other than the assembly of such lens or mirror into optical systems and devices without any alteration of the lens or mirror; or

(B) The receipt, possession, use or transfer of uranium or thorium contained in contact lenses, or in spectacles, or in eyepieces in binoculars or other optical instruments.

(h) Thorium contained in any finished aircraft engine part containing nickel-thoria alloy, provided that:

(A) The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide); and

(B) The thorium content in the nickel-thoria alloy does not exceed four percent by weight.

(4) The exemptions in section (3) of this rule do not authorize the manufacture of any of the products described.

(5) No person may initially transfer for sale or distribution a product containing source material to persons exempt under this rule, U.S. Nuclear Regulatory Commission or equivalent regulations of an Agreement State, unless authorized by a license issued under OAR 333-102-0300 and 333-102-0305 to initially transfer such products for sale or distribution.

(a) Persons initially distributing source material in products covered by the exemptions in this rule before August 27, 2013, without specific authorization may continue such distribution for one year beyond this date. Initial distribution may also be continued until the Authority takes final action on a pending application for license or license amendment to specifically authorize distribution submitted no later than one year beyond this date.

(b) Persons authorized to manufacture, process, or produce these materials or products containing source material by an Agreement State, and persons who import finished products or parts, for sale or distribution must be authorized by a license issued under OAR 333-102-0300 and 333-102-0305 for distribution only and are exempt from the requirements of divisions 111 and 120 of this chapter, and OAR 333-102-0200(2) and (3).

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 10-1987, f. & ef. 7-28-87; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-102-0015
Certain Items Containing Byproduct Material

(1) Except for persons who apply radioactive material to, or persons who incorporate radioactive material into the following products, any person is exempt from these rules to the extent that he or she receives, possesses, uses, transfers, owns or acquires the following products:

NOTE: Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing byproduct material whose subsequent possession, use, transfer, and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(a) Timepieces or hands or dials containing not more than the following specified quantities of radioactive material and not exceeding the following specified levels of radiation:

(A) 25 millicuries (925 MBq) of tritium per timepiece;

(B) Five millicuries (185 MBq) of tritium per hand;

(C) 15 millicuries (555 MBq) of tritium per dial (when used, bezels must be considered as part of the dial);

(D) 100 microcuries (3.7 MBq) of promethium-147 per watch or 200 microcuries (7.4 MBq) of promethium-147 per any other timepiece;

(E) 20 microcuries (0.74 MBq) of promethium-147 per watch hand or 40 microcuries (1.48 MBq) of promethium-147 per other timepiece hand;

(F) 60 microcuries (2.22 MBq) of promethium-147 per watch dial or 120 microcuries (4.44 MBq) of promethium-147 per other timepiece dial (when used, bezels must be considered as part of the dial);

(G) 0.15 microcurie (5.55 kBq) of radium per timepiece;

(H) 0.03 microcurie (1.11 kBq) of radium per hand;

(I) 0.09 microcurie (3.33 kBq) of radium per dial (when used, bezels must be considered as part of the dial);

(J) The radiation dose rate from hands and dials containing promethium-147 will not exceed, when measured through 50 milligrams per square centimeter of absorber:

(i) For wrist watches, 0.1 millirad (one Gy) per hour at 10 centimeters from any surface;

(ii) For pocket watches, 0.1 millirad (one Gy) per hour at one centimeter from any surface; and

(iii) For any other timepiece, 0.2 millirad (two Gy) per hour at 10 centimeters from any surface.

(K) One microcurie (37 kBq) of radium-226 per timepiece in intact timepieces manufactured prior to November 30, 2007.

(b) Precision balances containing not more than one millicurie (37 MBq) of tritium per balance or not more than 0.5 millicurie (18.5 MBq) of tritium per balance part manufactured before December 17, 2007;

(c) Marine compasses containing not more than 750 millicuries (27.8 GBq) of tritium gas and other marine navigational instruments containing not more than 250 millicuries (9.25 GBq) of tritium gas manufactured before December 17, 2007;

(d) Electron tubes: Provided, that each tube does not contain more than one of the following specified quantities of radioactive material:

(A) 150 millicuries (5.55 GBq) of tritium per microwave receiver protector tube or 10 millicuries (370 MBq) of tritium per any other electron tube;

(B) One microcurie (37 kBq) of cobalt-60;

(C) Five microcuries (185 kBq) of nickel-63;

(D) 30 microcuries (1.11 MBq) of krypton-85;

(E) Five microcuries (185 kBq) of cesium-137; or

(F) 30 microcuries (1.11 MBq) of promethium-147.

(G) And provided further, that the radiation dose rate from each electron tube containing radioactive material will not exceed one millirad (10 Gy) per hour at one centimeter from any surface when measured through seven milligrams per square centimeter of absorber.

NOTE: For purposes of, subsection (1)(d) of this rule "electron tubes" include spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave tubes, indicator tubes, pick-up tubes, radiation detection tubes and any other completely sealed tube that is designed to conduct or control electrical currents.

(e) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, one or more sources of radioactive material, provided that:

(A) Each source contains no more than one exempt quantity set forth in 10 CFR Part 30.71 Schedule B; and

(B) Each instrument contains no more than 10 exempt quantities. For purposes of this requirement, an instrument's source(s) may contain either one or different types of radionuclides and an individual exempt quantity may be composed of fractional parts of one or more of the exempt quantities in 10 CFR Part 30.71 Schedule B provided that the sum of such fractions must not exceed unity.

(C) For americium-241, 0.05 microcuries (1.85 kBq) is considered an exempt quantity under paragraph (1)(e)(A) of this rule. Ionization chamber smoke detectors containing not more than one microcurie (uCi) of americium-241 per detector in the form of a foil and designed to protect life and property from fires.

(f) Static elimination devices that contain, as a sealed source or sources, byproduct material consisting of a total of not more than 500 microcuries (18.5 MBq) of polonium 210 per device.

(g) Ion generating tubes designed for ionization of air that contain, as a sealed source or sources, byproduct material consisting of a total of not more than 500 millicuries(18.5 MBq) of polonium 210 per device or of a total of not more than 50 millicuries (1.85 GBq) of hydrogen 3 (tritium) per device.

(h) Such devices authorized before October 23, 2012 for use under the general license then provided in 10 CFR Part 31.3 and equivalent regulations of Agreement States and manufactured, tested, and labeled by the manufacturer in accordance with the specifications contained in a specific license issued by the Nuclear Regulatory Commission.

(2) The exemptions contained in this rule must not authorize any of the following:

(a) The manufacture of any product listed;

(b) The application or removal of radioactive luminous material to or from meters and timepieces or hands and dials therefore;

(c) The installation into automobile locks of illuminators containing tritium or promethium-147 or the application of tritium to balances of precision or parts thereof;

(d) Human use, or the use in any device or article, except timepieces, which is intended to be placed on or in the human body;

(e) As applied to radioactive material exempted under section (1) of this rule, the production, packaging, repackaging or transfer of radioactive material for purposes of commercial distribution or the incorporation of radioactive material into products intended for commercial distribution.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 4-2010, f. & cert. ef. 2-16-10; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-102-0025
Gas and Aerosol Detectors Containing Byproduct Material

(1) Except for persons who manufacture, process, produce or initially transfer for sale or distribution gas and aerosol detectors containing byproduct material, any person is exempt from the requirements for a license and from the rules in this division and in divisions 105, 113, 115, 116, 117, 120, and 121 of this chapter to the extent that such person receives, possesses, uses, transfers, owns or acquires byproduct material in gas and aerosol detectors designed to protect health, safety, or property and manufactured, processed, produced, or initially transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to 10 CFR Parts 32.26 of; or a Licensing State pursuant to OAR 333-102-0260, which authorizes the initial transfer of the product for use under this rule. This exemption also covers gas and aerosol detectors manufactured or distributed before November 30, 2007 in accordance with a specific license issued by a state under comparable provisions to OAR 333-102-0260 authorizing distribution to persons who are exempt from regulatory requirements.

(2) Any person who desires to manufacture, process, or produce gas and aerosol detectors containing byproduct materials, or to initially transfer such products for use under section (1) of this rule shall apply for a license under OAR 333-102-0260 and for a certificate of registration in accordance with 10 CFR Part 32.210.

(3) Gas and aerosol detectors containing NARM previously manufactured and distributed in accordance with a specific license issued by a Licensing State must be considered exempt under section (1) of this rule, provided that the device is labeled in accordance with the specific license authorizing distribution and provided further that they meet the requirements of OAR 333-102-0260.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 20-2010, f. & cert. ef. 9-1-10; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-102-0030
Self-Luminous Products Containing Tritium, Krypton-85, or Promethium-147

(1) Except for persons who manufacture, process, produce, or initially transfer for sale or distribution self-luminous products containing tritium, krypton-85, or promethium-147, and except as provided in section (3) of this rule, any person is exempt from the requirements for a license set forth in divisions 105, 113, 115, 116, 117, 120, 121 and 124 of this chapter to the extent that such person receives, possesses, uses, transfers, owns, or acquires tritium, krypton-85, or promethium-147 in self-luminous products manufactured, processed, produced, or initially transferred in accordance with a specific license issued pursuant to OAR 333-102-0245, which authorizes the initial transfer of the product for use under this section.

(2) Any person who desires to manufacture, process, or produce, or initially transfer for sale or distribution self-luminous products containing tritium, krypton-85, or promethium-147 for use under section (1) of this rule, shall apply for a license under OAR 333-102-0245 and for a certificate of registration in accordance with 10 CFR Part 32.210.

(3) The exemption in section (1) of this rule does not apply to tritium, krypton-85, or promethium-147 used in products primarily for frivolous purposes or in toys or adornments.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 20-2010, f. & cert. ef. 9-1-10; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-102-0033
Certain Industrial Devices

(1) Except for persons who manufacture, process, produce, or initially transfer for sale or distribution industrial devices containing byproduct material designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing an ionized atmosphere, any person is exempt from the requirements for a license set forth in rules in this division and in divisions 105, 113, 115, 116, 117, 120, and 121 of this chapter to the extent that such person receives, possesses, uses, transfers, owns, or acquires byproduct material, in these certain detecting, measuring, gauging, or controlling devices and certain devices for producing an ionized atmosphere, and manufactured, processed, produced, or initially transferred in accordance with a specific license issued under this division, which authorizes the initial transfer of the device for use under this section. This exemption does not cover sources not incorporated into a device, such as calibration and reference sources.

(2) Any person who desires to manufacture, process, produce, or initially transfer for sale or distribution industrial devices containing byproduct material for use under section (1) of this rule shall apply for a license under this division and for a certificate of registration in accordance with 10 CFR Part 32.210.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 – 453.807
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-102-0035
Exempt Quantities

(1) Except as provided in sections (2), (3) and (5) of this rule, any person is exempt from these rules to the extent that such person receives, possesses, uses, transfers, owns or acquires radioactive material in individual quantities, each of which does not exceed the applicable quantity set forth in 10 CFR Part 30.71 Schedule B.

(2) This rule does not authorize the production, packaging or repackaging of radioactive material for purposes of commercial distribution or the incorporation of radioactive material into products intended for commercial distribution.

(3) Any person who possesses radioactive material received or acquired under the general license formerly provided in OAR 333-102-0015(1)(g) is exempt from the requirements for a license set forth in this rule to the extent that such person possesses, uses, transfers or owns such byproduct material. .

(4) No person may, for purposes of commercial distribution, transfer radioactive material in the individual quantities set forth in 10 CFR Part 30.71 Schedule B, knowing or having reason to believe that such quantities of radioactive material will be transferred to persons exempt under this rule or equivalent regulations of the U.S. Nuclear Regulatory Commission, any Agreement State or Licensing State, except in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to section 32.18 of 10 CFR Part 32 or by the Authority pursuant to OAR 333-102-0255, which license states that the radioactive material may be transferred by the licensee to persons exempt under this rule or the equivalent regulations of the U.S. Nuclear Regulatory Commission, any Agreement State or Licensing State.

(5) No person may, for purposes of producing an increased radiation level, combine quantities of byproduct material covered by this exemption so that the aggregate quantity exceeds the limits set forth in 10 CFR Part 30.71, Schedule B, except for byproduct material combined within a device placed in use before May 3, 1999, or as otherwise permitted by the regulations in this rule.

NOTE: Authority to transfer possession or control by the manufacturer, processor or producer or any equipment, device, commodity or other product containing byproduct material whose subsequent possession, use, transfer and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-2985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07; PH 4-2010, f. & cert. ef. 2-16-10; PH 20-2010, f. & cert. ef. 9-1-10; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-102-0075
Types of Licenses

Licenses for radioactive materials are of two types: General and specific.

(1) General licenses provided in this division are granted as being effective without the filing of applications with the Authority or the issuance of licensing documents to particular persons, except Depleted Uranium subject to OAR 333-102-0106, Measuring, Gauging, and Controlling devices subject to OAR 333-102-0115, and In Vitro Clinical or Laboratory Testing subject to OAR 333-102-0130.

(2) Specific licenses require the submission of an application to the Authority and the issuance of a specific licensing document by the Authority. The licensee is subject to all applicable portions of these rules as well as any limitations specified in the licensing document. Specific licenses are issued to named persons upon applications filed pursuant to OAR 333-102-0200 and divisions 105, 113, 115, 116, 117, and 121 of this chapter.

(3) General licenses granted by OAR 333-102-0101, 333-102-0106, 333-102-0115, and 333-102-0130 require the submission of an application to the Authority for registration pursuant to 333-101-0007, payment of a fee in accordance with 333-103-0015, and the issuance of a registration (licensing document or general license acknowledgment) by the Authority.

(4) General licenses are subject to OAR 333-100-0005 (Definitions), 333-100-0025 (Exemptions), 333-100-0030 (Additional Requirements), 333-100-0055 (Records), 333-100-0060(1) and 333-100-0060(2) (Inspections), 333-100-0065 (Tests), 333-102-0305(1) through 333-102-0305(8) (Terms and Conditions of Licenses), 333-102-0330 (Transfers), 333-102-0335 (Modification, Revocation, and Termination of Licenses), and divisions 103, 111, 118, and 120 of this chapter unless indicated otherwise in the language of the general license.

NOTE: Attention is directed particularly to the provisions of the regulations in division 120 of this chapter that relate to the labeling of containers and notification of incidents.

(5) Any record required by this division must be legible throughout the retention period specified by each Authority rule. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, specifications, must include all pertinent information such as letters, stamps, initials, and signatures. The licensee must maintain adequate safeguards against tampering with and loss of records.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-102-0101
General Licenses — Small Quantities of Source Material

(1) A general license is hereby issued authorizing commercial and industrial firms, research, educational and medical institutions, and state and local government agencies to use and transfer uranium and thorium, in their natural isotopic concentrations and in the form of depleted uranium, for research, development, educational, commercial, or operations purposes in the following forms and quantities:

(a) No more than 1.5 kg (3.3 lb) of uranium and thorium in dispersible forms such as gaseous, liquid, or powder, at any one time. Any material processed by the general licensee that alters the chemical or physical form of the material containing source material must be accounted for as a dispersible form. A person authorized to possess, use, and transfer source material under this paragraph may not receive more than a total of 7 kg (15.4 lb) of uranium and thorium in any one calendar year. Persons possessing source material in excess of these limits as of August 27, 2013, may continue to possess up to 7 kg (15.4 lb) of uranium and thorium at any one time for one year beyond this date, or until the Commission takes final action on a pending application submitted on or beforeAugust 27, 2014, for a specific license for such material; and receive up to 70 kg (154 lb) of uranium or thorium in any one calendar year until December 31, 2014, or until the Commission takes final action on a pending application submitted on or before August 27, 2014, for a specific license for such material; and

(b) No more than a total of 7 kg (15.4 lb) of uranium and thorium at any one time. A person authorized to possess, use, and transfer source material under this section may not receive more than a total of 70 kg (154 lb) of uranium and thorium in any one calendar year. A person may not alter the chemical or physical form of the source material possessed under this section unless it is accounted for under the limits of subsection (1)(a) of this rule; or

(c) No more than 7 kg (15.4 lb) of uranium, removed during the treatment of drinking water, at any one time. A person may not remove more than 70 kg (154 lb) of uranium from drinking water during a calendar year under this section; or

(d) No more than 7 kg (15.4 lb) of uranium and thorium at laboratories for the purpose of determining the concentration of uranium and thorium contained within the material being analyzed at any one time. A person authorized to possess, use, and transfer source material under this section may not receive more than a total of 70 kg (154 lb) of source material in any one calendar year.

(2) Any person who receives, possesses, uses, or transfers source material in accordance with the general license in section (1) of this rule:

(a) Is prohibited from administering source material, or the radiation therefrom, either externally or internally, to human beings except as may be authorized by the Authority in a specific license.

(b) Shall not abandon such source material. Source material may be disposed of as follows:

(A) A cumulative total of 0.5 kg (1.1 lb) of source material in a solid, non-dispersible form may be transferred each calendar year, by a person authorized to receive, possess, use, and transfer source material under this general license to persons receiving the material for permanent disposal. The recipient of source material transferred under the provisions of this paragraph is exempt from the requirements to obtain a license under this rule to the extent the source material is permanently disposed. This provision does not apply to any person who is in possession of source material under a specific license issued under this chapter; or

(B) In accordance with OAR 333-120-0500, Waste Disposal – General Requirements.

(c) Is subject to the provisions in OAR 333-100-0080, 333-102-0001, 333-102-0005, 333-102-0075, 333-102-0101, 333-102-0305, 333-102-0330, 333-102-0350, and 333-102-0353.

(d) Shall not export such source materials except in accordance with 10 CFR Part 110.

(3) Any person who receives, possesses, uses, or transfers source material in accordance with section (1) of this rule shall conduct activities so as to minimize contamination of the facility and the environment. When activities involving such source material are permanently ceased at any site, if evidence of significant contamination is identified, the general licensee shall notify the Authority about such contamination and may consult with the Authority as to the appropriateness of sampling and restoration activities to ensure that any contamination or residual source material remaining at the site where source material was used under this general license is not likely to result in exposures that exceed the limits in 10 CFR Parts 20.1402.

(4) Any person who receives, possesses, uses, or transfers source material in accordance with the general license granted in section (1) of this rule is exempt from the provisions of division 111 and 120 of this chapter and 10 CFR Part 21 to the extent that such receipt, possession, use, and transfer are within the terms of this general license, except that such person shall comply with the provisions of CFR 10 Parts 20.1402 and 20.2001 to the extent necessary to meet the provisions of subsection (2)(b) and section (3) of this rule. However, this exemption does not apply to any person who also holds a specific license issued under this division.

(5) No person may initially transfer or distribute source material to persons generally licensed under subsection (1)(a) or section (2) of this rule, or equivalent regulations of an Agreement State, unless authorized by a specific license issued in accordance with OAR 333-102-0102 or equivalent provisions of an Agreement State. This prohibition does not apply to analytical laboratories returning processed samples to the client who initially provided the sample. Initial distribution of source material to persons generally licensed by section (1) of this rule before August 27, 2013 without specific authorization may continue for one year beyond this date. Distribution may also be continued until the Commission takes final action on a pending application for license or license amendment to specifically authorize distribution submitted on or before August 27, 2014.

(6) A general license is hereby granted authorizing the receipt of title to source material without regard to quantity. This general license does not authorize any person to receive, possess, use or transfer source material.

(7) Persons who receive, acquire, possess or use source material pursuant to the general license granted by section (1) of this rule must develop and maintain procedures to establish physical control over the source material and prevent transfer of such source material to persons not authorized to receive the source material.

(8) A person who receives, acquires, possesses or uses source material pursuant to the general license granted by section (1) of this rule:

(a) Must not introduce such source material, in any form, into a chemical, physical, or metallurgical treatment or process;

(b) Must not abandon such source material; and

(c) Must transfer or dispose of such source material only by transfer in accordance with the provisions of OAR 333-102-0330 or 333-120-0500.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 10-1987, f. & ef. 7-28-87; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-102-0102
Requirements for License to Initially Transfer Source Material for Use Under the Small Quantities of Source Materials General License

An application for a specific license to initially transfer source material for use under OAR 333-102-0101, or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State shall be approved if:

(1) The applicant satisfies the general requirements specified in OAR 333-102-0200; and

(2) The applicant submits adequate information on, and the Commission approves the methods to be used for quality control, labeling, and providing safety instructions to recipients.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-102-0104
Conditions of Licenses to Initially Transfer Source Material for Use Under the 'Small Quantities of Source Material' General License: Quality Control, Labeling, Safety Instructions, and Records and Reports

(1) Each person licensed under OAR 333-102-0102 shall label the immediate container of each quantity of source material with the type of source material and quantity of material and the words "radioactive material".

(2) Each person licensed under OAR 333-102-0102 shall ensure that the quantities and concentrations of source material are as labeled and indicated in any transfer records.

(3) Each person licensed under OAR 333-102-0102 shall provide the information specified in this rule to each person to whom source material is transferred for use under OAR 333-102-0101, equivalent provisions in Agreement State or the U.S. Nuclear Regulatory Commission's regulations. This information must be transferred before the source material is transferred for the first time in each calendar year to the particular recipient. The required information includes:

(a) A copy of OAR 333-102-0101 and OAR 333-102-0330, or relevant equivalent regulations of the Agreement State or the U.S. Nuclear Regulatory Commission; and

(b) Appropriate radiation safety precautions and instructions relating to handling, use, storage, and disposal of the material.

(4) Each person licensed under OAR 333-102-0102 shall report transfers as follows:

(a) File a report with the Authority. The report shall include the following information:

(A) The name, address, and license number of the person who transferred the source material;

(B) For each general licensee under OAR 333-102-0102:

(i) Equivalent Agreement State provisions or the Nuclear Regulatory Commission regulations to whom greater than 50 grams (0.11 lb) of source material has been transferred in a single calendar quarter;

(ii) The name and address of the general licensee to whom source material is distributed:

(iii) A responsible agent, by name and position, and phone number, of the general licensee to whom the material was sent; and

(iv) The type, physical form, and quantity of source material transferred.

(C) The total quantity of each type and physical form of source material transferred in the reporting period to all such generally licensed recipients.

(b) File a report with each responsible Agreement State or U.S. Nuclear Regulatory Commission agency that identifies all persons, operating under provisions equivalent to OAR 333-102-0102, to whom greater than 50 grams (0.11 lb) of source material has been transferred within a single calendar quarter. The report shall include the following information specific to those transfers made to the Agreement State being reported to:

(A) The name, address, and license number of the person who transferred the source material; and

(B) The name and address of the general licensee to whom source material was distributed; a responsible agent, by name or position and phone number of the general licensee to whom the material was sent; and the type, physical form, and quantity of source material transferred.

(C) The total quantity of each type and physical form of source material transferred in the reporting period to all such generally licensed recipients within the Agreement State or U.S. Nuclear Regulatory Commission's jurisdiction.

(c) Submit each report by January 31 of each year covering all transfers for the previous calendar year. If no transfers were made to persons generally licensed under OAR 333-102-0101 or equivalent Agreement State or U.S. Nuclear Regulatory Commission's provisions during the current period, a report shall be submitted to the Authority indicating so. If no transfers have been made to general licensees in a particular Agreement State or U.S. Nuclear Regulatory Commission's jurisdiction during the

reporting period, this information shall be reported to the responsible Agreement State agency upon request of the agency

(5) Each person licensed under OAR 333-102-0102 shall maintain all information that supports the reports required by this rule concerning each transfer to a general licensee for a period of one year after the event is included in a report to the Authority, Agreement State agency, or the U.S. Nuclear Regulatory Commission.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-102-0106
General Licenses — Depleted Uranium in Industrial Products and Devices

(1) A general license is hereby granted to receive, acquire, possess, use or transfer, in accordance with the provisions of sections (2), (3), (4) and (5), depleted uranium contained in industrial products or devices for the purpose of providing a concentrated mass in a small volume of the product or device.

(2) The general license in section (1) of this rule applies only to industrial products or devices that have been manufactured either in accordance with a specific license issued to the manufacturer of the products or devices pursuant to OAR 333-102-0235 or in accordance with a specific license issued to the manufacturer by the U.S. Nuclear Regulatory Commission or an Agreement State that authorizes manufacture of the products or devices for distribution to persons granted a general license by the U.S. Nuclear Regulatory Commission or an Agreement State.

(3) Persons who receive, acquire, possess or use depleted uranium pursuant to the general license established by section (1) of this rule must apply for registration of the general license pursuant to OAR 333-101-0007, and submit the required fee pursuant to 333-103-0015. Applicants will receive a validation certificate from the Authority. Application for registration must be submitted within 30 days after the first receipt or acquisition of such depleted uranium.

(a) The general licensee must provide the following information in accordance with the registration application required by OAR 333-101-0007 and such other information as may be required by that form:

(A) Name and address of the general licensee;

(B) A statement that the general licensee has developed and will maintain procedures designed to establish physical control over the depleted uranium described in section (1) of this rule and designed to prevent transfer of such depleted uranium in any form, including metal scrap, to persons not authorized to receive the depleted uranium; and

(C) Name and title, address, and telephone number of the individual duly authorized to act for and on behalf of the general licensee in supervising the procedures identified in subsection (3)(b) of this rule.

(b) The general licensee possessing or using depleted uranium under the general license established by section (1) of this rule must report any changes in information in writing to the Authority within 30 days after the effective date of such change.

(4) A person who receives, acquires, possesses or uses depleted uranium pursuant to the general license established by section (1) of this rule:

(a) Must not introduce such depleted uranium, in any form, into a chemical, physical or metallurgical treatment or process, except a treatment or process for repair or restoration of any plating or other covering of the depleted uranium;

(b) Must not abandon such depleted uranium;

(c) Must transfer or dispose of such depleted uranium only by transfer in accordance with the provisions of OAR 333-102-0330. In the case where the transferee receives the depleted uranium pursuant to the general license granted by section (1) of this rule, the transferor must furnish the transferee a copy of this rule and a copy of the general license registration application required by 333-101-0007. In the case where the transferee receives the depleted uranium pursuant to a general license contained in the U.S. Nuclear Regulatory Commission's or Agreement State's regulation equivalent to section (1) of this rule, the transferor must furnish the transferee a copy of this rule and a copy of the general license registration application required by 333-101-0007 accompanied by a note explaining that use of the product or device is regulated by the U.S. Nuclear Regulatory Commission or Agreement State under requirements substantially the same as those in this rule;

(d) Must report in writing to the Authority, within 30 days of any transfer, the name and address of the person receiving the depleted uranium pursuant to such transfer; and

(e) Must not export such depleted uranium except in accordance with a license issued by the U.S. Nuclear Regulatory Commission pursuant to 10 CFR Part 110.

(5) Any person receiving, acquiring, possessing, using or transferring depleted uranium pursuant to the general license established by section (1) of this rule is exempt from the requirements of divisions 111 and 120 of this chapter with respect to the depleted uranium covered by that general license.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; Renumbered from 333-102-0103, PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-102-0190
Application for Specific Licenses.

(1) Applications for specific licenses must be filed on a form prescribed by the Authority. Information contained in previous applications, statements or reports filed with the Authority, the US Nuclear Regulatory Commission, or an Agreement State or a Licensing State or the Atomic Energy Commission may be incorporated by reference, provided that the reference is clear and specific.

(2) The Authority may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the Authority to determine whether the application shall be granted or denied or whether a license shall be modified or revoked.

(3) Each application must be signed by the applicant or licensee or a person duly authorized to act for and on the applicant's or licensee's behalf.

(4) Each applicant for a specific license is required to have a permanent in-state office with a copy of all required records available for inspection by the Authority.

(5) An application for a license filed pursuant to the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter will be considered also as an application for licenses authorizing other activities for which licenses are required by the Act, provided that the application specifies the additional activities for which licenses are requested and complies with rules of the Authority and the US Nuclear Regulatory Commission as to applications for such licenses.

(6) Each new application for a radioactive material license must be accompanied by the fee prescribed by OAR 333-103-0010. No fee will be required to accompany an application for renewal or amendment of a license, except as provided in OAR 333-103-0010.

(7) An application for a license to receive and possess radioactive material for the conduct of any activity that the Authority has determined, pursuant to Subpart A of Part 51 of 10 CFR (Environmental Protection Regulations applicable to materials licensing), will significantly affect the quality of the environment, must be filed at least nine months prior to commencement of construction of the plant or facility in which the activity will be conducted and must be accompanied by any Environmental Report required pursuant to Subpart A of 10 CFR Part 51.

(8) An application for a specific license to use byproduct material in the form of a sealed source or in a device that contains the sealed source must either:

(a) Identify the source or device by manufacturer and model number as registered with the US Nuclear Regulatory Commission under 10 CFR Part 32.210 or with an Agreement State; or for a source or a device containing radium-226 or accelerator-produced radioactive material with a state under provisions comparable to 10 CFR Parts 32.210; or

(b) Contain the information identified in 10 CFR Part 32.210(c); or

(c) For sources or devices manufactured prior to October 23, 2012 that are not registered with the Nuclear Regulatory Commission or an Agreement State which the applicant is unable to provide all categories of information specified in 10 CFR Part 32.210(c) the applicant must provide:

(A) All available information identified in 10 CFR Part 32.210(c) concerning the source and if applicable the device; and

(B) Sufficient additional information to demonstrate that there is reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property. Information must include a description of the source or device, description of radiation safety features, intended use and associated operating experience and the results of a recent leak test:

(i) For sealed sources and devices allowed to be distributed without registration of safety information in accordance with 10 CFR Part 32.210(g)(1), the applicant may supply only the manufacturer, model number, and radionuclide and quantity; or

(ii) If it is not feasible to identify each sealed source and device individually, the applicant may propose constraints on the number and type of sealed sources and devices to be used and the conditions under which they will be used, in lieu of identifying each sealed source and device.

(9) As provided by OAR 333-102-0200, certain applications for specific licenses filed under this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter must contain a proposed decommissioning funding plan or a certification of financial assurance for decommissioning as follows:

(10)(a) Each application to possess radioactive materials in unsealed form, on foils or plated sources, or sealed in glass in excess of the quantities in 10 CFR 30.72, "Schedule C — Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release," must contain either:

(A) An evaluation showing that the maximum dose to a person offsite due to a release of radioactive materials shall not exceed one rem effective dose equivalent or five rems to the thyroid; or

(B) An emergency plan for responding to a release of radioactive material.

(b) One or more of the following factors may be used to support an evaluation submitted under paragraph (10)(a)(A) of this rule:

(A) The radioactive material is physically separated so that only a portion could be involved in an accident;

(B) All or part of the radioactive material is not subject to release during an accident because of the way it is stored or packaged;

(C) The release fraction in the respirable size range shall be lower than the release fraction shown in 10 CFR Part 30.72 (Schedule C — Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release) due to the chemical or physical form of the material;

(D) The solubility of the radioactive material shall reduce the dose received;

(E) Facility design or engineered safety features in the facility shall cause the release fraction to be lower than shown in 10 CFR Part 30.72;

(F) Operating restrictions or procedures shall prevent a release fraction as large as that shown in 10 CFR Part 30.72; or

(G) Other factors appropriate for the specific facility.

(c) An emergency plan for responding to a release of radioactive material submitted under paragraph (10)(a)(B) of this rule must include the following information:

(A) Facility description. A brief description of the licensee's facility and area near the site.

(B) Types of accidents. An identification of each type of radio-active materials accident for which protective actions may be needed.

(C) Classification of accidents. A classification system for classifying accidents as alerts or site area emergencies.

(D) Detection of accidents. Identification of the means of detecting each type of accident in a timely manner.

(E) Mitigation of consequences. A brief description of the means and equipment for mitigating the consequences of each type of accident, including those provided to protect workers onsite, and a description of the program for maintaining the equipment.

(F) Assessment of releases. A brief description of the methods and equipment to assess releases of radioactive materials.

(G) Responsibilities. A brief description of the responsibilities of licensee personnel if an accident occurs, including identification of personnel responsible for promptly notifying offsite response organizations and the Authority; also responsibilities for developing, maintaining, and updating the plan.

(H) Notification and coordination. A commitment to and a brief description of the means to promptly notify offsite response organizations and request offsite assistance, including medical assistance for the treatment of contaminated injured onsite workers when appropriate. A control point must be established. The notification and coordination must be planned so that unavailability of some personnel, parts of the facility, and some equipment will not prevent the notification and coordination. The licensee also must commit to notify the Authority immediately after notification of the appropriate offsite response organizations and not later than one hour after the licensee declares an emergency.

NOTE: These reporting requirements do not supercede or release licensees of complying with the requirements under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499 or other state or federal reporting requirements.

(I) Information to be communicated. A brief description of the types of information on facility status, radioactive releases, and recommended protective actions, if necessary, to be given to offsite response organizations and to the Authority.

(J) Training. A brief description of the frequency, performance objectives and plans for the training that the licensee will provide workers on how to respond to an emergency including any special instructions and orientation tours the licensee can offer to fire, police, medical and other emergency personnel. The training must familiarize personnel with site-specific emergency procedures. Also, the training must thoroughly prepare site personnel for their responsibilities in the event of accident scenarios postulated as most probable for the specific site, including the use of team training for such scenarios.

(K) Safe shutdown. A brief description of the means of restoring the facility to a safe condition after an accident.

(L) Exercises. Provisions for conducting quarterly communications checks with offsite response organizations and biennial onsite exercises to test response to simulated emergencies. Quarterly communications checks with offsite response organizations must include the check and update of all necessary telephone numbers. The licensee must invite offsite response organizations to participate in the biennial exercises. Participation of offsite response organizations in biennial exercises although recommended is not required. Exercises must use accident scenarios postulated as most probable for the specific site and the scenarios must not be known to most exercise participants. The licensee must critique each exercise using individuals not having direct implementation responsibility for the plan. Critiques of exercises must evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques must be corrected.

(M) Hazardous chemicals. A certification that the applicant has met its responsibilities under the Emergency Planning and Community Right-to-Know Act of 1986, title III, Pub. L. 99-499, if applicable to the applicant's activities at the proposed place of use of the byproduct material.

(N) An application from a medical facility, educational institution, or federal facility to produce Positron Emission Tomography (PET) radiopharmaceutical drugs for noncommercial transfer to licensees in its consortium authorized for medical use under 10 CFR Part 35 or division 116 of this chapter or equivalent Agreement State requirements shall include:

(i) A request for authorization for the production of PET radionuclides or evidence of an existing license issued under 10 CFR Part 30 or Agreement State requirements for a PET radionuclide production facility within its consortium from which it receives PET radionuclides.

(ii) Evidence that the applicant is qualified to produce radiopharmaceutical drugs for medical use by meeting one of the criteria in 10 CFR 32.72(a)(2).

(iii) Identification of individual(s) authorized to prepare the PET radiopharmaceutical drugs if the applicant is a pharmacy, and documentation that each individual meets the requirements of an authorized nuclear pharmacist as specified in OAR 333-116-0880 and 333-116-0910.

(iv) Information identified in 10 CFR Part 32.72(a)(3) on the PET radiopharmaceutical to be non-commercially transferred to members of its consortium.

(v) Each applicant for a license for byproduct material shall protect Safeguards Information against unauthorized disclosure in accordance with the requirements in 10 CFR Parts 73.21, 73.22 and 73.23 as applicable.

(d) The licensee must allow the offsite response organizations expected to respond in case of an accident 60 days to comment on the licensee's emergency plan before submitting it to the Authority. The licensee must provide any comments received within the 60 days to the Authority with the emergency plan.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-102-0200

General Requirements for the Issuance of Specific Licenses

An application for a specific license, will be approved if:

(1) The application is for a purpose authorized by the Act;

(2) The applicant is qualified by training and experience to use the material for the purpose requested in such manner as to protect health and minimize danger to life or property;

(3) The applicant's proposed equipment and facilities are adequate to protect health and minimize danger to life or property;

(4) The applicant satisfies any applicable special requirements contained in divisions 102, 105, 113, 115, 116, 117, or 121 of this chapter; and

(5) In the case of an application for a license to receive and possess radioactive material for the conduct of any activity which the Authority determines will significantly affect the quality of the environment, the Authority Manager or designee, before commencement of construction of the plant or facility in which the activity will be conducted, on the basis of information filed and evaluations made pursuant to Subpart A of Part 51 of 10 CFR, has concluded, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to such conclusion must be grounds for denial of a license to receive and possess byproduct material in such plant or facility. As used in this rule, the term "commencement of construction" means any clearing of land, excavation, or other substantial action that can adversely affect the environment of a site. The term does not mean site exploration, necessary roads for site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the site or the protection of environmental values. Upon a determination that an application meets the requirements of the Act, and the rules of the Authority, the Authority will issue a specific license authorizing the possession and use of radioactive material ("Radioactive Materials License").

(6) Financial assurance and recordkeeping for decommissioning following the specific requirements listed below:

(a) 10 CFR 30.35 and 30.36 for radioactive material that is not source or special nuclear material; or

(b) 10 CFR 40.36 for source material; or

(c) 10 CFR 70.25 for special nuclear material.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-102-0203
Definitions

The following definitions apply for Radioactive Material Licenses issued pursuant to this division and divisions 105, 113, 115, 117, and 121 of this chapter:

NOTE: Unless otherwise specified in this rule, the licenses described in this rule are limited by conditions of the radioactive materials license issued pursuant to OAR 333-102-0200, and other applicable rules in this chapter.

(1) "Analytical Leak Test" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(a), authorizing possession of environmental samples, sealed source leak-test, contamination wipe and samples for radioanalytical measurements. This license does not authorize collection of samples, or decommissioning or decontamination activities.

(2) "Assets" means anything of material value or usefulness. In the context of a materials license, assets include all existing capital, effects, possessions, and belongings and all probable future economic benefits obtained or controlled by a particular entity.

(3) "Basic License" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(b) authorizing the receipt, possession, use, transfer, and disposal of sources of radiation or radioactive materials incident to gauge service, teletherapy service, medical afterloader service, and other licensed service activities; pre-packaged waste pickup (not packaging), storage of materials prior to license termination, instrument quality control servicing or calibration (excluding activities authorized by 333-103-0010(2)(m)), or other minor activities not otherwise specified in these rules, such as authorization for "systems," as defined in these rules, pursuant to that definition.

(4) "Beneficiating" means subjecting a product to any process that can increase or concentrate any component (including the radioactive materials) to benefit the product.

(5) "Brachytherapy" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(c) authorizing the use of brachytherapy sources for in vivo application of radiation in accordance with 333-116-0420. Brachytherapy includes radioactive material sealed sources in seeds, needles, plaques, or other localized medical devices, but excludes remote afterloaders.

(6) "Broad Scope A" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(d), authorizing activities in 333-102-0900(1)(a), under the authority of a Radiation Safety Committee.

(7) "Broad Scope B" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(e) authorizing activities described in 333-102-0900(1)(b), under the authority of a Radiation Safety Officer.

(8) "Broad Scope C" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(f) authorizing activities described in 333-102-0900(1)(c), under the authority of an authorized user.

(9) "Commencement of construction" means taking any action defined as "construction" or any other activity at the site of a facility subject to the regulations in this division that has a reasonable nexus to radiological health and safety.

(10) "Construction" means the installation of foundations, or in-place assembly, erection, fabrication, or testing for any structure, system, or component of a facility or activity subject to the regulations in this division that are related to radiological safety or security. The term "construction" does not include:

(a) Changes for temporary use of the land for public recreational purposes;

(b) Site exploration, including necessary borings to determine foundation conditions or other preconstruction monitoring to establish background information related to the suitability of the site, the environmental impacts of construction or operation, or the protection of environmental values;

(c) Preparation of the site for construction of the facility, including clearing of the site, grading, installation of drainage, erosion and other environmental mitigation measures, and construction of temporary roads and borrow areas;

(d) Erection of fences and other access control measures that are not related to the safe use of, or security of, radiological materials subject to this division;

(e) Excavation;

(f) Erection of support buildings (for example, construction equipment storage sheds, warehouse and shop facilities, utilities, concrete mixing plants, docking and unloading facilities, and office buildings) for use in connection with the construction of the facility;

(g) Building of service facilities (for example, paved roads, parking lots, railroad spurs, exterior utility and lighting systems, potable water systems, sanitary sewerage treatment facilities, and transmission lines);

(h) Procurement or fabrication of components or portions of the proposed facility occurring at other than the final, in-place location at the facility; or

(i) Taking any other action that has no reasonable nexus to radiological health and safety.

(11) "Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

(12) "Decontamination and Decommissioning" means:

(a) A facility specific license issued pursuant to OAR 333-103-0010(2)(w) authorizing activities that result in returning a site to its original pre-license condition prior to termination of licensed activities; and

(b) Activities performed pursuant to OAR 333-102-0335 on any portion of a site prior to license termination.

(13) "Diagnosis" means examination, determination, identification, study, or analysis of a medical condition.

(14) "Distribution" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(g), authorizing transfer or distribution (sale) of general or specific license radioactive material to persons granted a general license or issued a specific license, or, in the case of NARM, to persons exempt from the rules in this chapter.

(15) "Exempt Source" means radioactive material, exempt from the rules in this chapter.

(16) "Facility" means location of licensed activities under the direct control of licensee management. If a "facility," as used in this division, includes multiple separate addresses, the Authority may determine how the scope of licensed activities, pursuant to OAR 333-102-0190, 333-102-0300, 333-102-0305, 333-102-0315, 333-102-0320, or 333-102-0325, is authorized.

(17) "Fixed Gauge" means a source-specific license for measuring, gauging, or controlling devices pursuant to OAR 333-103-0010(2)(h). The fixed gauge license also includes X-ray & Hybrid Gauges pursuant to division 115 of this chapter that contain either an X-ray source or a radioactive sealed source.

(18) "General License" means a granted license, as opposed to an issued license, effective under these rules, to acquire, own, possess, use, or transfer radioactive material or a device that contains radioactive material.

(19) "General License Depleted Uranium" means the general license granted subject to receipt of the registration application pursuant to OAR 333-101-0007, and fee, pursuant to 333-103-0015, for depleted uranium used for shielding or counter weights and issued pursuant to 333-102-0106.

(20) "General License Device" means the general license for in vitro materials granted subject to receipt of the registration application pursuant to OAR 333-101-0007, and fee, pursuant to 333-103-0015, for measuring, gauging.

(21) "General License In Vitro Laboratory" means the general license granted by OAR 333-102-0130, subject to receipt of the registration application pursuant to 333-101-0007, and fee, pursuant to 333-103-0015, for in vitro materials granted a general license by 333-102-0130.

(22) "General License Source Material" means the general license granted for use and possession of source material pursuant to OAR 333-102-0101.

(23) "General License for Certain Devices and Equipment" means the general license granted for use and possession of devices consisting of not more than 500 microcuries of polonium-210 or not more than 50 millicuries of tritium (H-3) per device, pursuant to 10 CFR 31.3.

(24) "General License for Luminous Devices for Aircraft" means the general license granted for use and possession of devices containing not more than ten curies of tritium or not more than 300 millicuries of promethium-147.

(25) "General License for Ownership of Radioactive Material and Limits of Possession" means the general license granted to own material that is not necessarily possessed; conversely, material that is possessed is, by grant of general license, not necessarily owned, pursuant to the general license in OAR 333-102-0120.

(26) "General License for Calibration and Reference Sources" means the general license granted to possess not more than five microcuries (185 kBq) of americium-241, plutonium-238, plutonium-239, or radium-226, pursuant to the general license in OAR 333-102-0125.

(27) "General License for Ice Detection Devices" means the general license granted to possess not more than 50 microcuries (1.85 MBq) of strontium-90, pursuant to the general license in OAR 333-102-0135.

(28) "Generators and Kits" means "Imaging and Localization."

(29) "Healing Arts Specific License" means a specific license authorizing activities in division 116 of this chapter.

(30) "High Doserate Remote Afterloader" means a source-specific license issued pursuant to OAR 333-103-0010(2)(i) authorizing the use of sources in accordance with 333-116-0475, which may be either mobile or stationary, and which deliver a doserate in excess of two Gray (200 rad) per hour at the point or surface where the dose is prescribed. A device may be designated as being high, medium, or pulsed dose remote afterloader or mobile high, medium, or pulsed doserate remote afterloader.

(31) "Hybrid Gauge" means a fixed gauging device that contains both a sealed source and an X-ray source, pursuant to division 115 of this chapter.

(32) "In Vitro Laboratory" means a Healing Arts facility-specific license, under management of a physician or Healing Arts specialist, issued pursuant to OAR 333-103-0010(2)(k) authorizing the use of prepackaged radioactive materials in quantities greater than those authorized by the General License granted by 333-102-0130(2).

(33) Imaging and Localization means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(j) authorizing the use of generators and kits for nuclear medicine imaging and localization in accordance with 333-116-0320 or positron emission tomography studies in accordance with 333-116-0800 through 333-116-0880.

(34) "Industrial Radiography" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(l) authorizing activities in division 105 of this chapter.

(35) "Instrument Calibration" means a source-specific radioactive materials license issued pursuant to OAR 333-103-0010(2)(m) for sources of radiation used to calibrate instruments.

(36) "Investigational New Drug" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(n) authorizing the use of any investigational product or device approved by the US Food and Drug Administration (FDA) for human use research, diagnosis, or therapy, in accordance with the rules in this chapter.

(37) "Irradiator-Other" means an irradiator with greater than 10,000 curies (370 TBq) licensed pursuant to OAR 333-103-0010(2)(w) and 333-103-0010(7), designed to produce extremely high dose rates as authorized by division 121 of this chapter.

(38) "Irradiator Self-shielded or Other — Less than 10,000 Curies" means a source-specific license issued pursuant to OAR 333-103-0010(2)(o) authorizing self-shielded irradiators, including blood irradiators, panoramic irradiators, and converted teletherapy units, with less than 10,000 Ci (370 TBq) activity.

(39) "Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

(40) "Lot Tolerance Percent Defective" means, expressed in percent defective, the poorest quality in an individual inspection lot that can be accepted.

(41) "Low Doserate Remote Afterloader Device" means a Healing Arts source-specific license issued pursuant to OAR 333-103-0010(2)(b) authorizing devices 333-116-0475, which remotely deliver a doserate of less than two Gray (200 rad) per hour at the point or surface where the dose is prescribed.

(42) "Manufacturing or Compounding" means a facility-specific radioactive materials license issued pursuant to OAR 333-103-0010(2)(p) authorizing manufacture, fabrication, assembly, construction, combining, processing, concentrating, beneficiating, or processing items or products using or containing radioactive materials into a finished product containing radioactive material in accordance with applicable requirements in division 102 of this chapter.

(43) "Manufacturing or Compounding and Distribution" means activities performed as defined in sections (14) and (42) of this rule and require separate specific licenses for each activity.

(44) "Mobile Nuclear Medicine Service" means a facility-specific Healing Arts license issued pursuant to OAR 333-116-0120 authorizing the medical use of radioactive material at specified temporary locations.

(45) "Nationally Tracked Source" means a sealed source containing a quantity equal to or greater than Category 1 or 2 levels of any radioactive material listed in 10 CFR 20 Appendix E.

(46) "Naturally occurring radioactive material (NORM)" means radioactive material in the uranium or thorium decay series existing in nature in concentrations less than 0.05 percent source material.

(47) "Net working capital" means current assets minus current liabilities.

(48) "Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

(49) "Neutron Howitzer" means a device that contains a sealed source containing Special Nuclear Material (see definition in OAR 333-100-0005) that generates neutrons that are used for analytical, teaching, or research purposes.

(50) "Neutron Production" denotes a process in which neutrons are produced, either by natural or artificial means.

(51) "NORM (no processing)" means a facility-specific license pursuant to OAR 333-103-0010(2)(r) authorizing possession, use, and transfer of NORM in accordance with division 117 of this chapter.

NOTE: NORM licenses authorize licensable quantities of radioactive material in the uranium or thorium decay series. Licensable quantities of NORM are derived from disposal limits in OAR chapter 345, division 50. Any material that contains NORM requires a specific license unless exempted in OAR chapter 345, division 50. Zircon sand is used as the NORM model for licensing purposes. Quantities of zircon sand in excess of 20,000 pounds in a year constitute a licensable quantity of NORM. NORM materials that are not zircon are based on the zircon model.

(52) "Nuclear Laundry" means a laundry facility designed specifically to clean or launder clothing contaminated with licensed radioactive materials. Nuclear Laundry facilities must have process and waste management control procedures to prevent reconcentrating of licensed materials in sewers, drains, premises, and the environment. Nuclear Laundry activities are authorized pursuant to OAR 333-103-0010(2)(w), "Radioactive Material Not Otherwise Specified Facility," see 333-102-0203(61).

(53) "Nuclear Pharmacy" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(s) for activities authorized by 333-102-0285 and the Oregon Board of Pharmacy rules, to compound Radiopharmaceutical and distribute (sell or transfer) to persons specifically licensed to receive such compounds or products.

NOTE: Nuclear Pharmacies, pursuant to policy provisions of chapter 345 division 50 may collect syringes containing residual licensed material from spent patient doses, since the syringe is considered to be a transport device under the administrative control of the pharmacy rather than the licensed material transferred as the dose. Residual licensed material may be considered either to be exempt pursuant to Table 1 of division 50 or under the authority of a division license if the receding licensee stores syringes for decay. In either case, the division license specifies which disposal method is being used by the pharmacy and licensee to avoid compatibility conflicts with division 50 requirements.

(54) "Other Measuring Device" means a source-specific license issued pursuant to OAR 333-103-0010(2)(t), authorizing analytical instruments, gas chromatograph electron capture detectors, and other nonportable analytical instruments, including those devices that contain multi-

ple sources but are configured and used as a "system," in accordance with the definition in this rule.

NOTE: General license gas chromatograph detectors that formerly were granted a general license by OAR 333-102-0115, but which required a registration fee pursuant 333-103-0015(2)(b), now are subject to the specific license in 333-103-0010(2)(t).

(55) "Pool-type Irradiator" means an irradiator with greater than 10,000 curies (370 TBq) in which water provides the radiation shielding, authorized in accordance with division 121 of this chapter.

(56) "Portable Gauge" means a source-specific license issued pursuant to OAR 333-103-0010(2)(u) for sources used in devices that can be transported and used at temporary job sites.

NOTE: Any device that meets the definition of "portable gauge" and is transported or used at temporary job sites within the state of Oregon, requires an application for and issuance of an Oregon specific license subject to OAR 333-103-0010(2)(u).

(57) "Positron Emission Tomography" (PET) means a licensed healing arts activity authorized by OAR 333-116-0800 and included in the facility specific license issued pursuant to 333-103-0010(2)(j). PET nuclides, which are NARM, are subject to all Oregon rules.

(58) "Possession or Storage of Industrial Wastes Containing Radioactive Material" means activities subject to division 110 of this chapter for the production or storage of wastes that are exempt from division 50 of chapter 345 facility siting requirements, and were generated under a current NRC, Agreement State, or Licensing State specific radioactive materials license.

(59) "Possession or Storage of Uranium Tailings" means activities incident to uranium processing or milling operations resulting in the production of tailings.

(60) "Principal Activities" means activities authorized by the license that are essential to achieving the purpose(s) for which the license was issued or amended. Storage during which no licensed material is accessed for use or disposal and activities incidental to decontamination or decommissioning are not principal activities.

(61) "Processing" means chemically or physically changing a licensed material from one physical form to another form or specie (for example, breaking an ore down into its components resulting in "tailings"; milling a raw licensed material and combining to form another product or material. See "Beneficiating"; "Manufacturing or Compounding").

(62) "Radiation Source" means source of radiation (see definition of "Source of radiation" in OAR 333-100-0005).

(63) "Radioactive Material Not Otherwise Specified Facility" means a license issued pursuant to OAR 333-103-0010(2)(w) authorizing activities that includes, but are not limited to, complex licensable activities such as facility decontamination and decommissioning, nuclear laundry activities, uranium mill tailings storage, storage of industrial wastes containing radioactive materials, large irradiator management, and other complex activities not otherwise specified in these rules.

(64) "Radioactive Materials License" means the document, pursuant to OAR 333-102-0300, issued after an application, pursuant to 333-102-0190, has been accepted as adequate, that specifies radioactive materials, use authorizations, safety procedures, and use locations.

(65) "Radiopharmaceutical Therapy" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(v) authorizing the use of Radiopharmaceutical for therapy in accordance with 333-116-0360.

(66) "Remote Afterloader" means a medical device that moves a sealed source to an interstitial (in vivo) location without exposing the practitioner to the radiation dose. Remote afterloader sources may be manipulated using computer software and engineering techniques.

(67) "Research & Development" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(x) authorizing research and development activities, as defined in 333-100-0005, but does not authorize additional specific sources of radiation, which must be licensed separately pursuant to 333-103-0010 and 333-103-0015.

(68) "Responsible Representative" means

(a) The person designated as having responsibility for general license device or general license material;

(b) The person management has selected to certify general license inventory; and

(c) The individual responsible to the Authority and to management to ensure that all regulatory elements are adequate.

(69) "Sealed Source/Device Evaluation" means the review of a licensee's prototype source or device prior to registration by the Nuclear Regulatory Commission in the Sealed Source and Device Catalog.

NOTE: The Authority no longer has authority to review sources or devices. All source or device reviews must be forwarded to the NRC for review. Authority to conduct device or source evaluations was rescinded by the NRC in 1998.

(70) "Site Area Emergency" means events may occur, are in progress, or have occurred that could lead to a significant release of radioactive material and that could require a response by offsite response organizations to protect persons offsite.

(71) "Sealed Sources for Diagnosis" means a Healing Arts source-specific license issued pursuant to OAR 333-103-0010(2)(y) authorizing the use of sealed sources for diagnosis in accordance with 333-116-0400.

(72) "Special Nuclear Material" means:

(a) Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the NRC, pursuant to the provisions of section 51 of the act, determines to be special nuclear material, but does not include source material; or

(b) Any material artificially enriched by any of the foregoing but does not include source material.

(73) "Specific License Radioactive Material" means radioactive material that requires authorization in a specific license document pursuant to OAR 333-102-0075(2) where materials must be annotated on the specific license, and validated with a specific license fee pursuant to 333-103-0010(2)(a) through 333-103-0010(2)(hh) (see "Radioactive Materials License").

(74) "System," as used in this division, means multiple separate (individual) sources of radiation (sealed radioactive sources), which together, rather than independently, achieve a desired functionality. Such "system" is subject to one specific license fee or general license registration fee, as the case may be.

(75) "Tangible Net Worth" means the tangible assets that remain after deducting liabilities; such assets may not include intangibles such as goodwill and rights to patents or royalties.

(76) "Teletherapy" means a Healing Arts source-specific license issued pursuant to OAR 333-103-0010(2)(cc) authorizing teletherapy procedures in accordance with OAR 333-116-0480. This license also includes other high dose rate external beam therapy devices such as the "gamma knife."

(77) "Temporary Job Site" means any location, where specific license material is used that is either:

(a) Not the specific location of the licensee if an in-state licensee; or

(b) Any location in the state if an out-of-state specific licensee pursuant to a specific radioactive materials license.

NOTE: Persons authorized for temporary jobsites in Oregon must have a specific license for such activities.

(78) "Therapy" means a process that is meant to be restorative, promotes healing, or is beneficial to a patient in a healing arts context.

(79) "Unique" means a specific license issued pursuant to OAR 333-103-0010(2)(dd) to agencies in the Oregon Health Authority.

(80) "Uptake and Dilution" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(ee) authorizing activities in 333-116-0300 for uptake, dilution, and excretion studies.

(81) "Use and Possession of Source Material " means a facility-specific radioactive materials license issued pursuant to OAR 333-103-0010(2)(z) to possess, use, process, or transfer source material, as defined in OAR 333-100-0005, in quantities greater than general license quantities or in concentrations greater than 0.05 percent source material.

NOTE: This definition was amended to avoid confusion between the definition of "source material" in division 100 of this chapter and the specific license (billable object) in division 103 of this chapter.

(82) "Use of Xenon Gas" means a Healing Arts facility-specific license issued pursuant to OAR 333-103-0010(2)(ff) authorizing the use of Xe-133 for diagnosis pursuant to 333-116-0280.

(83) "Waste Packaging" means a facility-specific license issued pursuant to OAR 333-103-0010(2)(gg), authorizing packaging, collection, storage, and transfer of radioactive waste. This specific license does not authorize storage of radioactive wastes, but does authorize temporary job sites.

(84) "Well Logging" means a license issued pursuant to OAR 333-103-0010(2)(hh) authorizing the possession, use, transfer, or disposal of sources of radiation used for well logging activities authorized by division 113 of this chapter.

NOTE: Unless specifically authorized in this rule or in a radioactive materials license that authorizes temporary job sites, specific licenses must be used only at one authorized site.

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

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1995, f. & cert. ef. 4-26-95; HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; PH 11-2011, f. & cert. ef. 10-27-11; PH 4-2013, f. & cert. ef. 1-29-13; PH 32-2014, f. 12-22-14, cert. ef. 1-1-15; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-102-0235

Requirements for License to Manufacture, or Initially Transfer Radioactive Material Contained in Devices Granted a General License Under OAR 333-102-0115

(1) An application for a specific license to manufacture, or initially transfer devices containing radioactive material, excluding special nuclear material, to persons granted a general license by OAR 333-102-0115 or equivalent regulations of the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State will be approved if:

(a) The applicant satisfies the general requirements of OAR 333-102-0200;

(b) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device to provide reasonable assurance that:

(A) The device can be safely operated by persons not having training in radiological protection;

(B) Under ordinary conditions of handling, storage, and use of the device, the radioactive material contained in the device will not be released or inadvertently removed from the device; and it is unlikely that any person will receive in one year a dose in excess of ten percent of the annual limits specified in OAR 333-120-0100; and

(C) Under accident conditions (such as fire and explosion) associated with handling, storage and use of the device, it is unlikely that any person may receive an external radiation dose or dose commitment in excess of the dose to the appropriate organ as specified in Column IV of the table in 10 CFR Part 32.24:

(i) Whole body, head and trunk, active blood-forming organs, gonads, or lens of eye 150 mSv (15 rem);

(ii) Hands and forearms, feet and ankles, localized areas of skin averaged over areas no larger than one square centimeter two Sv (200 rem);

(iii) Other organs 500 mSv (50 rem).

(c) Each device bears a durable, legible, clearly visible label or labels approved by the Authority, which contain in a clearly identified and separate statement:

(A) Instructions and precautions necessary to assure safe installation, operation and servicing of the device (documents such as operating and service manuals may be identified in the label and used to provide this information);

(B) The requirements, or lack of requirement, for leak testing, or for testing of any on-off mechanism and indicator, including the maximum time interval for such testing, and the identification of radioactive material by isotope, quantity of radioactivity, and date of determination of the quantity; and

(C) The information called for in the following statement in the same or substantially similar form:

> The receipt, possession, use and transfer of this device, Model _____, Serial No. _____, are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or of a State with which the U.S. Nuclear Regulatory Commission has entered into an agreement for the exercise of regulatory authority. This label must be maintained on the device in a legible condition. Removal of this label is prohibited.
>
> CAUTION — RADIOACTIVE MATERIAL
>
> _____
>
> (Name of manufacturer or initial transferor)

(D) Each device having a separable source housing that provides the primary shielding for the source also bears, on the source housing, a durable label containing the device model number and serial number, the isotope and quantity, the words, "Caution-Radioactive Material," the radiation symbol described in OAR 333-120-0400, and the name of the manufacturer or initial distributor.

(E) Each device meeting the criteria of OAR 333-102-0115(9)(a), bears a permanent label, such as being embossed, etched, stamped, or engraved, affixed to the source housing if separable, or the device if the source housing is not separable, that includes the words, "Caution-Radioactive Material," and, if practicable, the radiation symbol described in OAR 333-120-0400.

(F) The device has been registered in the Sealed Source and Device Registry

(2) In the event the applicant desires that the device be required to be tested at intervals longer than six months, either for proper operation of the on-off mechanism and indicator, if any, or for leakage of radioactive material or both, the applicant must include in this application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the device or similar devices, and by design features that have a significant bearing on the probability or consequences of leakage of radioactive material from the device or failure of the on-off mechanism and indicator. In determining the acceptable interval for the test for leakage of radioactive material, the Authority will consider information that includes, but is not limited to:

(a) Primary containment (source capsule);

(b) Protection of primary containment;

(c) Method of sealing containment;

(d) Containment construction materials;

(e) Form of contained radioactive material;

(f) Maximum temperature withstood during prototype tests;

(g) Maximum pressure withstood during prototype tests;

(h) Maximum quantity of contained radioactive material;

(i) Radiotoxicity of contained radioactive material; and

(j) Operating experience with identical devices or similarly designed and constructed devices.

(3) In the event the applicant desires that the general licensee under OAR 333-102-0115, or under equivalent rules of the U.S. Nuclear Regulatory Commission, an Agreement State, or a Licensing State, be authorized to install the device, collect the sample to be analyzed by a specific licensee for leakage of radioactive material, service the device, test the on-off mechanism and indicator, or remove the device from installation, the applicant must include in the application written instructions to be followed by the general licensee, estimated calendar quarter doses associated with such activity or activities, and the bases for these estimates. The submitted information must demonstrate that performance of this activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices under the general license, is unlikely to cause that individual to receive a dose in excess of ten percent of the annual limits specified in OAR 333-120-0100.

(4) Prior to transfer of a device to a person granted a general license by OAR 333-102-0115(1), the licensee must:

(a) Furnish a copy of the general license contained in OAR 333-102-0115 to each person to whom the licensee directly, or through an intermediate person, transfers radioactive material in a device for use pursuant to the general license contained in 333-102-0115;

(b) Furnish a copy of the general license contained in the U.S. Nuclear Regulatory Commission, Agreement State or Licensing State's rules equivalent to OAR 333-102-0115. Alternatively, a copy of the general license contained in 333-102-0115 must be furnished to each person to whom directly, or through an intermediate person, is transfers radioactive material in a device for use pursuant to the general license of the U.S. Nuclear Regulatory Commission, the Agreement State or the Licensing State. If a copy of the general license in 333-102-0115 is furnished to such person, it must be accompanied by a note explaining that the use of the device is regulated by the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State under requirements substantially the same as those in 333-102-0115;

(c) Report to the Authority all transfers of such devices to persons for use under the general license in OAR 333-102-0115. Such report must identify each general licensee by name and address, an individual by name or position who may constitute a point of contact between the Authority and the general licensee, the type and model number of device transferred, and the quantity and type of radioactive material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report must include identification of each intermediate person by name, address, contact and relationship to the intended user. If no transfers have been made to persons granted a general license by 333-102-0115 during the reporting period, the report must so indicate. The report must cover each calendar quarter and must be filed within 30 days after the end of each quarter;

(d) Furnish reports to other agencies:

(A) Report to the U.S. Nuclear Regulatory Commission all transfers of such devices to persons for use under the U.S. Nuclear Regulatory Commission general license in section 31.5 of 10 CFR Part 31. Reports must be submitted on the NRC form "Transfers of Industrial Devices Report" or on a clear and legible report containing all of the data required by the form. The required information includes:

(i) The identity of each general licensee by name and address;

(ii) The name and phone number of the person designated by the general licensee to be responsible for ensuring compliance with the appropriate regulations and requirements;

(iii) The date of transfer;

(iv) The type, model number, and serial number of the device transferred; and

(v) The quantity and type of byproduct material contained in the device.

(B) If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report must include the same information for each intermediate person, and clearly designate that person as an intermediate person.

(C) If the device transferred replaced another returned by the general licensee, report also the type, model number, and serial number of the one returned.

(D) If no transfers have been made to persons generally licensed under 10 CFR 31.5 or OAR 333-102-0115 during the reporting period, the report must so indicate.

(E) The report must cover each calendar quarter, must be filed within 30 days of the end of the calendar quarter, and must clearly indicate the period covered by the report.

(F) The report must clearly identify the specific licensee submitting the report and include the license number of the specific licensee.

(e) Report to the responsible Agreement or Licensing State Authority all transfers of such devices to persons for use under a general license in an Agreement State's regulations equivalent to OAR 333-102-0115. Such reports must identify all of the information in 333-102-0235(4)(d) of this rule, including each general licensee by name and address, an individual by name or position who may constitute a point of contact between the Authority and the general licensee, the type and model of the device transferred, and the quantity and type of radioactive material contained in the device. If one or more intermediate persons will temporarily possess the device at the intended place of use prior to its possession by the user, the report must include identification of each intermediate person by name, address, contact and relationship to the intended user. The report must be submitted within 30 days after the end of each calendar quarter in which such device is transferred to the person granted a general license;

(f) If no transfers have been made to U.S. Nuclear Regulatory Commission's licensees during the reporting period, this information must be reported to the U.S. Nuclear Regulatory Commission;

(g) If no transfers have been made to persons granted a general license within a particular Agreement State during the reporting period, this information must be reported to the responsible Agreement State Agency upon request of the Authority;

(h) Keep records showing the name, address and the point of contact for each general licensee to whom directly, or through an intermediate person is transferred radioactive material in devices for use pursuant to the general license provided in OAR 333-102-0115 or equivalent regulations of the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State. The records must show the date of each transfer, the isotope and the quantity of radioactive material in each device transferred, the identity of any intermediate person and compliance with the reporting requirements of subsection (4)(h) of this rule. Records required by this rule must be maintained for a period of three years following the estimated useful life of the device or the date of final disposition, if known;

(i) Furnish a list of the services that only can be performed by a specific licensee, and information on acceptable disposal options, including estimated costs of disposal, to each person to whom he directly, or through an intermediate person, transfers radioactive material in a device for use under the general license granted in OAR 333-102-0115;

(j) Furnish the name, address, and phone number of the contact at the Agreement State regulatory agency from which additional information may be obtained. If a copy of the general license in OAR 333-102-0115 is furnished to such person, it must be accompanied by a note explaining that use of the device is regulated by the Agreement State.

(k) Label each device transferred if more than one year after the effective date of this rule in accordance with the labeling requirements in 10 CFR Part 32.51(a)(3) through (5).

(l) If a notification of bankruptcy has been made under 10 CFR Part 30.34(h) or the license is to be terminated, provide, upon request, to the NRC and to any appropriate Agreement State, records of final disposition required under 10 CFR Part 32.52(c).

(5) License Conditions.

(a) If a device containing radioactive material is to be transferred for use under the general license contained in OAR 333-102-0115, each person that is licensed under this rule must provide the information specified in this section to each person to whom a device is to be transferred. This information must be provided before the device may be transferred. In the case of a transfer through an intermediate person, the information must also be provided to the intended user prior to initial transfer to the intermediate person. The required information includes:

(A) A copy of the general license contained in OAR 333-102-0115; if 333-102-0115(4)(b) through (d) or 333-102-0115(8) do not apply to the particular device, those sections may be omitted;

(B) A copy of OAR 333-102-0115, 333-100-0055, 333-100-0057, 333-120-0700 and 333-120-0710;

(C) A list of the services that can only be performed by a specific licensee;

(D) Information on acceptable disposal options including estimated costs of disposal; and

(b) If radioactive material is to be transferred in a device for use under an equivalent general license of an Agreement State, each person that is licensed under this rule must provide the information specified in this section to each person to whom a device is to be transferred. This information must be provided before the device may be transferred. In the case of a transfer through an intermediate person, the information must also be provided to the intended user prior to initial transfer to the intermediate person. The required information includes:

(A) A copy of the Agreement State's regulations equivalent to OAR 333-102-0115, 333-100-0055, 333-100-0057, 333-120-0700 and 333-120-0710 or a copy of 10 CFR Secs. 31.5, 31.2, 30.51, 20.2201, and 20.2202. If a copy of the Nuclear Regulatory Commission regulations is provided to a prospective general licensee in lieu of the Agreement State's regulations, it must be accompanied by a note explaining that use of the device is regulated by the Agreement State. If certain sections of the regulations do not apply to the particular device, those sections may be omitted;

(B) A list of the services that can only be performed by a specific licensee;

(C) Information on acceptable disposal options including estimated costs of disposal; and

(D) The name or title, address, and phone number of the contact at the Agreement State regulatory agency or the Nuclear Regulatory Commission from which additional information may be obtained.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-102-0285

Manufacture, Preparation, or Transfer for Commercial Distribution of Radiopharmaceutical Drugs Containing Byproduct Material for Medical Use Under Division 116

(1) An application for a specific license to manufacture, prepare, or transfer for commercial distribution radiopharmaceutical drugs containing radioactive material for use by persons authorized pursuant to division 116 of this chapter may be approved if:

(a) The applicant satisfies the general requirements specified in OAR 333-102-0200;

(b) The applicant submits evidence that the applicant is at least one of the following:

(A) Registered or licensed with the U.S. Food and Drug Administration (FDA) as the owner or operator of a drug establishment that engages in the manufacture, preparation, propagation, compounding, or processing of a drug under 21 CFR 207.20(a);

(B) Registered or licensed with a state agency as a drug manufacturer;

(C) Licensed as a pharmacy by a state Board of Pharmacy;

(D) Operating as a nuclear pharmacy within a federal medical institution; or

(E) A Positron Emission Tomography (PET) drug production facility registered with a state agency.

(c) The applicant submits information on the radionuclide, chemical and physical form; the maximum activity per vial, syringe, generator, or other container of the radiopharmaceutical drug; and the shielding provided by the packaging to show it is appropriate for the safe handling and storage of the radiopharmaceutical drugs by medical use licensees; and

(d) The applicant satisfies the following labeling requirements:

(A) A label is affixed to each transport radiation shield, whether it is constructed of lead, glass, plastic, or other material, of a radiopharmaceutical drug to be transferred for commercial distribution. The label must include the radiation symbol and the words CAUTION, RADIOACTIVE MATERIAL or DANGER, RADIOACTIVE MATERIAL; the name of the radiopharmaceutical drug or its abbreviation; and the quantity of radioac-

tivity at a specified date and time. For radiopharmaceutical drugs with a half-life greater than 100 days, the time may be omitted.

(B) A label is affixed to each syringe, vial, or other container used to hold a radiopharmaceutical drug to be transferred for commercial distribution. The label must include the radiation symbol and the words CAUTION, RADIOACTIVE MATERIAL or DANGER, RADIOACTIVE MATERIAL and an identifier that ensures that the syringe, vial, or other container can be correlated with the information on the transport radiation shield label.

(2) A licensee described by paragraphs (1)(b)(C) or (D) of this rule:

(a) May prepare radiopharmaceutical drugs for medical use, as defined in OAR 333-116-0020, provided that the radiopharmaceutical drug is prepared either by an authorized nuclear pharmacist, as specified in subsections (2)(b) and (2)(d) of this rule, or an individual under the supervision of an authorized nuclear pharmacist as specified in OAR 333-116-0100.

(b) May allow a pharmacist to work as an authorized nuclear pharmacist if:

(A) This individual qualifies as an authorized nuclear pharmacist as defined in OAR 333-116-0020;

(B) This individual meets the requirements specified in OAR 333-116-0910, 333-116-0760, 333-116-0915 and the licensee has received an approved license amendment identifying this individual as an authorized nuclear pharmacist; or

(C) This individual is designated as an authorized nuclear pharmacist in accordance with subsection (2)(d) of this rule.

(c) The actions authorized in subsections (2)(a) and (2)(b) of this rule are permitted in spite of more restrictive language in license conditions.

(d) May designate a pharmacist (as defined in OAR 333-116-0020) as an authorized nuclear pharmacist if:

(A) The individual was a nuclear pharmacist preparing only radiopharmaceutical drugs containing accelerator-produced radioactive material; and

(B) The individual practiced at a pharmacy at a government agency or federally recognized Indian Tribe before November 30, 2007 or at all other pharmacies before August 8, 2009, or an earlier date as noticed by the Nuclear Regulatory Commission.

(e) Shall provide to the Authority a copy of:

(A) Each individual's certification by a specialty board whose certification process has been recognized by the Commission or an Agreement State as specified in OAR 333-116-0910 with the written attestation signed by a preceptor as required by OAR 333-116-0680(2)(b); or

(B) The Commission or Agreement State license; or

(C) Commission master materials licensee permit; or

(D) The permit issued by a licensee or Commission master materials permittee of broad scope or the authorization from a commercial nuclear pharmacy authorized to list its own authorized nuclear pharmacist; or

(E) Documentation that only accelerator-produced radioactive materials were used in the practice of nuclear pharmacy at a government agency or federally recognized Indian Tribe before November 30, 2007 or at all other locations of use before August 8, 2009, or an earlier date as noticed by the NRC; and

(F) A copy of the state pharmacy licensure or registration no later than 30 days after the date that the licensee allows pursuant to paragraphs (2)(b)(A) and (2)(b)(C) of this rule, which allows the individual to work as an authorized nuclear pharmacist.

(3) A licensee shall possess and use instrumentation to measure the radioactivity of radiopharmaceutical drugs. The licensee shall have procedures for use of the instrumentation. The licensee shall measure, by direct measurement or by combination of measurements and calculations, the amount of radioactivity in dosages of alpha-, beta-, or photon-emitting radiopharmaceutical drugs prior to transfer for commercial distribution. In addition, the licensee shall:

(a) Perform tests before initial use, periodically, and following repair, on each instrument for accuracy, linearity, and geometry dependence, as appropriate for the use of the instrument and make adjustments when necessary; and

(b) Check each instrument for constancy and proper operation at the beginning of each day of use.

(4) Nothing in this rule relieves the licensee from complying with applicable FDA, other federal and state requirements governing radiopharmaceutical drugs.

NOTE: Although the Authority does not regulate the manufacture and distribution of reagent kits that do not contain radioactive material, it does regulate the use of such reagent kits for the preparation of radio pharmaceuticals containing radioactive material as a part of its licensing and regulation of the users of radioactive material. Any manufacturer of reagent kits that do not contain radioactive material, who desires to have the reagent kits approved by the Authority for use by persons licensed for medical use pursuant to OAR chapter 333, division 116 or by persons authorized under a group license, or equivalent, by the U.S. Nuclear Regulatory Commission or any other Agreement State, may submit the pertinent information specified in this rule.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 4-2013, f. & cert. ef. 1-29-13; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-102-0290

Manufacture and Distribution of Sources or Devices Containing Byproduct Material for Medical Use

(1) An application for a specific license to manufacture and distribute sources and devices containing byproduct material to persons licensed pursuant to division 116 of this chapter for use as a calibration, transmission, or reference source, or for the uses listed in OAR 333-116-0400, 333-116-0420, 333-116-0480 and 333-116-0485 will be approved if:

(a) The applicant satisfies the general requirements in OAR 333-102-0200.

(b) The applicant submits sufficient information regarding each type of source or device pertinent to an evaluation of its radiation safety, including:

(A) The radioactive material contained, its chemical and physical form and amount;

(B) Details of design and construction of the source or device;

(C) Procedures for, and results of, prototype tests to demonstrate that the source or device will maintain its integrity under stresses likely to be encountered in normal use and accidents;

(D) For devices containing radioactive material, the radiation profile of a prototype device;

(E) Details of quality control procedures to assure that production sources and devices meet the standards of the design and prototype tests;

(F) Procedures and standards for calibrating sources and devices;

(G) Legend and methods for labeling sources and devices as to their radioactive content; and

(H) Instructions for handling and storing the source or device from the radiation safety standpoint; these instructions are to be included on a durable label attached to the source or device or attached to a permanent storage container for the source or device. Provided, that instructions that are too lengthy for such a label may be summarized on the label and printed in detail on a brochure that is referenced on the label.

(c) The label affixed to the source or device, or to the permanent storage container for the source or device, contains information on the radionuclide, quantity, date of assay and a statement that the U.S. Nuclear Regulatory Commission has approved distribution of the (name of source or device) to persons licensed to use radioactive material identified in OAR 333-116-0190, 333-116-0400, or 333-116-0420, as appropriate, and to persons who hold an equivalent license issued by an Agreement State or the US Nuclear Regulatory Commission. However, labels worded in accordance with requirements that were in place on March 30, 1987 may be used until March 30, 1989.

(d) The source or device has been registered in the Sealed Source and Device Registry.

(2) In the event the applicant desires that the source or device be required to be tested for leakage of radioactive material at intervals longer than six months:

(a) The applicant must include in the application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the source or device or similar sources or devices and by design features that have a significant bearing on the probability or consequences of leakage of radioactive material from the source; and

(b) In determining the acceptable interval for test of leakage of radioactive material, the Authority will consider information that includes, but is not limited to:

(A) Primary containment or source capsule;

(B) Protection of primary containment;

(C) Method of sealing containment;

(D) Containment construction materials;

(E) Form of contained radioactive material;

(F) Maximum temperature withstood during prototype tests;

(G) Maximum pressure withstood during prototype tests;

(H) Maximum quantity of contained radioactive material;

(I) Radiotoxicity of contained radioactive material; and

(J) Operating experience with identical sources or devices similarly designed and constructed sources or devices.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 4-2010, f. & cert. ef. 2-16-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-102-0293
Requirements for License to Manufacture and Distribute Industrial Products Containing Depleted Uranium for Mass-Volume Applications

(1) An application for a specific license to manufacture industrial products or devices containing depleted uranium for use pursuant to OAR 333-102-0106 or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State will be approved if:

(a) The applicant satisfies the general requirements specified in OAR 333-102-0200;

(b) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses and potential hazards of the industrial product or device to provide reasonable assurance that possession, use or transfer of the depleted uranium in the product or device is not likely to cause any individual to receive in any period of one calendar quarter a radiation dose in excess of ten percent of the limits specified in OAR 333-120-0100; and

(c) The applicant submits sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass-volume application in the product or device to provide reasonable assurance that unique benefits will accrue to the public because of the usefulness of the product or device.

(2) In the case of an industrial product or device whose unique benefits are questionable, the Authority will approve an application for a specific license under this rule only if the product or device is found to combine a high degree of utility and low probability of uncontrolled disposal and dispersal of significant quantities of depleted uranium into the environment.

(3) The Authority may deny any application for a specific license under this rule if the end use(s) of the industrial product or device cannot be reasonably foreseen.

(4) Each person licensed pursuant to section (1) of this rule must:

(a) Maintain the level of quality control required by the license in the manufacture of the industrial product or device; and in the installation of the depleted uranium into the product or device;

(b) Label or mark each unit to:

(A) Identify the manufacturer of the product or device and the number of the license under which the product or device was manufactured, the fact that the product or device contains depleted uranium and the quantity of depleted uranium in each product or device; and

(B) State that the receipt, possession, use and transfer of the product or device are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or an Agreement State.

(c) Assure that the depleted uranium before being installed in each product or device has been impressed with the following legend clearly legible through any plating or other covering: Depleted Uranium.

(A) Furnish a copy of the general license contained in OAR 333-102-0106 to each person to whom he transfers depleted uranium in a product or device for use pursuant to the general license contained in 333-102-0106; or

(B) Furnish a copy of the general license contained in the U.S. Nuclear Regulatory Commission's or Agreement State's regulation equivalent to OAR 333-102-0106 and a copy of the U.S. Nuclear Regulatory Commission's or Agreement State's certificate, or alternatively, furnish a copy of the general license contained in 333-102-0106 to each person to whom depleted uranium in a product or device is transferred for use pursuant to the general license of the U.S. Nuclear Regulatory Commission or an Agreement State, with a note explaining that use of the product or device is regulated by the U.S. Nuclear Regulatory Commission or Agreement State under requirements substantially the same as those in 333-102-0106.

(d) Report to the Authority all transfers of industrial products or devices to persons for use under the general license in OAR 333-102-0106. Such report must identify each general licensee by name and address, an individual by name or position who may constitute a point of contact between the Authority and the general licensee, the type and model number of device transferred and the quantity of depleted uranium contained in the product or device. The report must be submitted within 30 days after the end of each calendar quarter in which such a product or device is transferred to the generally licensed person. If no transfers have been made to persons granted a general license by OAR 333-102-0106 during the reporting period, the report must so indicate.

(e) Report to the U.S. Nuclear Regulatory Commission all transfers of industrial products or devices to persons for use under the U.S. Nuclear Regulatory Commission general license in section 40.25 of 10 CFR Part 40.

(A) Report to the responsible state agency all transfers of devices manufactured and distributed pursuant to OAR 333-102-0115 for use under a general license in that state's regulations equivalent to 333-102-0106.

(B) Such report must identify each general licensee by name and address, an individual by name or position who may constitute a point of contact between the Authority and the general licensee, the type and model number of the device transferred and the quantity of depleted uranium contained in the product or device. The report must be submitted within 30 days after the end of each calendar quarter in which such product or device is transferred to the generally licensed person.

(C) If no transfers have been made to U.S. Nuclear Regulatory Commission licensees during the reporting period, this information must be reported to the U.S. Nuclear Regulatory Commission.

(f) If no transfers have been made to general licensees within a particular Agreement State during the reporting period, this information must be reported to the responsible Agreement State Agency upon the request of that Agency.

(g) Keep records showing the name, address and point of contact for each general licensee to whom he transfers depleted uranium in industrial products or devices for use pursuant to the general license provided in OAR 333-102-0101(4) or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State. The records must be maintained until inspection by the Authority and must show the date of each transfer, the quantity of depleted uranium in each product or device transferred and compliance with the report requirements of section (9) of this rule.

(h) Licensees required to submit emergency plans by OAR 333-102-0190(10) must follow the emergency plan approved by the Commission. The licensee may change the plan without Commission approval if the changes do not decrease the effectiveness of the plan. The licensee must furnish the change to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to affected offsite response organizations within six months after the change is made. Proposed changes that decrease the effectiveness of the approved emergency plan may not be implemented without application to and prior approval by the Authority.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-102-0305
Specific Terms and Conditions of License

(1) Each license issued pursuant to the rules in this division and divisions 103, 105, 113, 115, 116, 117, 120, 121 and 124 of this chapter are subject to all the provisions of the Act, now or hereafter in effect, and to all rules, regulations and orders of the Authority.

(2) No license issued or granted pursuant to the rules in this division and divisions 103, 105, 113, 115, 116, 117, 120 and 121 of this chapter nor any right may be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Authority, after securing full information, shall find that the transfer is in accordance with the provisions of the Act, and shall give its consent in writing.

(3) An application for transfer of license must include:

(a) The identity, technical and financial qualification of the proposed transferee; and

(b) Financial assurance for decommissioning as required by 10 CFR Part 30.35.

(4) Each person licensed by the Authority pursuant to the rules in this division and divisions 103, 105, 113, 115, 116, 117, 120 and 121 of this chapter must confine the use and possession of the radioactive material to the locations and purposes authorized in the license. Except as otherwise provided in the license, a license issued pursuant to the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter shall carry with it the right to receive, acquire, own, and possess radioactive material. Preparation for shipment and transport of radioactive material must be in accordance with the provisions of division 118 of this chapter.

(5) Each license issued pursuant to the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter shall be deemed to contain the provisions set forth in section 183b.-d., inclusive, of the Atomic Energy Act of 1954, as amended, whether or not these provisions are expressly set forth in the license.

(6) The Authority may incorporate, in any license issued pursuant to the rules in this division and divisions 103, 105, 113, 115, 116, 117, 120 and 121 of this chapter, at the time of issuance, or thereafter by appropriate rule, regulation or order, such additional requirements and conditions with respect to the licensee's receipt, possession, use and transfer of radioactive material as it deems appropriate or necessary in order to:

(a) Promote the common defense and security;

(b) Protect health or to minimize danger to life or property;

(c) Protect restricted data; and

(d) Require such reports and the keeping of such records, and to provide for such inspections of activities under the license as may be necessary or appropriate to effectuate the purposes of the Act and regulations thereunder.

(7) Licensees required to submit emergency plans by OAR 333-102-0190(10) must follow the emergency plan approved by the Authority. The licensee may change the approved plan without Authority approval only if the changes do not decrease the effectiveness of the plan. The licensee must furnish the change to the Authority and to affected offsite response organizations within six months after the change is made. Proposed changes that decrease, or potentially decrease, the effectiveness of the approved emergency plan may not be implemented without prior application to and prior approval by the Authority.

(8) Each licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators or rubidium-82 from strontium-82/rubidium-82 generators must test the generator eluates for molybdenum-99 breakthrough or strontium-82 and strontium-85, respectively, in accordance with OAR 333-116-0330. The licensee must record the results of each test and retain each record for three years after the record is made.

(9)(a) Each general licensee subject to the registration requirement in OAR 333-101-0007 and each specific licensee must notify the Authority in writing immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (Bankruptcy) of the United States Code by or against:

(A) The licensee;

(B) An entity (as that term is defined in 11 U.S.C. 101(15)) controlling the licensee or listing the license or licensee as property of the estate; or

(C) An affiliate (as that term is defined in 11 U.S.C. 101(2)) of the licensee.

(b) This notification must indicate:

(A) The bankruptcy court in which the petition for bankruptcy was filed; and

(B) The date of the filing of the petition.

(10) Sealed sources or detector cells containing licensed material must not be opened or sources removed from source holders or detector cells by the licensee.

(11) No licensee may acquire licensed radioactive material in a sealed source or in a device that contains a sealed source unless the source or device has been registered with the U.S. Nuclear Regulatory Commission under 10 CFR 32.210 or with an Agreement State.

(12) Any sealed source fabricated by a licensee must be registered, inspected, and tested for construction defects, leakage, and contamination prior to any use or transfer as a sealed source in accordance with requirements in 10 CFR 32.210.

(13) Each licensee must conduct a physical inventory at intervals not to exceed six months to account for all radioactive material received and possessed by licensee. Inventories must include the types and quantities of radioactive material, location of materials, date of receipt, and the date of the inventory; and for sealed sources, the inventory must include the types and quantities of sealed sources, sealed source manufacturer, model number, serial number, date of receipt, condition of sealed sources, and the date of the inventory. Records of the inventories required by this section must be kept until inspection by the Authority.

(14) Each licensee must transport radioactive material or deliver radioactive material to a carrier for transport in accordance with the provisions of Parts 170 through 189 of Title 49, Code of Federal Regulations and in accordance with division 118 of this chapter, "Transportation of Radioactive Material."

(15) Each licensee possessing a device licensed pursuant to OAR 333-103-0010(2)(h) must perform an inspection of all devices at intervals not to exceed six months. Inspections must include condition of labeling and posting of each radiation device, and corrective actions taken if any; condition of shutter operation, if applicable, of each device, and corrective actions taken if any; and location of each device. Records of the inspections required by this section must be kept until inspection by the Authority.

(16) No licensee may open or remove radioactive material from sealed sources or detector cells containing licensed radiation sources.

(17) No person may repair, modify, dismantle, or effect any change in licensed devices or radiation sources, nor modify nor alter labels affixed to licensed devices by the manufacturer

(18) Installation, initial radiation survey, relocation, removal from service, maintenance, and repair of fixed gauging devices containing radioactive sealed sources, and installation, replacement, and disposal of sealed sources must be performed only by persons specifically authorized by the Authority, the U.S. Nuclear Regulatory Commission, or another Agreement state to perform such services. Records of all surveys must be maintained for inspection by the Radiation Protection Services section.

(19) If the licensee has previously determined that monitoring for internal exposure pursuant to OAR 333-120-0130, 333-120-0210, or 333-120-0320 is required, the data and results of this evaluation must be placed in the worker's exposure records and included the worker's Oregon Form Z report.

(20) Testing for leakage or contamination of sealed sources must be in accordance with requirements in OAR 333-120-0460. In the absence of a certificate from a transferor indicating that a test has been made within six months prior to the transfer, a sealed source or detector cell received from another person must not be put into use until tested.

(21) Detector cells must be used only in conjunction with a properly operating temperature control mechanism that prevents foil temperatures from exceeding manufacturer's specifications. Exhaust from detector cells must be vented to keep exposures to personnel and the public as low as reasonably achievable pursuant to OAR 333-120-0180.

(22) Licensees who possess sealed sources used for testing at field sites must possess at such locations transport documents, a current copy of the specific radioactive materials license, specific license validation certificates, the current leak test certificate, and the licensee's operating and emergency procedures. Licensed materials stored in an unrestricted area must be secured from unauthorized removal from the place of storage in accordance with provisions of OAR 333-120-0250 and 333-120-0260.

(23) Any specific licensee is authorized to receive, possess, use, transfer, and import up to 999 kilograms of uranium contained as shielding for specific licensed radioactive material authorized by license.

(24) A licensee may store, pursuant to OAR 333-120-0500, radioactive waste for decay in storage before disposal in accordance with 333-116-0290.

(25) Licensed materials in an unrestricted area and not in storage must be tended under the constant surveillance and immediate control of the licensee.

(26) Except as otherwise specified in a radioactive materials license, the licensee must have available and follow the instructions contained in the manufacturer's instruction manual for the chromatography device.

(27) In lieu of using the conventional radiation caution colors (magenta or purple on yellow background) as provided in OAR 333-120-0400(2), the licensee is hereby authorized to label detector cells and cell baths, containing licensed radioactive material and used in gas chromatography devices, with conspicuously etched or stamped radiation caution symbols without a color requirement.

(28) If a radiography licensee plans to use, during normal industrial radiographic operations subject to division 105 of this chapter, two or more exposure devices at one jobsite, the licensee must require at least one Radiographer or Radiographer Instructor authorized user for each exposure device, and the total number of authorized personnel (radiographers and assistant radiographers) at the temporary jobsite must not be less than n+1 where n=the number of cameras.

(29) Security requirements for portable devices containing licensed radioactive materials. Each portable device containing licensed radioactive materials must be secured using a minimum of two independent physical controls that form two separate tangible barriers to prevent unauthorized removal or use, whenever the portable device is not under the direct control and constant surveillance of the licensee.

(30) Authorization under OAR 333-102-0190(10)(c)(N) to produce Positron Emission Tomography (PET) radiopharmaceutical drugs for non-commercial transfer to medical use licensees in its consortium does not

relieve the licensee from complying with applicable FDA, other federal, and state requirements governing radiopharmaceutical drugs.

(31) Each licensee authorized under OAR 333-102-0190(10)(c)(N) to produce PET radiopharmaceutical drugs for noncommercial transfer to medical use licensees in its consortium shall:

(a) Satisfy the labeling requirements in OAR 333-102-0285(1)(d) for each PET radiopharmaceutical drug transport radiation shield and each syringe, vial, or other container used to hold a PET radiopharmaceutical drug intended for noncommercial distribution to members of its consortium.

(b) Possess and use instrumentation to measure the radioactivity of the PET radiopharmaceutical drugs intended for noncommercial distribution to members of its consortium and meet the procedural, radioactivity measurement, instrument test, instrument check, and instrument adjustment requirements in OAR 333-102-0285(3).

(32) A licensee that is a pharmacy authorized under OAR 333-102-0190(10)(c)(N) to produce PET radiopharmaceutical drugs for noncommercial transfer to medical use licensees in its consortium shall require that any individual that prepares PET radiopharmaceutical drugs shall be:

(a) An authorized nuclear pharmacist who meets the requirements in OAR 333-116-0910; or

(b) An individual under the supervision of an authorized nuclear pharmacist as specified in OAR 333-116-0100.

(33) A pharmacy, authorized under OAR 333-102-0190(10)(c)(N) to produce PET radiopharmaceutical drugs for noncommercial transfer to medical use licensees in its consortium that allows an individual to work as an authorized nuclear pharmacist, shall meet the requirements of 333-116-0910.

Stat. Auth.: ORS 453.635, 453.665
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 4-2010, f. & cert. ef. 2-16-10; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 32-2014, f. 12-22-14, cert. ef. 1-1-15; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-102-0310
Expiration and Termination of Licenses and Decommissioning of Sites and Separate Buildings or Outdoor Areas

(1)(a) Except as provided in subsection (1)(b) of this rule, each specific license must expire at the end of the day on the expiration date stated in the license unless the licensee has filed an application for renewal under OAR 333-102-0315 before the expiration date stated in the existing license (or, for those licenses subject to subsection (1)(b) of this rule, before the deemed expiration date in that section). If an application for renewal has been filed before the expiration date stated in the existing license (or, for those licenses subject to subsection (2)(a) of this rule, before the deemed expiration date in that section), the existing license expires at the end of the day on which the Authority makes a final determination to deny the renewal application or, if the determination states an expiration date, the expiration date stated in the determination.

(b) Each specific license that has an expiration date after July 1, 1995, and is not one of the licenses described in subsection (1)(c) of this rule, shall be deemed to have an expiration date that is five years after the expiration date stated in the current license.

(c) The following specific licenses are not subject to, or otherwise affected by, the provisions of subsection (1)(b) of this rule:

(A) Specific licenses for which, on February 15, 1996, an evaluation or an emergency plan is required in accordance with OAR 333-102-0190(10);

(B) Specific licenses whose holders are subject to the financial assurance requirements specified in OAR 333-102-0200(6), and on February 15, 1996, the holders either:

(i) Have not submitted a decommissioning funding plan or certification of financial assurance for decommissioning; or

(ii) Have not received written notice that the decommissioning funding plan or certification of financial assurance for decommissioning is acceptable;

(C) Specific licenses who need an environmental assessment or environmental impact statement pursuant to OAR 333-102-0200(5);

(D) Specific licenses whose holders have not had at least one Authority inspection of licensed activities before February 15, 1996;

(E) Specific licenses whose holders, as the result of the most recent Authority inspection of licensed activities conducted before February 15, 1996, have been:

(i) Cited for a serious health and safety noncompliance;

(ii) Subject to an Order issued by the Authority; or

(iii) Subject to a Confirmatory Action Letter issued by the Authority.

(F) Specific licenses with expiration dates before July 1, 1995, for which the holders have submitted applications for renewal under OAR 333-102-0315.

(2) Each specific license revoked by the Authority expires at the end of the day on the date of the Commission's final determination to revoke the license, or on the expiration date stated in the determination, or as otherwise provided by Authority Order.

(3) Each specific license continues in effect, beyond the expiration date if necessary, with respect to possession of radioactive material or source material until the Authority notifies the licensee in writing that the license is terminated. During this time, the licensee must:

(a) Limit actions involving material to those related to decommissioning; and

(b) Continue to control entry to restricted areas until they are suitable for release in accordance with Authority requirements.

(4) Within 60 days of the occurrence of any of the following, consistent with the administrative directions in OAR 333-100-0045, each licensee must provide notification to the Authority in writing of such occurrence, and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity so that the building or outdoor area is suitable for release in accordance with Authority requirements, or submit within 12 months of notification a decommissioning plan, if required by subsection (7)(a) of this rule, and begin decommissioning upon approval of that plan if:

(a) The license has expired pursuant to sections (1) or (2) of this rule; or

(b) The licensee has decided to permanently cease principal activities, as defined in OAR 333-102-0203, at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with Authority requirements; or

(c) No principal activities under the license have been conducted for a period of 24 months; or

(d) No principal activities have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with Authority requirements.

(5) Coincident with the notification required by section (4) of this rule, the licensee must maintain in effect all decommissioning financial assurances established by the licensee pursuant to OAR 333-102-0200(6) in conjunction with a license issuance or renewal or as required by this rule. The amount of the financial assurance must be increased, or may be decreased, as appropriate, to cover the detailed cost estimate for decommissioning established pursuant to paragraph (7)(d)(E) of this rule.

(a) Any licensee who has not provided financial assurance to cover the detailed cost estimate submitted with the decommissioning plan must do so when this rule becomes effective November 24, 1995.

(b) Following approval of the decommissioning plan, a licensee may reduce the amount of the financial assurance as decommissioning proceeds and radiological contamination is reduced at the site with the approval of the Authority.

(6) The Authority may grant a request to extend the time periods established in section (4) of this rule if the Authority determines that this relief is not detrimental to the public health and safety and is otherwise in the public interest. The request must be submitted no later than 30 days before notification pursuant to section (4) of this rule. The schedule for decommissioning set forth in section (4) of this rule may not commence until the Authority has made a determination on the request.

(7)(a) A decommissioning plan must be submitted if required by license condition or if the procedures and activities necessary to carry out decommissioning of the site or separate building or outdoor area have not been previously approved by the Authority and these procedures could increase potential health and safety impacts to workers or to the public, such as in any of the following cases:

(A) Procedures may involve techniques not applied routinely during cleanup or maintenance operations;

(B) Workers that may be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation;

(C) Procedures could result in significantly greater airborne concentrations of radioactive material or source material than are present during operation; or

(D) Procedures could result in significantly greater releases of radioactive material or source material to the environment than those associated with operation.

(b) The Authority may approve an alternate schedule for submittal of a decommissioning plan required pursuant to section (4) of this rule if the Authority determines that the alternative schedule is necessary to the effective conduct of decommissioning operations and presents no undue risk from radiation to the public health and safety and is otherwise in the public interest.

(c) Procedures such as those listed in subsection (7)(a) of this rule with potential health and safety impacts may not be carried out prior to approval of the decommissioning plan.

(d) The proposed decommissioning plan for the site or separate building or outdoor area must include:

(A) A description of the conditions of the site or separate building or outdoor area sufficient to evaluate the acceptability of the plan;

(B) A description of planned decommissioning activities;

(C) A description of methods used to ensure protection of workers and the environment against radiation hazards during decommissioning;

(D) A description of the planned final radiation survey; and

(E) An updated detailed cost estimate for decommissioning, comparison of that estimate with present funds set aside for decommissioning, and a plan for assuring the availability of adequate funds for completion of decommissioning.

(F) For decommissioning plans calling for completion of decommissioning later than 24 months after plan approval, the plan must include a justification for the delay based on the criteria in section (9) of this rule.

(e) The proposed decommissioning plan will be approved by the Authority if the information therein demonstrates that the decommissioning will be completed as soon as practicable and that the health and safety of workers and the public will be adequately protected.

(8)(a) Except as provided in section (9) of this rule, licensees must complete decommissioning of the site or separate building or outdoor area as soon as practicable but no later than 24 months following the initiation of decommissioning.

(b) Except as provided in section (9) of this rule, when decommissioning involves the entire site, the licensee must request license termination as soon as practicable but no later than 24 months following the initiation of decommissioning.

(9) The Authority may approve a request for an alternative schedule for completion of decommissioning of the site or separate building or outdoor area, and license termination if appropriate, if the Authority determines that the alternative is warranted by consideration of the following:

(a) Whether it is technically feasible to complete decommissioning within the allotted 24-month period;

(b) Whether sufficient waste disposal capacity is available to allow completion of decommissioning within the allotted 24-month period;

(c) Whether a significant volume reduction in wastes requiring disposal will be achieved by allowing short-lived radionuclides to decay;

(d) Whether a significant reduction in radiation exposure to workers can be achieved by allowing short-lived radionuclides to decay; and

(e) Other site-specific factors which the Authority may consider appropriate on a case-by-case basis, such as the regulatory requirements of other government agencies, lawsuits, ground-water treatment activities, monitored natural ground-water restoration, actions that could result in more environmental harm than deferred cleanup, and other factors beyond the control of the licensee.

(10) As the final step in decommissioning, the licensee must:

(a) Certify the disposition of all licensed material, including accumulated wastes, by submitting a completed NRC Form 314 or equivalent information; and

(b) Conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey, unless the licensee demonstrates in some other manner that the premises are suitable for release in accordance with the criteria for decommissioning in 10 CFR Part 20, Subpart E. The licensee must, as appropriate:

(A) Report levels of gamma radiation in units of millisieverts (microroentgen) per hour at one meter from surfaces, and report levels of radioactivity, including alpha and beta, in units of megabecquerels (disintegrations per minute or microcuries) per 100 square centimeters — removable and fixed — for surfaces, megabecquerels (microcuries) per milliliter for water, and becquerels (picocuries) per gram for solids such as soils or concrete; and

(B) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

(11) Specific licenses, including expired licenses, will be terminated by written notice to the licensee when the Authority determines that:

(a) Radioactive material or source material has been properly disposed;

(b) Reasonable effort has been made to eliminate residual radioactive contamination, if present; and

(c)(A) A radiation survey has been performed that demonstrates that the premises are suitable for release or establishes the level of residual activity in accordance with the criteria for decommissioning in 10 CFR Part 20, Subpart E; or

(B) The licensee has provided sufficient financial assurance to enable an independent third party, including a governmental custodian of a site, to assume and carry out responsibilities for any necessary control and maintenance of the site. Acceptable financial assurance mechanisms are:

(i) Funds placed into an account separate from the licensee's assets and outside of the licensee's control before the start of decommissioning operations; or

(ii) A statement of intent containing a cost estimate for decommissioning or an amount based on the table in paragraph (d) of 10 CFR section 30.35(d), and indicating that funds for decommissioning will be obtained when necessary; or

(iii) An arrangement deemed acceptable by the governmental entity that is assuming custody and ownership of a site.

(C) Alternate criteria for license termination. The Authority will terminate a license using alternate criteria greater than the dose criterion of OAR 333-102-0310, if the licensee:

(i) Provides assurance that public health and safety shall continue to be protected and that it is unlikely that the total effective dose equivalent from all combined man-made sources other than medical sources shall be more than 100 millirem per year (1 millisievert per year) by submitting an analysis of possible sources of exposure;

(ii) Has employed restrictions on site use in minimizing exposures at the site;

(iii) Reduces doses to ALARA levels considering any detriments such as traffic accidents potentially expected to result from decontamination and waste disposal; and

(D) Has submitted a decommissioning or license termination plan to the Authority indicating the licensee's intent to decommission as specified in OAR 333-102-0310, and specifying that the licensee proposes to decommission by use of alternate criteria. The licensee shall document in the license termination or decommissioning plan how the advice of individuals and institutions in the community who could be affected by the decommissioning has been sought and addressed, as appropriate, following analysis of that advice in:

(i) Participation by representatives of a broad cross section of community interests who could be affected by the decommissioning;

(ii) An opportunity for a comprehensive, collective discussion on the issues by the participants represented; and

(iii) A publicly available summary of the results of all such discussions, including a description of the individual viewpoints of the participants on the issues and the extent of agreement and disagreement on the issues.

(E) The use of alternate criteria to terminate a license requires the approval of the Authority after consideration of any comments provided by the U. S. Environmental Protection Agency and any public comments submitted.

(F) Other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release in accordance with the criteria for decommissioning in 10 CFR Part 20, Subpart E.

(d) The licensee has kept records of receipt, transfer, and disposal of radioactive material or source material, pursuant to OAR 333-100-0055 that meet the following criteria:

(A) The licensee must retain each record of receipt of radioactive material or source material as long as the material is possessed and for three years following transfer or disposal of the material.

(B) The licensee who transferred the material must retain each record of transfer for three years after each transfer unless a specific requirement in another part of the rules in this chapter dictates otherwise.

(C) The licensee who disposed of the material must retain each record of disposal of byproduct material until the Authority terminates each license that authorizes disposal of the material.

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-

2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-103-0005
Biennial Fee for Radiation Machines

(1) For the purpose of this division, a radiation machine is defined under OAR 333-100-0005.

(2) Each radiation machine shall be validated biennially by a radiation machine fee in the following amounts:

(a) Hospital, radiologist, chiropractic, osteopathic or medical X-ray machine, $285;

(b) Hospital X-ray machine when X -ray machine inspection is performed by an accredited hospital radiology inspector rather than an Authority inspector, $145;

(c) Industrial or podiatry X-ray machine, $190;

(d) Dental, academic or veterinary X-ray machine, $140.

(3) The radiation machine fee shall be due and payable for each radiation machine on or before October 1 of each biennium.

(4) A certificate of validation or acknowledgment of validation for the current biennium must be posted on or near the radiation machine by the registrant.

(5) In any case in which a registrant has submitted the proper fee prior to the expiration of a validation certificate, such existing validation certificate shall not expire until the issuance of a new validation certificate for the current biennium.

(6) Upon written request and approval by the Authority, fees for new licenses or additional machines may be prorated on a biennial quarterly basis for the current biennium.

Stat. Auth.: ORS 453.757, 453.761
Stats. Implemented: ORS 453.757, 453.761
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 13-1988, f. 6-7-88, cert. ef. 7-1-88; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; HD 3-1996, f. & cert. ef. 8-9-96; PH 11-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-105-0420
Performance Requirements for Industrial Radiography Equipment

Equipment used in industrial radiographic operations must meet the following minimum criteria:

(1) Each radiographic exposure device, source assembly or sealed source, and all associated equipment must meet the requirements specified in American National Standard Institute, N432-1980 "Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography," (published as NBS Handbook 136, issued January 1981). This publication may be purchased from the American National Standards Institute, Inc., 25 West 43rd Street, New York, New York 10036, Telephone (212) 642-4900.

(2) In addition to the requirements specified in section (1) of this rule, the following requirements apply to radiographic exposure devices, source changers, source assemblies and sealed sources:

(a) The licensee must ensure that each radiographic exposure device has attached to it a durable, legible, clearly visible label bearing the:

(A) Chemical symbol and mass number of the radionuclide in the device;

(B) Activity and the date on which this activity was last measured;

(C) Model or product code and serial number of the sealed source;

(D) Name of the manufacturer of the sealed source; and

(E) Licensee's name, address, and telephone number.

(b) Radiographic exposure devices intended for use as Type B packages must meet the applicable transportation requirements of division 118 of these rules.

(c) Modification of radiographic exposure devices, source changers, and source assemblies and associated equipment is prohibited, unless approved by the Authority or other approval body.

(3) In addition to the requirements specified in sections (1) and (2) of this rule, the following requirements apply to radiographic exposure devices, source assemblies, and associated equipment that allow the source to be moved out of the device for radiographic operations or to source changers;

(a) The coupling between the source assembly and the control cable must be designed in such a manner that the source assembly will not become disconnected if cranked outside the guide tube. The coupling must be such that it cannot be unintentionally disconnected under normal and reasonably foreseeable abnormal conditions.

(b) The device must automatically secure the source assembly when it is cranked back into the fully shielded position within the device. This securing system may only be released by means of a deliberate operation on the exposure device.

(c) The outlet fittings, lock box, and drive cable fittings on each radiographic exposure device must be equipped with safety plugs or covers which must be installed during storage and transportation to protect the source assembly from water, mud, sand or other foreign matter.

(d) Each sealed source or source assembly must have attached to it or engraved on it, a durable, legible, visible label with the words:

"DANGER – RADIOACTIVE."
The label may not interfere with the safe operation of the exposure device or associated equipment.

(e) The guide tube must be able to withstand a crushing test that closely approximates the crushing forces that are likely to be encountered during use, and be able to withstand a kinking resistance test that closely approximates the kinking forces that are likely to be encountered during use.

(f) Guide tubes must be used when moving the source out of the device.

(g) An exposure head or similar device designed to prevent the source assembly from passing out of the end of the guide tube must be attached to the outermost end of the guide tube during industrial radiography operations.

(h) The guide tube exposure head connection must be able to withstand the tensile test for control units specified in ANSI N432-1980.

(i) Source changers must provide a system for ensuring that the source will not be accidentally withdrawn from the changer when connecting or disconnecting the drive cable to or from a source assembly.

(4) All radiographic exposure devices and associated equipment in use after January 10, 1996, must comply with the requirements of this division; and

(5) As an exception to section (1) of this rule, equipment used in industrial radiographic operations need not comply with 8.9.2(c) of the Endurance Test in American National Standards Institute N432-1980, if the prototype equipment has been tested using a torque value representative of the torque that an individual using the radiography equipment can reasonably exert on the lever or crankshaft of the drive mechanism.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-106-0055
X-ray Operator Training

(1) The registrant shall assure that individuals who will be operating the X-ray equipment by physically positioning patients or animals, determining exposure parameters, or applying radiation for diagnostic purposes shall have adequate training in radiation safety.

(a) Radiation safety training records shall be maintained by the registrant for each individual who operates X-ray equipment. Records must be legible and meet the requirements in OAR 333-120-0690.

(b) When requested by the Authority, radiation safety training records shall be made available.

(2) Dental X-ray operators who meet the following requirements are considered to have met the requirements in section (1) of this rule:

(a) Currently licensed by the Oregon Board of Dentistry as a dentist or dental hygienist; or

(b) Is a dental assistant who is certified by the Oregon Board of Dentistry in radiologic proficiency.

(c) Dental radiology students in an approved Oregon Board of Dentistry dental radiology course are permitted to take dental radiographs on human patients during their clinical training, under the direct supervision of a dentist or dental hygienist currently licensed, or a dental assistant who has been certified in radiologic proficiency by the Oregon Board of Dentistry.

(3) Veterinary X-ray operators who meet the following requirements are considered to have met the requirements in section (1) of this rule:

(a) Currently licensed by the Oregon Veterinary Medical Examining Board as a veterinarian or a certified veterinary technician.

(b) Veterinary students enrolled in a radiology course approved by the Oregon Veterinary Medical Examining Board are permitted to take radiographs on animal patients during their clinical training under the direct supervision of a veterinarian or a certified veterinary technician who is currently licensed.

(4) Diagnostic medical X-ray operators who meet the following requirements are considered to have met the requirements of section (1) of this rule:

(a) Holds a current license from the Oregon Board of Medical Imaging; or

(b) Holds a current limited X-ray machine operator permit from the Oregon Board of Medical Imaging; or

(c) Is a student in an approved school of Radiologic Technology as defined in ORS 688.405 while practicing Radiologic Technology under the direct supervision of a radiologist who is currently licensed with the Oregon Medical Board or a radiologic technologist who is licensed with the Oregon Board of Medical Imaging; or

(d) Is a student in an Oregon Board of Medical Imaging approved limited permit program under a radiologic technologist who is licensed by the Oregon Board of Medical Imaging.

(5) All other types of X-ray operators must have completed an Authority approved radiation use and safety course.

(6) At a minimum, an Authority approved training course shall cover the following subjects:

(a) Nature of X-rays:

(A) Interaction of X-rays with matter;

(B) Radiation units;

(C) X-ray production;

(D) Biological effects of X-rays; and

(E) Risks of radiation exposure.

(b) Principles of the X-ray machine:

(A) External structures and operating console;

(B) Internal structures:

(i) Anode; and

(ii) Cathode.

(C) Operation of an X-ray machine;

(D) Tube warm up;

(E) Factors affecting X-ray emission:

(i) mA;

(ii) kVp;

(iii) Filtration; and

(iv) Voltage waveform.

(c) Principles of radiation protection:

(A) Collimation;

(B) Types of personal protection equipment and who must wear it;

(C) ALARA;

(D) Time, distance, shielding;

(E) Operator safety;

(F) Personal dosimetry:

(i) Types of dosimetry;

(ii) Proper placement of dosimetry; and

(iii) Situations that require dosimetry.

(G) Occupational and non-occupational dose limits.

(d) Radiographic technique:

(A) Factors affecting technique choice:

(i) Thickness of part;

(ii) Body composition;

(iii) Pathology; and

(iv) Film versus computed radiography (CR) and digital radiography (DR).

(B) How to develop an accurate chart;

(C) Low dose techniques;

(D) Pediatric techniques (does not apply to veterinary); and

(E) AEC Techniques.

(e) Darkroom:

(A) Safelights;

(B) Chemical storage;

(C) Film storage; and

(D) Darkroom cleanliness.

(f) Image processing:

(A) Automatic film processing;

(B) Dip tank film processing;

(C) Computed radiography (CR) processing; and

(D) Digital radiography (DR) processing.

(g) Image critique:

(A) Reading room conditions;

(B) Light box conditions;

(C) Image identification;

(D) Artifacts;

(E) Exposure indicators for CR and DR;

(F) Technical parameter evaluation; and

(G) Positioning evaluation.

(h) Veterinary X-ray use (for veterinary courses only):

(A) Types of animal restraints;

(B) Small animal versus large animal;

(C) Film holders; and

(D) Portable X-ray machine safety.

(i) Applicable federal and state radiation regulations including those portions of chapter 333, divisions 100, 101, 103, 106, 111, 120, and 124.

(7) In addition to the training outlined in section (6) of this rule, medical X-ray equipment operators using diagnostic radiographic equipment on human patients, and who are not regulated by the Oregon Board of Medical Imaging, must have 100 hours or more of instruction in radiologic technology including, but not limited to:

(a) Anatomy physiology, patient positioning, exposure and technique; and

(b) Appropriate types of X-ray examinations that the individual will be performing; and in addition

(c) Receive 200 hours or more of X-ray laboratory instruction and practice in the actual use of an energized X-ray unit, setting techniques and practicing positioning of the appropriate diagnostic radiographic procedures that they intend to administer.

(8) All X-ray operators shall be able to demonstrate competency in the safe use of the X-ray equipment and associated X-ray procedures.

(9) When required by the Authority, applications training must be provided to the operator before use of X-ray equipment on patients.

(a) Records of this training must be maintained and made available to the Authority for inspection.

(b) The training may be in any format such as hands-on training by a manufacturer's representative, video or DVD instruction, or a training manual.

(10) X-ray equipment operators who have received their radiation safety training outside of Oregon will be considered to have met the training requirements in section (5) of this rule, if the Authority's or applicable Oregon Licensing Board's evaluation of their training or training and experience, reveals that they substantially meet the intent of section (6) of this rule.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06; PH 14-2008, f. & cert. ef. 9-15-08; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 24-2014, f. & cert. ef. 8-15-14; PH 32-2014, f. 12-22-14, cert. ef. 1-1-15; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-106-0325

Intraoral Dental Radiographic Systems

In addition to the provisions of OAR 333-106-0010 through 333-106-0101, the requirements of this rule apply to X-ray equipment and facilities where intraoral dental radiography is conducted. Requirements for extraoral dental radiographic systems are covered in OAR 333-106-0301 through 333-106-0320. Intraoral dental radiographic systems must meet the following requirements:

(1) Source-to-Skin Distance (SSD). X-ray systems designed for use with an intraoral image receptor shall be provided with means to limit source-to-skin distance, to not less than 18cm.

(2) Beam Limitation. Radiographic systems designed for use with an intraoral image receptor shall be provided with means to limit the X-ray beam such that:

(a) If the minimum source-to-skin distance (SSD) is 18 centimeters or more, the X-ray field, at the minimum SSD, shall be containable in a circle having a diameter of no more than seven centimeters; or

(b) If the minimum SSD is less than 18 centimeters, the X-ray field, at the minimum SSD, shall be containable in a circle having a diameter of no more than six centimeters.

(3) Radiation Exposure Control (Timers). Means shall be provided to control the radiation exposure through the adjustment of exposure time in seconds, milliseconds (ms) or, number of pulses, or current/milliamps (mA), or the product of current and exposure time (mAs) or adjustment of kVp. In addition:

(a) Exposure Initiation. Means shall be provided to initiate the radiation exposure by a deliberate action on the part of the operator, such as the depression of a switch. Radiation exposure shall not be initiated without such an action; and

(b) It shall not be possible to make an exposure when the timer is set to a "0" or "off" position if either position is provided;

(c) Exposure Indication. Means shall be provided for visual indication, observable at or from the operator's protected position, whenever X-rays are produced. In addition, a signal audible to the operator shall indicate that the exposure has terminated.

(d) Timer Reproducibility. With a timer setting of 0.5 second or less, the average exposure time (T) shall be greater than or equal to five times the minimum exposure time (Tmax) minus the minimum exposure time (Tmin) when four timer tests are performed: (T) >5 (Tmax - Tmin).

(A) Means shall be provided to terminate the exposure at a preset, time interval, mAs, number of pulses, or radiation to the image receptor.

(B) An X-ray exposure control shall be incorporated into each system such that an exposure can be terminated by the operator at any time, except for exposures of 0.5 second or less.

(C) Termination of an exposure shall cause automatic resetting of the timer to its initial setting or to "0".

(4) Radiation Exposure Control Location and Operator Protection. Each X-ray control must be located in such a way as to meet the following requirements:

(a) The exposure switch shall be able to be operated in a protected area, as defined in OAR 333-106-0005(77), and the operator shall remain in that protected area during the entire exposure; and

(b) The operator's protected area shall provide visual indication of the patient during the X-ray procedure.

(c) Mobile and portable X-ray systems which are:

(A) Used for greater than one week in the same location, such as a room or suite, shall meet the requirements of subsections (4)(a) and (4)(b) of this rule.

(B) Used for less than one week at the same location, such as a room or suite, shall be provided with:

(i) Either a protective barrier of at least 6.5 feet (2 meters) high for operator protection; or

(ii) A means to allow the operator to be at least nine feet (2.7 meters) from the tube housing assembly while making exposures; or

(iii) A full length protective apron, of not less than 0.25 millimeter lead equivalent for operator protection, when using a hand-held dental intraoral X-ray machine.

(5) Exposure Reproducibility. The coefficient of variation shall not exceed 0.05 when all technique factors are held constant. This requirement shall be deemed to have been met if, when four exposures are made at identical technique factors, the value of the average exposure (E) is greater than or equal to five times the maximum exposure (Emax) minus the minimum exposure (Emin): E >5 (Emax - Emin)

(6) Accuracy.

(a) Deviation of technique factors from the indicated values for kVp and exposure time (if time is independently selectable) shall not exceed the limits specified for that system by its manufacturer.

(b) kVp Limitations. Dental X-ray machines with a nominal fixed kVp of less than 55 kVp shall not be used to make diagnostic dental radiographs on humans.

(7) Administrative Controls.

(a) Patient and film holding devices shall be used when the techniques permit;

(b) The tube housing and the PID shall not be hand held during an exposure;

(c) The X-ray system shall be operated in such a manner that the useful beam at the patient's skin does not exceed the requirements of section (2) of this rule or its updated version;

(d) Dental fluoroscopy without image intensification shall not be used; and

(e) Pointed cones shall not be utilized unless specific authorization has been granted by the Authority.

(8) Hand-held X-ray systems.

(a) Registrants must provide for security and safe storage while not in use. A report must be filed with the Authority within 72 hours if the hand-held unit is lost or stolen.

(b) The image receptor used with hand-held dental X-ray systems must either be:

(A) A speed class of intra-oral film designated as "E/F", "F" or faster; or

(B) A digitally acquired image (CR or DR).

(c) The hand-held X-ray system must be equipped with a permanently attached backscatter shield of 0.25 mm Pb equivalent.

(d) The backscatter shield must be designed to appropriately protect the operator during an exposure. The manufacturer of the hand-held unit must provide documentation to the Authority of the design specifications of the backscatter shield's protection to the operator prior to sale and distribution in the State of Oregon.

(e) The hand-held unit must be capable of a minimum of 60 kVp and 2.0 mA.

(f) Hand-held units not meeting the requirements of subsections (8)(c), (8)(d) and (8)(e) of this rule may not be sold, distributed or used in the State of Oregon.

(9) Hand-held dental X-ray administrative controls.

(a) The operator must wear a whole body protective apron and thyroid collar of 0.25 mm of lead equivalent when using the unit.

(b) Hand-held units must meet the requirement of OAR 333-106-0045(5).

(A) The hand-held unit shall not be used for patient examinations in hallways and waiting rooms.

(B) The unit can only be operated in an enclosed room when possible. All individuals except the X-ray operator and the patient must leave the room and stand behind a protective barrier or be at least six feet from the X-ray source if a protective barrier is not available during radiographic exposures.

(c) Operators must complete machine specific applications training as described in OAR 333-106-0055(8) before using a hand-held unit. Training on the safe use of the unit shall be documented and include at a minimum:

(A) Proper positioning of the unit to ensure an adequate protected position;

(B) Limitations on the use of position indicating devices that require longer distances to the patient's face;

(C) Diagrams such as drawings, illustrations, or schematics of protected position and location in relationship to the unit;

(D) Diagrams such as drawings, illustrations, or schematics of the effect of improper distance or removal of shielding device; and

(E) Diagrams such as drawings, illustrations, schematics of common examples of improper positioning of the unit and or location of the operator.

(d) An appropriate receptor holder must be used during the X-ray exposure.

(e) A PID must be used during the X-ray exposure.

(f) A hand-held unit shall be held without any motion during a patient examination. A tube stand may be utilized to immobilize the hand-held unit during a patient examination.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 14-2008, f. & cert. ef. 9-15-08; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 4-2013, f. & cert. ef. 1-29-13; PH 24-2014, f. & cert. ef. 8-15-14; PH 32-2014, f. 12-22-14, cert. ef. 1-1-15; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-116-0680

Training for Use of Unsealed Byproduct Material for Which a Written Directive is Required

Except as provided in OAR 333-116-0740, the licensee must require an authorized user of unsealed byproduct material for the uses authorized under 333-116-0360 to be a physician who:

(1) Is certified by a medical specialty board whose certification process has been recognized by the NRC or an Agreement State and who meets the requirements in paragraph (2)(b)(F) and subsection (2)(c) of this rule. (Specialty boards whose certification processes have been recognized by the NRC or an Agreement State shall be posted on the NRC's webpage). To be recognized, a specialty board shall require all candidates for certification to:

(a) Successfully complete residency training in a radiation therapy or nuclear medicine training program or a program in a related medical specialty. These residency training programs must include 700 hours of training and experience as described in subsection (2)(a) through paragraph (2)(b)(E). Eligible training programs must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education, the Royal College of Physicians and Surgeons of Canada, or the Committee on Post-Graduate Training of the American Osteopathic Association; and

(b) Pass an examination, administered by diplomats of the specialty board, which tests knowledge and competence in radiation safety, radionuclide handling, quality assurance, and clinical use of unsealed byproduct material for which a written directive is required; or

(2) Has completed 700 hours of training and experience, including a minimum of 200 hours of classroom and laboratory training in basic radionuclide handling techniques applicable to the medical use of unsealed byproduct material requiring a written directive. The training and experience must include:

(a) Classroom and laboratory training in the following areas:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Chemistry of byproduct material for medical use; and

(E) Radiation biology; and

(b) Work experience, under the supervision of an authorized user who meets the requirements in OAR 333-116-0740, and sections (1) and (2) of this rule, or NRC or equivalent Agreement State requirements. A supervising authorized user, who meets the requirements in section (2) of this rule, must have experience in administering dosages in the same dosage category or categories as given in OAR 333-116-0680(2)(b)(F) as the individual requesting authorized user status. The work experience must involve:

(A) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(B) Performing quality control procedures on instruments used to determine the activity of dosages, and performing checks for proper operation of survey instruments;

(C) Calculating, measuring and safely preparing patient or human research subject dosages;

(D) Using administrative controls to prevent a medical event involving the use of unsealed byproduct material;

(E) Using procedures to contain spilled byproduct material safely and using proper decontamination procedures; and

(F) Administering dosages of radiopharmaceutical drugs to patients or human research subjects involving a minimum of three cases in each of the following categories for which the individual is requesting authorized user status:

(i) Oral administration of less than or equal to 1.22 Gigabecquerels (33 millicuries) of sodium iodide I-131;

(ii) Oral administration of greater than 1.22 Gigabecquerels (33 millicuries) of sodium iodide I-131;

NOTE: Experience with at least three cases in subparagraph (ii) also satisfies the requirement in subparagraph (i).

(iii) Parenteral administration of any beta emitter or a photon-emitting radionuclide with a photon energy less than 150 keV; or

(iv) Parenteral administration of any other radionuclide; and

(c) Has obtained written attestation that the individual has satisfactorily completed the requirements in sections (1) and (2) and paragraph (2)(b)(F) of this rule, and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under OAR 333-116-0360. The written attestation must be signed by a preceptor authorized user who meets the requirements in 333-116-0740, 333-116-0680 or equivalent NRC or Agreement State requirements. The preceptor authorized user, who meets the requirements in section (2) of this rule, must have experience in administering dosages in the same dosage category or categories as given in 333-116-0680(2)(b)(F)(i), (ii), (iii), or (iv) as the individual requesting authorized user status.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11; PH 4-2013, f. & cert. ef. 1-29-13; PH 14-2013, f. 12-26-13, cert. ef. 1-1-14; PH 24-2014, f. & cert. ef. 8-15-14; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-118-0040
Exemptions

(1) Common and contract carriers, freight forwarders, warehouse workers, and the U.S. Postal Service are exempt from the regulations in this division and divisions 102, 105, 113, 116, 121 and 125, and the requirements for a license to the extent that they transport or store radioactive material in the regular course of their carriage for others or storage incident thereto. Common and contract carriers who are not subject to the requirements of the U.S. Department of Transportation or U.S. Postal Service are subject to OAR 333-118-0030 and other applicable requirements of these rules.

(2) Any licensee is exempt from the requirements of this division to the extent that the licensee delivers to a carrier for transport a package containing radioactive material having a specific activity not greater than (0.002 microcurie per gram 70 Becquerels per gram (Bq/g).

(3) Any physician licensed under division 116 or by an Agreement State or the Nuclear Regulatory Commission to dispense radiopharmaceuticals in the practice of medicine, is exempt from OAR 333-118-0050 with respect to transporting licensed material for use in the practice of medicine.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2013, f. 12-26-13, cert. ef. 1-1-14; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-118-0190
Advance Notification of Transport of Nuclear Waste

Nuclear waste transports shall be transported as specified in 10 CFR Part 71.97.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07; PH 4-2010, f. & cert. ef. 2-16-10; PH 24-2014, f. & cert. ef. 8-15-14; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-120-0710
Notification of Incidents

(1) Immediate notification: Notwithstanding any other requirements for notification, each licensee, or registrant, must immediately report any event involving a device or licensed radioactive material possessed by the licensee, or registrant, which may have caused or threatens to cause any of the following conditions:

(a) An individual to receive:

(A) A total effective dose equivalent of 0.25 Sv (25 rem) or more; or

(B) A lens dose equivalent of 0.75 Sv (75 rem) or more; or

(C) A shallow-dose equivalent to the skin or extremities of 2.5 gray (250 rad) or more; or

(b) The release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for 24 hours, the individual could have received an intake five times the occupational annual limit on intake (the provisions of this rule do not apply to locations where personnel are not normally stationed during routine operations, such as hot-cells or process enclosures).

(2) Twenty-four hour notification: Each licensee or registrant must, within 24 hours of discovery of the event, report any event involving loss of control of a device or licensed material possessed by the licensee that may have caused, or threatens to cause, any of the following conditions:

(a) An individual to receive in a period of 24 hours:

(A) A total effective dose equivalent exceeding 0.05 Sv (5 rems); or

(B) A lens dose equivalent exceeding 0.15 Sv (15 rems); or

(C) A shallow-dose equivalent to the skin or extremities exceeding 0.5 Sv (50 rems); or

(b) The release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for 24 hours, the individual could have received an intake in excess of one occupational annual limit on intake (the provisions of this rule do not apply to locations where personnel are not normally stationed during routine operations, such as hot-cells or process enclosures).

(3) The licensee must prepare any report filed with the Authority pursuant to this rule so that names of individuals who have received exposure to radiation or radioactive material are stated in a separate and detachable part of the report.

(4) Reports made by licensees, or registrants, in response to the requirements of subsections (1)(a) and (b) of this rule must be made by telephone and either by telegram, electronic mail, or facsimile to the Authority.

(5) The provisions of this rule do not include doses that result from planned special exposures, that are within the limits for planned special exposures, and that are reported under OAR 333-120-0730.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 24-2014, f. & cert. ef. 8-15-14; PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0001
Nationally Tracked Sources

(1) Purpose and Scope. This rule outlines the reporting requirements for any licensees that possess an aggregated category 1 or category 2 quantity of radioactive material listed in Appendix A to 10 CFR Part 37 to report to the National Source Tracking System (NSTS). The mission of the NSTS is to track category 1 and category 2 radioactive materials from manufacturing through their disposal, decay, or exportation.

(2) Reports of Transactions. Each licensee who manufactures, transfers, receives, disassembles, or disposes of a nationally tracked source shall complete and submit a National Source Tracking Transaction Report as specified in subsections (2)(a) through (2)(e) of this rule for each type of transaction.

(a) Each licensee who manufactures a nationally tracked source shall complete and submit a National Source Tracking Transaction report. The report must include the following information:

(A) The name, address, and license number of the reporting licensee;

(B) The name of the individual preparing the report;

(C) The manufacturer, model, and serial number of the source;

(D) The radioactive material in the source;

(E) The initial source strength in becquerels (curies) at the time of manufacture; and

(F) The manufacture date of the source.

(b) Each licensee that transfers a nationally tracked source to another person shall complete and submit a National Source Tracking Transaction report. The report must include the following information:

(A) The name, address, and license number of the reporting licensee;

(B) The name of the individual preparing the report;

(C) The name and license number of the recipient facility and the shipping address;

(D) The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the sources;

(E) The radioactive material in the source;

(F) The initial or current source strength in becquerels (curies);

(G) The date for which the source strength is reported;

(H) The shipping date;

(I) The estimated time of arrival date; and

(J) For nationally tracked sources transferred as waste under a Uniform Low-Level Radioactive Waste Manifest, the waste manifest number and the container identification with the nationally tracked sources.

(c) Each licensee that receives a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

(A) The name, address, and license number of the reporting licensee;

(B) The name of the individual preparing the report;

(C) The name, address, and license number of the person that provided the source:

(D) The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;

(E) The radioactive material in the source;

(F) The initial or current source strength in becquerels (curies);

(G) The date for which the source strength is reported;

(H) The date of receipt; and

(I) For material received under a Uniform Low-Level radioactive Waste Manifest, the waste manifest number and the container identification with the nationally tracked source.

(d) Each licensee that disassembles a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

(A) The name, address, and license number of the reporting licensee;

(B) The name of the individual preparing the report;

(C) The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;

(D) The radioactive material in the source;

(E) The initial or current source strength in becquerels (curies);

(F) The date for which the source strength is reported; and

(G) The disassemble date of the source.

(e) Each licensee who disposes of a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

(A) The name, address, and license number of the reporting licensee;

(B) The name of the individual preparing the report;

(C) The waste manifest number;

(D) The container identification with the nationally tracked source;

(E) The date of disposal; and

(F) The method of disposal.

(f) The reports discussed in subsections (2)(a) through (2)(e) of this rule must be submitted by the close of the next business day after the transactions. The report must be submitted to the National Source Tracking System by using:

(A) The online National Source Tracking System;

(B) Electronically using a computer readable format;

(C) By facsimile;

(D) By mail to the address on the National Source Tracking Transaction Report Form (NRC Form 748); or

(E) By telephone with follow up by facsimile or mail.

(g) Each licensee shall correct any error in previously filed reports or file a new report for any missed transaction within five business days of the discovery of the error or missed transaction. Such errors may be detected by a variety of methods such as administrative reviews or by physical inventories required by regulation. In addition, each licensee shall reconcile the inventory of nationally tracked sources possessed by the licensee against that licensee's data in the National Source Tracking System. The reconciliation must be conducted during the month of January in each year. The reconciliation process must include resolving any discrepancies between the National Source Tracking System and the actual inventory by filing the reports identified by subsections (2)(a) through (2)(e) of this rule. By January 31 of each year, each licensee must submit to the National Source Tracking System confirmation that the data in the National Source Tracking System is correct.

(h) Each licensee that possesses Category 1 nationally tracked sources shall report its initial inventory of Category 1 nationally tracked sources to the National Source Tracking System by January 31, 2009. Each licensee that possesses Category 2 nationally tracked sources shall report its initial inventory of Category 2 nationally tracked sources to the National Source Tracking System by January 31, 2009. The information may be submitted by using any of the methods identified by paragraph (2)(f)(A) through (2)(f)(E) of this rule. The initial inventory report must include the following information:

(A) The name, address, and license number of the reporting licensee;

(B) The name of the individual preparing the report;

(C) The manufacturer, model, and serial number of each nationally tracked source or, if not available, other information to uniquely identify the source;

(D) The radioactive material in the sealed source;

(E) The initial or current source strength in becquerels (curies); and

(F) The date for which the source strength is reported.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0005
Purpose and Scope

(1) OAR 333-125-0005 through 333-125-0200 contains the physical protection program requirements for any licensees that possess an aggregated category 1 or category 2 quantity of radioactive material listed in Appendix A to 10 CFR Part 37. These requirements provide reasonable assurance of the security of category 1 or 2 quantities of radioactive material by protecting these materials from theft or diversion. Specific requirements for access to material, use of material, transfer of material, and transport of material are included. No provision of this division authorizes the possession of licensed material.

(2) Background investigations, access control program and physical protection during use requirements apply to any person who possesses or uses at any site, an aggregated category 1 or category 2 quantity of radioactive material.

(3) Physical protection in transit applies to any person who under the rules in this division:

(a) Transports or delivers to a carrier for transport in a single shipment, a category 1 or category 2 quantity of radioactive material; or

(b) Imports or exports a category 1 or category 2 quantity of radioactive materials. The rules that establish the physical protection program apply to the domestic portion of the transport.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0010
Definitions

(1) "Access control" means a system for allowing only approved individuals to have unescorted access to the security zone and for ensuring that all other individuals are subject to escorted access.

(2) "Aggregated" means accessible by the breach of a single physical barrier that shall allow access to radioactive material in any form, including any devices that contain the radioactive material, when the total activity equals or exceeds a category 2 quantity of radioactive material.

(3) "Approved individual" means an individual whom the licensee has determined to be trustworthy and reliable for unescorted access in accordance with OAR 333-125-0020 through 333-125-0095 and who has completed the training required by OAR 333-125-0115.

(4) "Background investigation" means the investigation conducted by a licensee or applicant to support the determination of trustworthiness and reliability.

(5) "Category 1 quantity" means a quantity of radioactive material meeting or exceeding the category 1 threshold in Table 1 of Appendix A,

Part 37. This is determined by calculating the ratio of the total activity of each radionuclide to the category 1 threshold for that radionuclide and adding the ratios together. If the sum is equal to or exceeds 1, the quantity shall be considered a category 1 quantity. Category 1 quantities of radioactive material do not include the radioactive material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet.

(6) "Category 2 quantity" means a quantity of radioactive material meeting or exceeding the category 2 threshold but less than the category 1 threshold in Table 1 of Appendix A, Part 37. This is determined by calculating the ratio of the total activity of each radionuclide to the category 2 threshold for that radionuclide and adding the ratios together. If the sum is equal to or exceeds 1, the quantity shall be considered a category 2 quantity. Category 2 quantities of radioactive material do not include the radioactive material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet.

(7) "Diversion" means the unauthorized movement of radioactive material subject to the physical protection program to a location different from the material's authorized destination inside or outside of the site at which the material is used or stored.

(8) "Escorted access" means accompaniment while in a security zone by an approved individual who maintains continuous direct visual surveillance at all times over an individual who is not approved for unescorted access.

(9) "Fingerprint orders" means the orders issued by the U.S. Nuclear Regulatory Commission or the legally binding requirements issued by Agreement States that require fingerprints and criminal history records checks for individuals with unescorted access to category 1 and category 2 quantities of radioactive material or safeguards information-modified handling.

(10) "Local law enforcement agency (LLEA)" means a public or private organization that has been approved by a federal, state, or local government to carry firearms and make arrests, and is authorized and has the capability to provide an armed response in the jurisdiction where the licensed category 1 or category 2 quantity of radioactive material is used, stored, or transported.

(11) "Lost or missing licensed material" means licensed material whose location is unknown. It includes material that has been shipped but has not reached its destination and whose location cannot be readily traced in the transportation system.

(12) "Mobile device" means a piece of equipment containing licensed radioactive material that is either mounted on wheels or casters, or otherwise equipped for moving without a need for disassembly or dismounting; or designed to be hand carried. Mobile devices do not include stationary equipment installed in a fixed location.

(13) "Movement control center" means an operations center that is remote from transport activity and maintains position information on the movement of radioactive material, receives reports of attempted attacks or thefts, provides a means for reporting incidents to appropriate agencies and can request and coordinate appropriate aid.

(14) "Nationally Tracked Source" means a sealed source containing a quantity equal to or greater than Category 1 or Category 2 levels of radioactive material listed in 10 CFR Part 20, Appendix E. In this context a sealed source is defined as radioactive material that is sealed in a capsule or closely bonded in a solid form and that is not exempt from regulatory control. It does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel rod, or fuel pellet.

(15) "No-later-than arrival time" means the date and time that the shipping licensee and receiving licensee have established as the time to initiate an investigation if the shipment has not arrived at the receiving facility. The no-later-than arrival time may not be more than six hours after the estimated arrival time for shipments of category 2 quantities of radioactive material.

(16) "Reviewing official" means the individual who shall make the trustworthiness and reliability determination of an individual to determine whether the individual may have, or continue to have, unescorted access to the category 1 or category 2 quantities of radioactive materials that are possessed by the licensee.

(17) "Sabotage" means deliberate damage, with malevolent intent, to category 1 or 2 quantity of radioactive material, a device that contains a category 1 or 2 quantity of radioactive material, or the components of the security system.

(18) "Safe haven" means a readily recognizable and readily accessible site at which security is present or from which, in the event of an emergency, the transport crew can notify and wait for the local law enforcement authorities.

(19) "Security zone" means any temporary or permanent area determined and established by the licensee for the physical protection of category 1 or category 2 of radioactive material.

(20) "Telemetric position monitoring system" means a data transfer system that captures information by instrumentation and measuring devices about the location and status of a transport vehicle or package between the departure and destination locations.

(21) "Trustworthiness and reliability" means the characteristics of an individual considered dependable in judgment, character, and performance, such that unescorted access to category 1 or category 2 quantities of radioactive material by that individual does not constitute an unreasonable risk to the public health and safety or security. A determination of trustworthiness and reliability for this purpose is based upon the results from a background investigation.

(22) "Unescorted access" means solitary access to an aggregated category 1 or category 2 quantity of radioactive material or the devices that contain the material.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0015
Specific Exemptions

(1) A licensee that possesses radioactive waste that contains category 1 or category 2 of radioactive material is exempt from the requirements of OAR 333-125-0020 through OAR 333-125-0190. Except that any radioactive waste that contains discrete sources, ion-exchange resins, or activated material that weighs less than 2,000 kg (4,409 lbs) is not exempt from the requirements within this division.

(2) The licensee shall implement the following requirements to secure the radioactive waste:

(a) Use continuous physical barriers that allow access to the radioactive waste only through established access control points;

(b) Use a locked door or gate with monitored alarm at the access control point;

(c) Assess and respond to each actual or attempted unauthorized access to determine whether an actual or attempted theft, sabotage, or diversion occurred:

(A) Immediately notify LLEA and request an emergency response upon determination that there was an actual or attempted theft, sabotage, or diversion of the radioactive waste that contains category 1 or category 2 quantities of radioactive materials; and

(B) As soon as reasonably possible, the licensee shall contact:

(i) The Oregon Health Authority, Radiation Protection Services 24-hour response line at (971) 673-0490; or

(ii) The Oregon Emergency Response System at 1-800-452-0311.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0020
Personnel Access Authorization Requirements for Category 1 and 2 Quantities

(1) Each licensee that possesses an aggregated quantity of radioactive materials at or above the category 2 threshold shall establish, implement, and maintain an access authorization program in accordance with OAR 333-125-0020 through 333-125-0095.

(2) An applicant for a new license and each licensee that shall become newly subject upon application for modification of its license shall implement the requirements of OAR 333-125-0020 through 333-125-0095, as appropriate, before taking possession of an aggregated category 1 or category 2 of radioactive material.

(3) Any licensee that has not previously implemented the Security Orders or has been subject to the provisions of OAR 333-125-0020 through 333-125-0095 shall implement the provisions of those rules before aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold.

(4) General performance objective. The licensee's access authorization program must ensure that the individuals specified in section (5) of this rule are trustworthy and reliable.

(5) Applicability. Licensees shall subject the following individuals to an access authorization program:

(a) Any individual whose assigned duties require unescorted access to category 1 or category 2 quantities of radioactive material or to any device that contains the radioactive material; and

(b) Reviewing officials.

(6) Licensees need not subject the categories of individuals listed in OAR 333-125-0085 subsections (1)(a) through (m) to the investigation elements of the access authorization program.

(7) Licensees shall approve for unescorted access to category 1 or category 2 quantities of radioactive material only those individuals with job duties that require unescorted access to category 1 or category 2 quantities of radioactive material.

(8) Licensees may include individuals needing access to safeguards information-modified handling under 10 CFR Part 73 in the access authorization program under OAR 333-125-0020 through 333-125-0095.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0025
Access Authorization Program Requirements

(1) Granting unescorted access authorization. Licensees shall implement the following requirements under OAR 333-125-0020 through 333-125-0095 for granting initial or reinstated unescorted access authorization:

(a) Individuals who have been determined to be trustworthy and reliable, shall complete the security training required by OAR 333-125-0105 before being allowed unescorted access to category 1 or category 2 of radioactive material.

(b) Reviewing officials shall be the only individuals who may make trustworthiness and reliability determinations that allow individuals to have unescorted access to category 1 or category 2 of radioactive material possessed by the licensee.

(c) Each licensee shall name one or more individuals to be reviewing officials. After completing the background investigation on the reviewing official, the licensee shall provide under oath or affirmation, a certification that the reviewing official is deemed trustworthy and reliable by the licensee. The fingerprints of the named reviewing official must be taken by a law enforcement agency, federal or state agencies that provide fingerprinting services to the public, or commercial fingerprinting services authorized by a state to take fingerprints. The licensee shall recertify that the reviewing official is deemed trustworthy and reliable every 10 years in accordance with OAR 333-125-0065.

(2) Reviewing officials must be permitted to have unescorted access to category 1 or category 2 quantities of radioactive materials and access to the licensee's safeguards information or safeguards information-modified handling, if the licensee possesses safeguards information or safeguards information-modified handling.

(3) Reviewing officials cannot approve other individuals to act as reviewing officials.

(4) A reviewing official does not need to undergo a new background investigation before being named by the licensee as the reviewing official if:

(a) The individual has undergone a background investigation that included fingerprinting and an FBI criminal history records check and has been determined to be trustworthy and reliable by the licensee; or

(b) The individual is subject to a category listed in OAR 333-125-0085.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0030
Informed Consent

(1) Licensees may not initiate a background investigation without the informed and signed consent of the subject individual. The consent must include authorization to share personal information with other individuals or organizations as necessary to complete the background investigation. Before a final adverse determination, the licensee shall provide the individual with an opportunity to correct any inaccurate or incomplete information that is developed during the background investigation. Licensees do not need to obtain signed consent from those individuals that meet the requirements of OAR 333-125-0065. A signed consent must be obtained prior to any reinvestigation.

(2) The subject individual may withdraw his or her consent at any time. Licensees shall inform the individual that:

(a) If an individual withdraws his or her consent, the licensee may not initiate any elements of the background investigation that were not in progress at the time the individual withdrew his or her consent; and

(b) The withdrawal of consent for the background investigation is sufficient cause for denial or termination of unescorted access authorization.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0035
Personal History Disclosure

Any individual who is applying for unescorted access authorization shall disclose the personal history information that is required by the licensee's access authorization program for the reviewing official to make a determination of the individual's trustworthiness and reliability. Refusal to provide, or the falsification of, any personal history information required by this division is sufficient cause for denial or termination of unescorted access.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0040
Determination Basis

(1) The reviewing official shall determine whether to permit, deny, unfavorably terminate, maintain, or administratively withdraw an individual's unescorted access authorization based on an evaluation of all of the information collected to meet the requirements within this division.

(2) The reviewing official may not permit any individual to have unescorted access until the reviewing official has evaluated all of the information collected to meet the requirements of this division and determined that the individual is trustworthy and reliable. The reviewing official may deny unescorted access to any individual based on information obtained at any time during the background investigation.

(3) The licensee shall document the basis for concluding whether or not there is reasonable assurance that an individual is trustworthy and reliable.

(4) The reviewing official may terminate or administratively withdraw an individual's unescorted access authorization based on information obtained after the background investigation has been completed and the individual had been granted unescorted access authorization.

(5) Licensees shall maintain a list of persons currently approved for unescorted access authorization. When a licensee determines that a person no longer requires unescorted access or has become ineligible to meet access authorization requirements, the licensee shall remove the person from the approved list as soon as possible, but no later than seven working days, and take prompt measures to ensure that the individual is unable to have unescorted access to the material.

(6) The licensee shall take prompt immediate measures to ensure that the individual is unable to have unescorted access to the material.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0045
Access Authorization Program Procedures

Licensees shall develop, implement, and maintain written procedures for implementing the access authorization program. The procedures must include provisions for the notification of individuals who are denied unescorted access. The procedures must include provisions for the review, at the request of the affected individual, of a denial or termination of unescorted access authorization. The procedures must contain a provision to ensure that the individual is informed of the grounds for the denial or termination of unescorted access authorization and allow the individual an opportunity to provide additional relevant information.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0050
Right to Correct and Complete Information

(1) Prior to any final adverse determination, licensees shall provide each individual subject to this division with the right to complete, correct, and explain information obtained as a result of the licensee's background investigation. Confirmation of receipt by the individual of this notification must be maintained by the licensee for a period of one year from the date of the notification.

(2) If an individual reviewing their criminal history record believes that it is incorrect or incomplete in any respect and wishes to change, correct, update, or explain anything in the record, the individual may initiate challenge procedures.

(3) Challenge procedures include direct application by the individual challenging the record to the law enforcement agency that contributed the questioned information or a direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306

as set forth in 28 CFR 16.30 through 16.34. In the latter case, the Federal Bureau of Investigation (FBI) will forward the challenge to the agency that submitted the data, and will request that the agency verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. Licensees must provide at least 10 days for an individual to initiate action to challenge the results of an FBI criminal history records check after the record being made available for his or her review. The licensee may make a final adverse determination based upon the criminal history records only after receipt of the FBI's confirmation or correction of the record.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0055
Records

(1) The licensee shall retain documentation regarding the trustworthiness and reliability of individual employees for three years from the date the individual no longer requires unescorted access to category 1 or category 2 radioactive materials.

(2) The licensee shall retain a copy of the current access authorization program procedures as a record for three years after the procedure is no longer needed. If any portion of the procedure is superseded, the licensee shall retain the superseded materials for three years after the records have been amended.

(3) The licensee shall retain the list of persons approved for unescorted access authorization for three years after the list is superseded or replaced.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0060
Initial Investigation

(1) Before allowing an individual unescorted access to materials and devices containing category 1 or category 2 radioactive materials, licensees shall complete a background investigation of the individual seeking unescorted access authorization. The scope of the investigation must encompass at least the seven years preceding the date of the background investigation or since the individual's 18th birthday, whichever is shorter.

(2) The background investigation must include at a minimum:

(a) Fingerprinting and an FBI identification and criminal history records check in accordance with OAR 333-120-0075 through 333-125-0080;

(b) Verification of true identity. Licensees shall verify the true identity of the individual who is applying for unescorted access authorization to verify that the applicant is who he or she claims to be. A licensee shall review official identification documents such as driver's license; passport; government identification; certificate of birth issued by the state, province, or country of birth and compare the documents to personal information data provided by the individual to identify any discrepancy in the information.

(A) Licensees shall document the type, expiration, and identification number of the identification document, or maintain a photocopy of identifying documents on file in accordance with OAR 333-125-0090; and

(B) Licensees shall certify in writing that the identification was properly reviewed, and shall maintain the certification and all related documents for review upon inspection.

(c) Employment history verification. Licensees shall complete employment and military history verification. Licensees shall verify the individual's employment with each previous employer for the most recent seven years before the date of application.

(d) Verification of education. Licensees shall verify that the individual participated in the education process during the claimed period.

(e) Character and reputation determination. Licensees shall complete reference checks to determine the character and reputation of the individual who has applied for unescorted access authorization. Unless other references are not available, reference checks may not be conducted with any person who is known to be a close member of the individual's family, including but not limited to the individual's spouse, parents, siblings, or children, or any individual who resides in the individual's permanent household. Reference checks under this division must be limited to whether the individual has been and continues to be trustworthy and reliable.

(A) The licensee shall also, to the extent possible, obtain independent information to corroborate that provided by the individual such as seeking references not supplied by the individual; and

(B) If a previous employer, educational institution, or any other entity with which the individual claims to have been engaged fails to provide information or indicates an inability or unwillingness to provide information within a time frame deemed appropriate by the licensee but at the least after 10 business days of the request or if the licensee is unable to reach the entity, the licensee shall document the refusal, unwillingness or inability in the record of investigation; and attempt to obtain the information from an alternate source.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0065
Grandfathering

(1) Individuals who have been determined to be trustworthy and reliable for unescorted access to category 1 or category 2 quantities of radioactive material under the Fingerprint Orders may continue to have unescorted access to category 1 and category 2 quantities of radioactive materials without further investigation. These individuals shall be subject to the reinvestigation requirement outlined in OAR 333-125-0070.

(2) Individuals who have been determined to be trustworthy and reliable under the provisions of 10 CFR Part 73 or the security orders for access to safeguards information, safeguards information-modified handling, or risk-significant material, may have unescorted access to category 1 and category 2 quantities of radioactive material without further investigation.

(3) The licensee shall document that the individual was determined to be trustworthy and reliable under the provisions of 10 CFR Parts 73 or a security order. Security order, in this context, refers to any order that was issued by the NRC that required fingerprints and an FBI criminal history records check for access to safeguards information, safeguards information-modified handling, or risk significant material such as special nuclear material or large quantities of uranium hexafluoride. These individuals shall be subject to the reinvestigation requirement per OAR 333-125-0070.

Stat. Auth.: ORS 453.635
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333-125-0070
Reinvestigation

(1) Licensees shall conduct a reinvestigation every 10 years for any individual with unescorted access to category 1 or category 2 quantities of radioactive material.

(2) The reinvestigation shall consist of fingerprinting, FBI identification, and criminal history records check in accordance with OAR 333-125-0075 through 333-125-0080.

(3) The reinvestigations must be completed within 10 years of the date on which these elements were last completed.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0075
Requirements for Criminal History Records Checks of Individuals Granted Unescorted Access

(1) General Performance Objective and Requirements. Except for those individuals listed in OAR 333-125-0085 and those individuals grandfathered under OAR 333-125-0065, each licensee subject to the provision of this division shall fingerprint each individual who is to be permitted unescorted access to category 1 and category 2 quantities of radioactive material.

(2) Licensees shall transmit all collected fingerprints to the NRC for transmission to the FBI. The licensee shall use the information received from the FBI as part of the required background investigation to determine whether to grant or deny unescorted access to category 1 or category 2 quantities of radioactive material for that individual.

(3) The licensee shall notify each affected individual that their fingerprints will be used to secure a review of their criminal history record, and shall inform the individual of the procedures for revising the record or adding explanations to the record.

(4) Fingerprinting is not required if a licensee is reinstating an individual's unescorted access if:

(a) The individual returns to the same facility that granted unescorted access authorization within 365 days of the termination of the individual's unescorted access authorization; and

(b) The previous access was terminated under favorable conditions.

(5) Fingerprints do not need to be taken if an individual who is an employee of a licensee, contractor, manufacturer, or supplier has been

granted unescorted access to category 1 or category 2 radioactive material, access to safeguards information, or safeguards information-modified handling by another licensee, based upon a background investigation conducted under OAR 333-125-0020 through 333-125-0095 or the Nuclear Regulatory Commission's Fingerprint Orders or 10 CFR Part 73. An existing criminal history check file may be transferred to another licensee who is conducting a criminal history check for an individual requesting unescorted access in accordance with OAR 333-125-0090(3).

(6) Licensees shall use the information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for unescorted access authorization to category 1 or category 2 quantities of radioactive materials, access to safeguards information, or safeguards information-modified handling.

(7) Prohibitions: Licensees may not base a final determination to deny an individual unescorted access authorization to category 1 or category 2 quantities of radioactive materials solely on the basis of information received from the FBI involving:

(a) An arrest more than one year old for which there is no information of the disposition of the case; or

(b) An arrest that resulted in dismissal of the charge or an acquittal.

(8) Licensees may not use information received from a criminal history records check obtained under this division in a manner that can infringe upon the rights of any individual under the First Amendment of the Constitution of the United States, nor shall licensees use the information in any way that can discriminate among individuals on the basis of race, religion, national origin, gender, or age.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0080
Procedures for Processing of Fingerprint Checks

(1) For the purpose of complying with OAR 333-125-0020 through 333-125-0095, licensees shall submit to the U.S. Nuclear Regulatory Commission, Director, Division of Facilities and Security, 11545 Rockville Pike, ATTN: Criminal History Program/Mail Stop T-03B46M, Rockville, Maryland 20852, one completed, legible standard fingerprint card (Form FD-258, ORIMDNRCOOOZ), electronic fingerprint scan or, where practicable, other fingerprint record for each individual requiring unescorted access to category 1 or category 2 quantities of radioactive material. Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by calling 1-630-829-9565, or by electronic mail to FORMS.Resource@nrc.gov. Guidance on submitting electronic fingerprints can be found at http://www.nrc.gov/site-help/e-submittals.html.

(2) Fees for the processing of fingerprint checks are due upon application. Licensees shall submit payment with the application for the processing of fingerprints through corporate check, certified check, cashier's check, money order, or electronic payment, made payable to "U.S. NRC." For guidance on making electronic payments, contact the Security Branch, Division of Facilities and Security at 301-415-7513. Combined payment for multiple applications is acceptable. The Commission publishes the amount of the fingerprint check application fee on the NRC's public website. (To find the current fee amount, go to the Electronic Submittals page at http://www.nrc.gov/site-help/e-submittals.html and see the link for the Criminal History Program under Electronic Submission Systems.)

(3) The Commission shall forward to the submitting licensee all data received from the FBI as a result of the licensee's application(s) for criminal history records checks.

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333-125-0085
Relief from Fingerprinting, Identification, and Criminal History Record Checks and Other Elements of Background Investigations for Designated Categories of Individuals Permitted Unescorted Access to Certain Radioactive Materials

(1) Fingerprinting, and the identification and criminal history records checks required by section 149 of the Atomic Energy Act of 1954, as amended, and other elements of the background investigation are not required for the following individuals prior to granting unescorted access to category 1 or category 2 quantities of radioactive materials:

(a) An employee of the Commission or of the Executive Branch of the U.S. Government who has undergone fingerprinting for a prior U.S. Government criminal history records check;

(b) A member of Congress;

(c) An employee of a member of Congress or Congressional committee who has undergone fingerprinting for a prior U.S. Government criminal history records check;

(d) The Governor of a state or his or her designated state employee representative;

(e) Federal, state, or local law enforcement personnel;

(f) State Radiation Control Program Directors and State Homeland Security Advisors or their designated state employee representatives;

(g) Agreement State employees conducting security inspections on behalf of the NRC under an agreement executed under section 274.i. of the Atomic Energy Act;

(h) Representatives of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S. and IAEA Safeguards Agreement who have been certified by the NRC;

(i) Emergency response personnel who are responding to an emergency;

(j) Commercial vehicle drivers for road shipments of category 1 and 2 quantities of radioactive material;

(k) Package handlers at transportation facilities such as freight terminals and railroad yards;

(L) Any individual who has an active federal security clearance, provided that he or she makes available the appropriate documentation. Written confirmation from the agency or employer that granted the federal security clearance or reviewed the criminal history records check must be provided to the licensee. The licensee shall retain this documentation for a period of three years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material; and

(m) Any individual employed by a service provider licensee for which the service provider licensee has conducted the background investigation for the individual and approved the individual for unescorted access to category 1 or category 2 quantities of radioactive material. Written verification from the service provider must be provided to the licensee. The licensee shall retain the documentation for a period of three years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.

(2) Fingerprinting, and the identification and criminal history records checks required by section 149 of the Atomic Energy Act of 1954, as amended, are not required for an individual who has had a favorably adjudicated U.S. Government criminal history records check within the last five years, under a comparable U.S. Government program involving fingerprinting and an FBI identification and criminal history records check provided that he or she makes available the appropriate documentation. Written confirmation from the agency or employer that reviewed the criminal history records check must be provided to the licensee. The licensee shall retain this documentation for a period of three years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material. These programs include, but are not limited to:

(a) National Agency Check;

(b) Transportation Worker Identification Credentials (TWIC) under 49 CFR Part 1572;

(c) Bureau of Alcohol, Tobacco, Firearms, and Explosives background check and clearances under 27 CFR Part 555;

(d) Health and Human Services security risk assessments for possession and use of select agents and toxins under 42 CFR Part 73;

(e) Hazardous Material security threat assessment for hazardous material endorsement to commercial driver's license under 49 CFR Part 1572; and

(f) Customs and Border Protection's Free and Secure Trade (FAST) Program.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
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333-125-0090
Protection of Information

(1) Each licensee who obtains background information on an individual under OAR 333-125-0020 through 333-125-0095 shall establish and maintain a system of files and written procedures for protection of the record and the personal information from unauthorized disclosure.

(2) The licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his or her representative, or to those who have a need to have access to the information in performing assigned duties in the process of granting or denying unescorted access to category 1 or category 2 quantities of radioactive

material, safeguards information, or safeguards information-modified handling. No individual authorized to have access to the information may disseminate the information to any other individual who does not have a need to know.

(3) The personal information obtained on an individual from a background investigation may be provided to another licensee:

(a) Upon the individual's written request to the licensee holding the data to disseminate the information contained in his or her file; and

(b) The recipient licensee verifies information such as name, date of birth, social security number, gender, and other applicable physical characteristics.

(4) The licensee shall make background investigation records obtained under OAR 333-125-0020 through 333-125-0095 available for examination by an authorized representative of the NRC to determine compliance with the regulations and laws.

(5) The licensee shall retain all fingerprint and criminal history records (including data indicating no record) received from the FBI, or a copy of these records if the individual's file has been transferred, on an individual for three years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.

Stat. Auth.: ORS 453.635
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333-125-0095
Access Authorization Program Review

(1) Each licensee shall be responsible for the continuing effectiveness of the access authorization program. Each licensee shall ensure that access authorization programs are reviewed to confirm compliance with the requirements within OAR 333-125-0020 through 333-125-0095 and that comprehensive actions are taken to correct any noncompliance that is identified. The review program shall evaluate all program performance objectives and requirements. Each licensee shall annually review the access program content and implementation.

(2) The results of the reviews, along with any recommendations, must be documented. Each review report must identify conditions that are adverse to the proper performance of the access authorization program, the cause of the condition(s), and, when appropriate, recommend corrective actions, and corrective actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.

(3) Review records must be maintained for three years.

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333-125-0100
Security Program

(1) Applicability: Each licensee that possesses an aggregated category 1 or category 2 quantity of radioactive material shall establish, implement, and maintain a security program in accordance with the requirements outlined in this rule through OAR 333-125-0155.

(a) An applicant for a new license and each licensee that becomes newly subject to the requirements of OAR 333-125-0020 through 333-125-0095 upon application for modification of its license shall implement the requirements of OAR 333-125-0020 through 333-125-0095 as appropriate, before taking possession of an aggregated category 1 or category 2 quantity of radioactive material.

(b) Any licensee that has not previously implemented the Security Orders or been subject to the provisions OAR 333-125-0100 through 333-125-0155 shall provide written notification to the Authority at least 90 days before aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold.

(2) General performance objective: Each licensee shall establish, implement, and maintain a security program that is designed to monitor and, without delay, detect, assess, and respond to an actual or attempted unauthorized access to category 1 or category 2 quantities of radioactive material.

(3) Program features: Each licensee's security program must include the program features, as appropriate, described in OAR 333-125-0105 through 333-125-0150.

Stat. Auth.: ORS 453.635
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333-125-0105
General Security Program Requirements

(1) Security plan. Each licensee identified in OAR 333-125-0100(1) shall develop a written security plan specific to its facilities and operations. The purpose of the security plan is to establish the licensee's overall security strategy to ensure the integrated and effective functioning of the security program required by this division. The security plan must, at a minimum:

(a) Describe the measures and strategies used to implement the requirements of OAR 333-125-0100 through 333-125-0155; and

(b) Identify the security resources, equipment, and technology used to satisfy the requirements of this division.

(2) The security plan must be reviewed and approved by the individual with overall responsibility for the security program.

(3) A licensee shall revise its security plan as necessary to ensure the effective implementation of the Authority' requirements. The licensee shall ensure that:

(a) The revision has been reviewed and approved by the individual with overall responsibility for the security program; and

(b) The affected individuals are instructed on the revised plan before the changes

are implemented.

(4) The licensee shall retain a copy of the current security plan as a record for three years after the security plan is no longer required. If any portion of the plan is superseded, the licensee shall retain the superseded material for three years after the record is superseded.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
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333-125-0110
Security Program Implementation Plan

(1) The licensee shall develop and maintain a written implementation plan that provides procedures on how the requirements of the security plan will be met.

(2) The implementation plan's procedures and revisions must be approved in writing by the individual with overall responsibility for the security program.

(3) The licensee shall retain a copy of the implementation plan's current procedures as a record for three years after the implementation plan is no longer needed. Superseded portions of the plan's procedures must be retained for three years after the record is superseded.

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333-125-0115
Security Program Training

(1) Each licensee shall conduct training to ensure that those individuals implementing the security program possess and maintain the knowledge, skills, and abilities to carry out their assigned duties and responsibilities effectively. The training must include instruction in:

(a) The licensee's security program and procedures to secure category 1 or category 2 quantities of radioactive material, and in the purposes and functions of the security measures employed;

(b) The responsibility to report promptly to the licensee any condition that causes or may cause a violation of the Authority's requirements;

(c) The responsibility of the licensee to report promptly to the local law enforcement agency and licensee any actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material; and

(d) The appropriate response to security alarms.

(2) In determining those individuals who shall be trained on the security program, the licensee shall consider each individual's assigned activities during authorized use and response to potential situations involving actual or attempted theft, diversion, or sabotage of category 1 or category 2 quantities of radioactive material. The extent of the training must be commensurate with the individual's potential involvement in the security of category 1 or category 2 quantities of radioactive material.

(3) Refresher training must be provided at a frequency not to exceed 12 months and when significant changes have been made to the security program. This training must include:

(a) Review of the training requirements in section (1) of this rule and any changes made to the security program since the last training;

(b) Reports on any relevant security issues, problems, and lessons learned;

(c) Relevant results of NRC inspections; and

(d) Relevant results of the licensee's program review and testing and maintenance.

(4) The licensee shall maintain records of the initial and refresher training for three years from the date of the training. The training records must include dates of the training, topics covered, and a list of the licensee's personnel in attendance, and related information.

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Stats. Implemented: ORS 453.635
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333-125-0120
Security Program, Protection of Information

(1) Except as provided in section (9) of this rule, licensees authorized to possess category 1 or category 2 quantities of radioactive material shall secure from public disclosure and limit access to their security and implementation plans, and the list of individuals that have been approved for unescorted access.

(2) Efforts to limit access shall include the development, implementation, and maintenance of written policies and procedures for controlling access to, and for proper handling and protection against unauthorized disclosure of the security and implementation plans.

(3) Before granting an individual access to the security plan or implementation plans, the licensee shall:

(a) Evaluate an individual's need to know of the security or implementation plans; and

(b) If the individual has not been authorized for unescorted access to category 1 or category 2 quantities of radioactive material, safeguards information, or safeguards information-modified handling, the licensee must complete a background investigation to determine the individual's trustworthiness and reliability. A trustworthiness and reliability determination shall be conducted by the reviewing official and shall include the background investigation elements contained in OAR 333-125-0060(2)(b) through (2)(f).

(4) Licensees need not subject the following individuals to the background investigation elements for protection of information:

(a) The categories of individuals listed in OAR 333-125-0085(1)(a) through (m); or

(b) Security service provider employees, provided written verification that the employee has been determined to be trustworthy and reliable, by the required background investigation in OAR 333-125-0060(2)(b) through (2)(f) has been provided by the security service provider.

(5) The licensee shall document the basis for concluding that an individual is trustworthy and reliable and allowed access to the security and implementation plans.

(6) Licensees shall maintain a list of persons currently approved for access to the security and implementation plans. When a licensee determines that a person no longer needs access to the security and implementation plans, or no longer meets the access authorization requirements for access to the information, the licensee shall remove the person from the approved list as soon as possible, but no later than seven working days, and take prompt measures to ensure that the individual is unable to obtain the security plan or implementation procedures.

(7) When not in use, the licensee shall store its security and implementation plans in a manner to prevent unauthorized access. Information stored in non-removable electronic form must be password protected.

(8) The licensee shall retain as a record for three years after the document is no longer needed:

(a) A copy of the information protection procedures; and

(b) The list of individuals approved for access to the security plan or implementing procedures.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0125
Local Law Enforcement Agency Coordination (LLEA)

(1) A licensee subject to OAR 333-125-0100 through 333-125-0155 shall coordinate, to the extent practicable, with a LLEA for responding to threats to the licensee's facility, including any necessary armed response. The information provided to the LLEA must include:

(a) A description of the facilities and the category 1 and category 2 quantities of radioactive materials along with a description of the licensee's security measures that have been implemented to comply with OAR 333-125-0100 through 333-125-0155; and

(b) A notification that the licensee will request a timely armed response by the LLEA to any actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of material.

(2) The licensee shall notify the Authority and the NRC regional office at U.S. Nuclear Regulatory Commission, Region IV, Division of Nuclear Materials Safety, 1600 E. Lamar Blvd., Arlington, TX 76011–4511; where electronic mail is appropriate, it shall be addressed to RidsRgn4MailCenter.Resource@nrc.gov.within three business days if:

(a) The LLEA has not responded to the request for coordination within 60 days of the coordination request; or

(b) The LLEA notifies the licensee that the LLEA does not plan to participate in coordination activities.

(3) The licensee shall document its efforts to coordinate with the LLEA. The documentation must be kept for three years.

(4) The licensee shall coordinate with the LLEA at least every 12 months, or when changes to the facility design or operation adversely affect the potential vulnerability of the licensee's material to theft, sabotage, or diversion.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0130
Security Zones

(1) Licensees shall ensure that all aggregated category 1 and category 2 quantities of radioactive material are used or stored within licensee-established security zones. Security zones may be permanent or temporary.

(2) Temporary security zones must be established as necessary to meet the licensee's transitory or intermittent business activities, such as periods of maintenance, source delivery, and source replacement.

(3) Security zones must, at a minimum, allow unescorted access only to approved individuals through:

(a) Isolation of category 1 and category 2 quantities of radioactive materials by the use of continuous physical barriers that allow access to the security zone only through established access control points. A physical barrier is a natural or man-made structure or formation sufficient for the isolation of the category 1 or category 2 quantities of radioactive material within a security zone; or

(b) Direct control of the security zone by approved individuals at all times; or

(c) A combination of continuous physical barriers and direct control.

(4) For category 1 quantities of radioactive material during periods of maintenance, source receipt, preparation for shipment, installation, or source removal or exchange, the licensee shall, at a minimum, provide sufficient individuals approved for unescorted access to maintain continuous surveillance of sources in temporary security zones and in any security zone in which physical barriers or intrusion detection systems have been disabled to allow such activities.

(5) Individuals not approved for unescorted access to category 1 or category 2 quantities of radioactive material must be escorted by an approved individual when in a security zone.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0135
Monitoring, Detection, and Assessment

(1) Licensees shall establish and maintain the capability to continuously monitor and detect without delay all unauthorized entries into its security zones. Licensees shall provide the means to maintain continuous monitoring and detection capability in the event of a loss of the primary power source, or provide for an alarm and response in the event of a loss of this capability to continuously monitor and detect unauthorized entries.

(2) Monitoring and detection must be performed by:

(a) A monitored intrusion detection system that is linked to an onsite or offsite central monitoring facility; or

(b) Electronic devices for intrusion detection alarms that will alert nearby facility personnel; or

(c) A monitored video surveillance system; or

(d) Direct visual surveillance by approved individuals located within the security zone; or

(e) Direct visual surveillance by a licensee designated individual located outside the security zone.

(f) A licensee subject to OAR 333-125-0100 through 333-125-0155 shall also have a means to detect unauthorized removal of the radioactive material from the security zone. This detection capability must provide:

(A) For category 1 quantities of radioactive material, immediate detection of any attempted unauthorized removal of the radioactive material from the security zone. Such immediate detection capability must be provided by:

(i) Electronic sensors linked to an alarm; or

(ii) Continuous monitored video surveillance; or

(iii) Direct visual surveillance.

(g) For category 2 quantities of radioactive material, weekly verification through physical checks, tamper indicating devices, use, or other means to ensure that the radioactive material is present.

(3) Assessment. Licensees shall immediately assess each actual or attempted unauthorized entry into the security zone to determine whether the unauthorized access was an actual or attempted theft, sabotage, or diversion.

(4) Personnel communications and data transmission. For personnel and automated or electronic systems supporting the licensee's monitoring, detection, and assessment systems, licensees shall:

(a) Maintain continuous capability for personnel communication and electronic data transmission and processing among site security systems; and

(b) Provide an alternative communication capability for personnel, and an alternative data transmission and processing capability, in the event of a loss of the primary means of communication or data transmission and processing. Alternative communications and data transmission systems may not be subject to the same failure modes as the primary systems.

(5) Response. Licensees shall immediately respond to any actual or attempted unauthorized access to the security zones, or actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material at licensee facilities or temporary job sites. For any unauthorized access involving an actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material, the licensee's response shall include requesting, without delay, an armed response from the LLEA.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0140
Maintenance and Testing

(1) Each licensee subject to OAR 333-125-0100 through 333-125-0155 shall implement a maintenance and testing program to ensure that intrusion alarms, associated communication systems, and other physical components of the systems used to secure or detect unauthorized access to radioactive material are maintained in operable condition and are capable of performing their intended function when needed. The equipment relied on to meet the security requirements of this division must be inspected and tested for operability and performance at the manufacturer's suggested frequency. If there is no manufacturer's suggested frequency, the testing must be performed at least annually not to exceed 12 months.

(2) The licensee shall maintain records on the maintenance and testing activities for three years.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0145
Requirements for Mobile Devices

(1) Each licensee that possesses mobile devices containing category 1 or category 2 quantities of radioactive material must have two independent physical controls that form tangible barriers to secure the material from unauthorized removal when the device is not under direct control and constant surveillance by the licensee.

(2) For devices in or on a vehicle or trailer, unless the health and safety requirements for a site prohibit the disabling of the vehicle, the licensee shall utilize a method to disable the vehicle or trailer when not under direct control and constant surveillance by the licensee. Licensees shall not rely on the removal of an ignition key to meet this requirement.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0150
Security Program Review

(1) Each licensee shall be responsible for the continuing effectiveness of the security program. Each licensee shall ensure that the security program is reviewed to confirm compliance with the requirements of this division and that comprehensive actions are taken to correct any noncompliance that is identified. The review must include the radioactive material security program content and implementation. Each licensee shall periodically (at least annually) review the security program content and implementation procedures.

(2) The results of the review, along with any recommendations, must be documented. Each review report must identify conditions that are adverse to the proper performance of the security program, the cause of the condition(s), and, when appropriate, recommend corrective actions, and corrective actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.

(3) The licensee shall maintain the review documentation for three years.

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333-125-0155
Reporting of Events

(1) The licensee shall immediately notify the LLEA after determining that an unauthorized entry resulted in an actual or attempted theft, sabotage, or diversion of a category 1 or category 2 quantity of radioactive material. As soon as possible after initiating a response, but not at the expense of causing delay or interfering with the LLEA response to the event, the licensee shall notify the Authority by telephone at (971) 673-0490. In no case shall the notification to the Authority be later than four hours after the discovery of any attempted or actual theft, sabotage, or diversion.

(2) The licensee shall assess any suspicious activity related to possible theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material and notify the LLEA as appropriate. As soon as possible but not later than four hours after notifying the LLEA, the licensee shall notify the Authority by telephone at (971) 673-0490.

(3) The initial telephonic notification required by section (1) of this rule must be followed within a period of 30 days by a written report submitted to the Authority. The report must include sufficient information for Authority analysis and evaluation, including identification of any necessary corrective actions to prevent future instances.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0165
Additional Requirements for Transfer of Category 1 and Category 2 Quantities of Radioactive Material

(1) A licensee transferring a category 1 or category 2 quantity of radioactive material to a licensee of the Commission or an Agreement State shall meet the license verification provisions listed in subsections (a) through (c) below instead of those listed in OAR 333-102-0330(4).

(a) Any licensee transferring category 1 quantities of radioactive material to a licensee of the Commission or an Agreement State, prior to conducting such transfer, shall verify with the NRC's license verification system or the license issuing authority that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred and that the licensee is authorized to receive radioactive material at the location requested for delivery. If the verification is conducted by contacting the license issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.

(b) Any licensee transferring category 2 quantities of radioactive material to a licensee of the Commission or an Agreement State, prior to conducting such transfer, shall verify with the NRC's license verification system or the license issuing authority that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred. If the verification is conducted by contacting the license issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.

(c) In an emergency where the licensee cannot reach the license issuing authority and the license verification system is nonfunctional, the licensee may accept a written certification by the transferee that it is authorized by license to receive the type, form, and quantity of radioactive material to be transferred. The certification must include the license number, current revision number, issuing agency, expiration date, and for a category 1 shipment the authorized address. The licensee shall keep a copy of the certification. The certification must be confirmed by use of the NRC's license verification system or by contacting the license issuing authority by the end of the next business day.

(2) The transferor shall keep a copy of the verification documentation as a record for three years.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0170
Applicability of Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material During Transit

The shipping licensee shall be responsible for meeting the requirements of OAR 333-125-0165 through 333-125-0190 unless the receiving licensee has agreed in writing to arrange for the in-transit physical protection required under OAR 333-125-0165 through 333-125-0190.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0175
Preplanning and Coordination of Shipment of Category 1 or Category 2 Quantities of Radioactive Material

(1) Each licensee that plans to transport, or deliver to a carrier for transport, licensed material that is a category 1 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall:

(a) Preplan and coordinate shipment arrival and departure times with the receiving licensee;

(b) Preplan and coordinate shipment information with the Governor or the Governor's designee of any state through which the shipment will pass to:

(A) Discuss the state's intention to provide law enforcement escorts; and

(B) Identify safe havens; and

(C) Document the preplanning and coordination activities.

(2) Each licensee that plans to transport, or deliver to a carrier for transport, licensed material that is a category 2 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall coordinate the shipment no-later-than arrival time and the expected shipment arrival with the receiving licensee. The licensee shall document the coordination activities.

(3) Each licensee who receives a shipment of a category 2 quantity of radioactive material shall confirm receipt of the shipment with the originator. If the shipment has not arrived by the no-later-than arrival time, the receiving licensee shall notify the originator.

(4) Each licensee, who transports or plans to transport a shipment of a category 2 quantity of radioactive material, and determines that the shipment will arrive after the no-later-than arrival time provided pursuant to section (2) of this rule, shall promptly notify the receiving licensee of the new no-later-than arrival time.

(5) The licensee shall retain a copy of the documentation for preplanning and coordination and any revision thereof, as a record for three years.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0180
Advance Notification of Shipment of Category 1 Quantities of Radioactive Material

(1) As specified in sections (1) and (2) of this rule, each licensee shall provide advance notification to the NRC and the Governor of a state, or the Governor's designee, of the shipment of licensed material in a category 1 quantity, through or across the boundary of the state, before the transport, or delivery to a carrier for transport of the licensed material outside the confines of the licensee's facility or other place of use or storage.

(a) Procedures for submitting advance notification. The notification must be made to the NRC and to the office of each appropriate Governor or Governor's designee. The contact information, including telephone and mailing addresses, of Governors and Governors' designees, is available on the NRC's website at http://nrc-stp.ornl.gov/special/designee.pdf. A list of the contact information is also available upon request from the Director, Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Notifications to the NRC must be to the NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The notification to the NRC may be made by e-mail to RAMQC_SHIPMENTS@nrc.gov or by facsimile to (301) 816-5151.

(b) A notification delivered by mail must be postmarked at least seven days before transport of the shipment commences at the shipping facility.

(c) A notification delivered by any means other than mail must reach NRC at least four days before the transport of the shipment commences and must reach the office of the Governor or the Governor's designee at least four days before transport of a shipment within or through the state.

(2) Information to be furnished in advance notification of shipment. Each advance notification of shipment of category 1 quantities of radioactive material must contain the following information, if available at the time of notification:

(a) The name, address, and telephone number of the shipper, carrier, and receiver of the category 1 radioactive material;

(b) The license numbers of the shipper and receiver;

(c) A description of the radioactive material contained in the shipment, including the radionuclides and quantity;

(d) The point of origin of the shipment and the estimated time and date that shipment will commence;

(e) The estimated time and date that the shipment is expected to enter each state along the route;

(f) The estimated time and date of arrival of the shipment at the destination; and

(g) A point of contact, with a telephone number, for current shipment information.

(3)(a) Revision notice. The licensee shall provide any information not previously available at the time of the initial notification, as soon as the information becomes available but not later than commencement of the shipment, to the Governor of the state or the Governor's designee and to the NRC's Director of Nuclear Security, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

(b) A licensee shall promptly notify the Governor of the state or the Governor's designee of any changes to the information provided in accordance with sections (2) and (3) of this rule. The licensee shall also immediately notify the NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001 of any such changes.

(4) Cancellation notice. Each licensee who cancels a shipment for which advance notification has been sent shall send a cancellation notice to the Governor of each state or to the Governor's designee previously notified and to the NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The licensee shall send the cancellation notice before the shipment has commenced or as soon thereafter as possible. The licensee shall state in the notice that it is a cancellation and identify the advance notification that is being cancelled.

(5) Records. The licensee shall retain a copy of the advance notification, any revision and cancellation notices as a record for three years after the notification has been made.

(6) Protection of information. State officials, state employees, and other individuals, whether or not licensees of the U.S Nuclear Regulatory Commission or an Agreement State, who receive schedule information of the kind specified in section (2) of this rule shall protect that information against unauthorized disclosure.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0185
Requirements for Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material During Shipment

(1)(a) Shipments by road. Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 1 quantity of radioactive material shall:

(A) Ensure that movement control centers are established that maintain position information from a remote location. These control centers must monitor shipments 24 hours a day, seven days a week, and have the ability to communicate immediately, in an emergency, with the appropriate law enforcement agencies.

(B) Ensure that redundant communications are established that allow the transport to contact the escort vehicle (when used) and movement control center at all times. Redundant communications may not be subject to the same interference factors as the primary communication.

(C) Ensure that shipments are continuously and actively monitored by a telemetric position monitoring system or an alternative tracking system reporting to a movement control center. A movement control center must provide positive confirmation of the location, status, and control over the shipment. The movement control center must be prepared to promptly implement preplanned procedures in response to deviations from the authorized route or a notification of actual, attempted, or suspicious activities related to the theft, loss, or diversion of a shipment. These procedures will include, but not be limited to, the identification of and contact information for the appropriate LLEA along the shipment route.

(D) Provide an individual to accompany the driver for those highway shipments with a driving time period greater than the maximum number of allowable hours of service in a 24 hour duty day as established by the Department of Transportation Federal Motor Carrier Safety Administration. The accompanying individual may be another driver.

(E) Develop written normal and contingency procedures to address:

(i) Notifications to the communication center and law enforcement agencies;

(ii) Communication protocols. Communication protocols must include a strategy for the use of authentication codes and duress codes and provisions for refueling or other stops, detours, and locations where communication is expected to be temporarily lost;

(iii) Loss of communications; and

(iv) Responses to an actual or attempted theft or diversion of a shipment.

(b) Each licensee who makes arrangements for the shipment of category 1 quantities of radioactive material shall ensure that drivers, accompanying personnel, and movement control center personnel have access to the normal and contingency procedures.

(c) Each licensee that transports category 2 quantities of radioactive material shall maintain constant control and surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance.

(d) Each licensee who delivers to a carrier for transport, in a single shipment, a category 2 quantity of radioactive material shall:

(A) Use carriers that have established package tracking systems. An established package tracking system is a documented, proven, and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control and surveillance, the package tracking system must allow the shipper or transporter to identify when and where the package was last and when it may arrive at the next point of control.

(B) Use carriers that maintain constant control and surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance; and

(C) Use carriers that have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.

(2)(a) Shipments by rail. Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 1 quantity of radioactive material shall:

(A) Ensure that rail shipments are monitored by a telemetric position monitoring system or an alternative tracking system reporting to the licensee, third-party, or railroad communications center. The communications center shall provide positive confirmation of the location of the shipment and its status. The communications center shall implement preplanned procedures in response to deviations from the authorized route or to a notification of actual, attempted, or suspicious activities related to the theft or diversion of a shipment. These procedures will include, but not be limited to, the identification of and contact information for the appropriate LLEA along the shipment route.

(B) Ensure that periodic reports to the communications center are made at preset intervals.

(b) Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 2 quantity of radioactive material shall:

(A) Use carriers that have established package tracking systems. An established package tracking system is a documented, proven, and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control or surveillance, the package tracking system must allow the shipper or transporter to identify when and where the package was last and when it may arrive at the next point of control.

(B) Use carriers that maintain constant control or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance; and

(C) Use carriers that have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.

(3) Investigations:

(a) Each licensee who makes arrangements for the shipment of category 1 quantities of radioactive material shall immediately conduct an investigation upon the discovery that a category 1 shipment is lost or missing.

(b) Each licensee who makes arrangements for the shipment of category 2 quantities of radioactive material shall immediately conduct an investigation, in coordination with the receiving licensee, of any shipment that has not arrived by the designated no-later-than arrival time.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0190
Reporting of Events

(1) The shipping licensee shall notify the appropriate LLEA, and the NRC's Operations Center by telephone at (301) 816-5100 within one hour of its determination that a shipment of category 1 quantities of radioactive material is lost or missing. The appropriate LLEA is the law enforcement agency in the area of the shipment's last confirmed location. During the investigation required by OAR 333-125-0185(3), the shipping licensee shall provide agreed upon updates to the NRC's Operations Center on the status of the investigation.

(2) The shipping licensee shall notify the NRC's Operations Center by telephone at (301) 816-5100, within four hours of its determination that a shipment of category 2 quantities of radioactive material is lost or missing. If, after 24 hours of its determination that the shipment is lost or missing, the radioactive material has not been located and secured, the licensee shall immediately notify the NRC's Operations Center.

(3) The shipping licensee shall notify the designated LLEA along the shipment route as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment or suspicious activities related to the theft or diversion of a shipment of a category 1 quantity of radioactive material. As soon as possible after notifying the LLEA, the licensee shall notify the NRC's Operations Center by telephone at (301) 816-5100 upon discovery of any actual or attempted theft or diversion of a shipment, or any suspicious activity related to the shipment of category 1 radioactive material.

(4) The shipping licensee shall notify the NRC's Operations Center by telephone at (301) 816-5100 as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment, or any suspicious activity related to the shipment of a category 2 quantity of radioactive material.

(5) The shipping licensee shall notify the NRC's Operations Center by telephone at (301) 816-5100 and the LLEA as soon as possible upon recovery of any lost or missing category 1 quantities of radioactive material.

(6) The shipping licensee shall notify the NRC's Operations Center by telephone at (301) 816-5100 as soon as possible upon recovery of any lost or missing category 2 quantities of radioactive material.

(7) The initial telephonic notification required by sections (1) through (4) of this rule must be followed within a period of 30 days by a written report submitted to the Authority. A written report is not required for notifications on suspicious activities required by sections (3) and (4) of this rule. The report must set forth the following information:

(a) A description of the licensed material involved, including kind, quantity, and chemical and physical form;

(b) A description of the circumstances under which the loss or theft occurred;

(c) A statement of disposition, or probable disposition, of the licensed material involved;

(d) Actions that have been taken, or will be taken, to recover the material; and

(e) Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed material.

(8) Subsequent to filing the written report, the licensee shall also report any additional substantive information on the loss or theft within 30 days after the licensee learns of such information.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0195
Form of Records

Each record required by this rule must be legible throughout the retention period. The record may be the original or a reproduced copy or a microform, provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, and specifications must include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

333-125-0200
Record Retention

Licensees shall maintain the records that are required by the regulations in this division for the period specified by the appropriate regulation. If a retention period is not otherwise specified, these records must be retained until the Authority terminates the facility's license. All records related to this division may be destroyed upon the Authority terminating the facility's license.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.635
Hist.: PH 19-2015, f. 9-30-15, cert. ef. 10-1-15

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Rule Caption: Changes in program administration of the Oregon Breast & Cervical Cancer Program (BCCP)
Adm. Order No.: PH 20-2015(Temp)
Filed with Sec. of State: 10-12-2015
Certified to be Effective: 10-12-15 thru 4-8-16
Notice Publication Date:
Rules Amended: 333-010-0100, 333-010-0105, 333-010-0110, 333-010-0115, 333-010-0120, 333-010-0130, 333-010-0140, 333-010-0145, 333-010-0197
Subject: The Oregon Health Authority, Public Health Division is temporarily amending rules in chapter 333, division 10 pertaining to changes in program administration/operation of the Oregon Breast and Cervical Cancer Program (BCCP). These rules need to be amended promptly so that BCCP can implement new program eligibility criteria which allow women 21 and older to enter the program for clinically recommended breast and cervical cancer screening services. As currently drafted, OAR 333-010-0110 requires that women under 40 must be symptomatic and that the provider must obtain pre-authorization from BCCP in order to enroll the client in the program. These amendments will align the BCCP OARs with current program-level changes, enabling the BCCP to serve more low-income, medically underserved women in Oregon, while simplifying provider experience of working with BCCP. Related amendments include rules identifying the program's new working name, ScreenWise, and rules directing participating providers to the program website as a resource for the most current program guidance, including recently revised enrollment and data forms and provider reimbursement schedules.
Rules Coordinator: Brittany Sande—(971) 673-1291

333-010-0100
Description of the Breast and Cervical Cancer Program

The Breast and Cervical Cancer Program (BCCP) is a federal screening and early detection program administered by the Oregon Health Authority to provide screening and diagnostic services to eligible Oregonians statewide. The Breast and Cervical Cancer Program provides coverage for screening and diagnostic services to Oregonians with family incomes up to 250 percent of the Federal Poverty Level through a contract network of qualified providers. OAR 333-010-0100 through 333-010-0197 apply only to providers who have an approved medical services agreement to provide screening and diagnostic services through this program. The program is limited to a finite source of funds which may restrict availability of services on an annual basis. The BCCP represents the breast and cervical cancer screening component of Oregon's ScreenWise program, which aims to reduce breast and cervical cancer, cardiovascular disease and other diseases by promoting early detection, risk factor screening, risk reduction support, and access to medical treatment.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 413.042
Hist.: PH 9-2008, f. & cert. ef. 6-16-08; PH 1-2012, f. & cert. ef. 1-17-12; PH 28-2014, f. & cert. ef. 10-10-14; PH 20-2015(Temp), f. & cert. ef. 10-12-15 thru 4-8-16

333-010-0105
Definitions

(1) "Ancillary provider" means a provider that performs services beyond the scope of an enrolling provider. Ancillary providers may include laboratories, imaging centers, surgeons and surgical facilities, and hospitals.

(2) "Agency number" means the administrative number assigned to the service provider by the Center for Prevention and Health Promotion (Center) for identification as a BCCP provider.

(3) "Approved medical services agreement" means the completed Breast and Cervical Cancer Program agreement, submitted to and approved by the Center for Prevention and Health Promotion.

(4) "Authority" means the Oregon Health Authority.

(5) "BCCP" means the Oregon Breast and Cervical Cancer Program.

(6) "BCCP Provider Network" means the combination of all contracted BCCP providers, including enrolling and ancillary providers.

(7) "BCCTP" means the Breast and Cervical Cancer Treatment Program. ORS 414.534, 414.536.

(8) "Breast and Cervical Cancer Program" means the program that provides statewide breast and cervical cancer screening and diagnostic services to eligible clients, that is administered by the Center for Prevention and Health Promotion within the Oregon Health Authority.

(9) "Care coordination or case management" means that a client is provided with services, results, follow-up recommendations, and active tracking of progress towards follow-up recommendations.

(10) "Center" means the Center for Prevention and Health Promotion, the office within the Oregon Health Authority that administers the Breast and Cervical Cancer Program.

(11) "CLIA" means the federal Clinical Laboratory Improvement Amendments of 1988, establishes quality standards for all laboratory testing to ensure the accuracy, reliability and timeliness of patient test results, and allows for certification of clinical laboratories operating in accordance with these federal amendments.

(12) "Client" means a person of any age or gender who is enrolled in and receives screening or diagnostic services from the Breast and Cervical Cancer Program.

(13) "Enrolling provider" means a provider that enrolls a client into the Breast and Cervical Cancer Program, provides care coordination for the BCCP client and timely data submission to the BCCP.

(14) "FPL" means the federal poverty level guidelines established each year by the Department of Health and Human Services, used to determine eligibility for BCCP and other federally funded programs.

(15) "HIPAA" means the Health Insurance Portability and Accountability Act.

(16) "ScreenWise," which includes the Breast and Cervical Cancer Program, is the working name of the program aimed at reducing breast and cervical cancer, cardiovascular disease and other diseases by promoting early detection, risk factor screening, risk reduction support and access to medical treatment.

(17) "Service provider" or "provider" means a licensed health care provider operating within a scope of practice, who is authorized by the Center to bill for breast and cervical cancer screening and diagnostic services for eligible BCCP clients.

(18) "Site number" means the administrative number assigned to the provider by the Center for identification of the geographic location of each BCCP provider.

(19) "Underinsured" means that health insurance does not fully cover breast and cervical cancer screening services.

Stat. Auth.: ORS 413.042
Stats. Implemented: 413.042
Hist.: PH 9-2008, f. & cert. ef. 6-16-08; PH 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; PH 11-2011, f. & cert. ef. 10-27-11; PH 1-2012, f. & cert. ef. 1-17-12; PH 13-2014(Temp), f. & cert. ef. 4-22-14 thru 10-19-14; PH 28-2014, f. & cert. ef. 10-10-14; PH 20-2015(Temp), f. & cert. ef. 10-12-15 thru 4-8-16

333-010-0110
Client Eligibility

In order to be eligible for the BCCP a client must meet the following BCCP eligibility criteria:

(1) Have an income based on family size that is at or below 250 percent of the Federal Poverty Level at the time of enrollment; and

(2) Reside or declare an intent to reside in Oregon; and

(3) Have no health insurance or be underinsured; and

(4) Meet one of the following criteria:

(a) Be a woman age 21 or over for clinically recommended breast and cervical cancer screening and diagnostic services; or

(b) Be a man of any age who is displaying symptoms that may indicate breast cancer.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 413.042
Hist.: PH 9-2008, f. & cert. ef. 6-16-08; PH 1-2012, f. & cert. ef. 1-17-12; PH 20-2015(Temp), f. & cert. ef. 10-12-15 thru 4-8-16

333-010-0115
Client Enrollment

(1)(a) Clients are determined eligible on a self-declared basis, when they submit a completed and signed BCCP enrollment form at the clinic site at the time of service.

(b) Prior to enrolling a client in BCCP, providers with access to the Medicaid Management Information System (MMIS) shall check MMIS to verify that applicant is not currently receiving Medicaid. Clients enrolled in Medicaid are ineligible for BCCP.

(2) Eligibility is effective for one year unless a client justifiably needs to begin a second breast or cervical cycle, as defined in the program manual, before the end of one year. Justifications include:

(a) The presence of new symptoms; or

(b) The necessity of short-term follow-up, as defined in the program manual.

(3) If breast or cervical services are justifiably initiated again before the end of one year, then eligibility will automatically extend through the end of that cycle, even if the cycle lasts into a new year.

(4) BCCP providers must keep a signed enrollment form on file at the clinic for a minimum of four years. Clients enrolled into the program who are found ineligible will be disenrolled.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 413.042
Hist.: PH 9-2008, f. & cert. ef. 6-16-08; PH 1-2012, f. & cert. ef. 1-17-12; PH 28-2014, f. & cert. ef. 10-10-14; PH 20-2015(Temp), f. & cert. ef. 10-12-15 thru 4-8-16

333-010-0120
Covered Services

(1) BCCP covers screening and diagnostic services specific to breast and cervical cancer.

Contracted providers will only be reimbursed for services related to breast and cervical cancer screening and diagnosis.

(2) Screening and diagnostic services include, but are not limited to:

(a) For breast cancer, both a clinical breast examination and a mammogram;

(b) For cervical cancer, both a pelvic examination and a Pap smear; and

(c) Laboratory tests and medical procedures necessary for detection and diagnosis of breast and cervical cancer.

(3) The BCCP Program website www.healthoregon.org/screenwise includes a complete list of covered services.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 413.042
Hist.: PH 9-2008, f. & cert. ef. 6-16-08; PH 20-2015(Temp), f. & cert. ef. 10-12-15 thru 4-8-16

333-010-0130
Standards of Care for Breast and Cervical Cancer Screening and Diagnostic Services

Participating BCCP providers must agree to provide screening and diagnostic services according to the following standards:

(1) Informed Consent. The client's decision to participate in and consent to receive breast and cervical cancer screening and diagnostic services must be voluntary and without bias or coercion.

(a) The informed consent process, provided verbally and supplemented with written materials, must be presented in a language the client understands.

(b) Consent must be obtained from the individual client receiving screening and diagnostic services.

(2) Confidentiality. Services must be provided in a manner that respects the privacy and dignity of the individual.

(a) Providers must inform clients that services and medical records will be kept confidential.

(b) Records cannot be released without written client consent, except as required by law, or otherwise permitted by the Health Insurance Portability and Accountability Act (HIPAA).

(3) Linguistic and Cultural Competence. All services, support and other assistance must be provided in a manner that is responsive to the beliefs, interpersonal styles, attitudes, language, and behaviors of the individuals who are receiving services, and in a manner that has the greatest likelihood of ensuring their maximum participation in the program.

(a) All persons providing interpretation services must adhere to confidentiality guidelines.

(b) The provider must make interpretation services available to all clients needing or requesting such assistance at no cost to the client. The provider must notify clients in need of interpretation services of the availability of such services in accordance with the Civil Rights Act of 1964.

(c) The provider must assure the competency of language assistance provided to limited English proficiency clients by interpreters and bilingual staff. Family and friends should not be used to provide interpretation services, unless requested by the client.

(d) Provider shall make available easily understood client related materials and post signage in the languages of groups commonly encountered in the service area.

(e) All print, electronic, and audiovisual materials must be appropriate according to the client's language and literacy level. Providers must accommodate a client's request for alternate formats.

(4) Access to Care. Services covered by BCCP must be provided without cost to eligible clients. Providers must inform clients of the scope of services available through the program.

(a) Although not covered by BCCP, treatment and supplies for precancerous, cancerous conditions, and sexually transmitted infections must be available at the site, or by referral.

(b) Clients in need of additional medical services beyond the scope of the BCCP provider network must be provided with information about available local resources.

(c) Clients with a qualifying breast or cervical cancer diagnosis, including specific pre-cancerous conditions, shall be screened to determine presumptive eligibility for the BCCTP and enrolling providers shall facilitate the application process.

(d) All services must be provided to eligible clients without regard to marital status, race, parity, disability, or sexual orientation.

(5) Clinical and Preventive Services. The scope of breast and cervical cancer screening and diagnostic services offered to clients must include:

(a) A health history, including health risk facts and personal and family medical history as it pertains to breast and cervical cancer screening.

(b) An initial physical examination that includes a breast and pelvic exam with a Pap smear.

(c) Follow-up recommendations.

(d) Care coordination to ensure that appropriate follow-up screening, diagnostic testing and care is provided, including:

(A) An explanation of the results of the physical examination and the laboratory tests; and

(B) The opportunity for questions concerning procedures, methods and results.

Stat. Auth.: ORS 413.042, 414.540
Stats. Implemented: ORS 413.042, 414.534, 414.536
Hist.: PH 9-2008, f. & cert. ef. 6-16-08; PH 1-2012, f. & cert. ef. 1-17-12; PH 20-2015(Temp), f. & cert. ef. 10-12-15 thru 4-8-16

333-010-0140
Billing

(1) Only clinics providing breast and cervical cancer screening and diagnostic services pursuant to an approved medical services agreement, and who have been assigned an agency number may submit claims for BCCP services.

(2) All services must be billed by submitting claim information in the method specified by the BCCP.

(3) A primary diagnosis code is required on all claims. All billings must be coded with the most current and appropriate International Classification of Diseases, 10th Revision, Clinical Modification (ICD-10-CM) diagnosis codes and the most appropriate Current Procedural Terminology (CPT) codes as posted on the BCCP Program website. Claims including primary diagnosis codes that are not listed on the approved CPT code list will not be paid.

(4) The provider must use CLIA certified laboratories for all tests whether done at the clinic site or by an outside clinic.

(5) Enrolled providers with BCCP must not seek payment from an eligible client, or from a financially responsible relative or representative of that individual, for any services covered by BCCP.

(a) A client may be billed for services that are not covered by BCCP. However, the provider must inform the client in advance of receiving the specific service that it is not covered, the estimated cost of the service, and that the client or client's representative is financially responsible for payment for the specific service. Providers must document in writing that the client was provided this information and the client knowingly and voluntarily agreed to be responsible for payment. The client or client's representative must sign the documentation.

(b) Services not covered by BCCP are those outside of the scope of standard breast and cervical cancer screening and diagnosis, or those not included in the ICD-10 and CPT code lists posted on the BCCP Program website.

(6) Prior to submission of a claim to the Center for payment, an approved provider agreement must be in place.

(7) All claims must be submitted with data, where described in the claims section of the rules. A claim is considered a "valid claim" only when all required data is received by the BCCP.

(a) Except for services performed by a CLIA certified laboratory outside of the clinic, all billings must be for services provided within the provider's licensure or certification.

(b) Providers must submit true and accurate information when billing the Center.

(c) A claim may not be submitted prior to providing services.

(8) Diagnosis Code Requirement:

(a) A primary diagnosis code is required on all claims.

(b) Use the highest degree of specificity within ICD-10-CM codes for breast and cervical screening or diagnostic testing as defined in the program manual.

(9) No provider shall submit to the Center:

(a) Any false claim for payment;

(b) Any claim altered in such a way as to result in a payment for a service that has already been paid;

(c) Any claim upon which payment has been made by another source unless the amount paid is clearly entered on the claim form;

(10) The provider must submit a billing error edit correction, or refund the amount of the overpayment, on any claim where the provider identifies an overpayment made by the Center.

(11) A provider who, after having been previously warned in writing by the Authority or the Department of Justice about improper billing practices, is found to have continued such improper billing practices and has had an opportunity for a contested case hearing, shall be liable to the Center for up to triple the amount of the established overpayment received as a result of such violation.

(12) Third Party Resources:

(a) Providers must make all reasonable efforts to ensure that BCCP will be the payor of last resort with the exception of clinic or offices operated by the Indian Health Service (IHS) or individual American Indian tribes;

(b) Providers must make all reasonable efforts to obtain payment first from other resources. For the purposes of this rule "reasonable efforts" include:

(A) Determining the existence of insurance coverage or other resource by asking the client;

(B) Except in the case of the underinsured, when third party coverage is known to the provider, by any other means available:

(i) The provider must bill the third party resource;

(ii) Comply with the insurer's billing and authorization requirements.

(C) Providers are required to submit a billing error edit correction showing the amount of the third party payment or to refund the amount received from another source within 30 days of the date the payment is received. Failure to submit a billing error edit correction within 30 days of receipt of the third party payment or to refund the appropriate amount within this time frame is considered concealment of material facts and grounds for recovery or sanction.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 413.042
Hist.: PH 9-2008, f. & cert. ef. 6-16-08; PH 17-2015, f. 9-30-15, cert. ef. 10-1-15; PH 20-2015(Temp), f. & cert. ef. 10-12-15 thru 4-8-16

333-010-0145
Claims and Data Submission

(1) In addition to submitting standard claims information, enrolling providers are required to submit client data in order to receive payment for the claim. The data is used to collect information pertaining to breast and cervical cancer prevention, diagnosis, and treatment and is used by the National Breast and Cervical Cancer Early Detection Program and the BCCP primarily to monitor the delivery of services and clinical outcomes of the program.

(2) Although data requirements may require more information than necessary for payment of a specific claim, all related fields must be completed and submitted.

(3) Data requirements for enrolling providers and ancillary providers are as follows:

(a) Enrolling providers must provide required information on client data forms as defined by the program in the latest version of the BCCP Program Manual.

(b) Ancillary providers must provide results of services to enrolling providers. Ancillary providers are not required to provide data to the BCCP directly.

(4) If a provider terminates the medical services agreement data are still required to be submitted through the completion of each client's cycle.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 413.042
Hist.: PH 9-2008, f. & cert. ef. 6-16-08; PH 20-2015(Temp), f. & cert. ef. 10-12-15 thru 4-8-16

333-010-0197
Presumptive Eligibility for BCCTP

(1) Any licensed health care provider who can diagnose breast or cervical cancer may presumptively enroll a client into BCCTP and refer the client to the Oregon Health Plan if she meets the presumptive eligibility criteria as described in section (2) of this rule.

(2) In order to be presumptively enrolled into BCCTP a client must meet the eligibility criteria in OAR 333-010-0110 and OAR 410-200-0400.

Stat. Auth.: ORS 413.042, 414.540
Stats. Implemented: ORS 414.534, 414.536
Hist.: PH 1-2012, f. & cert. ef. 1-17-12; PH 20-2015(Temp), f. & cert. ef. 10-12-15 thru 4-8-16

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Oregon Housing and Community Services Department
Chapter 813

Rule Caption: Amends the maximum percentage of tax credits and factors for consideration by department for approval.
Adm. Order No.: OHCS 18-2015(Temp)
Filed with Sec. of State: 10-5-2015
Certified to be Effective: 10-5-15 thru 4-1-16
Notice Publication Date:
Rules Amended: 813-300-0150
Subject: The Individual Development Accounts authorizes the creation of IDAs between lower income account holders and authorized fiduciary organizations. During the 2015 legislation session, HB 2171 was passed which amends the factors the department may consider during the approval of the award of tax credits and the maximum percentage of tax credit that is allowable to a single tax payer within a particular year. The rules will also provide the percentage of allowable credit to be determined in advance of accepting contributions.
Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-300-0150
Tax Credit Contributor

(1) Contributions to a fiduciary organization approved by the department may qualify for an Oregon IDA tax credit.

(2) The percentage of tax credit to be awarded to tax payers is determined upon recommendation by the fiduciary organization with approval of the department. In making such a determination, the department may consider factors including but not limited to:

(a) The availability of the Oregon IDA Tax Credit;

(b) The nature and value of the contribution; and

(c) The recommendation of the approved fiduciary organization.

(3) The percentage of allowable credit will be determined in advance of accepting contributions.

(4) The maximum percentage of tax credit allowable to a single taxpayer within a particular year is seventy percent.

(5) Contributions from contributors not utilizing an Oregon IDA tax credit may be eligible for a charitable deduction against taxable income.

(6) The department makes no representation on whether or not specific contributions qualify for an Oregon IDA tax credit. In all cases, contributors are encouraged to seek professional advice to determine the actual tax ramifications of their contribution.

Stat. Auth.: ORS 456.555, 456.625 & 458.700
Stats. Implemented: ORS 315.271 & 458.670 - 458.700
Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03; OHCS 18-2015(Temp), f. & cert. ef. 10-5-15 thru 4-1-16

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Oregon Medical Board
Chapter 847

Rule Caption: Qualifications for License by Endorsement
Adm. Order No.: OMB 8-2015
Filed with Sec. of State: 10-13-2015
Certified to be Effective: 10-13-15

Notice Publication Date: 8-1-2015
Rules Amended: 847-026-0000
Subject: The rule amendment clarifies that the preceding year of practice must be under a full, active, unlimited license. Therefore, if an applicant has been in an accredited clinical fellowship but under a Limited License, he or she will not qualify for License by Endorsement.
Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-026-0000
Qualifications for License by Endorsement

(1) The Oregon Medical Board may issue a license by endorsement to a physician who:

(a) Meets the requirements for licensure as stated in OAR 847-020-0120, 847-020-0130, 847-020-0170, and 847-023-0005;

(b) Has not had privileges at a hospital, clinic, or surgical center denied, reduced, restricted, suspended, revoked, terminated and has not been subject to staff disciplinary action or non-renewal of an employment contract for reasons in the Board's judgment related to medical practice or unprofessional conduct, or been requested to voluntarily resign or had privileges suspended while under investigation;

(c) Is eligible for primary source verification of medical education, post-graduate training and examination scores through the state in which the applicant was originally licensed. The Board may use current certification by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists as a proxy for verification of medical education, post-graduate training and examination scores from the initial state of licensure;

(d) Is in good standing, with no restrictions or limitations upon, actions taken against, or investigation or disciplinary action pending against his/her license in any state, district, territory, or jurisdiction where applicant is or has been licensed;

(e) Has no significant malpractice claim patterns or patient care issues as determined by the Board;

(f) Has one (1) year of current, active, unrestricted, unlimited clinical practice in their medical specialty, if any, as an active, unrestricted, unlimited licensee of a state, district, territory, or jurisdiction in the United States or Canada in the year preceding the physician's submission to the Board of an application to practice in Oregon, or if retired must have been retired for no more than one (1) calendar year preceding the physician's submission to the Board of an application to practice in Oregon.

(A) Clinical patient practice will be documented by verification of staff privileges, or non-consulting medical employment.

(B) A year of accredited clinical fellowship in the applicant's medical specialty as an active, unrestricted, unlimited licensee of a state, district, territory or jurisdiction in the United States or Canada qualifies as a year of clinical practice.

(2) A physician is not eligible for licensure by endorsement if the Board finds that the applicant has engaged in conduct prohibited by ORS 677.190.

(3) An applicant ineligible for licensure by endorsement may make a full and complete application per the requirements of OAR 847, division 020, or OAR 847, division 023.

Stat. Auth.: ORS 677.133 & 677.265
Stats. Implemented: ORS 677.133 & 677.265
Hist.: BME 21-2009(Temp), f. & cert. ef. 10-23-09 thru 4-15-10; BME 4-2010, f. & cert. ef. 1-26-10; OMB 2-2015, f. & cert. ef. 1-13-15; OMB 8-2015, f. & cert. ef. 10-13-15

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Rule Caption: Fines for fraud or misrepresentation on an application, affidavit or registration
Adm. Order No.: OMB 9-2015
Filed with Sec. of State: 10-13-2015
Certified to be Effective: 10-13-15
Notice Publication Date: 8-1-2015
Rules Amended: 847-008-0058
Rules Repealed: 847-008-0058(T)
Subject: The rule amendment makes permanent the temporary rule that was adopted to clarify that the Board will not grant or renew a license until an applicant or licensee has paid the civil penalty or is proceeding to a contested case hearing under ORS 183.745.
Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-008-0058
Fraud or Misrepresentation

(1) Omissions or false, misleading or deceptive statements or information on any Board application, affidavit or registration is a violation of ORS 677.190(8) and is grounds for a $195 fine for the first violation, a $250 fine for the second violation, and a $500 fine for the third or subsequent violation. The applicant or licensee may be subject to further disciplinary action by the Board.

(2) If a fine is issued under section (1) of this rule, the Board will not approve an application, affidavit or registration until the applicant or licensee has paid the fine or is proceeding to a hearing as provided by ORS 183.745.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.175, 677.190, 677.205, 677.265
Hist.: OMB 12-2014, f. & cert. ef. 10-8-14; OMB 7-2015(Temp), f. & cert. ef. 7-14-15 thru 1-9-16; OMB 9-2015, f. & cert. ef. 10-13-15

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Rule Caption: Physician Assistant Committee
Adm. Order No.: OMB 10-2015(Temp)
Filed with Sec. of State: 10-13-2015
Certified to be Effective: 1-1-16 thru 6-28-16
Notice Publication Date:
Rules Amended: 847-050-0025
Rules Suspended: 847-050-0063, 847-050-0065
Subject: The temporary rule amendment repeals and abolishes the Physician Assistant Committee pursuant to Senate Bill 905, effective 1/1/16.
Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-050-0025
Interview and Examination

(1) In addition to all other requirements for licensure, the Board may require the applicant to appear for a personal interview regarding information received in the application process. Unless excused in advance, failure to appear before the Board for a personal interview violates ORS 677.190(17) and may subject the applicant to disciplinary action.

(2) The applicant is required to pass an open-book examination on the Medical Practice Act (ORS Chapter 677) and Oregon Administrative Rules (OAR) chapter 847, division 050. If an applicant fails the open-book examination three times, the applicant's application will be reviewed by the Board. An applicant who has failed the open-book examination three times must also attend an informal meeting with a Board member, a Board investigator and/or the Medical Director of the Board to discuss the applicant's failure of the examination, before being given a fourth and final attempt to pass the examination. If the applicant does not pass the examination on the fourth attempt, the applicant may be denied licensure.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.100, 677.190, 677.265, 677.512
Hist.: ME 23(Temp), f. & ef. 1-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979. f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 8-1985, f. & ef. 8-5-85; ME 2-1990, f. & cert. ef. 1-29-90; ME 10-1992, f. & cert. ef. 7-17-92; ME 9-1995, f. & cert. ef. 7-28-95; BME 11-1998, f. & cert. ef. 7-22-98; BME 13-2003, f. & cert. ef. 7-15-03; BME 13-2006, f. & cert. ef. 5-8-06; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12; OMB 6-2014, f. & cert. ef. 1-14-14; OMB 10-2015(Temp), f. 10-13-15, cert. ef. 1-1-16 thru 6-28-16

847-050-0063
Physician Assistant Committee

(1) There is created a Physician Assistant Committee consisting of five members. Members of the committee are appointed as follows:

(a) The Oregon Medical Board for the State of Oregon must appoint one of its members and one physician. The physician who is not a member of the Board must supervise a physician assistant.

(b) The Oregon Medical Board must appoint three physician assistants after considering persons nominated by the Oregon Society of Physician Assistants.

(2) The term of each member of the committee is three years. A member must serve until a successor is appointed. If a vacancy occurs, it must be filled for the unexpired term by a person with the same qualifications as the retiring member.

(3) If any vacancy under section (1) of this rule is not filled within 45 days, the Governor must make the necessary appointment from the category which is vacant.

(4) The committee elects its own chairperson with such powers and duties as fixed by the committee.

(5) A quorum of the committee is three members. The committee must hold a meeting at least once quarterly and at such other times the committee considers advisable to review requests to use the services of physician assistants and for dispensing privileges and to review applications for licensure or renewal.

(6) The chairperson may call a special meeting of the Physician Assistant Committee upon at least 10 days' notice in writing to each member, to be held at any place designated by the chairperson.

(7) The committee members are entitled to compensation and expenses as provided for Board members in ORS 677.235.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.235, 677.540
Hist.: BME 15-1999, f. & cert. ef. 10-28-99; BME 1-2001, f. & cert. ef. 1-25-01; BME 25-2008, f. & cert. ef. 10-31-08; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12; OMB 32-2012, f. & cert. ef. 10-22-12; Suspended by OMB 10-2015(Temp), f. 10-13-15, cert. ef. 1-1-16 thru 6-28-16

847-050-0065
Duties of the Committee

(1) The Physician Assistant Committee must:

(a) Review physician assistants' applications for licensure and renewal of licensure.

(b) Recommend approval or disapproval of physician assistants' applications for licensure and renewal of licensure.

(c) Review requests to use the services of physician assistants.

(d) Review the criteria for prescriptive privileges for physician assistants.

(e) Review any other matters related to physician assistant practice in Oregon.

(2) All actions of the physician assistant committee are subject to review and approval by the Board.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.540
Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 2-1990, f. & cert. ef. 1-29-90; BME 15-1999, f. & cert. ef. 10-28-99; BME 6-2006, f. & cert. ef. 2-8-06; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12; OMB 16-2012(Temp), f. 5-8-12, cert. ef. 6-1-12 thru 11-28-12; OMB 34-2012(Temp), f. 11-8-12, cert. e. 11-28-12 thru 5-27-13; OMB 3-2013, f. & cert. ef. 1-11-13; Suspended by OMB 10-2015(Temp), f. 10-13-15, cert. ef. 1-1-16 thru 6-28-16

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Rule Caption: Administration of albuterol and naloxone in the scope of practice for Emergency Medical Services providers
Adm. Order No.: OMB 11-2015
Filed with Sec. of State: 10-13-2015
Certified to be Effective: 10-13-15
Notice Publication Date: 8-1-2015
Rules Amended: 847-035-0030
Subject: The rule amendment clarifies that EMTs may prepare and administer albuterol treatments and are not limited to only nebulized albuterol; clarifies that Advanced EMTs may continue to administer naloxone by any method of delivery, which is distinct from the ability of Emergency Medical Responders to administer naloxone only via intranasal device or auto-injector for suspected opioid overdose; and alphabetizes the medications or categories of medications that an Advanced EMT may prepare and administer under specific written protocols or direct orders.
Rules Coordinator: Nicole Krishnaswami—(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 auto-injector 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 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) Analgesics for acute pain: nitrous oxide.

(B) Anaphylaxis: epinephrine;

(C) Antihypoglycemics:

(i) Hypertonic glucose;

(ii) Glucagon;

(D) Nebulized bronchodilators:

(i) Albuterol;

(ii) Ipratropium bromide;

(E) Vasodilators: nitroglycerine;

(F) Naloxone; and

(G) Physiologic isotonic crystalloid solution.

(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; OMB 11-2015, f. & cert. ef. 10-13-15

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Oregon Public Employees Retirement System
Chapter 459

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

Adm. Order No.: PERS 10-2015

Filed with Sec. of State: 9-25-2015

Certified to be Effective: 9-25-15

Notice Publication Date: 8-1-2015
Rules Amended: 459-005-0510
Rules Repealed: 459-005-0520
Subject: On April 30, 2015, the Oregon Supreme Court issued its ruling in the Moro case, invalidating the cost-of-living adjustment (COLA) reductions enacted by Senate Bill 822 (effective May 6, 2013) and Senate Bill 861 (effective October 6, 2013) as applied to benefits earned before the effective dates of those bills. As a result, members who have earned benefits both prior to the effective dates of the bills as well as after the effective dates will receive a blended COLA based on the COLA structure in effect when the benefits were earned. While the court specifically did not provide guidance on how to blend the different COLAs, it did reference a service time ratio method as an example of how a blended COLA could be derived.

In addition, the Supreme Court ruling voided the supplementary payment provision in SB 861, so OAR 459-005-0520, Supplementary Payment is proposed for repeal.
Rules Coordinator: Daniel Rivas—(503) 603-7713

459-005-0510
Cost-of-Living Adjustment

(1) A cost-of-living adjustment (COLA) under ORS 238.360 and 238A.210 is calculated on an annual basis and may use up to three COLA methods that are blended into a COLA percentage rate, as follows:

(a) Creditable service or retirement credit earned before May 1, 2013, will receive an annual COLA based on ORS 238.360 (2011) or 238A.210 (2011).

(b) Creditable service or retirement credit earned on or after May 1, 2013, and before October 1, 2013, will receive an annual COLA based on Chapter 53, Oregon Laws 2013.

(c) Creditable service or retirement credit earned on or after October 1, 2013, will receive an annual COLA based on ORS 238.360 (2013) or 238A.210 (2013).

(2) The member's prorated periods in section (1) of this rule will be multiplied by the appropriate annual COLA percentage for the same periods to determine the blended annual COLA percentage rate that is applied to a yearly allowance, pension, or benefit. The resulting annual COLA amount is divided by 12 to determine the adjustment to the monthly allowance, pension, or benefit.

(3) A beneficiary's annual COLA percentage rate will be based on the associated member's creditable service time.

(4) COLA increases end when the recipient is no longer eligible to receive a monthly allowance, pension, or benefit.

Stat. Auth.: ORS 238.650 & 238A.450
Stats. Implemented: ORS 238.360, 238.575, 238A.210 & OL 2013, Ch. 53
Hist.: PERS 4-2014, f. & cert. ef. 3-31-14; PERS 10-2015, f. & cert. ef. 9-25-15

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Rule Caption: Reflect change in assumed rate and specify the effective date for implementation of the change.
Adm. Order No.: PERS 11-2015
Filed with Sec. of State: 9-25-2015
Certified to be Effective: 9-25-15
Notice Publication Date: 8-1-2015
Rules Amended: 459-007-0007
Subject: At the July 31, 2015 PERS Board meeting, staff gave notice of rulemaking to implement any change to the assumed rate. The proposed rule sets forth the new assumed rate of 7.50% adopted by the Board.

The rule also specifies that the new assumed rate will be effective for PERS transactions with an effective date of January 1, 2016, consistent with this Board's policy decision from 2013 that changes to the assumed rate will be effective the following January 1, allowing staff ample time to perform the necessary preparation, communicate with members and employers, and giving all members who retire in a year that a change is adopted equitable treatment, no matter which month they retire. The new assumed rate will be aligned with the new actuarial equivalency factors (AEFs), which will allow for a clear effective date for all transactions that involve calculations using both the latest year-to-date rate and AEF components.
Rules Coordinator: Daniel Rivas—(503) 603-7713

459-007-0007
Assumed Rate

(1) The Board will review the assumed rate in odd-numbered years as part of the Board's review and adoption of actuarial assumptions and methods.

(2) The Board may adopt a change in the assumed rate at any time. A change in the assumed rate is effective the first of the year following the Board's adoption of the change.

(3) The assumed rate is set at 7.50 percent, effective on January 1, 2016.

Stat. Auth.: ORS 238.650 & 238A.450
Stats. Implemented: ORS 238.255
Hist.: PERS 9-2013, f. & cert. ef. 9-27-13; PERS 11-2015, f. & cert. ef. 9-25-15

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Oregon Racing Commission
Chapter 462

Rule Caption: Rule to govern Pick (N) Jackpot wager with unique ticket jackpot.
Adm. Order No.: RC 3-2015
Filed with Sec. of State: 10-1-2015
Certified to be Effective: 10-1-15
Notice Publication Date: 9-1-2015
Rules Adopted: 462-200-0645
Subject: The Pick (N) jackpot is a type of bet encompassing four or more races, the exact number of races being determined by he number substituted for (N), where, unless otherwise provided, only one, unique ticket holder designates the official winners in each of the Pick (N) Jackpot races.
Rules Coordinator: Karen Parkman—(971) 673-0208

462-200-0645
Pick (n) Jackpot

(1) The Pick (n) Jackpot is a type of bet encompassing four or more races, the exact number of races being determined by the number substituted for (n), where, unless otherwise provided, only one, unique ticket holder designates the official winners in each of the Pick (n) Jackpot races.

(2) Except as provided in § (7) of this regulation, the net pari-mutuel pool for the Pick (n) Jackpot bet that day, together with any carryover from previous pools of the same type of bet, shall be distributed to the holder of the one, unique pari-mutuel ticket which correctly designates the official winners in each of the Pick (n) Jackpot races for that day.

(3) In the event there is more than one pari-mutuel ticket which correctly designates the official winners in each of the Pick (n) Jackpot races for that day, the net pari-mutuel pool for the Pick (n) Jackpot bets that day shall be distributed:

(a) 60%, equally, to the holders of pari-mutuel tickets which correctly designate the official winners in each of the Pick (n) Jackpot races for that day; and

(b) 40% to the Pick (n) Jackpot carryover pool.

(4) In the event there is no pari-mutuel ticket which correctly designates the official winners in each of the Pick (n) Jackpot races for that day, the net pari-mutuel pool for the Pick (n) Jackpot bets that day shall be distributed:

(a) 60%, equally, to the holders of pari-mutuel tickets which correctly designate the most official winners in each of the Pick (n) Jackpot races for that day; and

(b) 40% to the Pick (n) Jackpot carryover pool.

(5) If one or more of the races scheduled as part of the Pick (n) Jackpot bet, but less than 50 percent of the races scheduled as part of this bet, are cancelled or declared a "no contest":

(a) The net pari-mutuel pool for the Pick (n) Jackpot bets that day shall be distributed, equally, to the holders of pari-mutuel tickets which correctly designate the most official winners in the races that were run; and

(b) There shall be no carryover from that net pool.

(6) A Pick (n) Jackpot bet shall be refunded if:

(a) For any reason, 50 percent or more of the races scheduled as a part of this bet are cancelled or declared a "no contest"; or

(b) No bet selects any winner in the Pick (n) Jackpot races.

(7) Mandatory Distribution

(a) The Pick (n) Jackpot carryover pool may be designated for mandatory distribution on a specified date if:

(A) It is the closing day of the race meet;

(B) The association declares its intention to do so at least 72 hours before the opening of Pick (n) Jackpot wagering for which there is to be a mandatory distribution; or

(C) Upon such other condition the Commission may approve.

(b) If the Pick (n) Jackpot carryover pool is designated for a mandatory distribution on a specified date and, on that date, there is no unique winning ticket holder under §(2) of this regulation, then the following precedence shall be followed in determining winning wagers for the mandatory distribution of both the net Pick (n) Jackpot pool for that day and the Pick (n) Jackpot carryover pool:

(A) Equally to holders of pari-mutuel tickets which correctly designate all of the official winners in each of the Pick (n) Jackpot races;

(B) If there are no pari-mutuel tickets which correctly select all of the official winners in each of the Pick (n) Jackpot races, equally to the holders of pari-mutuel tickets which correctly designate the most official winners in each of the Pick (n) Jackpot races for that day; and

(C) If there are no pari-mutuel tickets which correctly select even one winner in the Pick (n) Jackpot races for that day, then all Pick (n) Jackpot wagers shall become winners and share 100% of that day's net Pick (n) Jackpot pool, together with the Pick (n) Jackpot carryover pool.

(c) If, for any reason, there is not a mandatory distribution as provided in this section, the Pick (n) Jackpot carryover pool shall be:

(A) Deposited in a segregated interest bearing account at a bank located in the State of Oregon that is approved by the Commission;

(B) With accrued interest, added to the net Pick (n) Jackpot pool of the next race meet held by the racing association; and

(C) Distributed as a mandatory distribution on the next occasion Pick (n) Jackpot wagering is offered by the racing association.

(D) In the event the racing association does not hold another race meet the Jackpot carryover pool with accrued interest shall be transferred to the Commission upon the expiration of the association's license.

(8) If there is a dead heat for win in any of the Pick (n) Jackpot races, each horse in the dead heat shall be deemed to have won the race.

(9) If a betting interest is scratched, excused, or determined by the judges to be a nonstarter:

(a) The actual favorite, as evidenced by the amounts bet in the win pool when betting on the race in which the scratched betting interest was to participate is closed, shall be substituted for that betting interest; or

(b) If the amount bet in the win pool is identical on two or more favorites when betting on the race is closed, the favorite with the lowest program number shall be substituted for the scratched betting interest.

(10) Coupled entries shall be permitted in races designated for Pick (n) Jackpot wagering.

(11) The purchase and acceptance of a Pick (n) Jackpot wager by a bettor shall constitute:

(a) An acknowledgment of the correctness of the ticket; and

(b) An agreement to be bound by the terms and provisions of this regulation.

(12) The sale of a Pick (n) Jackpot wager other than from a pari-mutuel wagering machine, and the re-sale of a Pick (n) Jackpot ticket from one person to another, is prohibited.

(13) Neither a racing association, nor a totalizator company, nor the Commission, nor the State shall be liable to any person for a Pick (n) Jackpot ticket which is not:

(a) A winning wager in accordance with the provisions of this regulation; or

(b) Delivered, for any reason, including:

(A) A mechanical malfunction;

(B) An electrical failure; or

(C) A machine locking.

(14) This regulation shall be displayed prominently in the betting area of the racing association conducting Pick (n) Jackpot wagering.

Stat. Auth.: ORS 462.270(3)
Stats. Implemented: ORS 462.270(3)
Hist.: RC 3-2015, f. & cert. ef. 10-1-15

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Oregon State Lottery
Chapter 177

Rule Caption: Revises Megabucks term of annuity, includes name "Oregon's Game Megabucks", revises amount reserved for prizes
Adm. Order No.: LOTT 1-2015
Filed with Sec. of State: 9-25-2015
Certified to be Effective: 10-4-15
Notice Publication Date: 7-1-2015
Rules Amended: 177-075-0000, 177-075-0005, 177-075-0010, 177-075-0015, 177-075-0020, 177-075-0027, 177-075-0030, 177-075-0035, 177-075-0040
Subject: The Oregon Lottery amended these rules for the Megabucks game to change the term of the annuity prize payment option from 25 years to 30 years, include the name "Oregon's Game Megabucks", and revise the percent of gross sales revenues reserved for prizes.
Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-075-0000
Definitions

For purposes of the Oregon Megabucks game (sometimes referred to as "Oregon's Game Megabucks", the following definitions apply except as otherwise specifically provided in OAR chapter 177 or unless the context requires otherwise:

(1) "Grand prize pool" means the amount of money required to fund an advertised Grand prize. The Megabucks Grand prize may also sometimes be referred to as the Megabucks Jackpot prize.

(2) "Exchange ticket" means a computer-generated, printed paper issued by a terminal to replace a Megabucks game ticket that had been purchased for play in consecutive Megabucks Lotto games and was validated as a winning ticket before the latest drawing appearing on the game ticket. An exchange ticket shall contain the exact game play and future drawing date(s) appearing on the validated game ticket it is replacing and shall have all other characteristics of a game ticket except as otherwise stated in these rules. An exchange ticket shall not contain a ticket price.

(3) "Game board" or "boards" means that area of the Megabucks play slip which contains 48 squares numbered 1 through 48.

(4) "Game ticket" or "ticket" means a Megabucks ticket produced by a terminal, which contains the caption "Megabucks", two or more lettered game plays each of which has six numbers from 1 through 48 followed by the drawing date, the price of the ticket, a retailer number, and a serial number.

(5) "Kicker" means the play option whereby a player, by paying an additional one dollar for each dollar wagered on Megabucks, is entitled to receive larger prizes for matching three of six, four of six, or five of six numbers.

(6) "Lotto" means a lottery game wherein a player selects a group of numbers, usually six, out of a larger predetermined set of numbers.

(7) "Play" or "game play" means the six different numbers from 1 through 48 which appear on a Megabucks ticket as a single lettered selection and are to be played by a player in a game.

(8) "Privileged terminal" means a terminal authorized to validate prizes over $600.00.

(9) "Quick pick" means the random selection by a terminal of six different numbers from 1 through 48 which appear on a Megabucks ticket and are to be played by a player in the Megabucks game.

(10) "Play slip" or "Game slip" means a card used in marking a player's game plays. For this purpose, each play slip has ten game boards. Each game board is lettered with one letter from A through J and, when used to purchase a game play, corresponds to the numbers selected and printed on the ticket. An even number of boards, i.e., two, four, six, eight, or ten must be selected on each slip.

(11) "Random number generator" means a computer-driven electronic device capable of producing numbers at random.

(12) "Draw game terminal" or "Terminal" has the meaning set forth in OAR 177-070-0005(4).

(13) "Winning numbers" means the six numbers between 1 and 48, randomly selected at each drawing, which shall be used to determine winning plays contained on a Megabucks game ticket.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461.120(2)
Stats. Implemented: OR Const. Art. XV, Sec. 4(4) & ORS 461.250
Hist.: SLC 11-1985(Temp), f. & ef. 10-24-85; SLC 6-1986, f. & ef. 3-5-86; SLC 12-1986, f. 5-28-86, ef. 6-1-86; LC 10-1989(Temp), f. 4-25-89, cert. ef. 4-30-89; LC 11-1989, f. & cert. ef. 7-6-89; LC 9-1990, f. 7-20-90, cert. ef. 8-5-90; LC 6-1993, f. & cert. ef. 7-2-93; LC 3-1994, f. 2-24-94, cert. ef. 3-1-94; LC 3-1995, f. & cert. ef. 4-27-95; LOTT 8-1998(Temp), f. & cert. ef. 12-16-98 thru 6-11-99; LOTT 7-1999, f. 5-27-99, cert. ef. 5-30-99; LOTT 8-2001(Temp), f. & cert. ef. 5-18-01 thru 11-9-01; LOTT 11-2001, f. & cert. ef. 8-7-01; LOTT 16-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 27-2002, f. & cert. ef. 11-25-02; LOTT 6-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 1-2015, f. 9-25-15, cert. ef. 10-4-15

177-075-0005
Price

Game plays on a Megabucks tickets sell for $0.50 each with the minimum wager being two plays for $1. All plays must be made in $1 incre-

ments, hence only an even number of selections may be made, up to a maximum of ten selections for $5.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.240
Hist.: SLC 11-1985(Temp), f. & ef. 10-24-85; SL 6-1986, f. & ef. 3-5-86; SLC 12-1986, f. 5-28-86, ef. 6-1-86; LC 6-1992, f. & cert. ef. 6-23-92; LOTT 16-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 27-2002, f. & cert. ef. 11-25-02; LOTT 1-2015, f. 9-25-15, cert. ef. 10-4-15

177-075-0010
Ticket Purchase, Characteristics, and Restrictions

(1) General: Oregon Megabucks is a pari-mutuel 6 of 48 lotto game. A player must select an even number set of six different numbers, between 1 and 48, for input into a terminal. Megabucks tickets can be purchased either from a terminal operated by a retailer (i.e., a clerk-activated terminal) or from a terminal operated by the player (i.e., a player-activated terminal). If purchased from a retailer, the player may select each set by marking six numbered squares in any one game board on a play slip and submitting the play slip to the retailer, or by requesting "Quick pick" from the retailer. The retailer will then issue a Megabucks ticket, via the terminal, containing the selected even number set or sets of numbers, each of which constitutes a game play. Tickets can also be purchased from a player-activated terminal by use of a touch screen or by inserting a play slip into the machine. A ticket can contain up to ten game plays lettered A through J. A player may purchase a ticket or tickets for future consecutive Megabucks drawings up to the maximum permitted by the Lottery.

(2) Kicker Option: The player must also choose whether to play "Kicker" when purchasing a Megabucks ticket. The Kicker awards larger prizes for correctly selecting three of six, four of six, and five of six numbers.

(3) Non-Cancellation: A Megabucks ticket may not be voided or cancelled by returning the ticket to the retailer, including tickets that are printed in error or purchased for a future consecutive drawing. The placing of plays is done at the player's own risk. The Lottery retailer acts on behalf of the player in entering the player's plays

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.210
Hist.: SLC 11-1985(Temp), f. & ef. 10-24-85; SLC 6-1986, f. & ef. 3-5-86; SLC 12-1986, f. 5-28-86, ef. 6-1-86; LC 16-1988, f. & cert. ef. 6-2-88; LC 10-1989(Temp), f. 4-25-89, cert. ef. 4-30-89; LC 11-1989, f. & cert. ef. 7-6-89; LC 9-1990, f. 7-20-90, cert. ef. 8-5-90; LC 2-1991, f. & cert. ef. 7-24-91; LC 6-1993, f. & cert. e.f 7-2-93; LC 3-1995, f. & cert. ef. 4-27-95; LOTT 8-2001(Temp), f. & cert. ef. 5-18-01 thru 11-9-01; LOTT 11-2001, f. & cert. ef. 8-7-01; LOTT 16-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 27-2002, f. & cert. ef. 11-25-02; LOTT 8-2008(Temp), f. 11-21-08, cert. ef. 11-23-08 thru 5-16-09; LOTT 2-2009, f. 2-27-09, cert. ef. 3-1-09; LOTT 6-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 1-2015, f. 9-25-15, cert. ef. 10-4-15

177-075-0015
Drawings

(1) Time: Megabucks drawings normally take place every Monday, Wednesday, and Saturday at approximately 7:29 PM or at any other times as determined by the Director.

(2) Selection: The objective of a drawing is to randomly select six winning numbers between 1 and 48. Drawings may be conducted with the aid of mechanical drawing equipment or a random number generator or other such devices as the Director may determine.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.230
Hist.: SLC 11-1985(Temp), f. & ef. 10-24-85; SLC 6-1986, f. & ef. 3-5-86; SLC 12-1986, f. 5-28-86, ef. 6-1-86; LC 10-1989(Temp), f. 4-25-89, cert. ef. 4-30-89; LC 11-1989, f. & cert. ef. 7-6-89; LC 6-1993, f. & cert. ef. 7-2-93; LOTT 8-2001(Temp), f. & cert. ef. 5-18-01 thru 11-9-01; LOTT 11-2001, f. & cert. ef. 8-7-01; LOTT 16-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 27-2002, f. & cert. ef. 11-25-02; LOTT 1-2015, f. 9-25-15, cert. ef. 10-4-15

177-075-0020
Determination of Prize Winners

(1) General: Prizes shall be determined and awarded on the following basis: [Table not included. See ED. NOTE.]

(2) Grand Prize: A Grand prize of less than $100,000 will be paid in a lump sum. A Grand prize with a value of $100,000 and more will be paid in the form of the prevailing maximum acceptable annuity which can be purchased with the Grand prize pool. The annuity will provide for 30 equal periodic payments, the first immediately and the other 29 annually on the anniversary date (or the first regular business day thereafter) of the applicable Megabucks drawing.

(3) Match 5 of 6, 4 of 6, and 3 of 6 Prizes: Match 5 of 6 and 4 of 6 prize winners will be paid in a lump sum. Match 3 of 6 prize winners with a Kicker game play will be paid in a lump sum. Match 3 of 6 prize winners who did not select a Kicker game play on the winning ticket shall receive a free Megabucks ticket valued at $1.00 except when such prize is redeemed at Lottery Headquarters, or other locations designated by the Director, in which event the winner will either be paid $1.00 by check or receive a free $1 ticket.

(4) Highest Prize: Players are eligible to receive only the highest prize for each winning game play.

(5) Rounding: Notwithstanding the allocations in section (1) of this rule, shares in each prize category shall be rounded down to the nearest $0.10 and each winning game play in each prize category shall be considered to be a single unit equal to one share of that prize category. All breakage (amounts left over after rounding down) shall be carried forward to the prize pool for the next drawing.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.220
Hist.: SLC 11-1985(Temp), f. & ef. 10-24-85; SLC 6-1986, f. & ef. 3-5-86; SLC 12-1986, f. 5-28-86, ef. 6-1-86; SLC 22-1986(Temp), f. 8-26-86, ef. 9-21-86; LC 19-1987, f. & ef. 9-28-87; LC 4-1990, f. & cert. ef. 4-3-90; LC 9-1990, f. 7-20-90, cert. ef. 8-5-90; LC 8-1992, f. & cert. ef. 7-23-92; LC 6-1993, f. & cert. ef. 7-2-93; LC 3-1994, f. 2-24-94, cert. ef. 3-1-94; LC 3-1995, f. & cert. ef. 4-27-95; LOTT 8-2001(Temp), f. & cert. ef. 5-18-01 thru 11-9-01; LOTT 11-2001, f. & cert. ef. 8-7-01; LOTT 16-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 27-2002, f. & cert. ef. 11-25-02; LOTT 1-2015, f. 9-25-15, cert. ef. 10-4-15

177-075-0027
Annuity Conversion Option

(1) General: A Grand prize winner has the option of receiving the advertised Grand prize in a single lump sum payment consisting of one-half of the advertised Grand prize or of receiving the full value of the Grand prize paid out in equal annual installments over a period of 30 years.

(2) Presentment: A Grand prize winner shall present the winner's ticket and completed claim form, in person, at the Salem Lottery office, pursuant to OAR 177-070-0025. Upon the Lottery's determination and validation that the winner's ticket is a winning ticket of the Grand prize, the prize winner may exercise the payment option provided in this rule.

(3) Election of Option: Within 60 days of the date of validation of the Grand prize, a winner, prior to receiving any prize payment from the Lottery, may acknowledge in writing the winner's election to receive either the single lump sum payment or the annuitized prize payments. A winner's election is irrevocable once the winner's written election is received by the Lottery subject to the limited exception provided in section (5) below.

(4) Failure to Exercise Option: In the event a winner does not exercise the above option within 60 days of the validation of the Grand prize, the winner shall receive the full value of the prize paid in equal annual installments over a period of 30 years pursuant to OAR 177-075-0020(2).

(5) Last Chance Exercise of Option: A Grand prize winner who has elected the annuitized prize payment method or who has failed to make an election and is placed on the annuitized prize payment plan according to section (4) above, may be permitted at the Lottery's sole discretion to convert to the lump sum payment provided the Lottery has not yet made any payments to the prize winner. Once the Lottery makes any payment of a Grand prize to a Grand prize winner, the choice of payment is irrevocably fixed.

(6) Multiple Winners: Multiple winners, jointly claiming ownership of a Grand prize winning ticket in accordance with OAR chapter 177, shall make individual determinations whether to exercise the option to receive their portion of the prize in the form of a single lump sum payment or annuitized payments. Each of the multiple winners exercising the option to receive a single lump sum payment or annuitized payments must do so pursuant to the terms of this rule. Each winner has the option of choosing the lump sum payment or the annuitized payments when the entire prize is more than $100,000 even if each individual's portion of the prize is less than $100,000.

(7) No Obligation: A winner is under no obligation to exercise the option made available by this rule.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461.120(2)
Stats. Implemented: OR Const. Art. XV, Sec. 4(4) & ORS 461.250
Hist.: LOTT 8-1998(Temp) f. & cert. ef. 12-16-98 thru 6-11-99; LOTT 7-1999, f. 5-27-99, cert. ef. 5-30-99; LOTT 8-2001(Temp), f. & cert. ef. 5-18-01 thru 11-9-01; LOTT 11-2001, f. & cert. ef. 8-7-01; LOTT 16-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 27-2002, f. & cert. ef. 11-25-02; LOTT 1-2015, f. 9-25-15, cert. ef. 10-4-15

177-075-0030
Ticket Validation Requirements

To be a valid Megabucks ticket and eligible to receive a prize, all the following requirements must be satisfied in addition to all other requirements contained in OAR chapter 177:

(1) Winning Game Play: Each winning game play appearing on the Megabucks ticket must be separately lettered and consist of six different numbers between one and 48.

(2) Exchange Tickets: A Megabucks game ticket containing a winning game play which was also wagered in subsequent, consecutive drawings may be validated prior to the occurrence of future drawings for which the game ticket was purchased. An exchange ticket shall be issued at the time the original game ticket is validated for the remainder of the drawings appearing on the validated game ticket. An exchange ticket shall also be issued at the time a previously issued exchange ticket is validated for the remainder of the drawings appearing on the validated exchange ticket.

(3) Multiple Winners: Claimants who share ownership interests in a winning Megabucks ticket must comply with any additional requirements for prize payment described elsewhere in OAR chapter 177 as it may be amended from time to time.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.250
Hist.: SLC 11-1985(Temp), f. & ef. 10-24-85; SLC 6-1986, f. & ef. 3-5-86; SLC 12-1986, f. 5-28-86, ef. 6-1-86; LC 10-1989(Temp), f. 4-25-89, cert. ef. 4-30-89; LC 11-1989, f. & cert. ef. 7-6-89; LC 4-1990, f. & cert. ef. 4-3-90; LOTT 8-2001(Temp), f. & cert. ef. 5-18-01 thru 11-9-01; LOTT 11-2001, f. & cert. ef. 8-7-01; LOTT 16-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 27-2002, f. & cert. ef. 11-25-02; LOTT 1-2015, f. 9-25-15, cert. ef. 10-4-15

177-075-0035
Allocation of Revenues

(1) General: Approximately 70 percent of all gross sales revenues from Megabucks tickets shall be reserved for prizes and shall be allocated to the prize categories as set forth below. The prize payout percentage shall be based on the 30-year annuity value of the Grand prize. [Table not included. See ED. NOTE.]

(2) No Winners: If there are no valid winning Megabucks tickets for a specific prize category in any given drawing, all monies allocated for that prize category shall be carried forward and accumulated with the monies allocated for that prize category for the next drawing. This process shall continue until such time as there is one or more valid winning ticket(s) for the Grand prize category.

(3) Termination of Game: If the Oregon Megabucks game is terminated for any reason whatsoever, any prizes which were not won shall be reallocated by the Director. Any prizes which were won but not claimed within the specified claim period shall be forfeited and allocated to the benefit of the public purpose. The transfer shall take place at the same time the Lottery's next scheduled transfer of proceeds is made.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.220
Hist.: SLC 11-1985(Temp), f. & ef. 10-24-85; SLC 6-1986, f. & ef. 3-5-86; SLC 12-1986, f. 5-28-86, ef. 6-1-86; SLC 22-1986(Temp), f. 8-26-86, ef. 9-21-86; LC 19-1987, f. & ef. 9-28-87; LC 10-1989(Temp), f. 4-25-89, cert. ef. 4-30-89; LC 11-1989, f. & cert. ef. 7-6-89; LC 17-1989(Temp), f. & cert. ef. 9-29-89; LC 18-1989, f. 11-7-89, cert. ef. 11-15-89; LC 4-1990, f. & cert. ef. 4-3-90; LC 9-1990, f. 7-20-90, cert. ef. 8-5-90; LC 12-1992, f. cert. ef. 9-28-92; LC 2-1993, f. & cert. ef. 2-25-93; LC 3-1995, f. & cert. ef. 4-27-95; Administrative Reformatting 11-30-97; LOTT 8-2001(Temp), f. & cert. ef. 5-18-01 thru 11-9-01; LOTT 11-2001, f. & cert. ef. 8-7-01; LOTT 16-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 27-2002, f. & cert. ef. 11-25-02; LOTT 1-2015, f. 9-25-15, cert. ef. 10-4-15

177-075-0040
Probability of Winning

(1) General: The following tables set forth the probability of winning and the probable distribution of winners in and among each prize category, based upon the total number of possible combinations of six drawn from a field of 48 numbers. [Table not included. See ED. NOTE.]

(2) Supplemental: If there is no Megabucks prize winner for the match 5 of 6 and 4 of 6 prize categories, the Megabucks Plus Kicker match 5 of 6 prize shall be $3200 and the Megabucks Plus Kicker match 4 of 6 prize shall be $160.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.220
Hist.: SLC 11-1985(Temp), f. & ef. 10-24-85; SLC 6-1986, f. & ef. 3-5-86; SLC 12-1986, f. 5-28-86, ef. 6-1-86; LC 10-1989(Temp), f. 4-25-89, cert. ef. 4-30-89; LC 11-1989, f. & cert. ef. 7-6-89; LC 9-1990, f. 7-20-90, cert. ef. 8-5-90; LC 10-1990(Temp), f. & cert. ef. 8-21-90; LC 13-1990, f. & cert. ef. 11-1-90; LC 2-1993, f. & cert. ef. 2-25-93; LC 3-1995, f. & cert. ef. 4-27-95; LOTT 8-2001(Temp), f. & cert. ef. 5-18-01 thru 11-9-01; LOTT 11-2001, f. & cert. ef. 8-7-01; LOTT 3-2013(Temp), f. & cert. ef. 8-29-13 thru 2-14-13; LOTT 6-2013, f. 11-25-13, cert. ef. 12-1-13; LOTT 1-2015, f. 9-25-15, cert. ef. 10-4-15

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Rule Caption: Amends Powerball game rules, revises matrix, creates 10x multiplier for the Power Play option
Adm. Order No.: LOTT 2-2015
Filed with Sec. of State: 9-25-2015
Certified to be Effective: 10-7-15
Notice Publication Date: 7-1-2015
Rules Amended: 177-085-0005, 177-085-0015, 177-085-0025, 177-085-0030, 177-085-0035, 177-085-0065
Subject: The Oregon Lottery amended these administrative rules for the Powerball game to change the game matrix from a 5 of 59 plus 1 of 35 game matrix to a 5 of 69 plus 1 of 26 game matrix, which modifies the odds of winning. The Power Play multiplier has been enhanced to include a 10X multiplier. Prize levels remain the same except for the Match 4+1 prize which will increase to $50,000 from $10,000.

These changes are necessary to implement the changes made to the Powerball game by the Multi-State Lottery Association (MUSL), the national organization that administers this game.

The changes to the game are effective for drawings held on or after October 7, 2015, and for tickets purchased for such drawings.
Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-085-0005
Definitions

The following definitions apply unless the context requires a different meaning.

(1) "Advertised Grand Prize" means the estimated, annuitized Grand Prize amount as determined by the MUSL Central Office by use of the MUSL Annuity Factor and communicated through the selling lotteries prior to the Grand Prize drawing. The Advertised Grand Prize is not a guaranteed prize amount and the actual Grand Prize amount may vary from the advertised amount, except in circumstance where there is a guaranteed Grand Prize amount as described in OAR 177-085-0035(11).

(2) "Drawing" refers collectively to the formal draw event for randomly selecting the winning indicia that determine the number of winners for each prize level of the Powerball® game and the Power Play® multiplier. Winning indicia include the winning numbers for the Powerball® game and the Power Play® multiplier.

(3) "Game Board" or "Boards" means that area of the game slip, also known as a panel, that contains sets of numbered squares to be marked by the player.

(4) "Game Ticket" or "Ticket" means an acceptable evidence of play, which is a ticket produced in a manner which contains the caption Powerball®, one or more lettered game plays followed by the drawing date, the price of the ticket, a six digit retailer number and a serial number that is compatible with the Lottery's central computer system, and is a physical representation of the play or plays sold to a player.

(5) "Licensee Lottery" means a state lottery or lottery of a governmental unit, political subdivision, or entity thereof that is not a Party Lottery but has agreed to comply with all applicable MUSL and Product Group requirements and has been authorized by the MUSL and by the Powerball® Product Group to sell the Powerball® game.

(6) "Lottery" means the Oregon State Lottery.

(7) "MUSL" means the Multi-State Lottery Association.

(8) "MUSL Annuity Factor" means the annuity factor as determined by the MUSL central office through a method approved by the MUSL Finance and Audit Committee and which is used as described in these rules.

(9) "MUSL Board" means the governing body of the MUSL which is comprised of the chief executive officer of each Party Lottery.

(10) "Party Lottery" means a state lottery or lottery of a political subdivision or entity that participates in MUSL and is authorized to sell the Powerball® game.

(11) "Game Play" means the six numbers, the first five from a field of sixty-nine numbers and the last one from a field of twenty-six numbers that appear on a ticket as a single lettered selection and are to be played by a player in the Powerball® game.

(12) "Game Slip" means the paper used in marking a player's game plays and containing one or more boards.

(13) "Grand Prize" refers to the top prize in the Powerball® game.

(14) "Product Group" means a group of lotteries which has joined together to offer a product pursuant to the terms of the Multi-State Lottery Agreement and the Product Group's own rules.

(15) "Quick Pick" means the random selection by the computer of indicia that appear on a ticket and are played by a player in the game.

(16) "Retailer" means a person or entity authorized by the Lottery to sell lottery tickets.

(17) "Set Prize", also referred to as "low-tier prize", means all prizes except the Grand Prizes, and, except in instances outlined in these Division 85 rules, will be equal to the prize amount established by the MUSL Board for the prize level.

(18) "Draw game terminal" or "Terminal" has the meaning set forth in OAR 177-070-0005(5).

(19) "Winning Numbers" means the indicia randomly selected during a drawing event which are used to determine winning plays for the Powerball® game contained on a game ticket.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.200
Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 3-1989(Temp), f. & cert. ef. 1-23-89; LC 6-1989, f. 2-28-89, cert. ef. 3-2-89; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LC 10-1996, f. & cert. ef. 9-4-96; LC 7-1997, f. 10-30-97, cert. ef. 11-2-97; LC 9-1997(Temp), f. & cert. ef. 11-7-97; LOTT 2-1998, f. & cert. ef. 5-28-98; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03; LOTT 4-2003(Temp), f. & cert. ef. 4-15-03 thru 10-10-03; LOTT 10-2003, f. & cert. ef. 6-30-03; LOTT 7-2005(Temp), f. 8-8-05, cert. ef. 8-28-05 thru 2-23-06; LOTT 23-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 11-2008, f. 11-21-08, cert. ef. 1-4-09; LOTT 6-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 9-2011, f. 12-20-11, cert. ef. 1-15-12; LOTT 4-2013, f. 9-27-13, cert. ef. 10-1-13; LOTT 2-2015, f. 9-25-15, cert. ef. 10-7-15

177-085-0015
Game Description

(1) General Information: Effective for drawings held on or after October 7, 2015 and for tickets purchased for such drawings, Powerball® is a five out of sixty-nine numbers plus one out of twenty-six numbers lottery game, drawn every Wednesday and Saturday as part of the Powerball® drawing event, which pays the Grand Prize, at the election of the player made in accordance with these rules or by a default election made in accordance with these rules, either on an annuitized pari-mutuel basis or as a single lump sum payment of the total funding held in the Grand Prize Pool for the winning drawing on a pari-mutuel basis. Except as provided in the rules, all other prizes are paid as a single lump sum payment. Powerball® winning numbers applicable to determine Powerball® prizes are determined in the Powerball® drawing event.

(2) Selection of Numbers: To play Powerball®, a player shall select (or computer pick) five different numbers, from one through sixty-nine and one additional number from one through twenty-six. The additional number may be the same as one of the first five numbers selected by the player, as long as it is from one through twenty-six.

(3) Purchase of Tickets: Tickets can be purchased for two dollars, including any specific statutorily-mandated tax of a selling lottery to be included in the price of a ticket, from an Oregon Lottery® approved retailer in a manner approved by the Oregon Lottery® and in accordance with these rules. A player may purchase tickets for future consecutive drawings up to the maximum permitted by the Lottery.

(4) Player's Responsibility: It is the sole responsibility of the player to verify the accuracy of the game play or plays and other data printed on the ticket. A ticket may not be voided or canceled by returning the ticket to the retailer or to the Lottery, including tickets that are printed in error. No ticket shall be returned to the Lottery for credit. The placing of plays is done at the player's own risk through the Lottery retailer, who when entering the play or plays is acting on behalf of the player.

(5) Entry of Plays: Plays may only be entered manually using a Lottery terminal keypad or touch screen or by means of a play slip provided by the Lottery and hand-marked by the player or by such other means approved by the Lottery. Retailers cannot permit the use of facsimiles of play slips, copies of play slips, or other materials that are inserted into a terminal's play slip reader that are not printed or approved by the Lottery. Retailers must not permit any device to be connected to a Lottery terminal to enter plays, except as approved by the Lottery.

(6) Determination of Winning Numbers: The winning numbers for the Powerball® game shall be determined at a drawing conducted under the supervision of the MUSL Board. The MUSL Board shall determine the frequency of Powerball® game drawings. Winning numbers shall be selected at random with the aid of mechanical drawing equipment or a random number generator. The Lottery Director shall designate a Drawing Manager who shall review and randomly observe the drawings conducted by the MUSL Board. The drawing procedures shall include procedures for randomly selecting the Powerball® game winning numbers and the Power Play® multiplier.

Stat. Auth.: ORS 461.250 & OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.220
Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 3-1989(Temp), f. & cert. ef. 1-23-89; LC 6-1989, f. 2-28-89, cert. ef. 3-2-89; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LC 6-1993, f. & cert. ef. 7-2-93; LC 1-1994, f. 1-27-94, cert. ef. 2-1-94; LC 7-1997, f. 10-30-97, cert. ef. 11-2-97; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03; LOTT 7-2005(Temp), f. 8-8-05, cert. ef. 8-28-05 thru 2-23-06; LOTT 23-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 8-2008(Temp), f. 11-21-08, cert. ef. 11-23-08 thru 5-16-09; LOTT 11-2008, f. 11-21-08, cert. ef. 1-4-09; LOTT 2-2009, f. 2-27-09, cert. ef. 3-1-09; LOTT 6-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 9-2011, f. 12-20-11, cert. ef. 1-15-12; LOTT 2-2015, f. 9-25-15, cert. ef. 10-7-15

177-085-0025
Powerball® Prize Pool

(1) Powerball® Prize Pool: The prize pool for all prize categories shall consist of 50 percent of each drawing period's sales, inclusive of any specific statutorily-mandated tax of a Party Lottery or a Licensee Lottery to be included in the price of a lottery ticket, after the prize pool accounts and prize reserve accounts are funded to the amounts established by the Product Group. Any amount remaining in the prize pool at the end of the Powerball® game shall be returned to all lotteries participating in the prize pool after the end of all claims periods of all Party Lotteries and Licensee Lotteries, carried forward to a replacement game or expended in a manner as directed by the members of the Product Group in accordance with state law.

(2) Powerball® Prize Pool Accounts and Prize Reserve Accounts: An amount up to five percent of a Party Lottery's sales, inclusive of any specific statutorily-mandated tax of a Party Lottery to be included in the price of a lottery ticket, shall be deducted from a Party Lottery's Grand Prize Pool and placed in trust in one or more Powerball® prize pool accounts and prize reserve accounts until the prize pool accounts and a Party Lottery's share of the prize reserve accounts reaches the amounts designated by the Product Group. The Product Group has established the following prize reserve accounts and prize pool accounts for the Powerball® game:

(a) Powerball® Prize Reserve Accounts: The Product Group has established the following prize reserve accounts for the Powerball® game:

(A) The Powerball® Prize Reserve Account, which is used to guarantee the payment of valid, but unanticipated, Grand Prize claims that may result from a system error or other reason (subject to the limitations of these rules); and

(B) The Powerball® Set Prize Reserve Account, which is used to fund deficiencies in low-tier Powerball® prize payments (subject to the limitations of these rules).

(b) Powerball® Prize Pool Accounts: The Product Group has established the following prize pool accounts for the Powerball® game:

(A) The Grand Prize Pool Account, which is used to fund the immediate Grand Prize;

(B) The Powerball® Set Prize Pool, which is used to fund the Powerball® set prize payments;

(C) The Powerball® Set-Aside Account, which is used to guarantee payment of the minimum or starting Grand Prize;

(D) The Power Play® Prize Pool and the Power Play Pool Account, which are described in OAR 177-085-0065; and

(E) The Set Prize Pool which holds the temporary balances that may result from having fewer than expected winners in the Powerball® set prize (low-tier prize) categories and the source of the Set Prize Pool is the Party Lottery's weekly prize contributions less actual Powerball® set prize liability. The source of the Set-Aside Account funding shall be the prize reserve deduction until such time as the Set-Aside Account is fully funded. Once the Powerball® prize pool accounts and a Party Lottery's share of the Powerball® prize reserve accounts exceed the designated amounts, the excess shall become part of the Grand Prize Pool Account.

(3) Balances: The Product Group, with approval of the Finance & Audit Committee, may establish a maximum balance for the Powerball® prize pool accounts and prize reserve accounts. The Product Group may determine to expend all or a portion of the funds in the Powerball® prize pool accounts (except the Grand Prize Pool Account) and the prize reserve accounts as follows:

(a) For the purpose of indemnifying the Party Lotteries and Licensee Lotteries in the payment of prizes to be made by the selling lotteries, subject to the approval of the MUSL Board; and

(b) For the payment of prizes or special prizes in the game, subject to the approval of the MUSL Finance and Audit Committee. The prize reserve shares of a Party Lottery may be adjusted with refunds to the Party Lottery from the prize reserve accounts as may be needed to maintain the approved maximum balance and shares of the Party Lotteries. A Party Lottery may contribute to its share of prize reserve accounts over time, but in the event of a draw down from the reserve account, a Party Lottery is responsible for its full percentage share of the account, whether or not it has been paid in full. Any amount remaining in the Powerball® prize pool accounts or prize reserve accounts at the end of the Powerball® game shall be returned to all lotteries participating in the accounts after the end of all claims periods of all Party Lotteries and Licensee Lotteries, carried forward to a replacement game or a replacement prize reserve account or expended in a manner as directed by the members of the Product Group in accordance with state law.

(4) Expected Powerball® Prize Payout Percentages: The Grand Prize payout shall be determined on a pari-mutuel basis. Except as otherwise pro-

vided in these rules, all other prizes awarded shall be paid as set lump sum prizes with the following expected prize payout percentages effective for drawings held on or after October 7, 2015: [Table not included. See ED. NOTE.]

(a) Division of Grand Prize Among Winners: The prize money allocated to the Grand Prize category shall be divided equally by the number of game plays winning the Grand Prize.

(b) Powerball® Set Prize Pool Carried Forward: The Powerball® Set Prize Pool (for the single lump sum prizes of $1,000,000 or less) shall be carried forward to subsequent draws if all or a portion of it is not needed to pay the Powerball® set prizes awarded in the current draw.

(c) Pari-Mutuel Powerball® Prize Determination: Except as provided in OAR 177-085-0025(4)(c)(C), for Party Lotteries:

(A) If the total of the Powerball® set prizes (as multiplied by the respective Power Play® multiplier if applicable) awarded in a drawing exceeds the percentage of the prize pool allocated to the Powerball® set prizes, then the amount needed to fund the Powerball® set prizes, including Power Play® prizes, awarded shall be drawn from the following sources, in the following order:

(i) The amount allocated to the Powerball® set prizes and carried forward from previous draws, if any;

(ii) An amount from the Set Prize Reserve Account, if available, not to exceed $40,000,000 per drawing; and

(iii) Other amounts as agreed to by the Product Group in its sole discretion.

(B) Lack of Sufficient Prize Funds: If, after these sources are depleted, there are not sufficient funds to pay the set prizes awarded, including Power Play® prizes, then the highest set prize shall become a pari-mutuel prize. If the amount of the highest set prize, when paid on a pari-mutuel basis, drops to or below the next highest set prize and there are still not sufficient funds to pay the remaining set prizes awarded, then the next highest set prize, including Power Play® prizes, shall become a pari-mutuel prize. This procedure shall continue down through all set prize levels, if necessary, until all set prize levels become pari-mutuel prize levels. In that instance, the money available from the funding sources listed in this rule shall be divided among the winning plays in proportion to their respective prize percentages. Powerball® set prizes and Power Play® prizes will be reduced by the same percentage.

(C) By agreement with the Licensee Lotteries, the Licensee Lotteries shall independently calculate their set prize pari-mutuel prize amounts. The Party Lotteries and the Licensee Lotteries shall then agree to set the pari-mutuel prize amounts for all lotteries selling the game at the lesser of the independently-calculated prize amounts.

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

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stat. Implemented: ORS 461.220

Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 17-1988(Temp), f. & cert. ef. 6-2-88; LC 18-1988, f. & cert. ef. 6-28-88; LC 3-1989(Temp), f. & cert. ef. 1-23-89; LC 6-1989, f. 2-28-89, cert. ef. 3-2-89; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LC 4-1993, f. & cert ef. 4-2-93; LC 11-1995, f. 10-30-95, cert. ef. 11-1-95; LC 10-1996, f. & cert. ef. 9-4-96; LC 7-1997, f. 10-30-97, cert. ef. 11-2-97; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03; LOTT 7-2005(Temp), f. 8-8-05, cert. ef. 8-28-05 thru 2-23-06; LOTT 23-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 11-2008, f. 11-21-08, cert. ef. 1-4-09; LOTT 9-2011, f. 12-20-11, cert. ef. 1-15-12; LOTT 10-2011(Temp), f. 12-22-11, cert. ef. 1-15-12 thru 7-7-12; LOTT 2-2012, f. 4-30-12, cert. ef. 5-1-12; LOTT 4-2013, f. 9-27-13, cert. ef. 10-1-13; LOTT 2-2015, f. 9-25-15, cert. ef. 10-7-15

177-085-0030
Probability of Winning Powerball® Prizes

Effective for drawings held on or after October 7, 2015, the following table sets forth the probability of winning and the probable distribution of winners in and among each prize category, based upon the total number of possible combinations in Powerball®: [Table not included. See ED. NOTE.]

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

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.220

Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 3-1989(Temp), f. & cert. ef. 1-23-89; LC 6-1989, f. 2-28-89, cert. ef. 3-2-89; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LC 7-1997, f. 10-30-97, cert. ef. 11-2-97; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03; LOTT 7-2005(Temp), f. 8-8-05, cert. ef. 8-28-05 thru 2-23-06; LOTT 23-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 11-2008, f. 11-21-08, cert. ef. 1-4-09; LOTT 9-2011, f. 12-20-11, cert. ef. 1-15-12; LOTT 2-2015, f. 9-25-15, cert. ef. 10-7-15

177-085-0035
Prize Payment

(1) Selection of Payment Type: Grand Prizes shall be paid, at the election of the player made no later than 60 days after validation of the prize, with either a per-winner annuity or single lump sum payment. If the payment election is not made by the player within 60 days after validation, then the prize shall be paid as an annuity prize. The election to take the single lump sum payment may be made at the time of validation of the prize claim or within 60 days thereafter. An election made after validation is final and cannot be revoked, withdrawn, or otherwise changed.

(2) Share of the Grand Prize: Shares of the Grand Prize shall be determined by dividing the amount available in the Grand Prize pool equally among all winning game plays of the Grand Prize.

(3) Lump Sum Payment: Winner(s) who elect a lump sum payment shall be paid their share(s) in a single lump sum payment. (Application of the MUSL annuity factor generally is anticipated to result in the Grand Prize winner who elects a single lump sum payment receiving an amount that roughly approximates one-half of the advertised Grand Prize amount. The actual single lump sum payment amount will vary as a function of the MUSL annuity factor determined as described in subsection (4)(a) of this rule.)

(4) Annuity Payment: The annuitized option prize shall be determined by multiplying a winner's share of the Grand Prize pool by the MUSL annuity factor.

(a) The MUSL annuity factor is determined through a process as approved by the MUSL Finance and Audit Committee.

(b) Neither MUSL nor the Party Lotteries or the Licensee Lotteries shall be responsible or liable for changes in the advertised or estimated annuity prize amount and the actual amount purchased after the prize payment method is actually known to MUSL. In certain instances announced by the Product Group, the Grand Prize shall be a guaranteed amount and shall be determined pursuant to subsection (11) of this rule. If individual shares of the Grand Prize Pool funds held to fund an annuity are less than $250,000.00, the Product Group, in its sole discretion, may elect to pay the winners their share of the amount held in the Grand Prize pool.

(5) Initial and Annual Payments: Except as may be controlled by statute, all annuitized prizes shall be paid annually in thirty payments with the initial payment being made directly with available funds, to be followed by twenty-nine payments funded by the annuity. All annuitized prizes shall be paid annually in thirty graduated payments (increasing each year) by a rate as determined by the Product Group. Prize payments may be rounded down to the nearest $1,000. Annual payments after the initial payment shall be made by the lottery on the anniversary date of the first payment or if such date falls on a non-business day, then the first business day following the anniversary date of the first payment. Funds for the initial payment of an annuitized prize or the lump sum payment prize shall be made available by MUSL for payment by the Party Lottery or the Licensee Lottery which sold the winning ticket no earlier than the 15th calendar day (or the next banking day if the fifteenth day is a holiday) following the drawing.

(6) Lack of Available Funds: If necessary, when the due date for the payment of a prize occurs before the receipt of sufficient funds in the prize pool trust to pay the prize, then the transfer of funds for the payment of the full lump sum payment amount may be delayed pending receipt of funds from the Party Lotteries and Licensee Lotteries. The Lottery may elect to make the initial payment from its own funds after validation, with notice to MUSL.

(7) Death of Winner: In the event of the death of a lottery winner during the annuity payment period, the MUSL Finance and Audit Committee, in its sole discretion excepting a discretionary review by the Product Group, upon the petition of the estate of the lottery winner (the "Estate") or the persons identified on the winner's Beneficiary Designation form (BDF), whichever is applicable, to the state lottery of the state in which the deceased lottery winner purchased the winning ticket, and subject to applicable federal, state, or district laws, may make payment to the Estate or the designated beneficiary of the discounted present value of the annuitized prize payments. If a determination is made, then securities and/or amounts held to fund the deceased lottery winner's annuitized prize may be distributed to the Estate or the persons on the BDF. The identification of the securities, if any, to fund the annuitized prize shall be at the sole discretion of the MUSL Finance and Audit Committee or the Product Group.

(8) Low-Tier Prizes: All low-tier prizes (all prizes except the Grand Prize) shall be paid directly through the Lottery that sold the winning ticket. The Lottery may begin paying low-tier prizes after receiving authorization to pay from the MUSL central office.

(9) Rounding of Powerball® Grand Prize Payments: Annuitized payments of the Grand Prize or a share of the Grand Prize may be rounded to facilitate the purchase of an appropriate funding mechanism. Breakage on an annuitized Grand Prize win shall be added to the first payment to the winner or winners. Prizes other than the Grand Prize which, under OAR 177-085-0025(4)(c) and 177-085-0065(11), may become single-payment,

pari-mutuel prizes, may be rounded down so that prizes can be paid in multiples of whole dollars. Breakage resulting from rounding these prizes shall be carried forward to the prize pool for the next drawing.

(10) Roll Over of Powerball® Grand Prize: If the Grand Prize is not won in a drawing, the prize money allocated for the Grand Prize shall roll over and be added to the Grand Prize pool for the following drawing.

(11) Minimum Powerball® Grand Prizes and Increases: The Product Group may offer guaranteed minimum Grand Prize amounts or minimum increases in the Grand Prize amount between drawings or make other changes in the allocation of prize money where the Product Group finds that it would be in the best interest of the game. If a minimum Grand Prize amount or a minimum increase in the Grand prize amount between drawings is offered by the Product Group, then the Grand Prize amount shall be determined as follows.

(a) All Winners Select Annuity: If there are multiple Grand Prize winners during a single drawing, each selecting the annuitized option prize, then a winner's share of the guaranteed annuitized Grand Prize shall be determined by dividing the guaranteed annuitized Grand Prize by the number of winning game plays.

(b) Mix of Lump Sum and Annuity: If there are multiple Grand Prize winners during a single drawing and at least one of the Grand Prize winners has elected the annuitized option prize, then the best bid submitted by MUSL's pre-approved qualified brokers shall determine the cash pool needed to fund the guaranteed annuitized Grand Prize.

(c) No Winners Select Annuity: If no winner of the Grand Prize during a single drawing has elected the annuitized option prize, then the amount of the cash in the Grand Prize pool shall be an amount equal to the guaranteed annuitized amount divided by the MUSL annuity factor.

(d) Changes in Allocation of Prizes: Changes in the allocation of prize money shall be designed to retain approximately the same prize allocation percentages, over a year's time, set out in OAR 177-085-0025(4). Minimum guaranteed prizes or increases may be waived if the alternate funding mechanism set out in OAR 177-085-0025(4)(c) becomes necessary. Approval of the Group is required to change the guaranteed minimum Grand Prize amounts or minimum increases in the Grand Prize amount. Any reduction in the guaranteed minimum Grand Prize amount or reduction in the minimum increases to the Grand Prize amount shall not become effective until after a Grand Prize win following the action taken by the Group.

(12) One Prize per Board: The holder of a winning ticket may win only one prize per board in connection with the winning numbers drawn, and shall be entitled only to the prize won by those numbers in the highest matching prize category.

(13) Claim Expires in One Year: Claims for all prize categories, including the Grand Prize, must be submitted within one year after the date of the drawing.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461
Stats. Implemented: ORS 461.20
Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 3-1989(Temp), f. & cert. ef. 1-23-89; LC 6-1989, f. 2-28-89, cert. ef. 3-2-89; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LC 8-1992, f. & cert. ef. 7-23-92; LC 4-1993, f. & cert. ef. 4-2-93; LC 10-1996, f. & cert. ef. 9-4-96; LC 7-1997, f. 10-30-97, cert. ef. 11-2-97; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03; LOTT 4-2003(Temp), f. & cert. ef. 4-15-03 thru 10-10-03; LOTT 10-2003, f. & cert. ef. 6-30-03; LOTT 7-2005(Temp), f. 8-8-05, cert. ef. 8-28-05 thru 2-23-06; LOTT 23-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 11-2008, f. 11-21-08, cert. ef. 1-4-09; LOTT 9-2011, f. 12-20-11, cert. ef. 1-15-12; LOTT 4-2013, f. 9-27-13, cert. ef. 10-1-13; LOTT 2-2015, f. 9-25-15, cert. ef. 10-7-15

177-085-0065
Power Play®

(1) General: Power Play® is an optional, limited extension of the Powerball® Game described in OAR division 85. The Lottery Director, in the Lottery Director's sole discretion and based on agreements with MUSL, is authorized to initiate and terminate the Power Play® option.

(2) Set Prizes Only: Power Play® increases the amount of any of the cash Set Prizes (the cash prizes normally paying $4 to $1,000,000) won in a drawing. The Grand Prize is not a Set Prize and will not be increased.

(3) Power Play® Purchase: A qualifying Power Play® option play is any single Powerball® Play for which the player selects the Power Play® option on either the game slip or by selecting the Power Play® option through a clerk-activated or player-activated terminal, pays one extra dollar for the Power Play® option play, and which is recorded at the Lottery's central computer as a qualifying play.

(4) Qualifying Play: Except as provided in these rules, for drawings held on or after October 7, 2015, a qualifying play which wins one of the seven lowest lump sum Set Prizes (excluding the Grand Prize and the Match 5+0 prize) will be multiplied by the number selected, either 2, 3, 4, 5, or sometimes 10 in a separate random Power Play® drawing announced during the official Powerball® drawing show. The "10X" multiplier will be available for drawings in which the initially advertised annuitized Grand Prize amount is $150,000,000 or less. The announced Match 5+0 prize, for players selecting the Power Play® option, shall be $2,000,000 unless a higher limited promotional dollar amount is announced by the Group.

(5) Power Play® Drawings: Effective for drawings held on or after October 7, 2015, MUSL will conduct a separate random Power Play® drawing and announce results during each of the regular Powerball® drawings held during the promotion. During each Power Play® drawing a single number, 2, 3, 4, 5, or sometimes 10, shall be drawn. The "10X" multiplier shall be available for all drawings in which the initially advertised annuitized Grand Prize amount in $150,000,000 or less. The Powerball® Product Group may modify the multiplier features for special promotions from time to time.

(6) Power Play® Prize Pool for Drawings held on or after October 7, 2015: In accordance with OAR 177-085-0065(7), 50 percent of each draw's sales shall be collected for the payment of prizes.

(a) "10X" Multiplier Available: In drawings where the "10X" multiplier is available, the expected payout for all prize categories shall consist of up to 49.969 percent of each drawing period's sales, including any specific statutorily-mandated tax of a Party Lottery or Licensee Lottery to be included in the price of a lottery ticket.

(b) "10X" Multiplier Not Available: In drawings where the "10X" multiplier is not available, the expected payout for all prize categories shall consist of up to 45.934 percent of each drawing period's sales, including any specific statutorily-mandated tax of a Party Lottery or Licensee Lottery to be included in the price of a lottery ticket.

(c) Carry Forward: The prize payout percentage per draw may vary. The Power Play® Prize Pool shall be carried forward to subsequent draws if all or a portion of it is not need to pay the Power Play® prizes awarded in the current draw and held in the Power Play® Pool Account.

(7) Power Play® Pool Account for Drawings held on or after October 7, 2015:

(a) "10X" Multiplier Available: In drawings where the "10X" multiplier is available, an additional 0.031 percent of sales, including any specific statutorily-mandated tax of a Party Lottery or Licensee Lottery to be included in the price of a lottery ticket, may be collected and placed in trust in the Power Play® Pool Account, for the purpose of paying Power Play® prizes.

(b) "10X" Multiplier Not Available: In drawings where the "10X" multiplier is not available, 4.066 percent of sales, including any specific statutorily-mandated tax of a Party Lottery or Licensee Lottery to be included in the price of a lottery ticket, may be collected and placed in trust in the Power Play® pool account, for the purpose of paying Power Play® prizes.

(c) Remaining Amounts: Any amount remaining in the Power Play® Pool Account when the Product group declares the end of this game shall be returned to all lotteries participating in the account after the end of all claim periods of all Party Lotteries and Licensee Lotteries, carried forward to a replacement game, or expended in a manner as directed by the members of the Product Group in accordance with jurisdiction statute.

(8) Power Play® Payout: Except as otherwise provided in these rules, all prizes awarded shall be paid as lump sum set prizes. Instead of the Powerball® set prize amounts, qualifying Power Play® option plays will pay the Power Play® prize amounts shown in section (9) of this rule. In certain rare instances, and as determined under OAR 177-085-0025(4)(c)(B) and section (11) of this rule, the Powerball® set prize amount may be less than the amounts shown in section (9) of this rule. In such case, the eight Power Play® prize amounts will be changed to an amount announced after the draw.

(9) Expected Power Play® Prize Payout — Effective for Drawings held on or after October 7, 2015: [Table not included. See ED. NOTE.] In certain rare instances, the Powerball® set prize amount may be less than the amount shown. In such case, the eight lowest Power Play® prizes will be changed to an amount announced after the draw. For example, if the Match 4+1 Powerball® set prize amount of $50,000.00 becomes $25,000.00 under the rules of the Powerball® game and a 5x Power Play® multiplier is selected, then a Power Play® player winning that prize amount would win $125,000.00.

(10) Probability of Winning: Effective for drawings held on or after October 7, 2015, The following tables set forth the probability of the various Power Play® numbers being drawn during a single Powerball® drawing, except that the Power Play® amount for the Match 5+0 prize will be

$2,000,000. The Group may elect to run limited promotions that may modify the multiplier features.

(a) When the "10X" Multiplier is Available: [Table not included. See ED. NOTE.]

(b) When the "10X" Multiplier is not Available: [Table not included. See ED. NOTE.]

(11) Pari-Mutuel Prizes — All Prize Amounts: Except as provided in subsection (d) of this rule, for Party Lotteries, if the total of the original Powerball® set prizes and the Power Play® prizes awarded in a drawing exceeds the percentage of the prize pools allocated to the set prizes, then the amount needed to fund the set prizes (including the Power Play® prize amounts) awarded shall be drawn from the following sources, in the following order:

(a) The amount allocated to the set prizes and carried forward from previous draws, if any;

(b) An amount from the Powerball® Set-Prize Reserve Account, if available in the account, not to exceed $40,000,000 per drawing;

(c) Other amounts as agreed to by the Product Group in their sole discretion; and

(d) If, after these sources are depleted, there are not sufficient funds to pay the set prizes awarded (including Power Play® prize amounts), then the highest set prize (including the Power Play® prize amounts) shall become a pari-mutuel prize. If the amount of the highest set prize, when paid on a pari-mutuel basis, drops to or below the next highest set prize and there are still not sufficient funds to pay the remaining set prizes awarded, then the next highest set prize, including the Power Play® prize amount, shall become a pari-mutuel prize. This procedure shall continue down through all set prizes levels, if necessary, until all set prize levels become pari-mutuel prize levels. In that instance, the money available from the funding sources listed in this rule shall be divided among the winning plays in proportion to their respective prize percentages. Powerball® and Power Play® prizes will be reduced by the same percentage.

(e) By agreement with the Licensee Lotteries, the Licensee Lotteries shall independently calculate their set pari-mutuel prize amounts, including the Power Play® prize amounts. The Party Lotteries and the Licensee Lotteries shall then agree to set the pari-mutuel prize amounts for all lotteries selling the game at the lesser of the independently calculated prize amounts.

(12) Prize Payment: All Power Play® prizes shall be paid in one lump sum. The Lottery may begin paying Power Play® prizes after receiving authorization to pay from the MUSL central office.

(13) Prizes Rounded: Prizes, which under these rules may become pari-mutuel prizes, may be rounded down so that prizes can be paid in whole dollars. Breakage resulting from rounding these prizes shall be carried forward to the prize pool for the next drawing.

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

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461

Hist.: LOTT 3-2001(Temp), f. 3-1-01, cert. ef 3-2-01 thru 8-29-01; LOTT 10-2001, f. 5-25-01, cert. ef. 5-29-01; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03; LOTT 7-2005(Temp), f. 8-8-05, cert. ef. 8-28-05 thru 2-23-06; LOTT 23-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 11-2008, f. 11-21-08, cert. ef. 1-4-09; LOTT 10-2010, f. 11-19-10, cert. ef. 12-12-10; LOTT 9-2011, f. 12-20-11, cert. ef. 1-15-12; LOTT 10-2011(Temp), f. 12-22-11, cert. ef. 1-15-12 thru 7-7-12; LOTT 2-2012, f. 4-30-12, cert. ef. 5-1-12; LOTT 5-2012(Temp), f. & cert. ef. 8-16-12 thru 1-31-13; LOTT 7-2012, f. 10-26-12, cert. ef. 11-1-12; LOTT 4-2013, f. 9-27-13, cert. ef. 10-1-13; LOTT 2-2015, f. 9-25-15, cert. ef. 10-7-15

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Rule Caption: Authorizes Oregon Lottery offices in addition to Salem Headquarters to pay Lottery tickets and shares

Adm. Order No.: LOTT 3-2015

Filed with Sec. of State: 9-25-2015

Certified to be Effective: 10-1-15

Notice Publication Date: 7-1-2015

Rules Amended: 177-010-0003, 177-040-0050, 177-040-0051, 177-046-0020, 177-046-0110, 177-050-0024, 177-050-0025, 177-050-0027, 177-052-0060, 177-070-0025, 177-075-0020, 177-075-0040, 177-085-0020, 177-200-0020, 177-200-0077

Subject: The Oregon Lottery has amended these administrative rules to authorize the payment of Lottery tickets and shares at additional Oregon Lottery office locations. This is for such locations and prize amounts as designated by the Director.

Other amendments include clarifying the process for payment by the Lottery of a retailer's dishonored check issued for payment of a Lottery ticket, share, or cash slip.

Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-010-0003

Definitions

(1) "Business day" means the period beginning at 5 a.m. of a calendar day and ending at 4:59 a.m. on the morning of the next calendar day.

(2) "Business week" means the period beginning at 5 a.m. on a Sunday and ending at 4:59 a.m. the following Sunday morning.

(3) "Business year" means the period beginning at 5 a.m. on the Sunday immediately following the last Saturday in June, and ending at the end of the business day of the last Saturday of the following June.

(4) "Commissioner" has that definition as defined in ORS 461.010(2).

(5) "Director" has that definition as defined in ORS 461.010(3).

(6) "Drawing coordinator" means the Lottery employee designated by the Assistant Director for Security, subject to the approval of the Director, to develop and implement procedures for conducting drawings.

(7) "Immediate family" and "family member" mean a natural person's spouse, child, brother, sister, or parent by blood or adoption.

(8) "Lottery" or "State Lottery" has that definition as defined in ORS 461.010(1).

(9) "Lottery Commission" or "Commission" has that definition as defined in ORS 461.010(4).

(10) "Lottery contract" means any contract entered into by the Lottery for the purchase, lease, or sale of goods or services.

(11) "Lottery contractor" or "contractor" has that definition as defined in ORS 461.010(9).

(12) "Lottery game" or "game" has that definition as defined in ORS 461.010(5).

(13) "Lottery game retailer" or "retailer" has that definition as defined in ORS 461.010(7).

(14) "Lottery Headquarters" means the Debbs Potts Oregon State Lottery Commission building located at 500 Airport Road SE, Salem, Oregon.

(15) "Lottery Kiosk" means a location, other than Lottery Headquarters, designated by the Director as a Lottery Kiosk, where Lottery tickets or shares are sold directly to the public by Lottery employees.

(16) "Lottery sales location" means a Lottery Kiosk, Lottery Headquarters, any location designated by the Director for the sale of Lottery tickets and shares, or sales by the Lottery through electronic means.

(17) "Lottery vendor" or "vendor" has that definition as defined in ORS 461.010(8).

(18) "Person" has that definition as defined in ORS 461.010(6).

(19) "Prize" means any award of economic value, monetary or otherwise, that may be distributed to a Lottery player for submitting a valid claim based on a winning Lottery ticket or share, or for a winning entry in a second chance drawing.

(20) "Retailer contract" means any written contract entered into by the Lottery with a retailer for selling Lottery tickets or shares to the public.

(21) "Second Chance Drawing" or "2nd Chance Drawing" means a drawing in which an eligible non-winning Oregon Lottery® ticket or share is submitted to the Lottery for entry into a drawing for a chance to win a prize.

(22) "Share" means an opportunity to win a prize in a Lottery game that does not use certificates or tokens, such as in Video Lottery games.

(23) "Ticket" means a certificate or token of the opportunity to win a prize in a Lottery game.

(24) "Traditional Lottery games" means the following lottery games offered by the Oregon State Lottery:

(a) Scratch-its℠;

(b) Lottery Raffle Game;

(c) Megabucks℠;

(d) Pick 4℠;

(e) Lucky Lines℠;

(f) Powerball®;

(g) Sports Action℠;

(h) Scoreboard℠;

(i) Win for Life℠;

(j) Keno;

(k) Mega Millions®,

(l) Second chance drawing; and

(m) Any other Lottery game designated by the Oregon State Lottery Commission as a Traditional Lottery game.

(25) "Unclaimed prize" means any prize offered in a Lottery game which has not been submitted to the Lottery for validation and prize payment within the specified prize claim period and for which the Lottery has data or evidence that the ticket or share was sold or distributed to the public.

(26) "Video Lottery^{SM} game retailer" or "Video Lottery^{SM} retailer" has that definition as defined in ORS 461.217.

(27) "Video Lottery^{SM} game terminal" means a type of video device for the playing of Video Lottery^{SM} games which is in a console that contains a game platform with a video display and a random number generator, is connected to and monitored by a central system, and accepts cash payments to permit a person to play the Video Lottery^{SM} games offered on the terminal for the opportunity to win a prize. Unless the context or a specially applicable definition indicates otherwise, any reference to a "Video Lottery^{SM} terminal", "video lottery terminal", or "video terminal" in OAR chapter 177, a Lottery retailer contract, or Lottery form in effect or in use on or after the effective date of this rule shall be deemed to refer to a "Video Lottery^{SM} game terminal" as defined in this section. Video Lottery^{SM} Game Terminal does not include any device determined by the Oregon State Lottery Commission not to be a Video Lottery^{SM} game terminal.

(28) "Website" means the Lottery's Internet address at www.oregonlottery.org, or any other website that may be specified by the Lottery for a particular promotion or promotional program.

(29) "Winner claim form" means a form provided by the Lottery to a player for the purpose of claiming a prize.

Stat. Auth.: ORS 461 & OR Const. Art. XV, § 4(4)
Stats. Implemented: ORS 461.020, 461.210, 461.215, 461.217, 461.220 & 461.250
Hist.: LOTT 10-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 21-2002, f. & cert. ef. 11-25-02; LOTT 3-2004(Temp), f. & cert. ef. 4-6-04 thru 10-1-04; LOTT 6-2004, f. & cert. ef. 5-26-04; LOTT 3-2008, f. 6-30-08, cert. ef. 7-1-08; LOTT 7-2008, f. 10-31-08, cert. ef. 11-1-08; LOTT 6-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 7-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 6-2010, f. 3-18-10, cert. ef. 3-21-10; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13; LOTT 2-2013, f. 6-24-13, cert. ef. 7-1-13; LOTT 3-2015, f. 9-25-15, cert. ef. 10-1-15

177-040-0050
Retailer Duties

(1) General: This rule contains duties to be performed by a Lottery retailer beyond those duties described in the Lottery retailer contract. The duties listed herein are not meant to be exclusive. Other duties and requirements for retailers may be contained elsewhere in OAR division 177, ORS Chapter 461, or in the Lottery retailer contract.

(2) All Retailers: All Lottery retailers shall:

(a) Stock Equipment: Keep all Lottery equipment on the retailer's premises stocked with a variety of Scratch-it^{SM} tickets, play slips, computer-generated tickets, and any other Oregon Lottery® product required to be sold. Unless exempted by the Lottery, if a Lottery retailer fails to stock or replenish these items as they are made available for sale by the Lottery, or as they are depleted because of purchase or use, the Lottery may remove the equipment.

(b) Perform Minor Maintenance: Replace ribbons, ticket stock, and clear paper jams as may be required for any of the equipment provided by the Lottery for the sale of Lottery tickets or shares.

(c) Maintain Paper Stock: Install and use only approved Lottery-provided paper stock which has been specifically assigned to the selling retailer when selling Lottery tickets and shares.

(d) Obtain Permits: Be required to arrange for and obtain all necessary permits required by federal, state, and local governments for electrical installation, electrical power, telephone service, fiber optic lines and connections, and coaxial cable and connections required to sell Lottery tickets or shares at the retail site.

(e) Pay Amounts Due: Pay the amount due to the Lottery for the sale of Lottery tickets or shares by the use of an electronic funds transfer (EFT). In most instances, this EFT shall occur at the end of the fourth day after the close of each Lottery business week. When an applicant operates multiple Lottery retail sites before the effective date of this rule, the routine date of the EFT collection may be set beyond the fourth day after the close of the business week in order to accommodate the needs of the combined sites.

(3) Traditional Lottery Game Retailers: A Lottery retailer authorized to sell traditional Lottery games is required to:

(a) Scratch-It^{SM} Validation: Validate a Scratch-It^{SM} ticket presented to the retailer by a player through equipment provided by the Lottery connected to the Lottery's central computer system. The retailer is required to destroy a winning ticket after validation and payment of the prize. Any Lottery retailer who does not destroy a winning ticket after validation and payment of the prize is liable for a prize paid by another Lottery retailer who subsequently pays the ticket. The retailer is required to return a non-winning ticket to the player.

(b) Draw Game Validation: Validate a Draw game ticket through the Draw game terminal before paying a Draw game prize.

(c) Underage Play: Monitor Lottery player-operated vending machines, as defined in OAR 177-045-0000, to prevent underage play.

(4) Video Retailers: A Video Lottery^{SM} game retailer is required to:

(a) Cash Slip Validation: Validate any Video Lottery^{SM} cash slip presented for payment that was issued at the retailer's location, through the Lottery's on-site video validation terminal before paying a Video Lottery^{SM} prize, except for those cash slips required to be validated and paid at Lottery Headquarters in Salem, or other locations designated by the Director.

(b) Restrict Visibility: Restrict Video Lottery^{SM} game terminals from visibility from areas outside of the business and from view of dining areas or other areas where minors are permitted to linger.

(c) Age-Posted Area: Maintain Video Lottery^{SM} game terminals in an area of the business that is prohibited to minors. The area must be posted as such by the Oregon State Lottery or the Oregon Liquor Control Commission. This restriction against minors does not apply to minors who qualify under the exceptions permitted by the Oregon Liquor Control Commission for access to areas normally prohibited to minors.

(5) Sanctions: The Director may sanction a Lottery retailer for the loss, damage, or destruction of any winning game ticket or share. This includes, but is not limited to: Imposing a requirement for remedial training for the retailer or the retailer's employees, and any other actions for failure to perform contract duties or requirements as described in the Lottery retailer contract or OAR Chapter 177.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461
Hist.: LC 4-1995, f. 4-27-95, cert. ef. 5-1-95; LOTT 5-1999(Temp), f. & cert. ef. 5-26-99 thru 6-26-99, Administrative correction 11-17-99; LOTT 6-2000, f. 7-26-00, cert. ef. 8-1-00; LOTT 11-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 22-2002, f. & cert.. ef. 11-25-02; LOTT 3-2004(Temp), f. & cert. ef. 4-6-04 thru 10-1-04; LOTT 6-2004, f. & cert. ef. 5-26-04; LOTT 12-2008, f. 12-23-08, cert. ef. 1-1-09; LOTT 6-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 4-2010(Temp), f. 3-10-10, cert. ef. 3-15-10 thru 9-4-10; LOTT 9-2010, f. 8-30-10, cert. ef. 9-5-10; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13; LOTT 2-2013, f. 6-24-13, cert. ef. 7-1-13; LOTT 3-2015, f. 9-25-15, cert. ef. 10-1-15

177-040-0051
Designated Employees and Payment of Prizes

(1) Designated Employees: A traditional Lottery retailer must designate employees authorized to redeem winning Lottery tickets and shares. A Video Lottery^{SM} retailer must designate employees authorized to redeem Video Lottery^{SM} cash slips as defined in OAR 177-200-0005(1).

(2) Traditional Lottery Retailers: A traditional Lottery retailer must redeem winning Lottery tickets and shares during all of the retailer's designated hours of redemption.

(3) Video Lottery^{SM} Retailers: Except for those cash slips required to be validated and paid at Lottery Headquarters in Salem, or other locations designated by the Director, during all business hours of operation a Video Lottery^{SM} retailer must redeem any Video Lottery^{SM} cash slip presented for payment that was issued at that retailer's location, except as follows:

(a) In the event of exceptional circumstances, a retailer may delay validation and payment of a cash slip for a period of time not to exceed 24 hours from the time the cash slip is initially submitted to the retailer for payment. "Exceptional circumstances" means rare and unforeseen circumstances beyond the reasonable control of the retailer; and

(b) Within 48 hours from the time the cash slip is initially submitted to the retailer for payment, the retailer must submit to the Lottery a written report of the delay of payment and the exceptional circumstances that required the delay.

(c) The Director may review claims of exceptional circumstances and determine whether delayed payment was appropriate under the circumstances. Upon the Director's request, the retailer must provide the Director with evidence supporting a claim of exceptional circumstances. If a retailer fails to comply with a request or fails to adequately support a claim of exceptional circumstances, the Director shall find that the delay was not appropriate.

(d) If the Director finds that the delay was not appropriate, the retailer's delay of payment shall be considered a failure to perform contract duties or requirements, and the Lottery may take appropriate action including termination of the retailer contract. The Director's decision is final.

(4) Payment: Except as provided in section (3) of this rule, a retailer must immediately pay prizes in cash or by check, or any combination thereof, when a winning Lottery ticket or share meeting the requirements of these rules is presented for payment, including a Video Lottery^{SM} cash slip. A retailer must not pay prizes in tokens, chips, or merchandise or charge a fee for paying a prize or for issuing payment.

(5) Validation: Notwithstanding section (3) of this rule, once a Lottery retailer validates a winning ticket or share, including a Video Lottery^{SM} cash slip, the retailer must immediately pay it. The Lottery's terminal will not validate a cash slip issued for a Jackpot Prize.

Stat. Auth.: ORS 461, 461.217, 461.250 & 461.300 & Or. Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.217, 461.250 & 461.300
Hist.: LOTT 11-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 22-2002, f. & cert.. ef. 11-25-02; LOTT 2-2003(Temp), f. & cert. ef. 3-14-03 thru 9-5-03; LOTT 9-2003, f. & cert. ef. 6-30-03; LOTT 2-2008, f. & cert. ef. 6-2-08; LOTT 4-2010(Temp), f. 3-10-10, cert. ef. 3-15-10 thru 9-4-10; LOTT 9-2010, f. 8-30-10, cert. ef. 9-5-10; LOTT 3-2015, f. 9-25-15, cert. ef. 10-1-15

177-046-0020
Sale of Lottery Tickets and Shares

(1) General: The Director may contract with retailers for the sale of Lottery tickets and shares. Except as provided in section (3) of this rule, only a retailer under contract with the Lottery may sell Lottery tickets or shares. Nothing in this section shall be construed to prevent a person who lawfully purchases or possesses a Lottery ticket or share from making a gift of such ticket or share to another.

(2) Retailer Sales Locations: Unless authorized by the Lottery, Lottery tickets or shares may only be sold by a Lottery retailer at the location listed in the retailer contract.

(3) Lottery Sales: The Lottery may designate its agents or employees to sell Lottery tickets or shares directly to the public, either in person at Lottery Headquarters, at a Lottery kiosk, other locations designated by the Director for the sale of Lottery tickets and shares, or sales by the Lottery through electronic means. For purposes of Lottery's traditional lottery game rules, reference to a "retailer," "Lottery retailer," or "Lottery On-line retailer" includes Lottery sales unless the context or a specially applicable provision indicates otherwise.

(4) Future Drawings: A player may purchase a ticket or tickets for future consecutive drawings to the extent permitted by the Lottery for each Lottery game. The player must specify at the time of purchase that the ticket or tickets include future consecutive drawings.

(5) Sales Are Final: Unless otherwise provided in OAR chapter 177, the sale of all Lottery tickets and shares is final. A player may not return a Lottery ticket or share for a refund of the purchase price or exchange unless the specific game rule provides otherwise. The Lottery is not liable for Lottery tickets or shares that are purchased in error.

(6) Distribution: The Director is authorized to arrange for the direct distribution of Lottery equipment, ticket stock, and supplies shipped directly from the manufacturer or supplier to an authorized retailer.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
Hist.: LOTT 12-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 23-2002, f. & cert. ef. 11-25-02; LOTT 10-2005(Temp), f. & cert. ef. 11-2-05 thru 4-28-06; LOTT 18-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 5-2008, f. 6-30-08, cert. ef. 7-1-08; LOTT 8-2008(Temp), f. 11-21-08, cert. ef. 11-23-08 thru 5-16-09; LOTT 2-2009, f. 2-27-09, cert. ef. 3-1-09; LOTT 6-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 7-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 7-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 3-2015, f. 9-25-15, cert. ef. 10-1-15

177-046-0110
Payment of Prizes

(1) General: All winning Lottery tickets or shares may be presented to the Oregon State Lottery for payment. Winning tickets or shares for prizes of $600 or less may also be presented for payment to the appropriate Lottery retailer specified in the applicable game rule.

(2) Mailing Address: Winners who mail a winning Lottery ticket or share to the Lottery must sign the Lottery ticket or share, write the claimant's mailing address on the ticket or share, and mail it to the Oregon State Lottery, P.O. Box 14515, Salem, Oregon 97309. Registered mail is recommended.

(3) Lottery Headquarters Address: Winners who present a claim in person at the Lottery may do so by bringing the winning Lottery ticket or share to the Oregon State Lottery Headquarters, Player Services, 500 Airport Road SE, Salem, Oregon 97301 during Lottery business hours. Tickets and shares for prizes may also be presented at other locations and for such prize amounts as designated by the Director, unless the ticket or share specifies that it must be claimed at Lottery Headquarters in Salem, Oregon.

(4) Retailer Validation and Payment of Prizes of $600 or Less: To determine whether a Lottery ticket or share presented for payment entitles the holder to a prize, a retailer must validate the claim with the Lottery by scanning the bar code or manually entering the bar code number printed on each Lottery ticket or share into equipment provided by the Lottery, and, if authorized by the Lottery, pay the player the prize amount due.

(a) Retailer Payment: A retailer is authorized to pay a prize of $600 or less and shall pay that prize in cash or check, or any combination thereof.

(b) Lottery Payment: If a retailer's prize payment check is dishonored, the player may seek payment from the Lottery by presenting a copy of the dishonored check to the Oregon State Lottery, Player Services Office, 500 Airport Road SE, Salem, Oregon 97301 during Lottery business hours, other locations designated by the Director, or by mailing a copy of the dishonored check with a winner claim form to the Oregon State Lottery, P.O. Box 14515, Salem, Oregon 97309. If the Lottery determines that payment of the prize is authorized, the retailer has not paid the prize, and it is unlikely that the retailer will pay the prize, the Lottery may then issue a check to the player in the amount of the prize due less any applicable tax withholding. Lottery may require submission of the original check issued by the retailer prior to making payment to the player.

(c) Retailer Sanction: A retailer that pays a prize with a check that is dishonored may be subject to termination of the Lottery Retailer Contract.

(5) Lottery Validation and Prize Payment: Upon validation of a winning Lottery ticket or share presented to the Lottery for payment, the Director may pay the amount of the prize to the player less any applicable tax withholding. If the Director determines that the ticket or share is invalid, or a non-winning ticket or share, or the claim is invalid, the Director shall deny the claim and notify the player. An invalid ticket or share will not be returned to the player and is not eligible for any second chance or promotional drawing. A non-winning ticket will only be returned to the player if the player provides return postage and a self-addressed envelope or mailing container in which to return the ticket.

(a) Lottery Prize Payment of $600 or Less: Payment may be made by check, cash card, or in cash, or any combination thereof.

(A) Lottery Headquarters: Cash prize payments made at Lottery Headquarters, or other locations designated by the Director, are limited to $50 per person per day. Any prize payment balance remaining above $50 shall be paid by check. Payment may be made in person or by mail, except that the Lottery will not mail cash.

(B) Lottery Kiosk: Cash prize payments made at a Lottery kiosk are limited to $100 per transaction. Any prize payment balance remaining above $100 shall be paid by cash card.

(C) Prizes by Mail: A winning ticket or share may be submitted to the Lottery by mail. If mailed, the player must sign the ticket or share, write the player's mailing address on the ticket or share, and mail it to the Oregon State Lottery, P.O. Box 14515, Salem, Oregon 97309. Registered mail is recommended.

(b) Lottery Prize Payment of Prizes Greater than $600: A player must claim a Lottery prize of more than $600 by:

(A) Claiming in Person: Bringing the ticket or share to the Oregon State Lottery Headquarters, Player Services Office, 500 Airport Road SE, Salem, Oregon 97301 during Lottery business hours and presenting the ticket or share to the Lottery. Tickets and shares for prizes may also be presented at other locations and for such prize amounts as designated by the Director, unless the ticket or share specifies that it must be claimed at Lottery Headquarters in Salem, Oregon; or

(B) Claiming by Mail: Signing the ticket or share, writing the player's mailing address on the ticket or share, completing a winner claim form, and mailing it together with the winning ticket or share to the Oregon State Lottery, P.O. Box 14515, Salem, Oregon 97309. Registered mail is recommended. The winner claim form may be obtained from any Lottery retailer, from a Lottery kiosk, from the Lottery Headquarters at the addresses listed above, other locations designated by the Director, or downloaded from the Lottery's website.

(c) High Tier Prize Payments: The Lottery will pay a winning ticket or share by check, or subject to OAR 177-010-0050, may pay the prize in merchandise if the prize is merchandise.

(6) Claiming Lottery Tickets or Shares Jointly: If more than one name appears on a Lottery ticket or share, or if a Lottery ticket or share is owned by two or more persons, the prize must be claimed in accordance with the following:

(a) General: All persons claiming ownership of the winning Lottery ticket or share must complete and sign the Lottery's request and release form. Each of the persons signing the form must indicate each person's proportionate share of the prize. Each person must receive at least $1.00. At least one of the persons claiming ownership of the ticket or share must sign the ticket or share. That person's signature must also appear on the request and release form. If a winning ticket or share is mailed to the Lottery with multiple signatures on it, the Director will mail the request and release form to the claimants.

(b) Deceased Signatories: A deceased signatory who dies before signing the request and release form will be presumed to have an ownership interest equal to that of the other signatories. In the event there is a deceased signatory, the Director may withhold payment for 60 days from the date of validation to allow co-owners the opportunity to seek a declaratory ruling from a court.

(c) Relinquishment of Interest: When a person who has signed a Lottery ticket or share wishes to relinquish the person's ownership interest

in the Lottery ticket or share, that person must sign the Lottery's release of ownership form relinquishing the person's ownership interest. In no event will a person be permitted to relinquish ownership interest once it is determined that the person owes money for child support or other legal attachment has taken place. Once the Lottery receives the release of ownership form, it is irrevocable.

(d) Issuance of Prize Checks to Multiple Owners: If a validated winning Lottery ticket or share is claimed by multiple owners who are sharing a single prize, the Director will issue to each person claiming a share of the prize amount, a check for the portion of the prize amount claimed by each multiple owner, the total not to exceed the total prize amount. No cash payments will be made to multiple owners. However, the Director reserves the right to issue a single prize check to an individual whose name appears on the ticket or share instead of multiple prize checks to the owners of the ticket or share if the value of each individual prize check would be less than $50 or if the number of persons claiming a share of the prize exceeds 100 people. The Lottery shall pay multiple winners of a Lottery prize only at the Lottery Headquarters in Salem, or other locations and for such prize amounts as designated by the Director. Lottery retailers are not authorized to pay multiple winners who share a single prize.

(e) Payment to Multiple Owners at Lottery Kiosk: Notwithstanding subsection (6)(d) of this rule, the Lottery may pay multiple winners of a single Lottery prize at a Lottery kiosk if the total amount of the prize is $600 or less. Payment shall be made as set forth in paragraph (5)(a)(B) of this rule.

(f) Conflicting Information or Discrepancies: If there is conflicting information or discrepancies between the names on a winning Lottery ticket or share and the names on a claim form, the Lottery may withhold prize payment until the owners resolve the conflicting information. Discrepancies include, but are not limited to: Names or addresses scratched out or erased, or unreadable or altered names or addresses.

(g) Investigations: At the discretion of the Director, the Lottery may conduct an investigation to aid in the determination of the rightful owners prior to payment of any prize.

(h) Determinations: The Director's decisions regarding the determination of a winning Lottery ticket or share, or the determination of the rightful owner or owners of a prize, or of any other dispute or matter arising from payment or awarding of prizes are final and binding on all parties.

(7) Payment of Prizes Donated Anonymously to Non-Profit Groups and Others:

(a) General: The Director may pay a prize according to written anonymous instructions received with a winning Lottery ticket or share. The recipient must be a natural person or a non-profit group as described in Section 501(c)(3) of the Internal Revenue Code.

(b) Adult Recipient: If the intended recipient is a natural person of majority, the Director will contact the person and make payment to the person in accordance with the anonymous written instructions.

(c) Minor Recipient: If the intended donation benefits a natural person who is a minor, the Director will make payment in accordance with the Oregon Uniform Transfers to Minors Act, Oregon Revised Statutes (ORS) 126.805 to 126.886.

(d) Non-Profit Group as Recipient: If the intended recipient qualifies as a non-profit group as described in Section 501(c)(3) of the Internal Revenue Code, the Director will make payment only as follows:

(A) Identification of Recipient: The Director will attempt to identify and contact the intended recipient. The intended recipient shall designate in writing an agent, (a natural person) to act on its behalf and to receive the prize payment on behalf of the recipient. The Director shall confirm both the written authorization and the agent. An intended recipient is encouraged to select a bonded agent.

(B) Appearance: The agent shall appear in person at the Lottery Headquarters in Salem to claim the prize payment on behalf of the intended recipient. The Director may confirm to the Director's satisfaction that the agent is authorized to accept the donation in the agent's own name on behalf of the intended recipient.

(C) Signature and Payment: Subsequent to receipt of acceptable identification, along with a completed claim form from the agent, and the Director's review and approval, the agent, in the presence of a duly authorized Lottery official, shall sign the agent's own name on the winning Lottery ticket or share in the place indicated on the ticket or share and immediately return it to the Lottery. The Director shall then make payment to the agent less any applicable tax withholding.

(D) Identification of Donor: If the Director can reasonably identify the donor, the Director shall not make payment as specified above, but shall instead contact the donor and notify the donor to retrieve the Lottery ticket or share upon presenting acceptable proof of identification. The donor may retrieve the winning ticket or share in person at the Lottery Headquarters in Salem upon the presentation of acceptable proof of identification. The prize, less any applicable tax withholding, will be paid to the donor upon validation of the winning ticket or share.

(e) Win for Life Prize: If the winning Lottery ticket received is a Win for Life top prize of $1,000 a week for life, the prize paid will be the lump sum guaranteed five year payment under the Win for Life game rules.

(f) Forfeiture of Unclaimed Prize: In the event that the Director is unable to locate the intended recipient or the anonymous donor, the winning Lottery ticket or share shall be retained until the end of the prize claim period. After the end of the prize claim period, the ticket or share shall constitute an unclaimed prize as described in OAR 177-010-0085 and shall be forfeited to the public purpose.

(g) Discharge of Lottery from Liability: The State of Oregon, its agents, officers, employees, and representatives, including but not limited to, the Oregon Lottery, its Director, agents, officers, employees, and representatives, are discharged of all liability upon payment of an anonymously donated prize in accordance with this rule and any applicable game rules to the extent that they do not conflict with this rule. The Lottery is not responsible in any way for the fulfillment or completion of the agreement between the intended recipient and the agent. The Lottery's decisions regarding the determination that a Lottery ticket or share donated anonymously is, or is not, a winning ticket or share or any question or dispute arising from the payment of such a prize is final and binding on all parties. In the event a question or issue arises regarding payment of a prize donated anonymously, the Director may withhold payment until the question or issue is resolved. The Lottery, the intended recipient or custodian, if the intended recipient is a minor, or the designated agent if the intended recipient is a non-profit group, may petition a court of competent jurisdiction for judicial resolution of the matter.

(8) Second Chance Drawing Prize: Sections (6) and (7) of this rule are not applicable to a prize claim from a second chance drawing. Prizes awarded by the Lottery from second chance drawings must be claimed in accordance with the provisions of OAR 177-052-0060 and only the person who submitted the winning entry in a second chance drawing may claim and be paid the prize.

(9) Social Security Numbers: Each United States resident who is to receive a payment of winnings greater than $600 shall furnish to the Lottery the information required on the Internal Revenue Service Form W-2G (or any other form required by the IRS,) including but not limited to the winner's name, address, and social security number. This disclosure is mandatory and the authority for such disclosure is 42 USC 405(c)(2)(C), 26 CFR 31.3402(q)-1(e), and ORS 461.715(1)(a). A winner's social security number will be used for the purpose of identifying child support obligors and submitting required documents to state and federal tax authorities.

(10) Payment Decisions: The Director shall make the final decision on whether any prize is paid or any annual prize payment is made. All prizes shall be paid within a reasonable time after they are validated, unless the Director delays a prize payment. The Director may, at any time, delay any prize payment in order to review the validity of a prize claim, or review a change of circumstances relative to the prize awarded, the payee, or the claim, or review any other relevant matter that may come to the Director's attention. Except as set forth in OAR 177-098-0060, for any prize requiring annual payments, all payments after the first payment shall be made on the anniversary date of the first payment in accordance with the type of prize awarded. Any delayed annual payment will be brought up to date immediately when payment is authorized by the Director.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260
Hist.: LOTT 12-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 23-2002, f. & cert. ef. 11-25-02; LOTT 10-2005(Temp), f. & cert. ef. 11-2-05 thru 4-28-06; LOTT 18-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08; LOTT 1-2008, f. 3-21-08, cert. ef. 3-31-08; LOTT 7-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 6-2010, f. 3-18-10, cert. ef. 3-21-10; LOTT 9-2010, f. 8-30-10, cert. ef. 9-5-10; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13; LOTT 2-2013, f. 6-24-13, cert. ef. 7-1-13; LOTT 3-2015, f. 9-25-15, cert. ef. 10-1-15

177-050-0024
Method of Determining Winners

(1) General: Winning tickets in a Scratch-it^{SM} game are determined at the time of manufacture when winning tickets are produced at random with the aid of equipment in accordance with the payout percentage and prize structure established for the game.

(2) Determination of a Winning Ticket: To determine a winning ticket, the official bar code or bar code number printed on the ticket must be scanned or manually entered at the Lottery's Headquarters in Salem, a Lottery Kiosk, other locations designated by the Director, or at a retail site

by a Lottery retailer into equipment connected to the Lottery's central computer system. If the ticket is a winner, Lottery's computer system will identify it as such based upon the official bar code or bar code number. Removing the latex covering on the playing surface of the ticket does not identify a winning ticket. The latex covering feature is offered for entertainment purposes only. The ticket holder must notify the Lottery or a retailer of the apparent winning ticket and submit it for validation as specified in these rules in order to claim a prize. The ticket must be validated in accordance with Lottery's administrative rules as may be amended from time to time before a prize may be paid.

(3) Second Chance Drawings: To determine a winner of a second chance drawing, the Lottery will follow the requirements set forth in OAR 177-052-0050.

(4) Highest Prize: Only the highest prize amount will be paid on a winning Scratch-it^{SM} ticket, except for games which are designed to offer multiple prizes. In all events, the determination of prize winners is subject to the general ticket validation requirements set forth in OAR 177-050-0027 and any additional requirements set forth on each Scratch-it^{SM} ticket. If the terms on a ticket conflict with the Lottery's administrative rules, then the rules are the controlling authority.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.230
Hist.: LC 7-1987, f. & ef. 4-29-87; LC 4-1990, f. & cert. ef. 4-3-90; LC 8-1990(Temp), f. & cert. ef. 6-26-90; LC 11-1990, f. & cert. ef. 8-21-90; LC 6-1993, f. & cert. ef. 7-1-93; LOTT 15-2001, f. & cert. ef. 12-3-01; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08; LOTT 1-2008, f. 3-21-08, cert. ef. 3-31-08; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13; LOTT 2-2013, f. 6-24-13, cert. ef. 7-1-13; LOTT 3-2015, f. 9-25-15, cert. ef. 10-1-15

177-050-0025
Payment of Prizes

(1) Prizes of $600 or Less: Prizes of $600 or less from winning Scratch-it^{SM} tickets shall be claimed by one of the following methods:

(a) Retailer Prize Payment: The player may present a winning Scratch-it^{SM} ticket to a Lottery retailer. The retailer shall determine whether the ticket entitles the holder to a prize, validate the claim with the Lottery by scanning the bar code or manually entering the bar code number printed on the ticket into equipment provided by the Lottery, and, if authorized by the Lottery, pay the player the prize amount due. A retailer that is authorized to pay a prize of $600 or less shall pay that prize in cash or by check, or any combination thereof.

(b) Lottery Prize Payment of $600 or Less: Upon validation of a winning ticket under OAR 177-050-0027, the Lottery will pay the amount of the prize to the player. Payment may be made by check, cash card, or in cash, or any combination thereof. If the ticket is determined to be invalid or a non-winning ticket, or the claim is invalid, the claim shall be denied and the claimant notified.

(A) Lottery Headquarters: Cash prize payments made at Lottery Headquarters, or other locations designated by the Director, are limited to $50 per person per day. Any prize payment balance remaining above $50 shall be paid by check. Payment may be made in person or by mail, except that the Lottery will not mail cash.

(B) Lottery Kiosk: Cash prize payments made at a Lottery kiosk are limited to $100 per transaction. Any prize payment balance remaining above $100 shall be paid by cash card.

(C) Prizes by Mail: A winning Scratch-it^{SM} ticket may be submitted to the Lottery by mail. If mailed, the player must sign the ticket, write the player's mailing address on the ticket, and mail it to the Oregon State Lottery, P.O. Box 14515, Salem, Oregon 97309. Registered mail is recommended.

(2) Prizes Greater than $600: A player must claim a winning Scratch-it^{SM} ticket prize of more than $600 by:

(a) Claiming in Person: Bringing the ticket to the Oregon State Lottery Headquarters, Player Services Office, 500 Airport Road SE, Salem, Oregon 97301 during Lottery business hours and presenting the ticket to the Lottery. Tickets and shares for prizes may also be presented at other locations and for such prize amounts as designated by the Director, unless the ticket or share specifies that it must be claimed at Lottery Headquarters in Salem, Oregon; or

(b) Claiming by Mail: Signing the ticket, writing the player's mailing address on the ticket, completing a winner claim form, and mailing it together with the winning ticket to the Oregon State Lottery, P.O. Box 14515, Salem, Oregon 97309. Registered mail is recommended. The winner claim form may be obtained from any Lottery retailer offering traditional games, from a Lottery kiosk, from the Lottery Headquarters at the addresses listed above, other locations designated by the Director, or downloaded from the Lottery's website.

(c) Lottery Prize Payment: Upon validation of a winning ticket under OAR 177-050-0027, the Lottery will pay by check the amount of the prize to the player, less any applicable tax withholding. If the ticket is determined to be invalid or a non-winning ticket, or the claim is invalid, the claim shall be denied and the player notified.

(3) Second Chance Drawing Prizes: Prizes awarded by the Lottery from second chance drawings must be claimed in accordance with the provisions of OAR 177-052-0060.

(4) Validation and Payment of Lost, Damaged, or Destroyed Tickets for Prizes Greater than $600: If a player of a Scratch-it^{SM} prize of more than $600 cannot submit an intact winning ticket because a Scratch-it^{SM} game retailer lost, damaged, or destroyed the ticket while attempting to perform validation procedures on the game ticket, a prize claim based on the lost, damaged, or destroyed ticket may still be validated provided the claim is made before the end of the one year claim period after the end of the game as described in OAR 177-050-0100.

(a) Player Form and Affidavit: To claim a prize based on a lost, damaged, or destroyed ticket, the player must obtain, complete, and sign a winner claim form and a claim affidavit furnished by the Lottery. The player shall submit the two completed forms along with any other evidence of the validation attempt that is in the player's possession (including, but not limited to, the "This is not a Ticket" slip produced by the terminal at the time of the validation attempt) to the Lottery at the addresses listed in section (1)(b) of this rule, either by mail (registered mail recommended) or in person at the Lottery Headquarters in Salem during Lottery business hours, or other locations designated by the Director.

(b) Evidence: The evidence submitted by the player must corroborate the validation attempt including, but not limited to, identification of the Lottery game retailer or clerk who attempted to validate the prize, the time and date of the validation attempt, the ticket validation number, the terminal number, and the prize amount.

(c) Investigation: The Assistant Director for Security will conduct an investigation to determine if the claim and winning game ticket are valid.

(d) Retailer Affidavit: A retailer who is the subject of an investigation conducted under this section must complete and provide to the Lottery a retailer affidavit form explaining the events in question.

(e) Director's Determination: Based upon all the facts and information available, the Director shall make a determination whether prize payment is warranted and authorized.

(f) Payment of Prize: Upon the Director's determination that the ticket submitted under this section is a valid, winning ticket, and that the player is the proper person to whom a prize is payable, the Lottery shall present or mail a check to the player in payment of the appropriate prize amount less any applicable tax withholding.

(g) Restriction of Payment: Payments of claims submitted under this section are restricted to the prize amount.

(h) Retailer Sanctions: The Director may sanction a Lottery game retailer for the loss, damage, or destruction of a winning Scratch-it^{SM} game ticket including, but not limited to, imposing a requirement for training for the retailer or the retailer's employees, and any other actions that the Lottery may take in response to a retailer's failure to perform contract duties or requirements as described in the Lottery retailer contract.

(i) Notification of Denial: If the ticket is determined to be invalid or a non-winning ticket, or the claim is invalid, the claim shall be denied and the player notified.

(5) Time Limit: A prize claim for a winning Scratch-it^{SM} ticket must be made under this rule within the time limit specified in OAR 177-050-0100. A prize claim from a second chance drawing must be made within the time limit specified in OAR 177-052-0060.

(6) Invalid Tickets: Any ticket not passing all applicable validation checks is invalid and void for claims made under OAR 177-050-0025(3). A player submitting an invalid or void ticket is ineligible for any prize and no prize shall be paid for such a ticket. An invalid ticket will not be returned to the player and is not eligible for any second chance or promotional drawing.

Stat. Auth.: ORS 461, OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250, 461.260
Hist.: SLC 4-1985(Temp), f. & ef. 1-29-85; SLC 8-1985, f. & ef. 6-21-85; SLC 4-1986, f. & ef. 2-25-86; SLC 27-1986, f. & ef. 11-24-86; LC 7-1987, f. & ef. 4-29-87; LC 4-1990, f. & cert. ef. 4-3-90; LC 8-1993, f. 9-22-93, cert. ef. 10-18-93; LOTT 15-2001, f. & cert. ef. 12-3-01; LOTT 13-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 24-2002, f. & cert. ef. 11-25-02; LOTT 10-2005(Temp), f. & cert. ef. 11-2-05 thru 4-28-06; LOTT 18-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08; LOTT 1-2008, f. 3-21-08, cert. ef. 3-31-08; LOTT 9-2008, f. 11-21-08, cert. ef. 12-1-08; LOTT 7-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13; LOTT 2-2013, f. 6-24-13, cert. ef. 7-1-13; LOTT 3-2015, f. 9-25-15, cert. ef. 10-1-15

177-050-0027
Ticket Validation Requirements

(1) General: Besides meeting all of the other requirements in OAR Chapter 177 and as may be printed on each ticket, the following validation requirements apply to Scratch-it^{SM} game tickets.

(2) Requirements: Except as provided in section (3) of this rule and OAR 177-050-0025(3), to be a valid Scratch-it^{SM} game ticket, all of the following requirements must be met:

(a) Play Symbols: Where applicable, each of the play symbols must have a play symbol caption underneath, and each play symbol must agree with its play symbol caption.

(b) Legibility: Where applicable, each of the play symbols and play symbol captions must be present in its entirety and be legible.

(c) Specifications: Each of the play symbols and its play symbol caption must be printed according to game specifications.

(d) Completeness of Information: The game number, pack number, ticket number, bar code, bar code number, and VIRN number must be present and all information must correspond with the Lottery's computer records.

(e) Printing Order: The play symbols, play symbol captions, game number, pack-ticket number, and VIRN number must be right-side-up and not reversed in any manner.

(f) Pack-Ticket Number: The ticket must have exactly one pack-ticket number.

(g) VIRN: The VIRN number of an apparent high-tier winning ticket must appear on the Lottery's official record of winning ticket VIRN numbers, and a ticket with that VIRN number must not have been paid previously.

(h) Artwork: Each of the following must correspond to the artwork on file at the Lottery: Play symbols on the ticket, play symbol captions, pack-ticket numbers, display printing, game numbers, retailer validation code, and ticket VIRN number.

(i) Multi-Page Tickets: In the case of Scratch-it^{SM} tickets consisting of multiple pages designed to remain intact, the individual pages must not be detached from each other. Such separated multi-page tickets will be considered damaged tickets.

(3) Lost, Damaged, or Destroyed Tickets for Prizes Greater than $600: If a player of a Scratch-it^{SM} prize of more than $600 cannot submit an intact winning ticket because a Scratch-it^{SM} game retailer lost, damaged, or destroyed the ticket while attempting to perform validation procedures on the game ticket, a prize claim based on the lost, damaged, or destroyed ticket may still be validated as set forth in OAR 177-050-0025(3), provided the claim is made before the end of the one year claim period after the end of the game as described in OAR 177-050-0100.

(a) Payment Process: When a prize payment is authorized by the Director under this section, the prize payment shall be validated as set forth in OAR 177-050-0025(3).

(b) Payment Restriction: Payments of prize claims submitted under this section are restricted to the prize amount.

(4) Damaged Tickets: Notwithstanding OAR 177-046-0090 and section (2) of this rule, the Director may pay the prize on a winning Scratch-it^{SM} ticket that is inadvertently or accidentally damaged so that it cannot be validated either through the Lottery's central computer system or because it is missing information required under section (2) of this rule, if the ticket is readable and is validated as a winning ticket by the Lottery's Security Section. For purposes of this rule, a Scratch-it^{SM} ticket is unreadable if there is insufficient information remaining on the ticket for the Lottery's Security Section to reconstruct and validate the ticket.

(a) Validation Process: When a prize payment is authorized by the Director under this section, the prize payment shall be validated as follows:

(A) Evidence: The player shall obtain, complete, and sign a winner claim form and a claim affidavit furnished by the Lottery. The player shall submit the two completed forms along with the damaged ticket, (including, but not limited to, all pages of a game book in the player's possession) to the Lottery at the addresses listed in section OAR 177-050-0025(1)(b), either by mail (registered mail is recommended) or in person at the Lottery's Headquarters in Salem during Lottery business hours, or other locations designated by the Director.

(B) Investigation: The Assistant Director for Security will conduct an investigation to determine if the claim and winning game ticket are valid.

(C) Director's Determination: Based upon all the facts and information available, the Director shall make a determination whether prize payment is warranted and authorized. The Director may require that such determination be made on the last day of the one year claim period following the end of the game, as described in OAR 177-050-0100. If the final date of the prize claim period falls on a date when the Oregon Lottery Headquarters is not open to the general public, such as a weekend, Lottery holiday, or furlough closure day, the claim period will be extended until 5:00 p.m. on the next day the Oregon Lottery Headquarters is open to the general public. Following validation, the Lottery shall issue the prize payment in the usual course of Lottery business.

(D) Payment of Prize: Upon the Director's determination that the ticket submitted under this section is a valid, winning ticket, and that the player is the proper person to whom a prize is payable, the Lottery shall present or mail a check to the player in payment of the appropriate prize amount less any applicable tax withholding.

(E) Notification of Denial: If the ticket is determined to be invalid or a non-winning ticket or the claim is invalid, the claim shall be denied and the player notified.

(b) Payment Restriction: Payment of a prize claim submitted under this section is restricted to the prize amount less any applicable tax withholding.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.250
Hist.: LC 7-1987, f. & ef. 4-29-87; LC 4-1988, f. & cert. ef. 1-26-88; LC 4-1990, f. & cert. ef. 4-3-90; LC 6-1993, f. & cert. e.f 7-2-93; LC 7-1995, f. & cert. ef. 7-7-95; LC 6-1996, f. 5-30-96, cert. ef. 6-1-96; LC 1-1997, f. 1-31-97, cert. ef. 2-1-97; LOTT 15-2001, f. & cert. ef. 12-3-01; LOTT 13-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 24-2002, f. & cert. ef. 11-25-02; LOTT 13-2004(Temp), f. & cert. ef. 11-29-04 thru 5-27-05; LOTT 3-2005, f. 4-27-05, cert. ef. 4-28-05; LOTT 10-2005(Temp), f. & cert. ef. 11-2-05 thru 4-28-06; LOTT 18-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 4-2007(Temp), f. 11-8-07, cert. ef. 11-12-07 thru 5-9-08; LOTT 1-2008, f. 3-21-08, cert. ef. 3-31-08; LOTT 9-2008, f. 11-21-08, cert. ef. 12-1-08; LOTT 2-2010, f. 1-29-10, cert. ef. 2-1-10; LOTT 3-2015, f. 9-25-15, cert. ef. 10-1-15

177-052-0060
Winner Notification and Claiming of Prizes

(1) Second Chance Prize Notification: If the entry is valid, the Lottery will notify the person who submitted the winning entry ("the winner") in a second chance drawing by e-mail. The Lottery may also notify the winner by telephone or by mailing a certified letter through the U.S. Postal Service. The effective date of notification is the date the initial e-mail notification is sent by the Lottery as noted electronically within the Lottery's information processing system.

(2) Time Limits for Claiming Prize: A winner of a second chance drawing has 60 calendar days from the date of the e-mail notification in which to claim the prize. A prize must be claimed by 5:00 p.m. on the last date to claim a prize and if not claimed by that date is an unclaimed prize. If the final date of the claim period falls on a day when the Oregon Lottery Headquarters is not open to the general public, such as a weekend, Lottery holiday, or furlough closure day, the claim period shall be extended until 5:00 p.m. on the next day the Oregon Lottery Headquarters is open to the general public.

(3) Forfeiture of Prize: If the winner of a second chance drawing is determined by the Lottery to be ineligible, the entry is invalid, or the winner fails to claim the prize within 60 calendar days as provided in section (2) of this rule, the prize is treated as an unclaimed prize and the winner forfeits the prize.

(4) Winner Claim Forms: To claim a prize in a second chance drawing, the winner must submit a winner claim form to the Lottery. To be valid, the winner claim form must contain the required information, such as name, address, signature or identifying mark, social security number (if applicable), and a valid reference number. Only the person who submitted the entry may claim the prize (the winner). A second chance drawing prize may not be claimed by multiple owners. A valid winner claim form must be received by the Lottery within the applicable time period for claiming a prize. An invalid winner claim form will not be accepted by the Lottery and will be returned to the claimant. The winner may resubmit a valid claim form as long as the time for claiming the prize has not expired.

(a) Electronic Claim Form: The Lottery may require that the winner submit an electronic winner claim form through the Internet. The electronic winner claim form is received by the Lottery when the form enters the Lottery's information processing system in a retrievable form. The electronic winner claim form will be deemed received at the time and date noted electronically by the Lottery's information processing system. An electronic winner claim form must include the winner's electronic signature that meets the requirements specified by the Lottery on the instructions for the winner claim form.

(b) Paper Claim Form: Unless specified otherwise, the Lottery may permit a winner to submit a paper winner claim form. The paper winner claim form is deemed received by fax to (503) 540-1001 or upon physical delivery to the Oregon State Lottery, Player Services Office, 500 Airport Road SE, Salem, Oregon 97301, or other locations and for such prize

amounts as designated by the Director, either in person, or by delivery service, or through the U.S. mail to the Oregon State Lottery, P.O. Box 14515, Salem, Oregon 97309. The winner claim form must be received by the Lottery during the Lottery's business hours, Monday through Friday, 8:00 a.m. to 5:00 p.m. PST, excluding holidays and furlough closure days.

(5) Verification of Identity: The Lottery may require the winner to present valid proof of identity to confirm that the winner is the registered member who submitted the second chance drawing entry. If the Lottery is unable to confirm the person claiming the prize is the registered member, the person is ineligible to receive a prize.

(6) Delivery of Prize: The Lottery may require the winner of a second chance drawing prize to claim the winner's prize at the Oregon State Lottery Headquarters, 500 Airport Road SE, Salem, Oregon 97301, or the Lottery may mail or otherwise deliver the prize to the winner's address if it is within the United States.

(7) Taxes and Fees: Unless otherwise stated by the Lottery in the terms and conditions for a particular second chance drawing, all taxes and fees are the responsibility of the winner claiming the prize.

Stat. Auth.: ORS 461 & OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.220, 461.230 & 461.250
Hist.: LOTT 5-2011(Temp), f. & cert. ef. 9-2-11 thru 1-29-12; LOTT 7-2011, f. 11-21-11, cert. ef. 12-1-11; LOTT 1-2013(Temp), f. & cert. ef. 2-1-13 thru 7-27-13; LOTT 2-2013, f. 6-24-13, cert. ef. 7-1-13; LOTT 3-2015, f. 9-25-15, cert. ef. 10-1-15

177-070-0025
Payment of Prizes

(1) Prizes of $600 or Less: To claim a Draw game prize of $600 or less, the claimant may present the winning Draw game ticket to any Draw game retailer, the Lottery Headquarters in Salem, Oregon, a Lottery Kiosk, or any other location designated by the Director:

(a) Retailer Payment: If the claim is presented to a Draw game retailer, the retailer shall validate the claim and, if determined to be a winning ticket, shall make payment of the amount due the claimant during the prize redemption hours agreed upon between the retailer and the Lottery. The retailer may pay prizes in cash or check, or any combination thereof. If the retailer cannot validate the claim, the claimant may obtain and complete a claim form and submit it with the disputed ticket to the Lottery by mail or in person.

(b) Lottery Payment: The claimant may submit a winning ticket, either by mail or in person to the Lottery for payment at the addresses listed in section (2)(a) below or to a Lottery kiosk. Upon validation that the ticket is a winning ticket under OAR 177-070-0035, the Lottery shall pay the amount of the prize to the claimant. Payment may be made by check, cash card, or in cash, or any combination thereof. If the ticket is determined to be invalid or a non-winning ticket, or the claim is invalid, the claim shall be denied and the claimant notified.

(A) Lottery Headquarters: Cash prize payments made at Lottery Headquarters, or other locations designated by the Director, are limited to $50 per person per day. Any prize payment balance remaining above $50 shall be paid by check. Payment may be made in person or by mail, except that the Lottery will not mail cash.

(B) Lottery Kiosk: Cash prize payments made at Lottery kiosks are limited to $100 per transaction. Any prize payment balance remaining above $100 shall be paid by cash card.

(2) Prizes Greater than $600:

(a) Winner Claim Form: To claim a Draw game prize of more than $600, the claimant shall obtain and complete a "Winner Claim Form." The claimant may submit the Winner Claim Form with the winning ticket in person to Lottery Headquarters, Player Services Office, 500 Airport Road SE, Salem, Oregon. Tickets and shares for prizes may also be presented at other locations and for such prize amounts as designated by the Director, unless the ticket or share specifies that it must be claimed at Lottery Headquarters in Salem, Oregon. A claimant may mail a winning ticket and Winner Claim Form to the Lottery Headquarters, P.O. Box 14515, Salem, Oregon 97309 (registered mail recommended).

(b) Prize Payment: Upon validation of a winning ticket, the Lottery shall present or mail a check to the claimant in payment of the amount due, less any applicable tax withholding. The amount due shall be calculated according to the rules adopted for the particular Draw game. If the ticket is determined to be a non-winning ticket or invalid, the claim shall be denied and the claimant notified. Non-winning or invalid tickets will not be returned to the claimant.

(c) Prize Payment of Lost, Damaged, or Destroyed Tickets:

(A) When a prize payment is authorized by the Director under OAR 177-070-0035(4), the prize payment shall be validated through the Lottery's central computer system on the last day of the eligible prize claim period. If the prize claim period expires on a day when the Oregon Lottery Headquarters is not open to the general public, such as a weekend, Lottery holiday, or furlough closure day, the claim period shall be extended until 5:00 p.m. on the next day the Oregon Lottery Headquarters is open to the general public. Following validation, the Lottery shall issue the prize payment in the usual course of Lottery business.

(B) Prize payments made under this subsection shall be restricted to the prize amount under the prize structure for the Draw game in which the ticket was purchased.

(3) Last Date to Claim a Prize: The last date to claim a prize is one calendar year from the date the drawing results become official and final, unless the Lottery Commission defines a shorter time period to claim a prize in a particular Draw game. A prize must be claimed by 5:00 p.m. on the last date to claim a prize and if not claimed by that date is an unclaimed prize. If the final date of the claim period falls on a day when the Oregon Lottery Headquarters is not open to the general public, such as a weekend, Lottery holiday, or furlough closure day, the claim period shall be extended until 5:00 p.m. on the next day the Oregon Lottery Headquarters is open to the general public.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.260
Hist.: SLC 11-1985(Temp), f. & ef. 10-24-85; SLC 5-1986, f. & ef. 3-5-86; LC 20-1987, f. 10-26-87, ef. 11-2-87; LC 4-1990, f. & cert. ef. 4-3-90; LC 6-1993, f. & cert. ef. 7-2-93; LC 4-1995, f. 4-27-95, cert. ef. 5-1-95; LC 7-1995, f. & cert. ef. 7-7-95; LOTT 4-2000(Temp), f. 6-15-00, cert. ef. 6-15-00 thru 12-12-00; LOTT 7-2000, f. & cert. ef. 10-4-00; LOTT 15-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 26-2002, f. & cert. ef. 11-25-02; LOTT 10-2005(Temp), f. & cert. ef. 11-2-05 thru 4-28-06; LOTT 18-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 6-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 7-2009, f. 9-28-09, cert. ef. 10-1-09; LOTT 2-2010, f. 1-29-10, cert. ef. 2-1-10; LOTT 3-2015, f. 9-25-15, cert. ef. 10-1-15

177-075-0020
Determination of Prize Winners

(1) General: Prizes shall be determined and awarded on the following basis: [Table not included. See ED. NOTE.]

(2) Grand Prize: A Grand prize of less than $100,000 will be paid in a lump sum. A Grand prize with a value of $100,000 and more will be paid in the form of the prevailing maximum acceptable annuity which can be purchased with the Grand prize pool. The annuity will provide for 30 equal periodic payments, the first immediately and the other 29 annually on the anniversary date (or the first regular business day thereafter) of the applicable Megabucks drawing.

(3) Match 5 of 6, 4 of 6, and 3 of 6 Prizes: Match 5 of 6 and 4 of 6 prize winners will be paid in a lump sum. Match 3 of 6 prize winners with a Kicker game play will be paid in a lump sum. Match 3 of 6 prize winners who did not select a Kicker game play on the winning ticket shall receive a free Megabucks ticket valued at $1.00 except when such prize is redeemed at Lottery Headquarters, or other locations designated by the Director, in which event the winner will either be paid $1.00 by check or receive a free $1 ticket.

(4) Highest Prize: Players are eligible to receive only the highest prize for each winning game play.

(5) Rounding: Notwithstanding the allocations in section (1) of this rule, shares in each prize category shall be rounded down to the nearest $0.10 and each winning game play in each prize category shall be considered to be a single unit equal to one share of that prize category. All breakage (amounts left over after rounding down) shall be carried forward to the prize pool for the next drawing.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.220
Hist.: SLC 11-1985(Temp), f. & ef. 10-24-85; SLC 6-1986, f. & ef. 3-5-86; SLC 12-1986, f. 5-28-86, ef. 6-1-86; SLC 22-1986(Temp), f. 8-26-86, ef. 9-21-86; LC 19-1987, f. & ef. 9-28-87; LC 4-1990, f. & cert. ef. 4-3-90; LC 9-1990, f. 7-20-90, cert. ef. 8-5-90; LC 8-1992, f. & cert. ef. 7-23-92; LC 6-1993, f. & cert. ef. 7-2-93; LC 3-1994, f. 2-24-94, cert. ef. 3-1-94; LC 3-1995, f. & cert. ef. 4-27-95; LOTT 8-2001(Temp), f. & cert. ef. 5-18-01 thru 11-9-01; LOTT 11-2001, f. & cert. ef. 8-7-01; LOTT 16-2002(Temp), f. 9-6-02, cert. ef. 9-9-02 thru 3-6-03; LOTT 27-2002, f. & cert. ef. 11-25-02; LOTT 1-2015, f. 9-25-15, cert. ef. 10-4-15; LOTT 3-2015, f. 9-25-15, cert. ef. 10-1-15

177-075-0040
Probability of Winning

(1) General: The following tables set forth the probability of winning and the probable distribution of winners in and among each prize category, based upon the total number of possible combinations of six drawn from a field of 48 numbers. [Table not included. See ED. NOTE.]

(2) Supplemental: If there is no Megabucks prize winner for the match 5 of 6 and 4 of 6 prize categories, the Megabucks Plus Kicker match 5 of 6 prize shall be $3200 and the Megabucks Plus Kicker match 4 of 6 prize shall be $160.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.220
Hist.: SLC 11-1985(Temp), f. & ef. 10-24-85; SLC 6-1986, f. & ef. 3-5-86; SLC 12-1986, f. 5-28-86, ef. 6-1-86; LC 10-1989(Temp), f. 4-25-89, cert. ef. 4-30-89; LC 11-1989, f. & cert. ef. 7-6-89; LC 9-1990, f. 7-20-90, cert. ef. 8-5-90; LC 10-1990(Temp), f. & cert. ef. 8-21-90; LC 13-1990, f. & cert. ef. 11-1-90; LC 2-1993, f. & cert. ef. 2-25-93; LC 3-1995, f. & cert. ef. 4-27-95; LOTT 8-2001(Temp), f. & cert. ef. 5-18-01 thru 11-9-01; LOTT 11-2001, f. & cert. ef. 8-7-01; LOTT 3-2013(Temp), f. & cert. ef. 8-29-13 thru 2-14-13; LOTT 6-2013, f. 11-25-13, cert. ef. 12-1-13; LOTT 1-2015, f. 9-25-15, cert. ef. 10-4-15; LOTT 3-2015, f. 9-25-15, cert. ef. 10-1-15

177-085-0020
Prize Claims

(1) General: A ticket, subject to the validation requirements set forth in OAR 177-085-0040, is the only proof of a game play or plays. The submission of a winning ticket to the Lottery or an authorized retailer as required by OAR 177-046-0110 is the sole method of claiming a prize or prizes, except that a Grand Prize (and a Match 5+0 prize) must be claimed in person at Lottery Headquarters. Tickets may also be presented at other locations and for such prize amounts as designated by the Director, unless the ticket specifies that it must be claimed at Lottery Headquarters in Salem, Oregon. A game slip or a copy of a ticket has no pecuniary or prize value and does not constitute evidence of ticket purchase or of numbers selected. A terminal produced paper receipt has no pecuniary or prize value and does not constitute evidence of ticket purchase or of numbers selected.

(2) Prize Claims: Powerball® prize claim procedures are governed by the administrative rules of the Oregon State Lottery. MUSL and the Party Lotteries are not responsible for Powerball® prizes that are not claimed following the proper procedures as determined by the Oregon State Lottery.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.250
Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03; LOTT 7-2005(Temp), f. 8-8-05, cert. ef. 8-28-05 thru 2-23-06; LOTT 23-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 11-2008, f. 11-21-08, cert. ef. 1-4-09; LOTT 9-2011, f. 12-20-11, cert. ef. 1-15-12; LOTT 4-2013, f. 9-27-13, cert. ef. 10-1-13; LOTT 3-2015, f. 9-25-15, cert. ef. 10-1-15

177-200-0020
Payment of Video Lottery^{SM} Game Cash Slips

(1) Original Cash Slip: Except as set forth in sections (7) and (8) of this rule, an original cash slip is the only valid receipt for claiming prizes or for redeeming credits remaining on a terminal. A copy of a cash slip has no pecuniary or prize value and does not constitute evidence of a cash slip.

(2) Retailer Validation Requirements: A retailer shall pay a cash slip only if:

(a) The cash slip is presented for payment at the retailer location that issued the cash slip.

(b) The individual presenting the cash slip is 21 years of age or older and authorized to play under these rules and Oregon statutes.

(c) The cash slip is presented to the retailer within 28 days of the date it was properly issued.

(d) It is intact and legible and meets all the Lottery's security requirements.

(e) It is not counterfeit, fraudulent, lacking the correct captions, altered, tampered with in any manner, or obtained from the Lottery or Lottery retailer by any fraudulent means.

(f) The information appearing on the cash slip corresponds with the computer record of the cash slip data recorded in the Lottery's central computer system.

(g) It has not been previously paid, and

(h) It is not a prize that must be validated and paid at Lottery Headquarters in Salem, such as a Jackpot Prize.

(3) Retailer Validation Exception: If a cash slip is not intact or legible, the prize or credits that would have otherwise appeared on the cash slip may nevertheless be paid by the retailer as follows:

(a) Software Validation: Upon notification by a player that a Video Lottery^{SM} game terminal issued a cash slip that is not intact or legible, the retailer shall obtain a validation number from the terminal. If the retailer is able to obtain a validation number from the terminal that corresponds to the time and amount of the credits claimed by the player, then the retailer shall validate the prize or credits that would otherwise have appeared on the cash slip through the validation terminal and pay the player.

(A) Software Validation Report: If the retailer pays the player pursuant to section (3)(a) of this rule, the retailer must complete a Retailer Software Validation Report signed by the player and the retailer. The retailer must retain the report for one year. The retailer must group the reports by month and must make them available for audit by the Lottery immediately upon request. The retailer must retain and attach the damaged or illegible cash slips to the reports.

(B) Validation Number Unavailable: If the retailer is unable to obtain a validation number from the terminal that corresponds to the time and amount of the credits claimed by the player as required by subsection (3)(a), the player may request payment of the cash slip from the Lottery as provided in section (8) of this rule.

(b) Jackpot Prize Cash Slip Not Issued, Intact, or Legible: If a cash slip for a Jackpot Prize is not intact or legible, the player and the retailer must complete a Video Problem Report form, attach the cash slip or all available portions of the cash slip to the form if available, and must submit the form and the cash slip to the Lottery for investigation. The Jackpot Prize may be paid as set forth in section (7) and (8) of this rule.

(4) Limitation on Retailer Validation and Payment of Cash Slip: A retailer must not attempt to validate, and may not pay, a cash slip for any Jackpot Prize. A retailer shall only validate and pay non-Jackpot Prize cash slips issued by Video Lottery^{SM} game terminals located on its premises.

(5) Retailer Payment of Cash Slip: Upon validation of a cash slip as set forth in sections (2) and (3) of this rule, a retailer may pay the amount due in cash or check, or any combination thereof. A retailer must not pay a cash slip in tokens, chips, or merchandise, or charge a fee for paying a cash slip or for issuing payment.

(a) Dishonored Retailer Check: If a retailer's check is dishonored, the player may seek payment from the Lottery by presenting a copy of the dishonored check to Lottery Headquarters, Player Services Office, 500 Airport Road SE, Salem, Oregon during Lottery business hours, other locations designated by the Director, or by mailing a copy of the dishonored check with a winner claim form to Lottery Headquarters, P.O. Box 14515, Salem, Oregon 97309. If the Lottery determines that payment of the cash slip is authorized, the retailer has not paid the cash slip, and it is unlikely that the retailer will pay the cash slip, the Lottery may then issue a check to the claimant in the amount of the cash slip. Lottery may require submission of the original check issued by the retailer prior to making payment to the player.

(b) Possible Contract Termination: A retailer that pays a cash slip with a check that is dishonored may be subject to termination of the Lottery Retailer Contract.

(6) Lottery Validation and Payment of Cash Slips: Payment of a cash slip may be made at Lottery Headquarters, Player Services, 500 Airport Road SE, Salem, Oregon. Cash slips may also be presented at other locations and for such prize amounts as designated by the Director, unless the cash slip specifies that it must be claimed at Lottery Headquarters in Salem, Oregon. Validation and payment of a cash slip for a Jackpot Prize must be made at Lottery Headquarters in Salem. The cash slip must be presented for payment no sooner than the next Lottery business day after it is issued, must meet all of the requirements in sections (1) and (2) of this rule, and must be delivered to the Lottery in person or by mail at P.O. Box 14515, Salem, Oregon 97309 (registered mail recommended) before 5:00 P.M. within one year of the date that the cash slip was issued. If the final day of the one-year claim period falls on a day when the Oregon Lottery Headquarters is not open to the general public, such as a weekend, Lottery holiday, or furlough closure day, the claim period shall be extended until 5:00 p.m. on the next day the Oregon Lottery Headquarters is open to the general public. Upon validation of a cash slip, the Lottery will pay the amount due less any applicable tax withholding. For cash slips of $600 or less, payment may be made by check, cash card, or any combination thereof. For cash slips of more than $600, payment will be made by check. Payment may be made in person or by mail.

(7) Lack of Cash Slip or Validation Number: If a player does not have a cash slip, or a retailer was unable to obtain a validation number, the Lottery will conduct an investigation of a claim presented for payment to the Lottery. The investigation will determine the reasons or causes for the failure of the terminal to produce a cash slip or to print an intact and legible cash slip, and why the retailer was unable to obtain a validation number.

(a) Payment: The Lottery may pay the claim if the Lottery can determine from its investigation that the credit was on the terminal identified by the player at the time claimed, and that no cash slip has been paid on the claim.

(b) Signed Statement: The Lottery will not pay any such claim without a signed statement by a player. The player's statement must contain game play information that can be compared to data in the Lottery's central computer system that substantiates that the player won a prize in the amount and at the time claimed, and information from which the Lottery reasonably can determine that the claim has not been paid.

(c) Jackpot Prize: The Lottery will not pay the claim for a Jackpot Prize without receipt of a Video Problem Report form as described in section (3)(b) of this rule.

(8) Lottery Validation Exceptions: If a cash slip cannot be validated because the cash slip data is not recorded on the Lottery's central computer system, the Director may still authorize payment if:

(a) The Lottery conducts an investigation of the claim, and

(b) The Director concludes that the claimant was an authorized player and that the absence of a record of the cash slip data in the Lottery's central computer system was the result of either a technical problem in the Video Lottery^{SM} game terminal or a communications problem that prevented the recording of the credits in the Lottery's central computer system.

(9) Subsequent Claims: If a cash slip improperly paid by a retailer is later submitted for payment to the Lottery, the Lottery may collect the amount of the cash slip from the retailer's EFT account. The Lottery may conduct an investigation to determine if the Lottery properly made payment.

(10) Withholding of Payment: The Lottery may withhold payment of any cash slip claim presented to it until the expiration of the 28-day prize claim period at the retailer's location for prizes payable by the retailer or until the completion of any investigation by the Lottery to determine if payment is proper.

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)
Stats. Implemented: ORS 461.250
Hist.: LC 8-1991, f. & cert. ef. 11-25-91; LC 9-1993, f. 11-18-93, cert. ef. 12-1-93; LC 9-1994, f. 8-19-94, cert. ef. 9-1-94; LC 1-1995, f. 1-25-95, cert. ef. 3-1-95; LC 6-1996, f. 5-30-96, cert. ef. 6-1-96; LC 4-1997, f. & cert. ef. 4-25-97; LOTT 7-2003(Temp), f. & cert. ef. 6-5-03 thru 11-28-03; LOTT 15-2003, f. & cert. ef. 9-29-03; LOTT 10-2005(Temp), f. & cert. ef. 11-2-05 thru 4-28-06; LOTT 18-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 2-2010, f. 1-29-10, cert. ef. 2-1-10; LOTT 4-2010(Temp), f. 3-10-10, cert. ef. 3-15-10 thru 9-4-10; LOTT 9-2010, f. 8-30-10, cert. ef. 9-5-10; LOTT 6-2011(Temp), f. 9-15-11, cert. ef. 9-18-11 thru 3-5-12; LOTT 8-2011, f. 11-21-11, cert. ef. 12-1-11; LOTT 3-2015, f. 9-25-15, cert. ef. 10-1-15

177-200-0077
Specialty Games

(1) General: The Lottery may offer Specialty Games. Specialty Games may be offered as poker games or video line games.

(2) Validation of Jackpot Prize Cash Slip: A cash slip issued for a Jackpot Prize may only be validated and may only be paid at Lottery Headquarters in Salem, or other locations designated by the Director, pursuant to section (3) of this rule.

(3) Payment of Jackpot Prizes: A Jackpot Prize of more than $600 must be claimed by:

(a) Claiming in Person: Bringing the cash slip issued for the Jackpot Prize to the Lottery Headquarters, Player Services Office, 500 Airport Road SE, Salem, Oregon, or other locations designated by the Director, during Lottery business hours. The cash slip must be presented to the Lottery no sooner than the next Lottery business day following issuance; or

(b) Claiming by Mail: Signing the cash slip issued for the Jackpot Prize in the designated area on the cash slip, writing the individual's mailing address on the cash slip in the place indicated on the cash slip, completing a winner claim form, and mailing it together with the winning cash slip to the Lottery Headquarters, P.O. Box 14515, Salem, Oregon 97309. Registered mail is recommended. The winner claim form may be obtained from any Lottery retailer, from a Lottery kiosk, from the Lottery Headquarters at the addresses listed above, other locations designated by the Director, or downloaded from the Lottery's website.

(c) Claiming a Jackpot Prize Jointly: If more than one name appears in the designated area on a cash slip issued for a Jackpot Prize, the cash slip must be redeemed in accordance with the provisions of OAR 177-046-0110(6)(a) through (h) for tickets and shares.

Stat. Auth.: ORS 461 & OR Constitution Art. XV, Sec. 4(4)
Stats. Implemented: ORS 300, 461 & 461.335
Hist.: LOTT 4-2010(Temp), f. 3-10-10, cert. ef. 3-15-10 thru 9-4-10; LOTT 9-2010, f. 8-30-10, cert. ef. 9-5-10; LOTT 3-2015, f. 9-25-15, cert. ef. 10-1-15

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Oregon Youth Authority
Chapter 416

Rule Caption: Clarifying authorized representative for purposes of issuing an APB or arrest order on youth offenders.
Adm. Order No.: OYA 5-2015
Filed with Sec. of State: 10-7-2015
Certified to be Effective: 10-7-15
Notice Publication Date: 9-1-2015
Rules Amended: 416-320-0010, 416-320-0020, 416-320-0030
Subject: The amendments clarify who is a superintendent's authorized representative when issuing an all-points-bulletin or arrest order on youth offenders in the community or who may have escaped from close custody. Also updates definitions and Oregon statute references.
Rules Coordinator: Winifred Skinner—(503) 373-7570

416-320-0010
Definitions

(1) "All Points Bulletin (APB)" means a notification that OYA sends to Oregon law enforcement agencies to advise them that a youth offender has escaped from a close-custody facility or is absent without authorization from parole status in the community.

(2) "Superintendent's authorized representative" means a camp director or Community Services management staff.

(3) "Youth offender" means a person who has been found to be within the jurisdiction of the juvenile court under ORS 419C.005 for an act committed when the person was under 18 years of age, and who has been placed in the legal and physical custody of OYA.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 420.905 – 420.915
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 7-2003, f. & cert. ef. 9-23-03; OYA 5-2015, f. & cert. ef. 10-7-15

416-320-0020
Placement of APBs and Arrest Orders

(1) OYA will issue an All Points Bulletin (APB) and arrest order when a youth offender:

(a) Escapes or is absent without authorization from a close-custody facility;

(b) Is absent without authorization from parole supervision in the community; or

(c) Violates the youth offender's conditions of parole.

(2) An OYA superintendent or superintendent's authorized representative may issue an APB or arrest order; or request the committing court to issue a warrant.

(3) OYA staff authorizing an APB or arrest order must ensure that reasonable grounds exist for placing an APB or arrest order prior to issuance.

(4) OYA must document the name and address of the person or agency to whom the APB or arrest order was sent.

(5) OYA must immediately contact the placing facility or court to cancel the APB or arrest order when the youth offender has been detained.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 420.905 - 420.915
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 7-2003, f. & cert. ef. 9-23-03; OYA 5-2015, f. & cert. ef. 10-7-15

416-320-0030
Exceptions

These rules do not apply to offenders placed in OYA supervision via an interstate compact, to offenders placed in OYA facilities under ORS 137.124, or to offenders transferred to a youth correctional facility from a county sheriff. If an APB or arrest warrant is necessary in one of these cases, OYA will immediately notify the appropriate party (interstate compact administrator, Oregon Department of Corrections, or county sheriff).

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 420.905 – 420.915
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 7-2003, f. & cert. ef. 9-23-03; OYA 5-2015, f. & cert. ef. 10-7-15

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Rule Caption: OYA is now considered a "criminal justice agency" when conducting criminal records checks.
Adm. Order No.: OYA 6-2015
Filed with Sec. of State: 10-7-2015
Certified to be Effective: 10-7-15
Notice Publication Date: 9-1-2015
Rules Amended: 416-800-0000, 416-800-0010, 416-800-0020, 416-800-0031, 416-800-0041, 416-800-0045, 416-800-0050, 416-800-0055, 416-800-0065, 416-800-0070, 416-800-0080, 416-800-0090, 416-800-0095
Subject: OYA is now considered a "criminal justice agency" for purposes of conducting criminal records checks. As a result, a subject individual no longer has the right to a contested case hearing to challenge a fitness determination. However, OYA Foster Care Providers

and Foster Care Provider applicants may still appeal a fitness determination by requesting a contested case hearing.
Rules Coordinator: Winifred Skinner—(503) 373-7570

416-800-0000
Purpose

(1) The Oregon Youth Authority (OYA) seeks to ensure the security and safety of the offenders in its care and custody. OYA values excellence in public service, partnerships with local communities and other agencies, openness and accountability and provision of service in a fair, respectful, and humane manner. As a state agency, OYA employees serve as public officials. As public officials, OYA employees must adhere to ethics and boundaries described in statute and agency policy. OYA expects its Volunteers, contractors, and Foster Care Providers to also maintain these ethics and boundaries.

(2) These rules control how OYA accesses Criminal Offender Information about a Subject Individual through Criminal Records Checks and its use of that information to determine whether the Subject Individual is fit to provide services to OYA as an employee, Volunteer, Foster Care Provider, contractor, or vendor. The fact that OYA approves a Subject Individual as fit does not guarantee the individual a position as an OYA employee, Volunteer, Foster Care Provider, contractor, or vendor.

Stat. Auth.: ORS 420A.021
Stats. Implemented: ORS 420A.010, 420A.020, 420A.021
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 5-1997, f. & cert. ef. 10-13-97; OYA 8-2002, f. & cert. ef. 1-18-02; OYA 8-2003, f. & cert. ef. 9-23-03; OYA 11-2005, f. & cert. ef. 4-20-05; OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10; OYA 6-2015, f. & cert. ef. 10-7-15

416-800-0010
Definitions

(1) Approved: Pursuant to a preliminary Fitness Determination under OAR 416-800-0041 or a final Fitness Determination under OAR 416-800-0050, OYA has determined that the Subject Individual is fit to be an employee, Volunteer, Foster Care Provider, contractor, or vendor in a position covered by OAR 416-800-0020.

(2) Conviction: A final judgment on a verdict or finding of guilty, a plea of guilty, a plea of nolo contendere (no contest), or any determination of guilt entered by a court of law against a Subject Individual in a criminal case, unless that judgment has been reversed or set aside by a subsequent court decision.

(3) Criminal Offender Information: Records and related data as to physical description and vital statistics, fingerprints received and compiled by the Oregon Department of State Police Bureau of Criminal Identification for purposes of identifying criminal offenders and alleged offenders, records of arrests and the nature and disposition of criminal charges, including sentencing, confinement, parole and release.

(4) Criminal Records Check: One or more of the following processes undertaken to check the criminal history of a Subject Individual:

(a) Computerized Criminal Records Check: A check of Criminal Offender Information conducted through use of the Law Enforcement Data Systems (LEDS), including information from the Federal Bureau of Investigation's (FBI) National Crime Information Center (NCIC), and the National Law Enforcement Telecommunications System (NLETS).

(b) Fingerprint-based Criminal Records Check: A national check of federal Criminal Offender Information through the submission of fingerprints and other identifying data, conducted by the Oregon Department of State Police through the Federal Bureau of Investigation or otherwise at OYA's request.

(5) Denied: A determination by OYA pursuant to a preliminary Fitness Determination under OAR 416-800-0041 or a final Fitness Determination under OAR 416-800-0050, that the Subject Individual is not fit to be an employee, Volunteer, Foster Care Provider, contractor, or vendor in a position covered by OAR 416-800-0020.

(6) False Statement: In association with an activity governed by these rules, a Subject Individual either: (a) provided OYA with materially false information about his or her criminal history, such as, but not limited to, materially false information about his or her identity or Conviction record; or (b) failed to provide to OYA information material to determining his or her criminal history.

(7) Fitness Determination: A determination made pursuant to the process established in OAR 416-800-0041 (preliminary Fitness Determination) or 416-800-0050 (final Fitness Determination) that a Subject Individual is or is not fit to be an employee, Volunteer, contractor, vendor, or Foster Care Provider in a position covered by OAR 416-800-0020.

(8) Foster Care Provider: A person who supervises a youth offender in a youth offender foster home setting, including proctor parents as defined in OAR 416-530-0110(4); transitional care respite providers as defined in OAR 416-530-0200(2)(d); transitional care providers as defined in OAR 416-530-0200(2)(f); and foster parents as defined in 416-530-0010(12).

(9) Member of the Household: Any person, other than an OYA offender, who lives in an OYA offender's home, on the property where an OYA offender's home is located, is a frequent visitor to the home or who assists in the care provided to an OYA offender including but not limited to Volunteers or a person providing services such as tutoring, recreation, relief care, household chores, or other services, whether paid or unpaid.

(10) Subject Individual: An individual identified in OAR 416-800-0020 as someone from whom OYA may require a Criminal Records Check.

(11) Volunteers: Persons who, as defined in OAR 416-450-0010, provide services to OYA on a non-paid basis.

Stat. Auth.: ORS 420A.021
Stats. Implemented: ORS 420A.010, 420A.020, 420A.021
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 5-1997, f. & cert. ef. 10-13-97; OYA 8-2002, f. & cert. ef. 1-18-02; OYA 8-2003, f. & cert. ef. 9-23-03; OYA 11-2005, f. & cert. ef. 4-20-05; OYA 15-2005, f. & cert. ef. 6-30-05; OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10; OYA 6-2015, f. & cert. ef. 10-7-15

416-800-0020
Subject Individuals

"Subject Individual" means a person who is required to complete a Criminal Records Check pursuant to these rules and from whom OYA may require fingerprints for the purpose of conducting a Criminal Records Check because the person:

(1) Is employed or applying for employment with OYA; or

(2) Provides services or seeks to provide services to OYA as a contractor, vendor, or Volunteer; or

(3) Operates or is an applicant to operate a youth offender foster home, or who is an adult Member of the Household in the foster home.

Stat. Auth.: ORS 420A.021
Stats. Implemented: ORS 420A.010, 420A.020, 420A.021
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 5-1997, f. & cert. ef. 10-13-97; OYA 8-2002, f. & cert. ef. 1-18-02; OYA 8-2003, f. & cert. ef. 9-23-03; OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10; OYA 6-2015, f. & cert. ef. 10-7-15

416-800-0031
Criminal Records Check Process

(1) Disclosure of Information by Subject Individual.

(a) Preliminary to a Criminal Records Check, Subject Individuals must complete and sign a consent for criminal record check form and, if requested by OYA, a fingerprint card or scan form. The consent form may require the following information: name, date of birth, Social Security Number, physical characteristics, driver's license or identification numbers, current address, prior residences, and any other information deemed necessary by OYA. The consent form may also require details concerning any circumstance listed in OAR 416-800-0041(3)(a)–(e).

(b) A Subject Individual must complete and submit to OYA the consent form and, if requested, a fingerprint card or scan form within three business days of receiving the forms.

(c) If the Oregon State Police or the FBI returns a Subject Individual's fingerprint card or scan to OYA as "unreadable," OYA may require the Subject Individual to submit a new fingerprint card or scan within a reasonable period of time, as established by OYA.

(d) Within a reasonable period of time, as established by OYA, a Subject Individual will disclose additional information as requested by OYA in order to resolve any issue(s) hindering the completion of a criminal record check.

(2) When a Criminal Records Check is Conducted. OYA may conduct, or request that the Oregon State Police conduct, a Criminal Records Check when:

(a) An individual meets the definition of a Subject Individual; or

(b) Required by federal law or regulation, by state or administrative rule, or by contract or written agreement with OYA.

(3) Which Criminal Records Check Is Conducted. When OYA determines under section (2) of this rule that a criminal record check is needed, OYA may request or conduct a computerized records check, a fingerprint-based records check, or both.

Stat. Auth.: ORS 420A.021
Stats. Implemented: ORS 181.557, 420A.010, 420A.020, 420A.021
Hist.: OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10; OYA 6-2015, f. & cert. ef. 10-7-15

416-800-0041
Preliminary Fitness Determination

(1) OYA may conduct a preliminary Fitness Determination if it is interested in hiring or appointing a Subject Individual on a preliminary basis, pending a final Fitness Determination.

(2) If OYA elects to make a preliminary Fitness Determination about a Subject Individual, pending a final Fitness Determination, OYA will make a preliminary Fitness Determination about a Subject Individual based on information disclosed by the Subject Individual and a computerized Criminal Records Check.

(3) OYA may approve a Subject Individual as fit on a preliminary basis if OYA has no reason to believe that the Subject Individual has made a False Statement and the information available to OYA does not disclose that the Subject Individual:

(a) Has pled nolo contendere (or no contest) to, been convicted of, found guilty except for insanity (or comparable disposition) of, or has a pending indictment for a crime listed under OAR 416-800-0055.

(b) Is being investigated for, has been arrested for, has an outstanding warrant for, or has been charged with a crime listed under OAR 416-800-0055.

(c) Is currently on probation, parole, or any form of post-prison supervision for a crime listed in OAR 416-800-0055.

(d) Has a deferred sentence or conditional discharge in connection with a crime listed in OAR 416-800-0055.

(e) Has been adjudicated in a juvenile court and found to be within the court's jurisdiction for an offense that would have constituted a crime listed in OAR 416-800-0055 if committed by an adult.

(4) A Subject Individual may not appeal a preliminary Fitness Determination under the process described in OAR 416-800-0080.

Stat. Auth.: ORS 420A.021
Stats. Implemented: ORS 420A.010, 420A.020, 420A.021
Hist.: OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10; OYA 6-2015, f. & cert. ef. 10-7-15

416-800-0045
Hiring or Appointing on a Preliminary Basis

(1) OYA may hire or appoint a Subject Individual on a preliminary basis if OYA has Approved the Subject Individual on the basis of a preliminary Fitness Determination under OAR 416-800-0041.

(2) A Subject Individual hired or appointed on a preliminary basis may be provided provisional access to offenders and OYA facilities, training, orientation and work activities, pending the results of a final Fitness Determination described in these rules.

(3) A Subject Individual hired or appointed on a preliminary basis is deemed to be on trial service and, if terminated, prior to the completion of a final Fitness Determination under OAR 416-800-0050 may not appeal the termination under the process provided under OAR 416-800-0070.

(4) If a Subject Individual hired or appointed on a preliminary basis is Denied upon completion of a final Fitness Determination, as provided 416-800-0050, then OYA must immediately terminate the Subject Individual's employment or appointment.

Stat. Auth.: ORS 420A.021
Stats. Implemented: ORS 420A.010, 420A.020, 420A.021
Hist.: OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10; OYA 6-2015, f. & cert. ef. 10-7-15

416-800-0050
Final Fitness Determination

(1) If OYA elects to conduct a Criminal Records Check, OYA must make a Fitness Determination about a Subject Individual based on information provided by the Subject Individual under OAR 416-800-0030(1), the Criminal Records Check(s) conducted, if any, and any False Statements made by the Subject Individual.

(2) In making a Fitness Determination about a Subject Individual, OYA will consider the factors in subsections (2)(a)–(f) of this rule in relation to information provided by the Subject Individual under OAR 416-800-0030(1), any information obtained through a Criminal Records Check, and any False Statement made by the Subject Individual. To assist in considering these factors, OYA may obtain other information deemed relevant from the Subject Individual or any other source, including law enforcement and criminal justice agencies or courts within or outside of Oregon. To acquire other relevant information from the Subject Individual, OYA may request to meet with the Subject Individual, to receive written materials from him or her, or both. OYA will use all collected information in considering:

(a) Whether the Subject Individual has, pled nolo contendere (or no contest) to, been convicted of, found guilty except for insanity (or a comparable disposition) of, or has a pending indictment for a crime listed in OAR 416-800-0055;

(b) Whether the Subject Individual is being investigated for, has been arrested for, has an outstanding warrant for, or has been charged with a crime listed under OAR 416-800-0055.

(c) Whether the Subject Individual is currently on probation, parole, or any form of post-prison supervision for a crime listed in OAR 416-800-0055.

(d) Whether the Subject Individual has a deferred sentence or conditional discharge in connection with a crime listed in OAR 416-800-0055.

(e) Whether the Subject Individual has been adjudicated in a juvenile court and found to be within the court's jurisdiction for an offense that would have constituted a crime listed in OAR 416-800-0055 if committed by an adult.

(f) The nature of any crime identified under subsection (2)(a);

(g) The facts that support the arrest, conviction, finding of guilty except for insanity, or pending indictment;

(h) The facts that indicate the Subject Individual made a False Statement;

(i) The relevance, if any, of a crime identified under subsection (2)(a) or of a False Statement made by the Subject Individual to the specific requirements of the Subject Individual's present or proposed position, services or employment; and

(j) Intervening circumstances, to the extent that they are relevant to the responsibilities and circumstances of the services or employment for which the Fitness Determination is being made, including, but not limited to:

(A) The passage of time since the commission or alleged commission of a crime identified under subsection (2)(a);

(B) The age of the Subject Individual at the time of the commission or alleged commission of a crime identified under subsection (2)(a);

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

(D) The subsequent commission of another crime listed in OAR 416-800-0055;

(E) Whether a Conviction identified under subsection (2)(a) has been set aside or pardoned, and the legal effect of setting aside the Conviction or of a pardon; and

(F) A recommendation of an employer.

(3) Refusal to Consent. If a Subject Individual refuses to submit or consent to a Criminal Records Check, including fingerprint identification, OYA must deny the employment of the Subject Individual, or revoke or deny any applicable position or authority to provide services. A person may not appeal any determination made based on a refusal to consent.

(4) If a Subject Individual is Denied as not fit, then the Subject Individual may not be employed by OYA or provide services to OYA as a Volunteer, Foster Care Provider, contractor, or vendor.

(5) Under no circumstances must a Subject Individual be Denied under these rules on the basis of the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262.

Stat. Auth.: ORS 420A.021
Stats. Implemented: ORS 420A.010, 420A.020, 420A.021
Hist.: OYA 2-1995, f. 12-19-95, cert. ef. 1-2-96; OYA 5-1997, f. & cert. ef. 10-13-97; OYA 8-2002, f. & cert. ef. 1-18-02; OYA 8-2003, f. & cert. ef. 9-23-03; OYA 11-2005, f. & cert. ef. 4-20-05; OYA 15-2005, f. & cert. ef. 6-30-05; OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10; OYA 6-2015, f. & cert. ef. 10-7-15

416-800-0055
Types of Crimes Relevant to a Fitness Determination

(1) Crimes Relevant to a Fitness Determination.

(a) All felonies;

(b) All misdemeanors;

(c) Any United States Military crime or international crime;

(d) Any civil restraining order entered for spousal abuse, domestic violence, harassment, or stalking.

(2) Evaluation of Crimes. OYA must evaluate a crime on the basis of the laws of the jurisdiction in which the crime or offense occurred.

Stat. Auth.: ORS 420A.021
Stats. Implemented: ORS 420A.010, 420A.020, 420A.021
Hist.: OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10; OYA 6-2015, f. & cert. ef. 10-7-15

416-800-0065
Incomplete Fitness Determination

(1) OYA will close a preliminary or final Fitness Determination as incomplete when:

(a) Circumstances change so that a person no longer meets the definition of a "Subject Individual" under OAR 416-800-0020;

(b) The Subject Individual does not provide materials or information under OAR 416-800-0030(1) within the timeframes established under that rule;

(c) OYA cannot locate or contact the Subject Individual;

(d) The Subject Individual fails or refuses to cooperate with OYA's attempts to acquire other relevant information under OAR 416-800-0050(2);

(e) OYA determines that the Subject Individual is not eligible or not qualified for the position of employee, Foster Care Provider, contractor, Volunteer, or vendor for a reason unrelated to the Fitness Determination process; or

(f) The position is no longer open.

(2) A Subject Individual does not have a right to a contested case hearing under OAR 416-800-0080 to challenge the closing of an incomplete Fitness Determination.

Stat. Auth.: ORS 420A.021
Stats. Implemented: ORS 420A.010, 420A.020, 420A.021
Hist.: OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10; OYA 6-2015, f. & cert. ef. 10-7-15

416-800-0070
Notice to Subject Individuals of Fitness Determination

OYA must inform the Subject Individual who has been determined not to be fit on the basis of a Criminal Records Check, via certified mail to the most current address provided by the Subject Individual, of such disqualification.

Stat. Auth.: ORS 420A.021
Stats. Implemented: ORS 181.557, 420A.010, 420A.020, 420A.021
Hist.: OYA 5-1997, f. & cert. ef. 10-13-97; OYA 8-2002, f. & cert. ef. 1-18-02; OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10; OYA 6-2015, f. & cert. ef. 10-7-15

416-800-0080
Appealing a Fitness Determination

(1) Model Rules of Procedure. OYA adopts the Attorney General's Model Rules of Procedure OAR 137-003-0001 to 137-003-0092 and 137-003-0580, effective July 2014, as procedural rules for contested case hearings. In addition to the Model Rules of Procedure adopted by OYA, the procedures set forth in this rule must apply.

(2) Process

(a) A Foster Care Provider or Foster Care Provider applicant may appeal a Fitness Determination by submitting a written request for a contested case hearing to the address specified in the notice provided under OAR 416-800-0070.

(b) A request for a hearing from a Foster Care Provider or Foster Care Provider applicant must be received by OYA within 60 days of the date of the notice.

(c) When a timely request is received by OYA under subsection (a), a contested case hearing must be conducted by a hearing officer appointed by OYA's Director.

(3) Time and Place of Hearings. The time and place of hearing will be set by the hearing officer. Notice of the hearing must be served on the appropriate assistant director and interested parties at least ten days in advance of the hearing date.

(4) Discovery. OYA or the hearing officer may protect information made confidential by ORS 181.534(15) or other applicable laws and rules.

(5) Disclosure of LEDS Information. Information obtained through LEDS must be disclosed only in a manner consistent with Oregon State Police rules and regulations.

(6) No Public Attendance. Contested case hearings on Fitness Determinations are closed to non-participants.

(7) Proposed and Final Order

(a) Proposed Order. After a hearing, the hearings officer will issue a proposed order.

(b) Exceptions. Exceptions, if any, must be filed within 14 calendar days after service of the proposed order. The proposed order must provide an address to which exceptions must be sent.

(c) Default. A completed final Fitness Determination made under OAR 416-800-0050 becomes final:

(A) Unless the Foster Care Provider or Foster Care Provider applicant makes a timely request for hearing; or

(B) When a party withdraws a hearing request, notifies the agency or the hearing officer that the party will not appear, or fails to appear for the hearing.

(8) Remedy. The only remedy that may be awarded is a determination that the Foster Care Provider or Foster Care Provider applicant is fit. Under no circumstances must OYA be required to place a Foster Care Provider or Foster Care Provider applicant in any position, nor must OYA be required to accept services or enter into a contractual agreement with a Foster Care Provider or Foster Care Provider applicant.

(9) Challenging Criminal Offender Information. A Subject Individual may not use the appeals process established by this rule to challenge the accuracy or completeness of information provided by the Oregon Department of State Police, the Federal Bureau of Investigation, or agencies reporting information to the Oregon Department of State Police or the Federal Bureau of Investigation. To challenge information identified in this section (9), a Subject Individual may use any process made available by the agency that provided the information.

Stat. Auth.: ORS 420A.021
Stats. Implemented: ORS 420A.010, 420A.020, 420A.021
Hist.: OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10; OYA 2-2013, f. & cert. ef. 7-29-13; OYA 6-2015, f. & cert. ef. 10-7-15

416-800-0090
Record Keeping, Confidentiality

Any information obtained in the Criminal Records Check is confidential. OYA must restrict the dissemination of information obtained in the Criminal Records Check. Only those persons, as identified by OYA, with a demonstrated and legitimate need to know the information, may have access to Criminal Records Check records information.

Stat. Auth.: ORS 420A.021
Stats. Implemented: ORS 181.557, 420A.010, 420A.020, 420A.021
Hist.: OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10; OYA 6-2015, f. & cert. ef. 10-7-15

416-800-0095
Fees

(1) OYA may charge a fee for acquiring Criminal Offender Information for use in making a Fitness Determination. In any particular instance, the fee may not exceed the fee(s) charged OYA by the Oregon Department of State Police and the Federal Bureau of Investigation to obtain Criminal Offender Information on the Subject Individual.

(2) OYA may charge the fee to the Subject Individual on whom Criminal Offender Information is sought, or, if the Subject Individual is an employee of an OYA contractor or vendor and is undergoing a Fitness Determination in that capacity, OYA may charge the fee to the Subject Individual's employer.

Stat. Auth.: ORS 420A.021
Stats. Implemented: ORS 420A.010, 420A.020, 420A.021
Hist.: OYA 3-2010, f. 6-10-10 cert. ef. 6-25-10; OYA 6-2015, f. & cert. ef. 10-7-15

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Rule Caption: OYA is adopting the January 2015 Interstate Commission for Juvenile rules by reference.
Adm. Order No.: OYA 7-2015
Filed with Sec. of State: 10-7-2015
Certified to be Effective: 10-7-15
Notice Publication Date:
Rules Amended: 416-115-0025
Subject: OYA is updating its Standards for Juvenile Interstate Transfer of Supervision by adopting the most current version of the Interstate Commission for Juveniles' rules that were effective January 1, 2015.
Rules Coordinator: Winifred Skinner—(503) 373-7570

416-115-0025
Standards for Juvenile Interstate Transfer of Supervision

The Oregon Youth Authority adopts by this reference standards for the interstate transfer of Youth Offender supervision and services set in the official ICJ rules, published by the Interstate Commission for Juveniles, as updated to reflect all amendments through January 1, 2015. The rules may be viewed at the Interstate Commission for Juveniles website at http://juvenilecompact.org/.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 417.010 - 417.080
Hist.: OYA 7-2011, f. 12-12-11, cert. ef. 12-14-11; OYA 5-2012, f. & cert. ef. 6-25-12; OYA 3-2015(Temp), f. & cert. ef. 8-5-15 thru 1-21-16; OYA 7-2015, f. & cert. ef. 10-7-15

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Parks and Recreation Department
Chapter 736

Rule Caption: Amend Oregon State Parks reservation process
Adm. Order No.: PRD 1-2015
Filed with Sec. of State: 9-28-2015
Certified to be Effective: 9-28-15
Notice Publication Date: 8-1-2015
Rules Amended: 736-015-0015
Subject: These amendments to the reservation process: 1) reduce the reservation window from two days to one day, allowing customers more flexibility, 2) simplify the cancellation process to provide one point of contact and allow cancellations on the web, 3) reduce the

cancellation and change windows for deluxe cabins, yurts and horse camps from one month to 3 days to reduce financial penalties on customers, 4) refine rules for groups to focus on the groups with the most impact on park resources and improve operational efficiency, 5) clean up rule language, removing references to old programs.
Rules Coordinator: Claudia Ciobanu—(503) 872-5295

736-015-0015
Reservations

(1) Purpose: Based on the department's goal to promote outdoor recreation in Oregon, the department established a reservation program to increase use of park areas and facilities. The director may designate specific park facilities to offer for reservation through a centralized call center and through the Internet.

(2) General Regulations:

(a) Reservations will be accepted and processed for designated park facilities through the Oregon State Parks Reservation Center and the Internet.

(b) A person may make a reservation a minimum of one day and a maximum of nine months prior to the arrival date.

(c) A person must be 18 years of age or older to make a reservation.

(d) A person who qualifies under the Americans with Disabilities Act (ADA) may reserve accessible campsites.

(e) A person may not make reservations for multiple park areas for the same date range.

(f) A person reserving a boat slip (where available) must also reserve another facility at the same park area.

(g) Reservations and registrations for horse camping sites shall be made only for people camping with their horses or similar large animals unless otherwise specified by the park manager.

(h) Split reservations are allowed to accommodate persons. Only one split reservation shall be allowed per reservation.

(i) Only the person whose name appears on the original reservation or their designee (as documented in the reservation records) may change or cancel an existing reservation or access information associated with a reservation.

(j) Customer information may be made available upon written request in compliance with ORS Chapter 192 and department policy.

(k) Specific information regarding a confirmed reservation will not be released to the public as provided in ORS 192.501 and 192.502.

(3) Transaction Fees and Deposits:

(a) The department will charge a $8 non-refundable transaction fee for each reservation made through the centralized call center or the Internet.

(b) Reservations require a facility deposit equal to the full amount charged for use of the facility during the reservation period.

(c) All fees are due at the time the person makes the reservation.

(4) Payment Methods:

(a) A person may use a valid credit card (VISA or MasterCard) or bank debit card with a VISA or MasterCard logo.

(b) A person may pay by personal check, money order, certified check, department issued gift certificates or travelers check (in U.S. funds).

(c) The department must receive payment within five calendar days of the date the person makes the reservation. If payment is not received within this time frame, the department will cancel the reservation. The person remains responsible for the $8 transaction fee for each reservation request.

(d) If a banking institution returns a check to the department for any reason or if a credit or debit card is declined, the department will attempt to contact the person. Inability to resolve the payment dispute will result in a reservation cancellation. The person will remain responsible for the $8 transaction fee for each reservation.

(e) Government agencies and non-profit entities may request to be invoiced for services. Reservations should be made at least 30 days prior to arrival. The department must receive payment within 25 days of the date the reservation is made. If payment is not received the department will cancel the reservation. The department will bill for the $8 transaction fee for each reservation.

(f) A person must pay all outstanding account balances prior to making future reservations.

(5) Reservation Cancellations:

(a) A person may cancel their reservation prior to the day of arrival by calling the Oregon State Parks Reservation Center. An automated reservation cancellation voice mail system is available seven days a week, 24 hours a day.

(b) A person may also cancel their reservation prior to the day of arrival using Internet or E-mail. The department will post detailed instructions for cancelling a reservation on the department's web site which is available seven days a week, 24 hours a day.

(c) A person must contact the specific park where their reservation is held to cancel reservations on the scheduled day of arrival.

(d) In order to receive a refund of all use fees, a person must cancel the reservation for individual campsites, deluxe and rustic cabins, deluxe and rustic yurts, horse camps, tepees, and boat moorages three or more days prior to the arrival date. If the cancellation is received less than three days in advance of the arrival date, a fee equal to one night's or one day's rental for the facility will be forfeited.

(e) In order to receive a refund of all use fees for group camps, day use areas, meeting halls, lodges, Silver Falls Youth Camp, Silver Falls Ranch, Shore Acres Garden House, Pavilions, RV Group Areas and other special facilities as designated by the department, a person must cancel the reservation at least one month prior to arrival. If the cancellation request is received less than one month in advance of the arrival date, a fee equal to one night's or one day's rental for the facility will be forfeited.

(6) Reservation Changes:

(a) The department will charge an $8 non-refundable transaction fee for each reservation change.

(b) A person may request to change a confirmed reservation by calling the Oregon State Parks Reservation Center during normal business hours Monday through Friday.

(c) A person may also request to change a reservation through Email by accessing the department's web site and following the posted reservation change procedures. The web site is available seven days a week, 24 hours a day.

(d) A person may not make any date changes to reservations more than eight months in advance of the arrival date.

(e) Reservations made for six or more consecutive nights that are later shortened will be charged the nightly rate for each night removed in addition to an $8 transaction fee for the change.

(f) A person must request a reservation change for campsites, deluxe and rustic cabins, deluxe and rustic yurts, tepees, and boat moorages three or more days in advance of the arrival date. Changes are not permitted within three days of the arrival date.

(g) A person requesting a reservation change for group camps, day use areas, meeting halls, lodges, Silver Falls Youth Camp, Silver Falls Ranch House, Shore Acres Garden House, Pavilions, RV Group Areas, and other special facilities as designated by the department must request the change at least one month prior to arrival date. Changes are not permitted within one month of the arrival date.

(7) Claiming Reservations

(a) Customers with confirmed reservations must arrive before 1:00 p.m. the day following the first scheduled day of their reservation.

(b) The reserved site must remain occupied each night during the entire length of stay.

(c) In emergency situations, customers may request Park Manager approval for late arrivals not to exceed 6:00 p.m. of the second day of the reservation. Site fees for the first night will be charged regardless of the arrival time.

(d) Customers, including those that have pre-registered, who do not check in at the park or notify park staff that they will be delayed prior to 1:00 p.m. of the second day of the reservation will be considered a "no show" and the entire reservation will be cancelled. The first night fee and any transaction fees previously collected for the reservation will be retained. Any remaining nightly fees paid to confirm the reservation will be refunded.

(8) Reservations to Accommodate Organized Groups:

(a) General: To accommodate group use in campgrounds designed primarily for individual camping and to bring efficiencies to the group reservation process, the director may offer group camping to persons reserving multiple individual camping sites.

(b) The department will require full payment for all sites at the time the reservation is made.

(c) A person must reserve a minimum of 20 individual overnight campsites for their group to qualify for group camping reservations.

(d) The department will charge a non-refundable reservation fee of $8 for each site. An $8 non-refundable transaction fee will be charged for any date or site change made to a reservation included in the group.

(e) Reservations made on the Internet for a group of 20 or more sites are not eligible for group camping.

(f) A person may reserve a meeting hall (where available) for one day's free use when the minimum number of sites are reserved and used.

The person may reserve the meeting hall for additional days at the normal rental rate.

(g) Special facilities such as lodges, Silver Falls Youth Camp, Silver Falls Ranches, and other special facilities as designated by the department are not included in the group camping program.

(h) A person must make reservations at least two months prior to arrival date to qualify for group camping benefits.

(9) When only a portion of a specific type of facility in a park is designated as ADA compliant, the department will hold the facility designated as ADA compliant for use by individuals with disabilities until all other facilities of that type have been reserved and the accessible facility is the only remaining facility of that type available in the park.

Stat. Auth.: ORS 390.124
Stats. Implemented: ORS 390.111, 390.121 & 390.124
Hist.: 1 OTC 56(Temp), f. & ef. 4-4-75; 1 OTC 59, f. 8-1-75, ef. 8-25-75; 1 OTC 74, f. & ef. 4-30-76; 1 OTC 82, f. 5-11-77, ef. 5-14-77; 1 OTC 5-1979, f. & ef. 2-9-79; 1 OTC 22-1979(Temp), f. & ef. 9-9-24-79; 1 OTC 2-1980, f. & ef. 1-4-80; PR 9-1981, f. & ef. 4-6-81; PR 2-1994, f. & cert. ef. 2-9-94; PR 2-1995, f. & cert. ef. 1-23-95; PR 3-1996, f. & cert. ef. 5-13-96; PRD 10-2003, f. & cert. ef. 10-17-03; PRD 8-2004, f. & cert. ef. 6-3-04; Renumbered from 736-010-0099, PRD 4-2005, f. & cert. ef. 5-5-05; PRD 7-2009, f. 6-2-09, cert. ef. 8-1-09; PRD 15-2009, f. & cert. ef. 9-29-09; PRD 5-2010, f. & cert. ef. 3-24-10; PRD 5-2011, f. & cert. ef. 8-1-11; PRD 9-2012, f. & cert. ef. 11-16-12; PRD 1-2015, f. & cert. ef. 9-28-15

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Rule Caption: Provides process and procedures for the award of Veterans and War Memorial Grants.
Adm. Order No.: PRD 2-2015
Filed with Sec. of State: 10-1-2015
Certified to be Effective: 10-1-15
Notice Publication Date: 6-1-2015
Rules Amended: 736-017-0005, 736-017-0010, 736-017-0020
Subject: 736-017-0005: The rules changes required clarification of definitions to match the changes in the rule. Government entity will have the same meaning throughout the rules. Project sponsor clarifies the statue requirement of being a local or regional government, this is more specific than Government Entity. Public Property is specified for the purposes of this program.

736-017-0010: Changes the rules of the Veterans and War Memorial grant review committee to be a committee with experts in the field of veterans affairs, memorials, memorial preservation. Removes grant application review and selection from the Oregon Parks and Recreation Department Local Government Grant Committee.

736-017-0020: The rule change expands siting of Veterans and War Memorials associated with the grant to any public property owned by a government entity. Previously was limited to local or regional government owned properties. The rule now requires a 25 year agreement between the project sponsor (local or regional government) and the public property owner, if it is a different owner.
Rules Coordinator: Claudia Ciobanu—(503) 872-5295

736-017-0005
Definitions

As used in this division, unless the context requires otherwise, the following definitions apply:

(1) "Agreement" means the formal contract between OPRD and the Project Sponsor describing the terms and conditions associated with any granting of funds. Also called "Grant Agreement."

(2) "Commission" means the Oregon Parks and Recreation Commission.

(3) "Committee" means the Veterans and War Memorial Grant Review Committee described in OAR 736-017-0010.

(4) "Department" means the Oregon Parks and Recreation Department (OPRD).

(5) "Construction" means the creation of a new memorial on public property.

(6) "Director" means the director of the Oregon Parks and Recreation Department.

(7) "Eligible Project" means a construction or restoration undertaking which satisfies the requirements of the Veterans and War Memorial Grant Program.

(8) "Governmental Entity" means a body of government, whether district, local, regional, state, federal or tribal.

(9) "Grant" means an award from the Veterans and War Memorial Grant Program.

(10) "Grant Application" means the form and its format as developed by the OPRD that an applicant uses to request a grant.

(11) "Match" means project sponsor's budgeted funds, donated funds, value of equipment, materials, labor, planning, or any combination thereof.

(12) "Maintenance" means the continuation or preservation of a memorial. It includes the routine maintenance of or around a memorial such as landscaping, power washing, general cleaning, dusting, or removal of trash.

(13) "Memorial" means a monument or place designed to commemorate or preserve the memory of wars involving the United States of America or to honor veterans of the Armed Forces of the United States of America.

(14) "Nonprofit Veterans' Organization" means a group that:

(a) Is a nonprofit group that represents veterans of the Armed Forces of the United States, or is established for the purpose of supporting or recognizing such veterans;

(b) Has an established membership, that includes officers, and bylaws; and

(c) Is physically located in Oregon or has a chapter that is physically located in Oregon.

(d) Is also called a "Veterans' Nonprofit Organization".

(e) Is recognized as an existing non-profit status by the Internal Revenue Service.

(15) "OPRD" means the Oregon Parks and Recreation Department.

(16) "Planning" means the research, design, engineering, environmental, and site survey of any Memorial construction or restoration project.

(17) "Project Completion" means satisfaction of all requirements of a grant agreement as determined after review or inspection by OPRD.

(18) "Project Authorization" means the Agreement that authorizes the project as signed by the director and the Project Sponsor.

(19) "Project Sponsor" means the recipient of the grant funds and the responsible party for implementation of the project. A Project Sponsor must be a local or regional government.

(20) "Public Property" means public lands, premises and buildings, including but not limited to any building used in connection with the transaction of public business or any lands, premises or buildings owned or leased by a government entity.

(21) "Restoration" means the improvement, rehabilitation, repair, or reconstruction of an existing memorial. It does not include routine maintenance.

(22) "Veterans and War Memorial Grant Instruction Manual" means a manual prepared by the OPRD containing state policies, procedures, instructions and grant criteria to assist applicants and Project Sponsors wishing to participate in the Veterans and War Memorial Grant Program.

Stat. Auth.: ORS 390.124
Stats. Implemented: ORS 390.180(1)(d)
Hist.: PRD 6-2006, f. & cert. ef. 12-15-06; PRD 4-2012, f. & cert. ef. 5-11-12; PRD 2-2015, f. & cert. ef. 10-1-15

736-017-0010
Veterans and War Memorial Grant Review Committee

(1) The Veterans and War Memorial Grant Review Committee shall be composed of five members selected by the department for their interest or expertise in veteran or military issues, at least two of which represent either a veterans organization or a governmental agency responsible for the administration of law relating to veterans or for their knowledge of memorial construction or preservation.

(2) The Veterans and War Memorial Grant Review Committee shall follow grant application review procedures as provided in this division.

Stat. Auth.: ORS 390.124
Stats. Implemented: ORS 390.180(1)(d)
Hist.: PRD 6-2006, f. & cert. ef. 12-15-06; PRD 4-2012, f. & cert. ef. 5-11-12; PRD 2-2015, f. & cert. ef. 10-1-15

736-017-0020
Eligibility

(1) The applicant and project sponsor must be either a local or regional government.

(2) Site. To be eligible for a grant, a memorial must be placed on public property. If the property is not owned or controlled by the project sponsor, there must be an agreement in place between the project sponsor and the public property owner stating that the memorial will remain in place for at least 25 years.

(3) The project sponsor must agree in writing to keep in place and maintain the memorial for at least 25 years from completion of the project. If the property is not owned or controlled by the project sponsor, there must be an agreement in place between the project sponsor and the public prop-

erty owner stating that the memorial will remain in place for at least 25 years.

(4) Matching Requirements. The Veterans and War Memorial Grant program provides, subject to the availability of funds, for up to 80 percent funding assistance with a minimum of 10 percent cash match. The project sponsor shall provide a minimum 10 percent cash match. The project sponsor may provide the remaining match by planning, construction, or restoration work performed following project authorization.

(5) Ineligible costs for grant:

(a) Overhead — The regular operating expenses of either the applicant or the governmental entity receiving the memorial such as rent, building upkeep, utilities, and all fixed costs associated with the daily operations of a business, agency or group;

(b) Overtime;

(c) Expenses for equipment or materials used outside the scope of this project.

Stat. Auth.: ORS 390.124
Stats. Implemented: ORS 390.180(1)(d)
Hist.: PRD 6-2006, f. & cert. ef. 12-15-06; PRD 4-2012, f. & cert. ef. 5-11-12; PRD 2-2015, f. & cert. ef. 10-1-15

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123-042-0165	10-1-2015	Amend(T)	11-1-2015
123-042-0175	10-1-2015	Amend(T)	11-1-2015
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123-042-0190	10-1-2015	Amend(T)	11-1-2015
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123-052-1200	2-24-2015	Adopt	4-1-2015
123-052-1300	2-24-2015	Adopt	4-1-2015
123-052-1400	2-24-2015	Adopt	4-1-2015
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123-052-2000	2-24-2015	Adopt	4-1-2015
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123-095-0035	8-4-2015	Amend	9-1-2015
123-095-0040	8-4-2015	Amend	9-1-2015
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123-630-0000	9-1-2015	Amend	10-1-2015
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123-630-0030	9-1-2015	Amend	10-1-2015
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123-630-0050	9-1-2015	Amend	10-1-2015
123-630-0050(T)	9-1-2015	Repeal	10-1-2015
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123-662-0100	10-5-2015	Amend	11-1-2015

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123-662-2000	10-5-2015	Amend	11-1-2015
123-662-2500	10-5-2015	Amend	11-1-2015
123-680-0001	10-5-2015	Amend	11-1-2015
123-680-1000	10-5-2015	Amend	11-1-2015
123-680-1200	10-5-2015	Amend	11-1-2015
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123-690-0100	10-5-2015	Amend	11-1-2015
123-690-0500	10-5-2015	Amend	11-1-2015
123-690-2000	10-5-2015	Amend	11-1-2015
123-690-2100	10-5-2015	Amend	11-1-2015
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125-246-0165	1-1-2015	Amend	2-1-2015
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125-247-0805	1-1-2015	Amend	2-1-2015
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137-047-0265	2-3-2015	Amend	3-1-2015
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137-047-0450	2-3-2015	Amend	3-1-2015
137-047-0560	2-3-2015	Amend	3-1-2015
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137-130-0110(T)	2-23-2015	Repeal	4-1-2015
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137-130-0210	9-8-2015	Adopt	10-1-2015
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137-140-0020	9-1-2015	Adopt	10-1-2015
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250-012-0015	7-1-2015	Am. & Ren.	8-1-2015
250-012-0020	7-1-2015	Am. & Ren.	8-1-2015
250-012-0025	7-1-2015	Am. & Ren.	8-1-2015
250-012-0030	7-1-2015	Am. & Ren.	8-1-2015
250-012-0035	7-1-2015	Am. & Ren.	8-1-2015
250-012-0040	7-1-2015	Am. & Ren.	8-1-2015
250-012-0045	7-1-2015	Renumber	8-1-2015
250-012-0050	7-1-2015	Renumber	8-1-2015
250-013-0001	7-1-2015	Repeal	8-1-2015
250-013-0005	7-1-2015	Am. & Ren.	8-1-2015
250-013-0010	7-1-2015	Am. & Ren.	8-1-2015
250-013-0015	7-1-2015	Am. & Ren.	8-1-2015
250-013-0020	7-1-2015	Am. & Ren.	8-1-2015
250-016-0020	7-1-2015	Amend	8-1-2015
250-016-0035	7-1-2015	Amend	8-1-2015
250-016-0050	7-1-2015	Amend	8-1-2015
250-020-0032	5-1-2015	Amend	6-1-2015
250-020-0033	5-1-2015	Amend	6-1-2015
250-020-0041	5-1-2015	Amend	6-1-2015
250-020-0043	5-1-2015	Amend	6-1-2015
250-020-0051	5-1-2015	Amend	6-1-2015

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250-020-0091	5-1-2015	Amend	6-1-2015
250-020-0102	5-1-2015	Amend	6-1-2015
250-020-0102	8-10-2015	Amend(T)	9-1-2015
250-020-0102(T)	8-25-2015	Suspend	10-1-2015
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250-020-0161	5-1-2015	Amend	6-1-2015
250-020-0201	5-1-2015	Amend	6-1-2015
250-020-0202	5-1-2015	Amend	6-1-2015
250-020-0203	5-1-2015	Amend	6-1-2015
250-020-0204	5-1-2015	Amend	6-1-2015
250-020-0211	5-1-2015	Amend	6-1-2015
250-020-0221	4-10-2015	Amend(T)	5-1-2015
250-020-0221	5-1-2015	Amend	6-1-2015
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250-030-0041	5-1-2015	Amend	6-1-2015
255-005-0005	7-28-2015	Amend	9-1-2015
255-030-0013	4-15-2015	Amend	5-1-2015
255-032-0022	4-15-2015	Amend	5-1-2015
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255-085-0020	8-27-2015	Adopt(T)	10-1-2015
255-085-0030	8-27-2015	Adopt(T)	10-1-2015
255-085-0040	8-27-2015	Adopt(T)	10-1-2015
255-085-0050	8-27-2015	Adopt(T)	10-1-2015
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259-008-0005	3-24-2015	Amend	5-1-2015
259-008-0005	7-1-2015	Amend	8-1-2015
259-008-0010	1-1-2015	Amend	2-1-2015
259-008-0010	3-24-2015	Amend	5-1-2015
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259-008-0040	7-1-2015	Amend	8-1-2015
259-008-0060	1-5-2015	Amend	2-1-2015
259-008-0060	3-24-2015	Amend	5-1-2015
259-008-0060	7-1-2015	Amend	8-1-2015
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259-008-0069	1-1-2015	Amend	2-1-2015
259-008-0078	3-24-2015	Adopt	5-1-2015
259-008-0080	7-23-2015	Amend	9-1-2015
259-008-0100	7-1-2015	Amend	8-1-2015
259-009-0005	12-31-2014	Amend	2-1-2015
259-009-0015	12-29-2014	Adopt	2-1-2015
259-009-0015	1-15-2015	Amend(T)	2-1-2015
259-009-0015	6-23-2015	Amend	8-1-2015
259-009-0015(T)	6-23-2015	Repeal	8-1-2015
259-009-0059	12-31-2014	Amend	2-1-2015
259-009-0059	6-23-2015	Amend	8-1-2015
259-009-0062	12-31-2014	Amend	2-1-2015
259-009-0070	12-31-2014	Amend	2-1-2015
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259-060-0010	3-24-2015	Amend	5-1-2015
259-060-0010	5-19-2015	Amend(T)	7-1-2015
259-060-0015	5-19-2015	Amend(T)	7-1-2015
259-060-0020	6-23-2015	Amend	8-1-2015
259-060-0060	3-24-2015	Amend	5-1-2015
259-060-0120	3-24-2015	Amend	5-1-2015
259-060-0130	1-5-2015	Amend	2-1-2015
259-060-0130	3-24-2015	Amend	5-1-2015
259-060-0135	3-24-2015	Amend	5-1-2015
259-060-0145	3-24-2015	Amend	5-1-2015
259-060-0145	5-19-2015	Amend(T)	7-1-2015
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
259-070-0010(T)	12-30-2014	Repeal	2-1-2015
274-005-0040	3-26-2015	Amend(T)	5-1-2015
274-005-0045	3-26-2015	Adopt(T)	5-1-2015
274-020-0440	10-12-2015	Amend(T)	11-1-2015
274-025-0035	8-19-2015	Adopt(T)	10-1-2015
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291-013-0070	7-9-2015	Amend(T)	8-1-2015
291-013-0104	7-9-2015	Amend(T)	8-1-2015
291-013-0110	7-9-2015	Amend(T)	8-1-2015
291-016-0020	12-3-2014	Amend	1-1-2015

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291-016-0120	12-3-2014	Adopt	1-1-2015
291-016-0120	7-1-2015	Amend(T)	8-1-2015
291-016-0120(T)	12-3-2014	Repeal	1-1-2015
291-022-0160	7-9-2015	Amend(T)	8-1-2015
291-022-0170	7-9-2015	Amend(T)	8-1-2015
291-022-0180	7-9-2015	Amend(T)	8-1-2015
291-022-0200	7-9-2015	Amend(T)	8-1-2015
291-055-0005	12-29-2014	Amend	2-1-2015
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
291-055-0019	12-29-2014	Amend	2-1-2015
291-055-0019(T)	12-29-2014	Repeal	2-1-2015
291-055-0020	12-29-2014	Amend	2-1-2015
291-055-0020	3-20-2015	Amend(T)	5-1-2015
291-055-0020	8-21-2015	Amend	10-1-2015
291-055-0020(T)	12-29-2014	Repeal	2-1-2015
291-055-0020(T)	8-21-2015	Repeal	10-1-2015
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
291-078-0010	2-25-2015	Amend	4-1-2015
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
291-082-0100	1-6-2015	Amend(T)	2-1-2015
291-082-0100	5-21-2015	Amend	7-1-2015
291-082-0100(T)	5-21-2015	Repeal	7-1-2015
291-082-0105	1-6-2015	Amend(T)	2-1-2015
291-082-0105	5-21-2015	Amend	7-1-2015
291-082-0105(T)	5-21-2015	Repeal	7-1-2015
291-082-0110	1-6-2015	Amend(T)	2-1-2015
291-082-0110	5-21-2015	Amend	7-1-2015
291-082-0110(T)	5-21-2015	Repeal	7-1-2015
291-082-0115	1-6-2015	Amend(T)	2-1-2015
291-082-0115	5-21-2015	Amend	7-1-2015
291-082-0115(T)	5-21-2015	Repeal	7-1-2015
291-082-0120	1-6-2015	Amend(T)	2-1-2015
291-082-0120	5-21-2015	Amend	7-1-2015
291-082-0120(T)	5-21-2015	Repeal	7-1-2015
291-082-0130	1-6-2015	Amend(T)	2-1-2015
291-082-0130	5-21-2015	Amend	7-1-2015
291-082-0130(T)	5-21-2015	Repeal	7-1-2015
291-082-0135	1-6-2015	Amend(T)	2-1-2015
291-082-0135	5-21-2015	Amend	7-1-2015
291-082-0135(T)	5-21-2015	Repeal	7-1-2015
291-082-0140	1-6-2015	Amend(T)	2-1-2015
291-082-0140	5-21-2015	Amend	7-1-2015
291-082-0140(T)	5-21-2015	Repeal	7-1-2015
291-082-0145	1-6-2015	Amend(T)	2-1-2015
291-082-0145	5-21-2015	Amend	7-1-2015
291-082-0145(T)	5-21-2015	Repeal	7-1-2015
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291-104-0111	5-21-2015	Amend	7-1-2015
291-104-0111(T)	5-21-2015	Repeal	7-1-2015
291-104-0116	1-6-2015	Amend(T)	2-1-2015
291-104-0116	5-21-2015	Amend	7-1-2015
291-104-0116(T)	5-21-2015	Repeal	7-1-2015
291-104-0125	1-6-2015	Amend(T)	2-1-2015
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291-104-0125(T)	5-21-2015	Repeal	7-1-2015
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291-104-0135	5-21-2015	Amend	7-1-2015
291-104-0135(T)	5-21-2015	Repeal	7-1-2015
291-104-0140	1-6-2015	Amend(T)	2-1-2015
291-104-0140	5-21-2015	Amend	7-1-2015
291-104-0140(T)	5-21-2015	Repeal	7-1-2015
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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291-130-0005	8-31-2015	Amend	10-1-2015
291-130-0006	1-1-2015	Amend(T)	2-1-2015
291-130-0006	8-31-2015	Amend	10-1-2015
291-130-0011	1-1-2015	Amend(T)	2-1-2015
291-130-0011	8-31-2015	Amend	10-1-2015
291-130-0016	1-1-2015	Amend(T)	2-1-2015
291-130-0016	8-31-2015	Amend	10-1-2015
291-130-0019	1-1-2015	Adopt(T)	2-1-2015
291-130-0020	1-1-2015	Amend(T)	2-1-2015
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309-019-0125	5-28-2015	Amend	7-1-2015
309-019-0170	3-25-2015	Amend(T)	5-1-2015
309-019-0170	5-28-2015	Amend	7-1-2015
309-031-0010	12-12-2014	Amend(T)	1-1-2015
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309-114-0005	8-28-2015	Amend	10-1-2015
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309-114-0015	8-28-2015	Amend	10-1-2015
309-114-0020	4-24-2015	Amend(T)	6-1-2015
309-114-0020	8-28-2015	Amend	10-1-2015
309-114-0025	12-1-2014	Amend(T)	1-1-2015
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325-001-0005	7-10-2015	Amend	8-1-2015
325-005-0015	3-17-2015	Amend	5-1-2015
325-005-0015	7-10-2015	Amend	8-1-2015
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325-025-0040	7-10-2015	Amend	8-1-2015
325-025-0045	7-10-2015	Amend	8-1-2015
325-025-0050	7-10-2015	Amend	8-1-2015
325-025-0055	7-10-2015	Amend	8-1-2015
325-025-0060	7-10-2015	Amend	8-1-2015
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325-030-0005	7-10-2015	Amend	8-1-2015
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325-030-0015	7-10-2015	Amend	8-1-2015
325-030-0020	7-10-2015	Amend	8-1-2015
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330-061-0035	10-1-2015	Amend	11-1-2015
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330-070-0062	1-1-2015	Amend	1-1-2015
330-070-0063	1-1-2015	Amend	1-1-2015
330-070-0064	1-1-2015	Amend	1-1-2015
330-070-0070	1-1-2015	Amend	1-1-2015
330-070-0073	1-1-2015	Amend	1-1-2015
330-070-0073(T)	1-1-2015	Repeal	1-1-2015
330-070-0076	1-1-2015	Adopt	1-1-2015
330-070-0078	1-1-2015	Adopt	1-1-2015
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
330-135-0015	10-14-2015	Amend	11-1-2015

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330-200-0040	9-1-2015	Amend	10-1-2015
330-210-0040	9-1-2015	Amend	10-1-2015
330-220-0040	9-1-2015	Amend	10-1-2015
330-230-0150	3-23-2015	Amend(T)	5-1-2015
331-105-0030	7-1-2015	Amend	8-1-2015
331-300-0010	12-1-2015	Adopt	11-1-2015
331-300-0020	12-1-2015	Adopt	11-1-2015
331-310-0020	12-1-2015	Adopt	11-1-2015
331-310-0025	12-1-2015	Adopt	11-1-2015
331-310-0030	12-1-2015	Adopt	11-1-2015
331-320-0010	12-1-2015	Adopt	11-1-2015
331-320-0020	12-1-2015	Adopt	11-1-2015
331-330-0010	12-1-2015	Adopt	11-1-2015
331-340-0010	12-1-2015	Adopt	11-1-2015
331-410-0050	12-1-2014	Amend	1-1-2015
331-440-0000	7-8-2015	Amend	8-1-2015
331-601-0010	7-1-2015	Amend	8-1-2015
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
331-810-0030	1-1-2015	Repeal	1-1-2015
331-810-0031	1-1-2015	Adopt	1-1-2015
331-810-0038	1-1-2015	Repeal	1-1-2015
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
331-820-0010	1-1-2015	Repeal	1-1-2015
331-820-0020	1-1-2015	Amend	1-1-2015
331-830-0005	1-1-2015	Repeal	1-1-2015
331-830-0010	1-1-2015	Amend	1-1-2015
331-830-0020	1-1-2015	Amend	1-1-2015
331-840-0010	1-1-2015	Amend	1-1-2015
331-840-0020	1-1-2015	Amend	1-1-2015
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
332-015-0030	7-1-2015	Amend	8-1-2015
332-015-0070	1-1-2015	Repeal	2-1-2015
332-020-0000	1-1-2015	Amend	2-1-2015
332-020-0010	1-1-2015	Amend	2-1-2015
332-020-0010	7-1-2015	Amend	8-1-2015
332-025-0020	1-2-2015	Amend(T)	2-1-2015
332-025-0020	7-1-2015	Amend	8-1-2015
332-025-0110	1-2-2015	Amend(T)	2-1-2015
332-025-0110	7-1-2015	Amend	8-1-2015
332-025-0125	1-1-2015	Adopt	2-1-2015
332-026-0000	7-1-2015	Amend	8-1-2015
332-026-0010	7-1-2015	Amend	8-1-2015
332-030-0000	1-1-2015	Repeal	2-1-2015
332-040-0000	7-8-2015	Amend	8-1-2015
333-004-0080	10-1-2015	Amend	11-1-2015
333-008-0010	9-22-2015	Amend(T)	11-1-2015
333-008-0025	9-22-2015	Amend(T)	11-1-2015
333-008-1010	1-28-2015	Amend	3-1-2015
333-008-1010	9-22-2015	Amend(T)	11-1-2015
333-008-1020	1-28-2015	Amend	3-1-2015
333-008-1040	1-28-2015	Amend	3-1-2015
333-008-1050	1-28-2015	Amend	3-1-2015
333-008-1060	1-28-2015	Amend	3-1-2015
333-008-1060	9-22-2015	Amend(T)	11-1-2015
333-008-1070	1-28-2015	Amend	3-1-2015
333-008-1070	9-22-2015	Amend(T)	11-1-2015
333-008-1080	1-28-2015	Amend	3-1-2015
333-008-1090	1-28-2015	Amend	3-1-2015
333-008-1100	1-28-2015	Amend	3-1-2015
333-008-1110	1-28-2015	Amend	3-1-2015
333-008-1120	1-28-2015	Amend	3-1-2015
333-008-1120	9-22-2015	Amend(T)	11-1-2015
333-008-1150	1-28-2015	Amend	3-1-2015
333-008-1160	1-28-2015	Amend	3-1-2015
333-008-1170	1-28-2015	Amend	3-1-2015
333-008-1180	1-28-2015	Amend	3-1-2015
333-008-1190	1-28-2015	Amend	3-1-2015
333-008-1200	1-28-2015	Amend	3-1-2015
333-008-1210	1-28-2015	Amend	3-1-2015
333-008-1220	1-28-2015	Amend	3-1-2015
333-008-1225	1-28-2015	Amend	3-1-2015
333-008-1230	1-28-2015	Amend	3-1-2015
333-008-1260	1-28-2015	Amend	3-1-2015
333-008-1275	1-28-2015	Amend	3-1-2015
333-008-1280	1-28-2015	Amend	3-1-2015
333-008-1400	9-22-2015	Suspend	11-1-2015
333-008-1500	9-22-2015	Adopt(T)	11-1-2015
333-008-1501	9-22-2015	Adopt(T)	11-1-2015
333-010-0100	10-12-2015	Amend(T)	11-1-2015
333-010-0105	10-12-2015	Amend(T)	11-1-2015
333-010-0110	10-12-2015	Amend(T)	11-1-2015
333-010-0115	10-12-2015	Amend(T)	11-1-2015
333-010-0120	10-12-2015	Amend(T)	11-1-2015
333-010-0130	10-12-2015	Amend(T)	11-1-2015
333-010-0140	10-1-2015	Amend	11-1-2015
333-010-0140	10-12-2015	Amend(T)	11-1-2015
333-010-0145	10-12-2015	Amend(T)	11-1-2015
333-010-0197	10-12-2015	Amend(T)	11-1-2015
333-010-0240	10-1-2015	Amend	11-1-2015
333-010-0245	10-1-2015	Amend	11-1-2015
333-014-0040	12-17-2014	Amend	2-1-2015
333-014-0040(T)	12-17-2014	Repeal	2-1-2015
333-014-0042	12-17-2014	Adopt	2-1-2015
333-014-0042(T)	12-17-2014	Repeal	2-1-2015
333-014-0080	12-17-2014	Adopt	2-1-2015
333-014-0080(T)	12-17-2014	Repeal	2-1-2015

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333-014-0090	12-17-2014	Adopt	2-1-2015
333-014-0090(T)	12-17-2014	Repeal	2-1-2015
333-014-0100	12-17-2014	Adopt	2-1-2015
333-014-0100(T)	12-17-2014	Repeal	2-1-2015
333-017-0000	7-3-2015	Amend	8-1-2015
333-018-0010	7-3-2015	Amend	8-1-2015
333-018-0015	7-3-2015	Amend	8-1-2015
333-018-0018	7-3-2015	Amend	8-1-2015
333-018-0110	3-24-2015	Amend	5-1-2015
333-018-0127	3-24-2015	Amend	5-1-2015
333-019-0000	7-3-2015	Amend	8-1-2015
333-019-0010	1-7-2015	Amend(T)	2-1-2015
333-019-0010	7-3-2015	Amend	8-1-2015
333-019-0010(T)	7-3-2015	Repeal	8-1-2015
333-019-0014	7-3-2015	Amend	8-1-2015
333-022-3000	9-3-2015	Adopt	10-1-2015
333-028-0220	5-6-2015	Amend(T)	6-1-2015
333-028-0220	10-1-2015	Amend	11-1-2015
333-028-0220(T)	10-1-2015	Repeal	11-1-2015
333-050-0010	8-24-2015	Amend(T)	10-1-2015
333-050-0040	8-24-2015	Amend(T)	10-1-2015
333-050-0050	8-24-2015	Amend(T)	10-1-2015
333-050-0080	8-24-2015	Amend(T)	10-1-2015
333-050-0095	8-24-2015	Amend(T)	10-1-2015
333-050-0100	8-24-2015	Amend(T)	10-1-2015
333-050-0110	8-24-2015	Amend(T)	10-1-2015
333-056-0020	7-3-2015	Amend	8-1-2015
333-072-0215	1-16-2015	Amend	3-1-2015
333-072-0215(T)	1-16-2015	Repeal	3-1-2015
333-100-0005	10-1-2015	Amend	11-1-2015
333-102-0005	10-1-2015	Amend	11-1-2015
333-102-0015	10-1-2015	Amend	11-1-2015
333-102-0025	10-1-2015	Amend	11-1-2015
333-102-0030	10-1-2015	Amend	11-1-2015
333-102-0033	10-1-2015	Adopt	11-1-2015
333-102-0035	10-1-2015	Amend	11-1-2015
333-102-0075	10-1-2015	Amend	11-1-2015
333-102-0101	10-1-2015	Amend	11-1-2015
333-102-0102	10-1-2015	Adopt	11-1-2015
333-102-0103	10-1-2015	Renumber	11-1-2015
333-102-0104	10-1-2015	Adopt	11-1-2015
333-102-0105	10-1-2015	Repeal	11-1-2015
333-102-0190	10-1-2015	Amend	11-1-2015
333-102-0200	10-1-2015	Amend	11-1-2015
333-102-0203	1-1-2015	Amend	2-1-2015
333-102-0203	10-1-2015	Amend	11-1-2015
333-102-0235	10-1-2015	Amend	11-1-2015
333-102-0285	10-1-2015	Amend	11-1-2015
333-102-0290	10-1-2015	Amend	11-1-2015
333-102-0293	10-1-2015	Amend	11-1-2015
333-102-0305	1-1-2015	Amend	2-1-2015
333-102-0305	10-1-2015	Amend	11-1-2015
333-102-0310	10-1-2015	Amend	11-1-2015
333-103-0005	10-1-2015	Amend	11-1-2015
333-105-0420	10-1-2015	Amend	11-1-2015
333-106-0005	1-1-2015	Amend	2-1-2015
333-106-0025	1-1-2015	Amend	2-1-2015
333-106-0040	1-1-2015	Amend	2-1-2015
333-106-0045	1-1-2015	Amend	2-1-2015
333-106-0055	1-1-2015	Amend	2-1-2015
333-106-0055	10-1-2015	Amend	11-1-2015
333-106-0060	1-1-2015	Adopt	2-1-2015
333-106-0201	1-1-2015	Amend	2-1-2015
333-106-0205	1-1-2015	Amend	2-1-2015
333-106-0210	1-1-2015	Amend	2-1-2015
333-106-0215	1-1-2015	Amend	2-1-2015
333-106-0220	1-1-2015	Amend	2-1-2015
333-106-0225	1-1-2015	Amend	2-1-2015
333-106-0240	1-1-2015	Amend	2-1-2015
333-106-0245	1-1-2015	Amend	2-1-2015
333-106-0301	1-1-2015	Amend	2-1-2015
333-106-0325	1-1-2015	Amend	2-1-2015
333-106-0325	10-1-2015	Amend	11-1-2015
333-106-0601	1-1-2015	Amend	2-1-2015
333-106-0700	1-1-2015	Amend	2-1-2015
333-106-0735	1-1-2015	Amend	2-1-2015
333-106-0750	1-1-2015	Amend	2-1-2015
333-116-0130	1-1-2015	Amend	2-1-2015
333-116-0190	1-1-2015	Amend	2-1-2015
333-116-0680	10-1-2015	Amend	11-1-2015
333-118-0040	10-1-2015	Amend	11-1-2015
333-118-0190	10-1-2015	Amend	11-1-2015
333-119-0010	1-1-2015	Amend	2-1-2015
333-119-0020	1-1-2015	Amend	2-1-2015
333-119-0030	1-1-2015	Amend	2-1-2015
333-119-0040	1-1-2015	Amend	2-1-2015
333-119-0041	1-1-2015	Amend	2-1-2015
333-119-0050	1-1-2015	Amend	2-1-2015
333-119-0060	1-1-2015	Amend	2-1-2015
333-119-0070	1-1-2015	Amend	2-1-2015
333-119-0080	1-1-2015	Amend	2-1-2015
333-119-0090	1-1-2015	Amend	2-1-2015
333-119-0100	1-1-2015	Amend	2-1-2015
333-119-0110	1-1-2015	Amend	2-1-2015
333-119-0120	1-1-2015	Amend	2-1-2015
333-119-0130	1-1-2015	Amend	2-1-2015
333-120-0200	1-1-2015	Amend	2-1-2015
333-120-0670	1-1-2015	Amend	2-1-2015
333-120-0710	10-1-2015	Amend	11-1-2015
333-120-0800	10-1-2015	Repeal	11-1-2015
333-121-0001	1-1-2015	Amend	2-1-2015
333-121-0010	1-1-2015	Amend	2-1-2015
333-121-0020	1-1-2015	Amend	2-1-2015
333-122-0005	1-1-2015	Amend	2-1-2015
333-125-0001	10-1-2015	Adopt	11-1-2015
333-125-0005	10-1-2015	Adopt	11-1-2015
333-125-0010	10-1-2015	Adopt	11-1-2015
333-125-0015	10-1-2015	Adopt	11-1-2015
333-125-0020	10-1-2015	Adopt	11-1-2015
333-125-0025	10-1-2015	Adopt	11-1-2015
333-125-0030	10-1-2015	Adopt	11-1-2015
333-125-0035	10-1-2015	Adopt	11-1-2015

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333-125-0040	10-1-2015	Adopt	11-1-2015
333-125-0045	10-1-2015	Adopt	11-1-2015
333-125-0050	10-1-2015	Adopt	11-1-2015
333-125-0055	10-1-2015	Adopt	11-1-2015
333-125-0060	10-1-2015	Adopt	11-1-2015
333-125-0065	10-1-2015	Adopt	11-1-2015
333-125-0070	10-1-2015	Adopt	11-1-2015
333-125-0075	10-1-2015	Adopt	11-1-2015
333-125-0080	10-1-2015	Adopt	11-1-2015
333-125-0085	10-1-2015	Adopt	11-1-2015
333-125-0090	10-1-2015	Adopt	11-1-2015
333-125-0095	10-1-2015	Adopt	11-1-2015
333-125-0100	10-1-2015	Adopt	11-1-2015
333-125-0105	10-1-2015	Adopt	11-1-2015
333-125-0110	10-1-2015	Adopt	11-1-2015
333-125-0115	10-1-2015	Adopt	11-1-2015
333-125-0120	10-1-2015	Adopt	11-1-2015
333-125-0125	10-1-2015	Adopt	11-1-2015
333-125-0130	10-1-2015	Adopt	11-1-2015
333-125-0135	10-1-2015	Adopt	11-1-2015
333-125-0140	10-1-2015	Adopt	11-1-2015
333-125-0145	10-1-2015	Adopt	11-1-2015
333-125-0150	10-1-2015	Adopt	11-1-2015
333-125-0155	10-1-2015	Adopt	11-1-2015
333-125-0165	10-1-2015	Adopt	11-1-2015
333-125-0170	10-1-2015	Adopt	11-1-2015
333-125-0175	10-1-2015	Adopt	11-1-2015
333-125-0180	10-1-2015	Adopt	11-1-2015
333-125-0185	10-1-2015	Adopt	11-1-2015
333-125-0190	10-1-2015	Adopt	11-1-2015
333-125-0195	10-1-2015	Adopt	11-1-2015
333-125-0200	10-1-2015	Adopt	11-1-2015
333-265-0023	9-3-2015	Amend	10-1-2015
333-265-0055	8-21-2015	Adopt(T)	10-1-2015
333-500-0010	2-6-2015	Amend	3-1-2015
333-500-0010	2-20-2015	Amend(T)	4-1-2015
333-500-0010	3-24-2015	Amend(T)	5-1-2015
333-500-0010	8-13-2015	Amend	9-1-2015
333-500-0010(T)	8-13-2015	Repeal	9-1-2015
333-500-0025	2-6-2015	Amend	3-1-2015
333-500-0025	2-20-2015	Amend(T)	4-1-2015
333-500-0025	3-24-2015	Amend(T)	5-1-2015
333-500-0025	8-13-2015	Amend	9-1-2015
333-500-0025(T)	8-13-2015	Repeal	9-1-2015
333-500-0027	3-24-2015	Adopt(T)	5-1-2015
333-500-0027	8-13-2015	Adopt	9-1-2015
333-500-0027(T)	8-13-2015	Repeal	9-1-2015
333-525-0000	2-6-2015	Amend	3-1-2015
333-700-0004	2-1-2015	Amend	3-1-2015
333-700-0017	2-1-2015	Amend	3-1-2015
333-700-0120	2-1-2015	Amend	3-1-2015
333-700-0130	2-1-2015	Amend	3-1-2015
334-001-0012	7-1-2015	Amend	4-1-2015
334-001-0055	7-1-2015	Amend	4-1-2015
334-001-0055	7-2-2015	Amend	7-1-2015
334-001-0060	7-1-2015	Amend	4-1-2015
334-010-0018	7-1-2015	Amend	4-1-2015
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
335-005-0026	11-17-2014	Adopt	1-1-2015
337-010-0007	5-8-2015	Amend	6-1-2015
337-010-0011	3-10-2015	Amend	4-1-2015
337-010-0011(T)	3-10-2015	Repeal	4-1-2015
338-005-0030	7-1-2015	Amend	8-1-2015
338-010-0016	7-1-2015	Amend	8-1-2015
339-010-0006	11-20-2014	Adopt	1-1-2015
339-010-0006	3-27-2015	Adopt	5-1-2015
339-020-0010	3-6-2015	Amend	4-1-2015
340-041-0002	1-7-2015	Amend	2-1-2015
340-041-0007	1-7-2015	Amend	2-1-2015
340-041-0028	1-7-2015	Amend	2-1-2015
340-041-0033	1-7-2015	Amend	2-1-2015
340-041-0124	1-7-2015	Amend	2-1-2015
340-041-0310	1-7-2015	Amend	2-1-2015
340-041-0315	1-7-2015	Amend	2-1-2015
340-041-8033	1-7-2015	Adopt	2-1-2015
340-071-0140	2-3-2015	Amend	3-1-2015
340-100-0001	4-15-2015	Amend	5-1-2015
340-100-0002	4-15-2015	Amend	5-1-2015
340-100-0003	4-15-2015	Amend	5-1-2015
340-100-0004	4-15-2015	Amend	5-1-2015
340-100-0010	4-15-2015	Amend	5-1-2015
340-101-0001	4-15-2015	Amend	5-1-2015
340-101-0030	4-15-2015	Amend	5-1-2015
340-102-0010	4-15-2015	Amend	5-1-2015
340-102-0011	4-15-2015	Amend	5-1-2015
340-102-0041	4-15-2015	Amend	5-1-2015
340-102-0065	4-15-2015	Amend	5-1-2015
340-102-0070	4-15-2015	Amend	5-1-2015
340-103-0010	4-15-2015	Amend	5-1-2015
340-104-0001	4-15-2015	Amend	5-1-2015
340-104-0145	4-15-2015	Amend	5-1-2015
340-104-0149	4-15-2015	Amend	5-1-2015
340-105-0001	4-15-2015	Amend	5-1-2015
340-105-0140	4-15-2015	Amend	5-1-2015
340-106-0001	4-15-2015	Amend	5-1-2015
340-109-0001	4-15-2015	Amend	5-1-2015
340-111-0010	4-15-2015	Amend	5-1-2015
340-111-0070	4-15-2015	Amend	5-1-2015
340-200-0010	4-16-2015	Amend	6-1-2015
340-200-0020	4-16-2015	Amend	6-1-2015
340-200-0025	4-16-2015	Amend	6-1-2015
340-200-0030	4-16-2015	Amend	6-1-2015
340-200-0035	4-16-2015	Adopt	6-1-2015
340-200-0040	4-16-2015	Amend	6-1-2015
340-200-0040	4-16-2015	Amend	6-1-2015
340-200-0050	4-16-2015	Amend	6-1-2015
340-200-0100	4-16-2015	Amend	6-1-2015
340-200-0110	4-16-2015	Amend	6-1-2015
340-200-0120	4-16-2015	Amend	6-1-2015
340-202-0010	4-16-2015	Amend	6-1-2015

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340-202-0020	4-16-2015	Amend	6-1-2015
340-202-0050	4-16-2015	Amend	6-1-2015
340-202-0070	4-16-2015	Amend	6-1-2015
340-202-0100	4-16-2015	Amend	6-1-2015
340-202-0110	4-16-2015	Amend	6-1-2015
340-202-0130	4-16-2015	Amend	6-1-2015
340-202-0200	4-16-2015	Amend	6-1-2015
340-202-0210	4-16-2015	Amend	6-1-2015
340-202-0220	4-16-2015	Amend	6-1-2015
340-202-0225	4-16-2015	Adopt	6-1-2015
340-204-0010	4-16-2015	Amend	6-1-2015
340-204-0020	4-16-2015	Amend	6-1-2015
340-204-0030	4-16-2015	Amend	6-1-2015
340-204-0040	4-16-2015	Amend	6-1-2015
340-204-0050	4-16-2015	Amend	6-1-2015
340-204-0060	4-16-2015	Amend	6-1-2015
340-204-0070	4-16-2015	Amend	6-1-2015
340-204-0080	4-16-2015	Amend	6-1-2015
340-204-0090	4-16-2015	Amend	6-1-2015
340-204-0300	4-16-2015	Adopt	6-1-2015
340-204-0310	4-16-2015	Adopt	6-1-2015
340-204-0320	4-16-2015	Adopt	6-1-2015
340-206-0010	4-16-2015	Amend	6-1-2015
340-206-0020	4-16-2015	Amend	6-1-2015
340-206-0030	4-16-2015	Amend	6-1-2015
340-206-0040	4-16-2015	Amend	6-1-2015
340-206-0050	4-16-2015	Amend	6-1-2015
340-206-0070	4-16-2015	Amend	6-1-2015
340-206-8010	4-16-2015	Adopt	6-1-2015
340-206-8020	4-16-2015	Adopt	6-1-2015
340-206-8030	4-16-2015	Adopt	6-1-2015
340-206-8040	4-16-2015	Adopt	6-1-2015
340-208-0005	4-16-2015	Adopt	6-1-2015
340-208-0010	4-16-2015	Amend	6-1-2015
340-208-0100	4-16-2015	Repeal	6-1-2015
340-208-0110	4-16-2015	Amend	6-1-2015
340-208-0200	4-16-2015	Repeal	6-1-2015
340-208-0210	4-16-2015	Amend	6-1-2015
340-208-0300	4-16-2015	Amend	6-1-2015
340-208-0310	4-16-2015	Amend	6-1-2015
340-208-0320	4-16-2015	Amend	6-1-2015
340-208-0450	4-16-2015	Amend	6-1-2015
340-208-0600	4-16-2015	Repeal	6-1-2015
340-209-0010	4-16-2015	Amend	6-1-2015
340-209-0020	4-16-2015	Amend	6-1-2015
340-209-0030	4-16-2015	Amend	6-1-2015
340-209-0040	4-16-2015	Amend	6-1-2015
340-209-0050	4-16-2015	Amend	6-1-2015
340-209-0060	4-16-2015	Amend	6-1-2015
340-209-0070	4-16-2015	Amend	6-1-2015
340-209-0080	4-16-2015	Amend	6-1-2015
340-210-0010	4-16-2015	Amend	6-1-2015
340-210-0020	4-16-2015	Amend	6-1-2015
340-210-0100	4-16-2015	Amend	6-1-2015
340-210-0110	4-16-2015	Amend	6-1-2015
340-210-0120	4-16-2015	Amend	6-1-2015
340-210-0205	4-16-2015	Amend	6-1-2015
340-210-0215	4-16-2015	Amend	6-1-2015
340-210-0225	4-16-2015	Amend	6-1-2015
340-210-0230	4-16-2015	Amend	6-1-2015
340-210-0240	4-16-2015	Amend	6-1-2015
340-210-0250	4-16-2015	Amend	6-1-2015
340-212-0005	4-16-2015	Adopt	6-1-2015
340-212-0010	4-16-2015	Amend	6-1-2015
340-212-0110	4-16-2015	Amend	6-1-2015
340-212-0120	4-16-2015	Amend	6-1-2015
340-212-0130	4-16-2015	Amend	6-1-2015
340-212-0140	4-16-2015	Amend	6-1-2015
340-212-0150	4-16-2015	Amend	6-1-2015
340-212-0200	4-16-2015	Amend	6-1-2015
340-212-0210	4-16-2015	Amend	6-1-2015
340-212-0220	4-16-2015	Amend	6-1-2015
340-212-0230	4-16-2015	Amend	6-1-2015
340-212-0240	4-16-2015	Amend	6-1-2015
340-212-0250	4-16-2015	Amend	6-1-2015
340-212-0260	4-16-2015	Amend	6-1-2015
340-212-0270	4-16-2015	Amend	6-1-2015
340-212-0280	4-16-2015	Amend	6-1-2015
340-214-0005	4-16-2015	Adopt	6-1-2015
340-214-0010	4-16-2015	Amend	6-1-2015
340-214-0100	4-16-2015	Amend	6-1-2015
340-214-0110	4-16-2015	Amend	6-1-2015
340-214-0114	4-16-2015	Amend	6-1-2015
340-214-0130	4-16-2015	Amend	6-1-2015
340-214-0200	4-16-2015	Amend	6-1-2015
340-214-0210	4-16-2015	Amend	6-1-2015
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340-214-0330	4-16-2015	Amend	6-1-2015
340-214-0340	4-16-2015	Amend	6-1-2015
340-214-0350	4-16-2015	Amend	6-1-2015
340-214-0360	4-16-2015	Amend	6-1-2015
340-214-0400	4-16-2015	Repeal	6-1-2015
340-214-0410	4-16-2015	Repeal	6-1-2015
340-214-0420	4-16-2015	Repeal	6-1-2015
340-214-0430	4-16-2015	Repeal	6-1-2015
340-216-0010	4-16-2015	Amend	6-1-2015
340-216-0020	4-16-2015	Amend	6-1-2015
340-216-0025	4-16-2015	Amend	6-1-2015
340-216-0030	4-16-2015	Amend	6-1-2015
340-216-0040	4-16-2015	Amend	6-1-2015
340-216-0052	4-16-2015	Amend	6-1-2015
340-216-0054	4-16-2015	Amend	6-1-2015
340-216-0056	4-16-2015	Amend	6-1-2015
340-216-0060	4-16-2015	Amend	6-1-2015
340-216-0062	4-16-2015	Amend	6-1-2015
340-216-0064	4-16-2015	Amend	6-1-2015
340-216-0066	4-16-2015	Amend	6-1-2015
340-216-0068	4-16-2015	Amend	6-1-2015
340-216-0070	4-16-2015	Amend	6-1-2015

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340-216-0082	4-16-2015	Amend	6-1-2015
340-216-0084	4-16-2015	Amend	6-1-2015
340-216-0090	4-16-2015	Amend	6-1-2015
340-216-0094	4-16-2015	Amend	6-1-2015
340-216-8010	4-16-2015	Amend	6-1-2015
340-216-8020	4-16-2015	Amend	6-1-2015
340-218-0010	4-16-2015	Amend	6-1-2015
340-218-0020	4-16-2015	Amend	6-1-2015
340-218-0030	4-16-2015	Amend	6-1-2015
340-218-0040	4-16-2015	Amend	6-1-2015
340-218-0050	4-16-2015	Amend	6-1-2015
340-218-0060	4-16-2015	Amend	6-1-2015
340-218-0070	4-16-2015	Amend	6-1-2015
340-218-0080	4-16-2015	Amend	6-1-2015
340-218-0090	4-16-2015	Amend	6-1-2015
340-218-0100	4-16-2015	Amend	6-1-2015
340-218-0110	4-16-2015	Amend	6-1-2015
340-218-0120	4-16-2015	Amend	6-1-2015
340-218-0140	4-16-2015	Amend	6-1-2015
340-218-0150	4-16-2015	Amend	6-1-2015
340-218-0160	4-16-2015	Amend	6-1-2015
340-218-0170	4-16-2015	Amend	6-1-2015
340-218-0180	4-16-2015	Amend	6-1-2015
340-218-0190	4-16-2015	Amend	6-1-2015
340-218-0200	4-16-2015	Amend	6-1-2015
340-218-0210	4-16-2015	Amend	6-1-2015
340-218-0220	4-16-2015	Amend	6-1-2015
340-218-0230	4-16-2015	Amend	6-1-2015
340-218-0240	4-16-2015	Amend	6-1-2015
340-218-0250	4-16-2015	Repeal	6-1-2015
340-220-0010	4-16-2015	Amend	6-1-2015
340-220-0020	4-16-2015	Amend	6-1-2015
340-220-0030	1-7-2015	Amend	2-1-2015
340-220-0040	1-7-2015	Amend	2-1-2015
340-220-0050	1-7-2015	Amend	2-1-2015
340-220-0060	4-16-2015	Amend	6-1-2015
340-220-0070	4-16-2015	Amend	6-1-2015
340-220-0080	4-16-2015	Amend	6-1-2015
340-220-0090	4-16-2015	Amend	6-1-2015
340-220-0100	4-16-2015	Amend	6-1-2015
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340-220-0180	4-16-2015	Amend	6-1-2015
340-220-0190	4-16-2015	Amend	6-1-2015
340-222-0010	4-16-2015	Amend	6-1-2015
340-222-0020	4-16-2015	Amend	6-1-2015
340-222-0030	4-16-2015	Amend	6-1-2015
340-222-0040	4-16-2015	Amend	6-1-2015
340-222-0041	4-16-2015	Amend	6-1-2015
340-222-0042	4-16-2015	Amend	6-1-2015
340-222-0043	4-16-2015	Am. & Ren.	6-1-2015
340-222-0045	4-16-2015	Am. & Ren.	6-1-2015
340-222-0046	4-16-2015	Adopt	6-1-2015
340-222-0048	4-16-2015	Adopt	6-1-2015
340-222-0051	4-16-2015	Adopt	6-1-2015
340-222-0060	4-16-2015	Amend	6-1-2015
340-222-0070	4-16-2015	Repeal	6-1-2015
340-222-0080	4-16-2015	Amend	6-1-2015
340-222-0090	4-16-2015	Amend	6-1-2015
340-224-0010	4-16-2015	Amend	6-1-2015
340-224-0020	4-16-2015	Amend	6-1-2015
340-224-0025	4-16-2015	Adopt	6-1-2015
340-224-0030	4-16-2015	Amend	6-1-2015
340-224-0038	4-16-2015	Adopt	6-1-2015
340-224-0040	4-16-2015	Amend	6-1-2015
340-224-0045	4-16-2015	Adopt	6-1-2015
340-224-0050	4-16-2015	Amend	6-1-2015
340-224-0055	4-16-2015	Adopt	6-1-2015
340-224-0060	4-16-2015	Amend	6-1-2015
340-224-0070	4-16-2015	Amend	6-1-2015
340-224-0080	4-16-2015	Am. & Ren.	6-1-2015
340-224-0245	4-16-2015	Adopt	6-1-2015
340-224-0250	4-16-2015	Adopt	6-1-2015
340-224-0255	4-16-2015	Adopt	6-1-2015
340-224-0260	4-16-2015	Adopt	6-1-2015
340-224-0270	4-16-2015	Adopt	6-1-2015
340-224-0500	4-16-2015	Adopt	6-1-2015
340-224-0510	4-16-2015	Adopt	6-1-2015
340-224-0520	4-16-2015	Adopt	6-1-2015
340-224-0530	4-16-2015	Adopt	6-1-2015
340-224-0540	4-16-2015	Adopt	6-1-2015
340-225-0010	4-16-2015	Amend	6-1-2015
340-225-0020	4-16-2015	Amend	6-1-2015
340-225-0030	4-16-2015	Amend	6-1-2015
340-225-0040	4-16-2015	Amend	6-1-2015
340-225-0045	4-16-2015	Amend	6-1-2015
340-225-0050	4-16-2015	Amend	6-1-2015
340-225-0060	4-16-2015	Amend	6-1-2015
340-225-0070	4-16-2015	Amend	6-1-2015
340-225-0090	4-16-2015	Repeal	6-1-2015
340-226-0005	4-16-2015	Adopt	6-1-2015
340-226-0010	4-16-2015	Amend	6-1-2015
340-226-0100	4-16-2015	Amend	6-1-2015
340-226-0110	4-16-2015	Amend	6-1-2015
340-226-0120	4-16-2015	Amend	6-1-2015
340-226-0130	4-16-2015	Amend	6-1-2015
340-226-0140	4-16-2015	Amend	6-1-2015
340-226-0200	4-16-2015	Repeal	6-1-2015
340-226-0210	4-16-2015	Amend	6-1-2015
340-226-0310	4-16-2015	Amend	6-1-2015
340-226-0320	4-16-2015	Amend	6-1-2015
340-226-0400	4-16-2015	Amend	6-1-2015
340-226-8010	4-16-2015	Adopt	6-1-2015
340-228-0010	4-16-2015	Amend	6-1-2015
340-228-0020	4-16-2015	Amend	6-1-2015
340-228-0100	4-16-2015	Amend	6-1-2015
340-228-0110	4-16-2015	Amend	6-1-2015

OAR Number	Effective	Action	Bulletin
340-228-0120	4-16-2015	Amend	6-1-2015
340-228-0130	4-16-2015	Amend	6-1-2015
340-228-0200	4-16-2015	Amend	6-1-2015
340-228-0210	4-16-2015	Amend	6-1-2015
340-228-0300	4-16-2015	Amend	6-1-2015
340-228-0400	4-16-2015	Repeal	6-1-2015
340-228-0410	4-16-2015	Repeal	6-1-2015
340-228-0420	4-16-2015	Repeal	6-1-2015
340-228-0430	4-16-2015	Repeal	6-1-2015
340-228-0440	4-16-2015	Repeal	6-1-2015
340-228-0450	4-16-2015	Repeal	6-1-2015
340-228-0460	4-16-2015	Repeal	6-1-2015
340-228-0470	4-16-2015	Repeal	6-1-2015
340-228-0480	4-16-2015	Repeal	6-1-2015
340-228-0490	4-16-2015	Repeal	6-1-2015
340-228-0500	4-16-2015	Repeal	6-1-2015
340-228-0510	4-16-2015	Repeal	6-1-2015
340-228-0520	4-16-2015	Repeal	6-1-2015
340-228-0530	4-16-2015	Repeal	6-1-2015
340-230-0010	4-17-2015	Amend	6-1-2015
340-230-0020	4-17-2015	Amend	6-1-2015
340-230-0030	4-17-2015	Amend	6-1-2015
340-230-0415	4-17-2015	Adopt	6-1-2015
340-230-0500	4-17-2015	Adopt	6-1-2015
340-232-0010	4-16-2015	Amend	6-1-2015
340-232-0020	4-16-2015	Amend	6-1-2015
340-232-0030	4-16-2015	Amend	6-1-2015
340-232-0040	4-16-2015	Amend	6-1-2015
340-232-0050	4-16-2015	Amend	6-1-2015
340-232-0060	4-16-2015	Amend	6-1-2015
340-232-0080	4-16-2015	Amend	6-1-2015
340-232-0090	4-16-2015	Amend	6-1-2015
340-232-0100	4-16-2015	Amend	6-1-2015
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340-232-0130	4-16-2015	Amend	6-1-2015
340-232-0140	4-16-2015	Amend	6-1-2015
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340-232-0160	4-16-2015	Amend	6-1-2015
340-232-0170	4-16-2015	Amend	6-1-2015
340-232-0180	4-16-2015	Amend	6-1-2015
340-232-0190	4-16-2015	Amend	6-1-2015
340-232-0200	4-16-2015	Amend	6-1-2015
340-232-0210	4-16-2015	Amend	6-1-2015
340-232-0220	4-16-2015	Amend	6-1-2015
340-232-0230	4-16-2015	Amend	6-1-2015
340-234-0005	4-16-2015	Adopt	6-1-2015
340-234-0010	4-16-2015	Amend	6-1-2015
340-234-0100	4-16-2015	Amend	6-1-2015
340-234-0140	4-16-2015	Amend	6-1-2015
340-234-0200	4-16-2015	Amend	6-1-2015
340-234-0210	4-16-2015	Amend	6-1-2015
340-234-0220	4-16-2015	Amend	6-1-2015
340-234-0240	4-16-2015	Amend	6-1-2015
340-234-0250	4-16-2015	Amend	6-1-2015
340-234-0270	4-16-2015	Amend	6-1-2015
340-234-0300	4-16-2015	Repeal	6-1-2015
340-234-0310	4-16-2015	Repeal	6-1-2015
340-234-0320	4-16-2015	Repeal	6-1-2015
340-234-0330	4-16-2015	Repeal	6-1-2015
340-234-0340	4-16-2015	Repeal	6-1-2015
340-234-0350	4-16-2015	Repeal	6-1-2015
340-234-0360	4-16-2015	Repeal	6-1-2015
340-234-0400	4-16-2015	Repeal	6-1-2015
340-234-0410	4-16-2015	Repeal	6-1-2015
340-234-0420	4-16-2015	Repeal	6-1-2015
340-234-0430	4-16-2015	Repeal	6-1-2015
340-234-0500	4-16-2015	Amend	6-1-2015
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340-234-0530	4-16-2015	Amend	6-1-2015
340-234-0540	4-16-2015	Adopt	6-1-2015
340-236-0005	4-16-2015	Adopt	6-1-2015
340-236-0010	4-16-2015	Amend	6-1-2015
340-236-0100	4-16-2015	Repeal	6-1-2015
340-236-0110	4-16-2015	Repeal	6-1-2015
340-236-0120	4-16-2015	Repeal	6-1-2015
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340-236-0140	4-16-2015	Repeal	6-1-2015
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340-236-0430	4-16-2015	Repeal	6-1-2015
340-236-0440	4-16-2015	Amend	6-1-2015
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340-236-8010	4-16-2015	Adopt	6-1-2015
340-238-0040	4-17-2015	Amend	6-1-2015
340-238-0060	4-17-2015	Amend	6-1-2015
340-238-0090	4-17-2015	Amend	6-1-2015
340-240-0010	4-16-2015	Amend	6-1-2015
340-240-0020	4-16-2015	Amend	6-1-2015
340-240-0030	4-16-2015	Amend	6-1-2015
340-240-0050	4-16-2015	Adopt	6-1-2015
340-240-0100	4-16-2015	Amend	6-1-2015
340-240-0110	4-16-2015	Amend	6-1-2015
340-240-0120	4-16-2015	Amend	6-1-2015
340-240-0130	4-16-2015	Amend	6-1-2015
340-240-0140	4-16-2015	Amend	6-1-2015
340-240-0150	4-16-2015	Amend	6-1-2015
340-240-0160	4-16-2015	Amend	6-1-2015
340-240-0170	4-16-2015	Repeal	6-1-2015
340-240-0180	4-16-2015	Amend	6-1-2015
340-240-0190	4-16-2015	Amend	6-1-2015
340-240-0210	4-16-2015	Amend	6-1-2015
340-240-0220	4-16-2015	Amend	6-1-2015

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340-240-0230	4-16-2015	Repeal	6-1-2015
340-240-0250	4-16-2015	Amend	6-1-2015
340-240-0300	4-16-2015	Amend	6-1-2015
340-240-0310	4-16-2015	Repeal	6-1-2015
340-240-0320	4-16-2015	Amend	6-1-2015
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340-240-0340	4-16-2015	Amend	6-1-2015
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340-240-0440	4-16-2015	Amend	6-1-2015
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340-240-0550	4-16-2015	Amend	6-1-2015
340-240-0560	4-16-2015	Amend	6-1-2015
340-240-0610	4-16-2015	Amend	6-1-2015
340-242-0400	4-16-2015	Amend	6-1-2015
340-242-0410	4-16-2015	Amend	6-1-2015
340-242-0420	4-16-2015	Amend	6-1-2015
340-242-0430	4-16-2015	Amend	6-1-2015
340-242-0440	4-16-2015	Amend	6-1-2015
340-242-0500	4-16-2015	Amend	6-1-2015
340-242-0510	4-16-2015	Amend	6-1-2015
340-242-0520	4-16-2015	Amend	6-1-2015
340-242-0600	4-16-2015	Amend	6-1-2015
340-242-0610	4-16-2015	Amend	6-1-2015
340-242-0620	4-16-2015	Amend	6-1-2015
340-242-0630	4-16-2015	Amend	6-1-2015
340-242-0700	4-16-2015	Repeal	6-1-2015
340-242-0710	4-16-2015	Repeal	6-1-2015
340-242-0720	4-16-2015	Repeal	6-1-2015
340-242-0730	4-16-2015	Repeal	6-1-2015
340-242-0740	4-16-2015	Repeal	6-1-2015
340-242-0750	4-16-2015	Repeal	6-1-2015
340-242-0760	4-16-2015	Repeal	6-1-2015
340-242-0770	4-16-2015	Repeal	6-1-2015
340-242-0780	4-16-2015	Repeal	6-1-2015
340-242-0790	4-16-2015	Repeal	6-1-2015
340-244-0020	4-17-2015	Amend	6-1-2015
340-244-0030	4-17-2015	Amend	6-1-2015
340-244-0040	4-16-2015	Amend	6-1-2015
340-244-0220	4-17-2015	Amend	6-1-2015
340-244-0232	4-16-2015	Amend	6-1-2015
340-244-0234	4-16-2015	Amend	6-1-2015
340-244-0236	4-16-2015	Amend	6-1-2015
340-244-0238	4-16-2015	Amend	6-1-2015
340-244-0239	4-16-2015	Amend	6-1-2015
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340-253-0320	2-1-2015	Amend	2-1-2015
340-253-0330	2-1-2015	Amend	2-1-2015
340-253-0340	2-1-2015	Amend	2-1-2015
340-253-0400	2-1-2015	Amend	2-1-2015
340-253-0450	2-1-2015	Amend	2-1-2015
340-253-0500	2-1-2015	Amend	2-1-2015
340-253-0600	2-1-2015	Amend	2-1-2015
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340-253-0630	2-1-2015	Amend	2-1-2015
340-253-0650	2-1-2015	Amend	2-1-2015
340-253-1000	2-1-2015	Amend	2-1-2015
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340-253-1020	2-1-2015	Amend	2-1-2015
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340-253-2100	2-1-2015	Adopt	2-1-2015
340-253-2200	2-1-2015	Adopt	2-1-2015
340-253-3010	2-1-2015	Am. & Ren.	2-1-2015
340-253-3020	2-1-2015	Am. & Ren.	2-1-2015
340-253-3030	2-1-2015	Am. & Ren.	2-1-2015
340-253-3040	2-1-2015	Am. & Ren.	2-1-2015
340-253-3050	2-1-2015	Am. & Ren.	2-1-2015
340-253-8010	2-1-2015	Adopt	2-1-2015
340-253-8020	2-1-2015	Adopt	2-1-2015
340-253-8050	2-1-2015	Adopt	2-1-2015
340-262-0450	4-16-2015	Amend	6-1-2015
340-264-0010	4-16-2015	Amend	6-1-2015
340-264-0020	4-16-2015	Amend	6-1-2015
340-264-0030	4-16-2015	Amend	6-1-2015
340-264-0040	4-16-2015	Amend	6-1-2015
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340-264-0175	4-16-2015	Amend	6-1-2015
340-264-0180	4-16-2015	Amend	6-1-2015
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345-027-0070	5-18-2015	Amend	7-1-2015
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407-007-0220	12-1-2014	Amend	1-1-2015
407-007-0230	12-1-2014	Amend	1-1-2015
407-007-0240	12-1-2014	Amend	1-1-2015
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407-007-0290(T)	8-1-2015	Repeal	9-1-2015
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407-007-0315	12-1-2014	Amend	1-1-2015
407-007-0330	12-1-2014	Amend	1-1-2015
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409-022-0040	7-1-2015	Repeal	8-1-2015
409-022-0050	7-1-2015	Repeal	8-1-2015
409-022-0060	7-1-2015	Amend	8-1-2015
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409-024-0110	9-24-2015	Amend	11-1-2015
409-024-0120	9-24-2015	Amend	11-1-2015
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409-040-0105	8-21-2015	Repeal	10-1-2015
409-040-0110	8-21-2015	Repeal	10-1-2015
409-040-0115	8-21-2015	Repeal	10-1-2015
409-055-0010	2-1-2015	Amend	3-1-2015
409-055-0030	2-1-2015	Amend	3-1-2015
409-055-0040	2-1-2015	Amend	3-1-2015
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410-050-0700	10-1-2015	Amend	11-1-2015
410-050-0710	10-1-2015	Amend	11-1-2015
410-050-0720	10-1-2015	Amend	11-1-2015
410-050-0730	10-1-2015	Amend	11-1-2015
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410-050-0780	10-1-2015	Amend	11-1-2015
410-050-0790	10-1-2015	Amend	11-1-2015
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410-050-0830	10-1-2015	Amend	11-1-2015
410-050-0840	10-1-2015	Amend	11-1-2015
410-050-0850	10-1-2015	Amend	11-1-2015
410-050-0860	10-1-2015	Amend	11-1-2015
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410-050-0861	10-1-2015	Amend	11-1-2015
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410-120-1340	1-1-2015	Amend(T)	2-1-2015
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410-120-1340(T)	3-4-2015	Repeal	4-1-2015
410-120-1360	7-1-2015	Amend	8-1-2015
410-120-1510	7-1-2015	Amend	8-1-2015
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410-121-0030	12-12-2014	Amend(T)	1-1-2015
410-121-0030	1-1-2015	Amend(T)	2-1-2015
410-121-0030	3-3-2015	Amend(T)	4-1-2015
410-121-0030	4-18-2015	Amend(T)	6-1-2015
410-121-0030	6-26-2015	Amend	8-1-2015
410-121-0030	7-1-2015	Amend(T)	8-1-2015
410-121-0030	10-1-2015	Amend(T)	11-1-2015
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410-121-0040	12-12-2014	Amend(T)	1-1-2015
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410-121-0040	10-9-2015	Amend(T)	11-1-2015
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410-121-2010	2-18-2015	Renumber	4-1-2015
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410-122-0205	10-1-2015	Amend	11-1-2015
410-122-0209	3-1-2015	Amend	4-1-2015
410-122-0330	10-1-2015	Amend	11-1-2015
410-122-0400	10-1-2015	Amend	11-1-2015
410-122-0520	1-1-2015	Amend	2-1-2015
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410-124-0060	10-1-2015	Amend	11-1-2015
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410-124-0065	10-1-2015	Amend	11-1-2015
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410-124-0120	10-1-2015	Amend	11-1-2015
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410-141-0060	10-1-2015	Amend(T)	11-1-2015
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410-141-0280	4-15-2015	Amend	5-1-2015
410-141-0300	4-1-2015	Amend	5-1-2015
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410-141-3040	7-1-2015	Adopt(T)	8-1-2015
410-141-3060	12-27-2014	Amend(T)	1-1-2015
410-141-3060	1-1-2015	Amend	1-1-2015
410-141-3060	1-1-2015	Amend(T)	1-1-2015
410-141-3060	3-1-2015	Amend	4-1-2015
410-141-3060	10-1-2015	Amend(T)	11-1-2015
410-141-3060(T)	1-1-2015	Repeal	1-1-2015
410-141-3060(T)	3-1-2015	Repeal	4-1-2015
410-141-3065	9-1-2015	Repeal	10-1-2015
410-141-3066	9-1-2015	Adopt	10-1-2015
410-141-3150	8-13-2015	Adopt(T)	9-1-2015
410-141-3267	7-1-2015	Adopt(T)	8-1-2015
410-141-3268	4-1-2015	Amend	5-1-2015
410-141-3269	1-1-2015	Adopt(T)	2-1-2015
410-141-3269	5-1-2015	Adopt	5-1-2015
410-141-3269(T)	5-1-2015	Repeal	5-1-2015
410-141-3280	4-1-2015	Amend	5-1-2015
410-141-3280	4-15-2015	Amend	5-1-2015
410-141-3280	4-15-2015	Amend	5-1-2015
410-141-3300	4-1-2015	Amend	5-1-2015
410-141-3300	4-15-2015	Amend	5-1-2015
410-141-3300	4-15-2015	Amend	5-1-2015
410-141-3420	1-1-2015	Amend	1-1-2015
410-141-3420(T)	1-1-2015	Repeal	1-1-2015
410-143-0020	3-10-2015	Repeal	4-1-2015
410-143-0040	3-10-2015	Repeal	4-1-2015
410-143-0060	3-10-2015	Repeal	4-1-2015
410-146-0040	10-1-2015	Amend	11-1-2015
410-146-0085	10-1-2015	Amend	11-1-2015
410-147-0040	10-1-2015	Amend	11-1-2015
410-147-0120	10-1-2015	Amend	11-1-2015
410-147-0500	10-1-2015	Amend	11-1-2015
410-148-0020	10-1-2015	Amend	11-1-2015
410-165-0000	2-3-2015	Amend(T)	3-1-2015
410-165-0000	4-8-2015	Amend	5-1-2015
410-165-0000(T)	4-8-2015	Repeal	5-1-2015
410-165-0020	2-3-2015	Amend(T)	3-1-2015
410-165-0020	4-8-2015	Amend	5-1-2015
410-165-0020(T)	4-8-2015	Repeal	5-1-2015
410-165-0040	2-3-2015	Amend(T)	3-1-2015
410-165-0040	4-8-2015	Amend	5-1-2015
410-165-0040(T)	4-8-2015	Repeal	5-1-2015
410-165-0060	2-3-2015	Amend(T)	3-1-2015
410-165-0060	4-8-2015	Amend	5-1-2015
410-165-0060(T)	4-8-2015	Repeal	5-1-2015
410-165-0080	2-3-2015	Amend(T)	3-1-2015
410-165-0080	4-8-2015	Amend	5-1-2015
410-165-0080(T)	4-8-2015	Repeal	5-1-2015
410-165-0100	2-3-2015	Amend(T)	3-1-2015
410-165-0100	4-8-2015	Amend	5-1-2015
410-165-0100(T)	4-8-2015	Repeal	5-1-2015
410-170-0110	8-11-2015	Amend(T)	9-1-2015
410-172-0000	1-1-2015	Suspend	2-1-2015
410-172-0000	6-26-2015	Repeal	8-1-2015
410-172-0010	1-1-2015	Suspend	2-1-2015
410-172-0010	6-26-2015	Repeal	8-1-2015
410-172-0020	1-1-2015	Suspend	2-1-2015
410-172-0020	6-26-2015	Repeal	8-1-2015
410-172-0030	1-1-2015	Suspend	2-1-2015
410-172-0030	6-26-2015	Repeal	8-1-2015
410-172-0040	1-1-2015	Suspend	2-1-2015
410-172-0040	6-26-2015	Repeal	8-1-2015
410-172-0050	1-1-2015	Suspend	2-1-2015
410-172-0050	6-26-2015	Repeal	8-1-2015
410-172-0060	1-1-2015	Suspend	2-1-2015
410-172-0060	6-26-2015	Repeal	8-1-2015
410-172-0070	1-1-2015	Suspend	2-1-2015
410-172-0070	6-26-2015	Repeal	8-1-2015
410-172-0080	1-1-2015	Suspend	2-1-2015
410-172-0080	6-26-2015	Repeal	8-1-2015
410-172-0090	1-1-2015	Suspend	2-1-2015
410-172-0090	6-26-2015	Repeal	8-1-2015
410-172-0100	1-1-2015	Suspend	2-1-2015
410-172-0100	6-26-2015	Repeal	8-1-2015
410-172-0110	1-1-2015	Suspend	2-1-2015
410-172-0110	6-26-2015	Repeal	8-1-2015
410-172-0120	1-1-2015	Suspend	2-1-2015
410-172-0120	6-26-2015	Repeal	8-1-2015
410-172-0130	1-1-2015	Suspend	2-1-2015

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410-172-0130	6-26-2015	Repeal	8-1-2015
410-172-0140	1-1-2015	Suspend	2-1-2015
410-172-0140	6-26-2015	Repeal	8-1-2015
410-172-0150	1-1-2015	Suspend	2-1-2015
410-172-0150	6-26-2015	Repeal	8-1-2015
410-172-0160	1-1-2015	Suspend	2-1-2015
410-172-0160	6-26-2015	Repeal	8-1-2015
410-172-0170	1-1-2015	Suspend	2-1-2015
410-172-0170	6-26-2015	Repeal	8-1-2015
410-172-0180	1-1-2015	Suspend	2-1-2015
410-172-0180	6-26-2015	Repeal	8-1-2015
410-172-0190	1-1-2015	Suspend	2-1-2015
410-172-0190	6-26-2015	Repeal	8-1-2015
410-172-0200	1-1-2015	Suspend	2-1-2015
410-172-0200	6-26-2015	Repeal	8-1-2015
410-172-0210	1-1-2015	Suspend	2-1-2015
410-172-0210	6-26-2015	Repeal	8-1-2015
410-172-0220	1-1-2015	Suspend	2-1-2015
410-172-0220	6-26-2015	Repeal	8-1-2015
410-172-0230	1-1-2015	Suspend	2-1-2015
410-172-0230	6-26-2015	Repeal	8-1-2015
410-172-0240	1-1-2015	Suspend	2-1-2015
410-172-0240	6-26-2015	Repeal	8-1-2015
410-172-0250	1-1-2015	Suspend	2-1-2015
410-172-0250	6-26-2015	Repeal	8-1-2015
410-172-0260	1-1-2015	Suspend	2-1-2015
410-172-0260	6-26-2015	Repeal	8-1-2015
410-172-0270	1-1-2015	Suspend	2-1-2015
410-172-0270	6-26-2015	Repeal	8-1-2015
410-172-0280	1-1-2015	Suspend	2-1-2015
410-172-0280	6-26-2015	Repeal	8-1-2015
410-172-0290	1-1-2015	Suspend	2-1-2015
410-172-0290	6-26-2015	Repeal	8-1-2015
410-172-0300	1-1-2015	Suspend	2-1-2015
410-172-0300	6-26-2015	Repeal	8-1-2015
410-172-0310	1-1-2015	Suspend	2-1-2015
410-172-0310	6-26-2015	Repeal	8-1-2015
410-172-0320	1-1-2015	Suspend	2-1-2015
410-172-0320	6-26-2015	Repeal	8-1-2015
410-172-0330	1-1-2015	Suspend	2-1-2015
410-172-0330	6-26-2015	Repeal	8-1-2015
410-172-0340	1-1-2015	Suspend	2-1-2015
410-172-0340	6-26-2015	Repeal	8-1-2015
410-172-0350	1-1-2015	Suspend	2-1-2015
410-172-0350	6-26-2015	Repeal	8-1-2015
410-172-0360	1-1-2015	Suspend	2-1-2015
410-172-0360	6-26-2015	Repeal	8-1-2015
410-172-0370	1-1-2015	Suspend	2-1-2015
410-172-0370	6-26-2015	Repeal	8-1-2015
410-172-0380	1-1-2015	Suspend	2-1-2015
410-172-0380	6-26-2015	Repeal	8-1-2015
410-172-0390	1-1-2015	Suspend	2-1-2015
410-172-0390	6-26-2015	Repeal	8-1-2015
410-172-0400	1-1-2015	Suspend	2-1-2015
410-172-0400	6-26-2015	Repeal	8-1-2015
410-172-0410	1-1-2015	Suspend	2-1-2015
410-172-0410	6-26-2015	Repeal	8-1-2015
410-172-0420	1-1-2015	Suspend	2-1-2015
410-172-0420	6-26-2015	Repeal	8-1-2015
410-172-0430	1-1-2015	Suspend	2-1-2015
410-172-0430	6-26-2015	Repeal	8-1-2015
410-172-0440	1-1-2015	Suspend	2-1-2015
410-172-0440	6-26-2015	Repeal	8-1-2015
410-172-0450	1-1-2015	Suspend	2-1-2015
410-172-0450	6-26-2015	Repeal	8-1-2015
410-172-0460	1-1-2015	Suspend	2-1-2015
410-172-0460	6-26-2015	Repeal	8-1-2015
410-172-0470	1-1-2015	Suspend	2-1-2015
410-172-0470	6-26-2015	Repeal	8-1-2015
410-172-0480	1-1-2015	Suspend	2-1-2015
410-172-0480	6-26-2015	Repeal	8-1-2015
410-172-0490	1-1-2015	Suspend	2-1-2015
410-172-0490	6-26-2015	Repeal	8-1-2015
410-172-0500	1-1-2015	Suspend	2-1-2015
410-172-0500	6-26-2015	Repeal	8-1-2015
410-172-0510	1-1-2015	Suspend	2-1-2015
410-172-0510	6-26-2015	Repeal	8-1-2015
410-172-0600	1-1-2015	Adopt(T)	2-1-2015
410-172-0600	6-26-2015	Adopt	8-1-2015
410-172-0600(T)	6-26-2015	Repeal	8-1-2015
410-172-0610	1-1-2015	Adopt(T)	2-1-2015
410-172-0610	6-26-2015	Adopt	8-1-2015
410-172-0620	1-1-2015	Adopt(T)	2-1-2015
410-172-0620	6-26-2015	Adopt	8-1-2015
410-172-0620(T)	6-26-2015	Repeal	8-1-2015
410-172-0630	1-1-2015	Adopt(T)	2-1-2015
410-172-0630	6-26-2015	Adopt	8-1-2015
410-172-0630(T)	6-26-2015	Repeal	8-1-2015
410-172-0640	1-1-2015	Adopt(T)	2-1-2015
410-172-0640	6-26-2015	Adopt	8-1-2015
410-172-0640(T)	6-26-2015	Repeal	8-1-2015
410-172-0650	1-1-2015	Adopt(T)	2-1-2015
410-172-0650	6-26-2015	Adopt	8-1-2015
410-172-0650(T)	6-26-2015	Repeal	8-1-2015
410-172-0660	1-1-2015	Adopt(T)	2-1-2015
410-172-0660	6-26-2015	Adopt	8-1-2015
410-172-0660(T)	6-26-2015	Repeal	8-1-2015
410-172-0670	1-1-2015	Adopt(T)	2-1-2015
410-172-0670	6-26-2015	Adopt	8-1-2015
410-172-0670(T)	6-26-2015	Repeal	8-1-2015
410-172-0680	1-1-2015	Adopt(T)	2-1-2015
410-172-0680	6-26-2015	Adopt	8-1-2015
410-172-0680(T)	6-26-2015	Repeal	8-1-2015
410-172-0690	1-1-2015	Adopt(T)	2-1-2015
410-172-0690	6-26-2015	Adopt	8-1-2015
410-172-0690(T)	6-26-2015	Repeal	8-1-2015
410-172-0700	1-1-2015	Adopt(T)	2-1-2015
410-172-0700	6-26-2015	Adopt	8-1-2015
410-172-0700(T)	6-26-2015	Repeal	8-1-2015
410-172-0710	1-1-2015	Adopt(T)	2-1-2015
410-172-0710	6-26-2015	Adopt	8-1-2015
410-172-0710(T)	6-26-2015	Repeal	8-1-2015

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410-172-0720	1-1-2015	Adopt(T)	2-1-2015
410-172-0720	6-26-2015	Adopt	8-1-2015
410-172-0720(T)	6-26-2015	Repeal	8-1-2015
410-172-0730	1-1-2015	Adopt(T)	2-1-2015
410-172-0730	6-26-2015	Adopt	8-1-2015
410-172-0730(T)	6-26-2015	Repeal	8-1-2015
410-172-0740	1-1-2015	Adopt(T)	2-1-2015
410-172-0740	6-26-2015	Adopt	8-1-2015
410-172-0740(T)	6-26-2015	Repeal	8-1-2015
410-172-0750	1-1-2015	Adopt(T)	2-1-2015
410-172-0750	6-26-2015	Adopt	8-1-2015
410-172-0750(T)	6-26-2015	Repeal	8-1-2015
410-172-0760	1-1-2015	Adopt(T)	2-1-2015
410-172-0760	6-26-2015	Adopt	8-1-2015
410-172-0760(T)	6-26-2015	Repeal	8-1-2015
410-172-0770	1-1-2015	Adopt(T)	2-1-2015
410-172-0770	6-26-2015	Adopt	8-1-2015
410-172-0770(T)	6-26-2015	Repeal	8-1-2015
410-172-0780	1-1-2015	Adopt(T)	2-1-2015
410-172-0780	6-26-2015	Adopt	8-1-2015
410-172-0780(T)	6-26-2015	Repeal	8-1-2015
410-172-0790	1-1-2015	Adopt(T)	2-1-2015
410-172-0790	6-26-2015	Adopt	8-1-2015
410-172-0790(T)	6-26-2015	Repeal	8-1-2015
410-172-0800	1-1-2015	Adopt(T)	2-1-2015
410-172-0800	6-26-2015	Adopt	8-1-2015
410-172-0800(T)	6-26-2015	Repeal	8-1-2015
410-172-0810	1-1-2015	Adopt(T)	2-1-2015
410-172-0810	6-26-2015	Adopt	8-1-2015
410-172-0810(T)	6-26-2015	Repeal	8-1-2015
410-172-0820	1-1-2015	Adopt(T)	2-1-2015
410-172-0820	6-26-2015	Adopt	8-1-2015
410-172-0820(T)	6-26-2015	Repeal	8-1-2015
410-172-0830	1-1-2015	Adopt(T)	2-1-2015
410-172-0830	6-26-2015	Adopt	8-1-2015
410-172-0830(T)	6-26-2015	Repeal	8-1-2015
410-172-0840	1-1-2015	Adopt(T)	2-1-2015
410-172-0840	6-26-2015	Adopt	8-1-2015
410-172-0840(T)	6-26-2015	Repeal	8-1-2015
410-172-0850	1-1-2015	Adopt(T)	2-1-2015
410-172-0850	6-26-2015	Adopt	8-1-2015
410-172-0850(T)	6-26-2015	Repeal	8-1-2015
410-172-0860	6-26-2015	Adopt	8-1-2015
410-200-0010	1-30-2015	Amend	3-1-2015
410-200-0010(T)	1-30-2015	Repeal	3-1-2015
410-200-0015	1-30-2015	Amend	3-1-2015
410-200-0015(T)	1-30-2015	Repeal	3-1-2015
410-200-0100	1-30-2015	Amend	3-1-2015
410-200-0100(T)	1-30-2015	Repeal	3-1-2015
410-200-0105	1-30-2015	Amend	3-1-2015
410-200-0105(T)	1-30-2015	Repeal	3-1-2015
410-200-0110	1-30-2015	Amend	3-1-2015
410-200-0110(T)	1-30-2015	Repeal	3-1-2015
410-200-0111	1-30-2015	Amend	3-1-2015
410-200-0111(T)	1-30-2015	Repeal	3-1-2015
410-200-0115	1-30-2015	Amend	3-1-2015
410-200-0115(T)	1-30-2015	Repeal	3-1-2015
410-200-0120	1-30-2015	Amend	3-1-2015
410-200-0120(T)	1-30-2015	Repeal	3-1-2015
410-200-0125	1-30-2015	Amend	3-1-2015
410-200-0125(T)	1-30-2015	Repeal	3-1-2015
410-200-0130	1-30-2015	Amend	3-1-2015
410-200-0130(T)	1-30-2015	Repeal	3-1-2015
410-200-0135	1-30-2015	Amend	3-1-2015
410-200-0135(T)	1-30-2015	Repeal	3-1-2015
410-200-0140	1-30-2015	Amend	3-1-2015
410-200-0140(T)	1-30-2015	Repeal	3-1-2015
410-200-0145	1-30-2015	Amend	3-1-2015
410-200-0145(T)	1-30-2015	Repeal	3-1-2015
410-200-0146	1-30-2015	Amend	3-1-2015
410-200-0146(T)	1-30-2015	Repeal	3-1-2015
410-200-0200	1-30-2015	Amend	3-1-2015
410-200-0200(T)	1-30-2015	Repeal	3-1-2015
410-200-0205	1-30-2015	Amend	3-1-2015
410-200-0205(T)	1-30-2015	Repeal	3-1-2015
410-200-0210	1-30-2015	Amend	3-1-2015
410-200-0210(T)	1-30-2015	Repeal	3-1-2015
410-200-0215	1-30-2015	Amend	3-1-2015
410-200-0215(T)	1-30-2015	Repeal	3-1-2015
410-200-0220	1-30-2015	Amend	3-1-2015
410-200-0220(T)	1-30-2015	Repeal	3-1-2015
410-200-0225	1-30-2015	Amend	3-1-2015
410-200-0225(T)	1-30-2015	Repeal	3-1-2015
410-200-0230	1-30-2015	Amend	3-1-2015
410-200-0230(T)	1-30-2015	Repeal	3-1-2015
410-200-0235	1-30-2015	Amend	3-1-2015
410-200-0235(T)	1-30-2015	Repeal	3-1-2015
410-200-0240	1-30-2015	Amend	3-1-2015
410-200-0240(T)	1-30-2015	Repeal	3-1-2015
410-200-0305	1-30-2015	Amend	3-1-2015
410-200-0305(T)	1-30-2015	Repeal	3-1-2015
410-200-0310	1-30-2015	Amend	3-1-2015
410-200-0310(T)	1-30-2015	Repeal	3-1-2015
410-200-0315	1-30-2015	Amend	3-1-2015
410-200-0315	3-1-2015	Amend(T)	3-1-2015
410-200-0315	4-22-2015	Amend	6-1-2015
410-200-0315(T)	1-30-2015	Repeal	3-1-2015
410-200-0315(T)	4-22-2015	Repeal	6-1-2015
410-200-0400	1-30-2015	Amend	3-1-2015
410-200-0400(T)	1-30-2015	Repeal	3-1-2015
410-200-0405	1-30-2015	Amend	3-1-2015
410-200-0405(T)	1-30-2015	Repeal	3-1-2015
410-200-0410	1-30-2015	Amend	3-1-2015
410-200-0410(T)	1-30-2015	Repeal	3-1-2015
410-200-0415	1-30-2015	Amend	3-1-2015
410-200-0415(T)	1-30-2015	Repeal	3-1-2015
410-200-0420	1-30-2015	Amend	3-1-2015
410-200-0420(T)	1-30-2015	Repeal	3-1-2015
410-200-0425	1-30-2015	Amend	3-1-2015
410-200-0425(T)	1-30-2015	Repeal	3-1-2015
410-200-0435	1-30-2015	Amend	3-1-2015
410-200-0435(T)	1-30-2015	Repeal	3-1-2015

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410-200-0440	1-30-2015	Amend	3-1-2015
410-200-0440	4-2-2015	Amend(T)	5-1-2015
410-200-0440	6-16-2015	Amend(T)	8-1-2015
410-200-0440	9-25-2015	Amend	11-1-2015
410-200-0440(T)	1-30-2015	Repeal	3-1-2015
410-200-0440(T)	9-25-2015	Repeal	11-1-2015
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
411-027-0005	9-21-2015	Amend(T)	11-1-2015
411-027-0170	9-21-2015	Adopt(T)	11-1-2015
411-030-0020	9-21-2015	Amend(T)	11-1-2015
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
411-030-0068	9-21-2015	Adopt(T)	11-1-2015
411-030-0070	9-21-2015	Amend(T)	11-1-2015
411-030-0080	9-21-2015	Amend(T)	11-1-2015
411-030-0100	9-21-2015	Amend(T)	11-1-2015
411-032-0050	12-28-2014	Adopt	2-1-2015
411-032-0050	7-1-2015	Amend(T)	8-1-2015
411-032-0050(T)	12-28-2014	Repeal	2-1-2015
411-035-0010	3-9-2015	Amend	4-1-2015
411-035-0010(T)	3-9-2015	Repeal	4-1-2015
411-035-0015	1-1-2015	Amend(T)	2-1-2015
411-035-0015	4-3-2015	Amend	5-1-2015
411-035-0015(T)	4-3-2015	Repeal	5-1-2015
411-035-0025	1-1-2015	Amend(T)	2-1-2015
411-035-0025	4-3-2015	Amend	5-1-2015
411-035-0025(T)	4-3-2015	Repeal	5-1-2015
411-035-0040	1-1-2015	Amend(T)	2-1-2015
411-035-0040	4-3-2015	Amend	5-1-2015
411-035-0040(T)	4-3-2015	Repeal	5-1-2015
411-035-0055	1-1-2015	Amend(T)	2-1-2015
411-035-0055	4-3-2015	Amend	5-1-2015
411-035-0055(T)	4-3-2015	Repeal	5-1-2015
411-035-0070	1-1-2015	Amend(T)	2-1-2015
411-035-0070	4-3-2015	Amend	5-1-2015
411-035-0070(T)	4-3-2015	Repeal	5-1-2015
411-035-0085	1-1-2015	Amend(T)	2-1-2015
411-035-0085	4-3-2015	Amend	5-1-2015
411-035-0085(T)	4-3-2015	Repeal	5-1-2015
411-050-0602	1-1-2015	Amend(T)	2-1-2015
411-050-0602	6-28-2015	Amend	8-1-2015
411-050-0602(T)	6-28-2015	Repeal	8-1-2015
411-050-0610	6-28-2015	Amend	8-1-2015
411-050-0615	6-28-2015	Amend	8-1-2015
411-050-0620	6-28-2015	Amend	8-1-2015
411-050-0625	1-1-2015	Amend(T)	2-1-2015
411-050-0625	6-28-2015	Amend	8-1-2015
411-050-0625(T)	6-28-2015	Repeal	8-1-2015
411-050-0632	6-28-2015	Amend	8-1-2015
411-050-0635	6-28-2015	Amend	8-1-2015
411-050-0640	1-1-2015	Amend(T)	2-1-2015
411-050-0640	6-28-2015	Amend	8-1-2015
411-050-0640(T)	6-28-2015	Repeal	8-1-2015
411-050-0645	1-1-2015	Amend(T)	2-1-2015
411-050-0645	6-28-2015	Amend	8-1-2015
411-050-0645(T)	6-28-2015	Repeal	8-1-2015
411-050-0650	6-28-2015	Amend	8-1-2015
411-050-0655	1-1-2015	Amend(T)	2-1-2015
411-050-0655	6-28-2015	Amend	8-1-2015
411-050-0655(T)	6-28-2015	Repeal	8-1-2015
411-050-0660	6-28-2015	Amend	8-1-2015
411-050-0662	6-28-2015	Amend	8-1-2015
411-050-0665	1-1-2015	Amend(T)	2-1-2015
411-050-0665	6-28-2015	Amend	8-1-2015
411-050-0665(T)	6-28-2015	Repeal	8-1-2015
411-054-0005	1-15-2015	Amend	2-1-2015
411-054-0012	1-15-2015	Amend	2-1-2015
411-054-0090	1-15-2015	Amend	2-1-2015
411-054-0093	1-15-2015	Amend	2-1-2015
411-054-0120	1-29-2015	Amend(T)	3-1-2015
411-054-0120	6-28-2015	Amend	8-1-2015
411-054-0120(T)	6-28-2015	Repeal	8-1-2015
411-054-0200	1-15-2015	Amend	2-1-2015
411-054-0200	6-24-2015	Amend	8-1-2015
411-054-0300	1-15-2015	Amend	2-1-2015
411-070-0005	3-9-2015	Amend	4-1-2015
411-070-0027	3-9-2015	Amend	4-1-2015
411-070-0035	3-9-2015	Amend	4-1-2015
411-070-0043	3-9-2015	Amend	4-1-2015
411-070-0091	3-9-2015	Amend	4-1-2015
411-085-0005	1-1-2015	Amend(T)	2-1-2015
411-085-0005	6-28-2015	Amend	8-1-2015
411-085-0005(T)	6-28-2015	Repeal	8-1-2015
411-085-0010	1-1-2015	Amend(T)	2-1-2015
411-085-0010	6-28-2015	Amend	8-1-2015
411-085-0010(T)	6-28-2015	Repeal	8-1-2015

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411-085-0013	1-1-2015	Amend(T)	2-1-2015
411-085-0013	6-28-2015	Amend	8-1-2015
411-085-0013(T)	6-28-2015	Repeal	8-1-2015
411-085-0015	1-1-2015	Amend(T)	2-1-2015
411-085-0015	6-28-2015	Amend	8-1-2015
411-085-0015(T)	6-28-2015	Repeal	8-1-2015
411-085-0030	1-1-2015	Amend(T)	2-1-2015
411-085-0030	6-28-2015	Amend	8-1-2015
411-085-0030(T)	6-28-2015	Repeal	8-1-2015
411-085-0040	1-1-2015	Amend(T)	2-1-2015
411-085-0040	6-28-2015	Amend	8-1-2015
411-085-0040(T)	6-28-2015	Repeal	8-1-2015
411-085-0060	1-1-2015	Amend(T)	2-1-2015
411-085-0060	6-28-2015	Amend	8-1-2015
411-085-0060(T)	6-28-2015	Repeal	8-1-2015
411-085-0310	1-1-2015	Amend(T)	2-1-2015
411-085-0310	6-28-2015	Amend	8-1-2015
411-085-0310(T)	6-28-2015	Repeal	8-1-2015
411-085-0350	1-1-2015	Amend(T)	2-1-2015
411-085-0350	6-28-2015	Amend	8-1-2015
411-085-0350(T)	6-28-2015	Repeal	8-1-2015
411-085-0360	1-1-2015	Amend(T)	2-1-2015
411-085-0360	6-28-2015	Amend	8-1-2015
411-085-0360(T)	6-28-2015	Repeal	8-1-2015
411-085-0370	1-1-2015	Amend(T)	2-1-2015
411-085-0370	6-28-2015	Amend	8-1-2015
411-085-0370(T)	6-28-2015	Repeal	8-1-2015
411-088-0050	3-2-2015	Amend(T)	4-1-2015
411-088-0050	8-10-2015	Amend	9-1-2015
411-088-0050(T)	8-10-2015	Repeal	9-1-2015
411-088-0060	3-2-2015	Amend(T)	4-1-2015
411-088-0060	8-10-2015	Amend	9-1-2015
411-088-0060(T)	8-10-2015	Repeal	9-1-2015
411-089-0010	1-1-2015	Amend(T)	2-1-2015
411-089-0010	6-28-2015	Amend	8-1-2015
411-089-0010(T)	6-28-2015	Repeal	8-1-2015
411-089-0020	1-1-2015	Amend(T)	2-1-2015
411-089-0020	6-28-2015	Amend	8-1-2015
411-089-0020(T)	6-28-2015	Repeal	8-1-2015
411-089-0030	1-1-2015	Amend(T)	2-1-2015
411-089-0030	6-28-2015	Amend	8-1-2015
411-089-0030(T)	6-28-2015	Repeal	8-1-2015
411-089-0040	1-1-2015	Amend(T)	2-1-2015
411-089-0040	6-28-2015	Amend	8-1-2015
411-089-0040(T)	6-28-2015	Repeal	8-1-2015
411-089-0050	1-1-2015	Amend(T)	2-1-2015
411-089-0050	6-28-2015	Amend	8-1-2015
411-089-0050(T)	6-28-2015	Repeal	8-1-2015
411-089-0070	1-1-2015	Amend(T)	2-1-2015
411-089-0070	6-28-2015	Amend	8-1-2015
411-089-0070(T)	6-28-2015	Repeal	8-1-2015
411-089-0075	1-1-2015	Amend(T)	2-1-2015
411-089-0075	6-28-2015	Amend	8-1-2015
411-089-0075(T)	6-28-2015	Repeal	8-1-2015
411-089-0100	1-1-2015	Amend(T)	2-1-2015
411-089-0100	6-28-2015	Amend	8-1-2015
411-089-0100(T)	6-28-2015	Repeal	8-1-2015
411-089-0110	1-1-2015	Amend(T)	2-1-2015
411-089-0110	6-28-2015	Amend	8-1-2015
411-089-0110(T)	6-28-2015	Repeal	8-1-2015
411-089-0120	1-1-2015	Amend(T)	2-1-2015
411-089-0120	6-28-2015	Amend	8-1-2015
411-089-0120(T)	6-28-2015	Repeal	8-1-2015
411-089-0130	1-1-2015	Amend(T)	2-1-2015
411-089-0130	6-28-2015	Amend	8-1-2015
411-089-0130(T)	6-28-2015	Repeal	8-1-2015
411-089-0140	1-1-2015	Amend(T)	2-1-2015
411-089-0140	6-28-2015	Amend	8-1-2015
411-089-0140(T)	6-28-2015	Repeal	8-1-2015
411-300-0100	2-16-2015	Amend	3-1-2015
411-300-0110	2-16-2015	Amend	3-1-2015
411-300-0110(T)	2-16-2015	Repeal	3-1-2015
411-300-0120	2-16-2015	Amend	3-1-2015
411-300-0120	3-12-2015	Amend	4-1-2015
411-300-0120	4-10-2015	Amend(T)	5-1-2015
411-300-0120	10-6-2015	Amend	11-1-2015
411-300-0120(T)	2-16-2015	Repeal	3-1-2015
411-300-0120(T)	10-6-2015	Repeal	11-1-2015
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

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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
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

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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
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

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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	10-6-2015	Amend	11-1-2015
411-350-0030(T)	2-16-2015	Repeal	3-1-2015
411-350-0030(T)	10-6-2015	Repeal	11-1-2015
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
411-355-0000	8-1-2015	Amend(T)	9-1-2015
411-355-0010	8-1-2015	Amend(T)	9-1-2015
411-355-0020	8-1-2015	Amend(T)	9-1-2015
411-355-0030	8-1-2015	Amend(T)	9-1-2015
411-355-0040	8-1-2015	Amend(T)	9-1-2015
411-355-0045	8-1-2015	Adopt(T)	9-1-2015
411-355-0050	8-1-2015	Amend(T)	9-1-2015
411-355-0060	8-1-2015	Suspend	9-1-2015
411-355-0070	8-1-2015	Suspend	9-1-2015
411-355-0075	8-1-2015	Adopt(T)	9-1-2015
411-355-0080	8-1-2015	Amend(T)	9-1-2015
411-355-0090	8-1-2015	Amend(T)	9-1-2015
411-355-0100	8-1-2015	Amend(T)	9-1-2015
411-355-0110	8-1-2015	Suspend	9-1-2015
411-355-0120	8-1-2015	Suspend	9-1-2015
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
413-010-0000	8-4-2015	Amend	9-1-2015
413-010-0000	10-6-2015	Amend	11-1-2015
413-010-0010	8-4-2015	Amend	9-1-2015
413-010-0081	8-4-2015	Repeal	9-1-2015
413-010-0082	8-4-2015	Repeal	9-1-2015
413-010-0083	8-4-2015	Repeal	9-1-2015
413-010-0085	8-4-2015	Repeal	9-1-2015
413-010-0175	8-4-2015	Amend	9-1-2015
413-010-0180	1-1-2015	Amend	2-1-2015
413-010-0185	1-1-2015	Amend	2-1-2015
413-010-0310	2-1-2015	Amend	3-1-2015
413-010-0310	5-22-2015	Amend(T)	7-1-2015
413-010-0310	8-4-2015	Amend	9-1-2015
413-010-0310(T)	8-4-2015	Repeal	9-1-2015
413-010-0410	8-4-2015	Amend	9-1-2015
413-010-0501	8-4-2015	Amend	9-1-2015
413-010-0705	8-4-2015	Amend	9-1-2015
413-015-0115	12-24-2014	Amend	2-1-2015
413-015-0115	10-1-2015	Amend(T)	11-1-2015
413-015-0115(T)	12-24-2014	Repeal	2-1-2015
413-015-0211	10-1-2015	Amend(T)	11-1-2015
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

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413-015-0415	12-24-2014	Amend	2-1-2015
413-015-0415	10-1-2015	Amend(T)	11-1-2015
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
413-015-9000	10-12-2015	Amend(T)	11-1-2015
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
413-020-0000	10-1-2015	Amend	11-1-2015
413-020-0000	10-6-2015	Amend	11-1-2015
413-020-0005	10-1-2015	Amend	11-1-2015
413-020-0020	10-1-2015	Amend	11-1-2015
413-020-0065	10-1-2015	Repeal	11-1-2015
413-020-0075	10-1-2015	Amend	11-1-2015
413-020-0110	10-1-2015	Repeal	11-1-2015
413-020-0120	10-1-2015	Amend	11-1-2015
413-020-0130	10-1-2015	Amend	11-1-2015
413-020-0140	10-1-2015	Amend	11-1-2015
413-020-0150	10-1-2015	Amend	11-1-2015
413-020-0160	10-1-2015	Amend	11-1-2015
413-020-0170	10-1-2015	Amend	11-1-2015
413-020-0210	10-1-2015	Repeal	11-1-2015
413-020-0610	10-1-2015	Repeal	11-1-2015
413-030-0000	10-1-2015	Amend	11-1-2015
413-030-0000	10-6-2015	Amend	11-1-2015
413-030-0003	10-1-2015	Amend	11-1-2015
413-030-0006	10-1-2015	Amend	11-1-2015
413-030-0009	10-1-2015	Amend	11-1-2015
413-030-0200	10-1-2015	Amend	11-1-2015
413-030-0205	10-6-2015	Repeal	11-1-2015
413-030-0210	10-1-2015	Amend	11-1-2015
413-030-0220	10-1-2015	Amend	11-1-2015
413-030-0300	10-1-2015	Amend	11-1-2015
413-030-0310	10-1-2015	Amend	11-1-2015
413-030-0405	5-22-2015	Amend(T)	7-1-2015
413-030-0405	10-1-2015	Repeal	11-1-2015
413-030-0410	10-1-2015	Amend	11-1-2015
413-030-0445	10-1-2015	Amend	11-1-2015
413-030-0449	10-1-2015	Amend	11-1-2015
413-030-0454	10-1-2015	Amend	11-1-2015
413-030-0456	10-1-2015	Amend	11-1-2015
413-030-0460	10-1-2015	Amend	11-1-2015
413-040-0000	10-1-2015	Amend	11-1-2015
413-040-0005	10-1-2015	Amend	11-1-2015
413-040-0006	10-1-2015	Amend	11-1-2015
413-040-0008	10-1-2015	Amend	11-1-2015
413-040-0009	10-1-2015	Repeal	11-1-2015
413-040-0010	10-1-2015	Amend	11-1-2015
413-040-0013	10-1-2015	Amend	11-1-2015
413-040-0014	10-1-2015	Adopt	11-1-2015
413-040-0016	10-1-2015	Amend	11-1-2015
413-040-0017	10-1-2015	Amend	11-1-2015
413-040-0024	10-1-2015	Amend	11-1-2015
413-040-0032	10-1-2015	Amend	11-1-2015
413-040-0100	10-1-2015	Amend	11-1-2015
413-040-0110	10-1-2015	Repeal	11-1-2015
413-040-0210	10-1-2015	Repeal	11-1-2015
413-040-0410	10-1-2015	Repeal	11-1-2015
413-070-0000	7-17-2015	Amend	9-1-2015
413-070-0000	10-1-2015	Amend	11-1-2015
413-070-0000	10-6-2015	Amend	11-1-2015
413-070-0010	7-17-2015	Amend	9-1-2015
413-070-0015	7-17-2015	Amend	9-1-2015
413-070-0020	7-17-2015	Amend	9-1-2015
413-070-0022	7-17-2015	Amend	9-1-2015
413-070-0022	10-1-2015	Repeal	11-1-2015
413-070-0027	7-17-2015	Amend	9-1-2015
413-070-0027	10-1-2015	Repeal	11-1-2015
413-070-0030	7-17-2015	Amend	9-1-2015
413-070-0033	10-1-2015	Repeal	11-1-2015
413-070-0060	7-17-2015	Amend	9-1-2015
413-070-0063	2-1-2015	Amend	3-1-2015
413-070-0063	5-22-2015	Amend(T)	7-1-2015
413-070-0063	7-17-2015	Repeal	9-1-2015
413-070-0066	7-17-2015	Repeal	9-1-2015
413-070-0069	1-21-2015	Amend(T)	3-1-2015
413-070-0069	7-17-2015	Amend	9-1-2015
413-070-0069(T)	7-17-2015	Repeal	9-1-2015
413-070-0072	1-21-2015	Amend(T)	3-1-2015
413-070-0072	7-17-2015	Amend	9-1-2015
413-070-0072(T)	7-17-2015	Repeal	9-1-2015
413-070-0075	7-17-2015	Amend	9-1-2015
413-070-0078	7-17-2015	Amend	9-1-2015
413-070-0081	7-17-2015	Amend	9-1-2015
413-070-0087	7-17-2015	Amend	9-1-2015
413-070-0110	10-1-2015	Repeal	11-1-2015
413-070-0120	7-17-2015	Repeal	9-1-2015
413-070-0130	7-17-2015	Amend	9-1-2015
413-070-0140	7-17-2015	Amend	9-1-2015
413-070-0150	7-17-2015	Amend	9-1-2015
413-070-0160	7-17-2015	Amend	9-1-2015
413-070-0170	7-17-2015	Amend	9-1-2015
413-070-0170	10-1-2015	Amend	11-1-2015
413-070-0180	7-17-2015	Amend	9-1-2015
413-070-0190	7-17-2015	Amend	9-1-2015
413-070-0200	7-17-2015	Amend	9-1-2015
413-070-0210	7-17-2015	Amend	9-1-2015
413-070-0220	7-17-2015	Amend	9-1-2015
413-070-0230	7-17-2015	Amend	9-1-2015
413-070-0240	7-17-2015	Amend	9-1-2015
413-070-0300	7-17-2015	Amend	9-1-2015
413-070-0310	7-17-2015	Repeal	9-1-2015

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413-070-0320	7-17-2015	Amend	9-1-2015
413-070-0350	7-17-2015	Amend	9-1-2015
413-070-0360	7-17-2015	Amend	9-1-2015
413-070-0370	7-17-2015	Amend	9-1-2015
413-070-0400	7-17-2015	Amend	9-1-2015
413-070-0410	1-1-2015	Amend	2-1-2015
413-070-0410	7-17-2015	Repeal	9-1-2015
413-070-0430	1-1-2015	Amend	2-1-2015
413-070-0430	7-17-2015	Amend	9-1-2015
413-070-0450	1-1-2015	Amend	2-1-2015
413-070-0450	10-1-2015	Amend	11-1-2015
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
413-070-0500	7-17-2015	Amend	9-1-2015
413-070-0505	2-1-2015	Amend	3-1-2015
413-070-0505	5-22-2015	Amend(T)	7-1-2015
413-070-0505	7-17-2015	Repeal	9-1-2015
413-070-0510	10-1-2015	Amend	11-1-2015
413-070-0512	7-17-2015	Amend	9-1-2015
413-070-0512	10-1-2015	Amend	11-1-2015
413-070-0514	7-17-2015	Amend	9-1-2015
413-070-0514	10-1-2015	Amend	11-1-2015
413-070-0516	7-17-2015	Amend	9-1-2015
413-070-0516	9-1-2015	Amend(T)	10-1-2015
413-070-0516	10-1-2015	Amend	11-1-2015
413-070-0516(T)	10-1-2015	Repeal	11-1-2015
413-070-0518	7-17-2015	Amend	9-1-2015
413-070-0518	9-1-2015	Amend(T)	10-1-2015
413-070-0518	10-1-2015	Amend	11-1-2015
413-070-0518(T)	10-1-2015	Repeal	11-1-2015
413-070-0519	7-17-2015	Amend	9-1-2015
413-070-0519	9-1-2015	Amend(T)	10-1-2015
413-070-0519	10-1-2015	Amend	11-1-2015
413-070-0519(T)	10-1-2015	Repeal	11-1-2015
413-070-0520	10-1-2015	Amend	11-1-2015
413-070-0524	7-17-2015	Repeal	9-1-2015
413-070-0532	10-1-2015	Amend	11-1-2015
413-070-0536	10-1-2015	Amend	11-1-2015
413-070-0540	10-1-2015	Amend	11-1-2015
413-070-0550	10-1-2015	Amend	11-1-2015
413-070-0551	10-1-2015	Amend	11-1-2015
413-070-0552	10-1-2015	Amend	11-1-2015
413-070-0556	10-1-2015	Amend	11-1-2015
413-070-0565	10-1-2015	Amend	11-1-2015
413-070-0570	7-17-2015	Amend	9-1-2015
413-070-0572	7-17-2015	Repeal	9-1-2015
413-070-0574	7-17-2015	Amend	9-1-2015
413-070-0600	7-17-2015	Amend	9-1-2015
413-070-0620	2-1-2015	Amend	3-1-2015
413-070-0620	5-22-2015	Amend(T)	7-1-2015
413-070-0620	7-17-2015	Repeal	9-1-2015
413-070-0625	10-1-2015	Amend	11-1-2015
413-070-0630	10-1-2015	Amend	11-1-2015
413-070-0651	7-17-2015	Amend	9-1-2015
413-070-0651	10-1-2015	Repeal	11-1-2015
413-070-0655	2-1-2015	Amend	3-1-2015
413-070-0655	5-22-2015	Amend(T)	7-1-2015
413-070-0655	7-17-2015	Amend	9-1-2015
413-070-0655(T)	7-17-2015	Repeal	9-1-2015
413-070-0665	7-17-2015	Amend	9-1-2015
413-070-0670	7-17-2015	Amend	9-1-2015
413-070-0800	10-1-2015	Amend	11-1-2015
413-070-0810	5-22-2015	Amend(T)	7-1-2015
413-070-0810	7-17-2015	Repeal	9-1-2015
413-070-0830	10-1-2015	Amend	11-1-2015
413-070-0840	10-1-2015	Amend	11-1-2015
413-070-0855	10-1-2015	Amend	11-1-2015
413-070-0860	7-17-2015	Amend	9-1-2015
413-070-0900	7-17-2015	Amend	9-1-2015
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	5-22-2015	Amend(T)	7-1-2015
413-070-0905	7-17-2015	Amend	9-1-2015
413-070-0905	10-1-2015	Amend	11-1-2015
413-070-0905(T)	1-21-2015	Suspend	3-1-2015
413-070-0905(T)	2-1-2015	Repeal	3-1-2015
413-070-0905(T)	5-22-2015	Suspend	7-1-2015
413-070-0905(T)	7-17-2015	Repeal	9-1-2015
413-070-0909	7-17-2015	Amend	9-1-2015
413-070-0909	10-1-2015	Repeal	11-1-2015
413-070-0917	1-21-2015	Amend(T)	3-1-2015
413-070-0917	7-17-2015	Amend	9-1-2015
413-070-0917	8-19-2015	Amend(T)	10-1-2015
413-070-0917	10-1-2015	Amend	11-1-2015
413-070-0917(T)	7-17-2015	Repeal	9-1-2015
413-070-0917(T)	10-1-2015	Repeal	11-1-2015
413-070-0918	10-1-2015	Adopt	11-1-2015
413-070-0919	7-17-2015	Amend	9-1-2015
413-070-0919	10-1-2015	Amend	11-1-2015
413-070-0925	7-17-2015	Amend	9-1-2015
413-070-0925	10-1-2015	Amend	11-1-2015
413-070-0934	7-17-2015	Amend	9-1-2015
413-070-0934	10-1-2015	Amend	11-1-2015
413-070-0939	7-17-2015	Amend	9-1-2015
413-070-0939	10-1-2015	Amend	11-1-2015
413-070-0944	10-1-2015	Amend	11-1-2015
413-070-0949	1-21-2015	Amend(T)	3-1-2015
413-070-0949	7-17-2015	Amend	9-1-2015
413-070-0949	10-1-2015	Amend	11-1-2015
413-070-0949(T)	7-17-2015	Repeal	9-1-2015
413-070-0959	7-17-2015	Amend	9-1-2015
413-070-0964	10-1-2015	Amend	11-1-2015
413-070-0969	7-17-2015	Amend	9-1-2015
413-070-0970	7-17-2015	Amend	9-1-2015
413-070-0974	7-17-2015	Amend	9-1-2015
413-070-0974	10-1-2015	Amend	11-1-2015
413-070-0990	10-1-2015	Adopt	11-1-2015
413-070-1000	10-1-2015	Adopt	11-1-2015
413-070-1010	10-1-2015	Adopt	11-1-2015
413-070-1020	10-1-2015	Adopt	11-1-2015

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413-070-1030	10-1-2015	Adopt	11-1-2015
413-070-1040	10-1-2015	Adopt	11-1-2015
413-070-1050	10-1-2015	Adopt	11-1-2015
413-070-1060	10-1-2015	Adopt	11-1-2015
413-080-0050	10-1-2015	Amend(T)	11-1-2015
413-080-0053	10-1-2015	Adopt(T)	11-1-2015
413-080-0054	10-1-2015	Amend(T)	11-1-2015
413-090-0000	8-4-2015	Amend	9-1-2015
413-090-0005	8-4-2015	Amend	9-1-2015
413-090-0010	8-4-2015	Amend	9-1-2015
413-090-0021	8-4-2015	Amend	9-1-2015
413-090-0040	8-4-2015	Amend	9-1-2015
413-090-0065	8-4-2015	Amend	9-1-2015
413-090-0070	8-4-2015	Amend	9-1-2015
413-090-0080	8-4-2015	Amend	9-1-2015
413-090-0085	8-26-2015	Amend(T)	10-1-2015
413-090-0087	10-1-2015	Adopt(T)	11-1-2015
413-090-0110	1-1-2015	Amend	2-1-2015
413-090-0110	8-4-2015	Amend	9-1-2015
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
413-090-0133	8-4-2015	Amend	9-1-2015
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
413-090-0150	8-4-2015	Amend	9-1-2015
413-090-0210	1-1-2015	Amend	2-1-2015
413-090-0300	8-4-2015	Amend	9-1-2015
413-090-0310	8-4-2015	Amend	9-1-2015
413-090-0340	8-4-2015	Amend	9-1-2015
413-090-0400	8-4-2015	Amend	9-1-2015
413-090-0405	8-4-2015	Amend	9-1-2015
413-090-0410	8-4-2015	Amend	9-1-2015
413-090-0500	8-4-2015	Amend	9-1-2015
413-090-0510	8-4-2015	Amend	9-1-2015
413-090-0530	8-4-2015	Amend	9-1-2015
413-110-0110	5-22-2015	Amend(T)	7-1-2015
413-120-0000	10-1-2015	Amend	11-1-2015
413-120-0010	2-1-2015	Amend	3-1-2015
413-120-0010	5-22-2015	Amend(T)	7-1-2015
413-120-0010	9-1-2015	Amend(T)	10-1-2015
413-120-0010	10-1-2015	Amend	11-1-2015
413-120-0010(T)	9-1-2015	Suspend	10-1-2015
413-120-0010(T)	10-1-2015	Repeal	11-1-2015
413-120-0016	10-1-2015	Amend	11-1-2015
413-120-0020	9-1-2015	Amend(T)	10-1-2015
413-120-0020	10-1-2015	Amend	11-1-2015
413-120-0020(T)	10-1-2015	Repeal	11-1-2015
413-120-0021	9-1-2015	Amend(T)	10-1-2015
413-120-0021	10-1-2015	Amend	11-1-2015
413-120-0021(T)	10-1-2015	Repeal	11-1-2015
413-120-0025	10-1-2015	Amend	11-1-2015
413-120-0035	9-1-2015	Amend(T)	10-1-2015
413-120-0035	10-1-2015	Amend	11-1-2015
413-120-0035(T)	10-1-2015	Repeal	11-1-2015
413-120-0057	10-1-2015	Amend	11-1-2015
413-120-0060	10-1-2015	Amend	11-1-2015
413-120-0105	10-1-2015	Repeal	11-1-2015
413-120-0150	10-1-2015	Repeal	11-1-2015
413-120-0195	2-1-2015	Amend	3-1-2015
413-120-0195	5-22-2015	Amend(T)	7-1-2015
413-120-0195	10-1-2015	Repeal	11-1-2015
413-120-0220	10-1-2015	Amend	11-1-2015
413-120-0243	10-1-2015	Amend	11-1-2015
413-120-0246	10-1-2015	Amend	11-1-2015
413-120-0420	10-1-2015	Repeal	11-1-2015
413-120-0500	9-1-2015	Suspend	10-1-2015
413-120-0500	10-1-2015	Repeal	11-1-2015
413-120-0510	2-1-2015	Amend	3-1-2015
413-120-0510	5-22-2015	Amend(T)	7-1-2015
413-120-0510	10-1-2015	Repeal	11-1-2015
413-120-0510(T)	9-1-2015	Suspend	10-1-2015
413-120-0521	9-1-2015	Suspend	10-1-2015
413-120-0521	10-1-2015	Repeal	11-1-2015
413-120-0541	9-1-2015	Suspend	10-1-2015
413-120-0541	10-1-2015	Repeal	11-1-2015
413-120-0570	9-1-2015	Suspend	10-1-2015
413-120-0570	10-1-2015	Repeal	11-1-2015
413-120-0580	9-1-2015	Suspend	10-1-2015
413-120-0580	10-1-2015	Repeal	11-1-2015
413-120-0590	9-1-2015	Suspend	10-1-2015
413-120-0590	10-1-2015	Repeal	11-1-2015
413-120-0595	10-1-2015	Repeal	11-1-2015
413-120-0610	10-1-2015	Repeal	11-1-2015
413-120-0635	10-1-2015	Amend	11-1-2015
413-120-0700	10-1-2015	Amend	11-1-2015
413-120-0710	2-1-2015	Amend	3-1-2015
413-120-0710	5-22-2015	Amend(T)	7-1-2015
413-120-0710	9-1-2015	Amend(T)	10-1-2015
413-120-0710	10-1-2015	Repeal	11-1-2015
413-120-0710(T)	9-1-2015	Suspend	10-1-2015
413-120-0720	9-1-2015	Amend(T)	10-1-2015
413-120-0720	10-1-2015	Amend	11-1-2015
413-120-0720(T)	10-1-2015	Repeal	11-1-2015
413-120-0730	9-1-2015	Amend(T)	10-1-2015
413-120-0730	10-1-2015	Amend	11-1-2015
413-120-0730(T)	10-1-2015	Repeal	11-1-2015
413-120-0750	10-1-2015	Amend	11-1-2015
413-120-0760	9-1-2015	Amend(T)	10-1-2015
413-120-0760	10-1-2015	Amend	11-1-2015
413-120-0760(T)	10-1-2015	Repeal	11-1-2015
413-120-0800	10-1-2015	Amend	11-1-2015
413-120-0810	10-1-2015	Repeal	11-1-2015
413-120-0905	10-1-2015	Repeal	11-1-2015
413-130-0010	5-22-2015	Amend(T)	7-1-2015
413-200-0260	10-1-2015	Adopt	11-1-2015
413-200-0270	10-1-2015	Amend	11-1-2015
413-200-0272	10-1-2015	Amend	11-1-2015
413-200-0274	10-1-2015	Amend	11-1-2015

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413-200-0275	10-1-2015	Adopt	11-1-2015
413-200-0276	10-1-2015	Amend	11-1-2015
413-200-0278	10-1-2015	Amend	11-1-2015
413-200-0281	10-1-2015	Amend	11-1-2015
413-200-0283	10-1-2015	Amend	11-1-2015
413-200-0285	10-1-2015	Amend	11-1-2015
413-200-0287	10-1-2015	Amend	11-1-2015
413-200-0289	10-1-2015	Amend	11-1-2015
413-200-0292	10-1-2015	Amend	11-1-2015
413-200-0294	10-1-2015	Amend	11-1-2015
413-200-0296	10-1-2015	Amend	11-1-2015
413-200-0298	10-1-2015	Adopt	11-1-2015
413-200-0305	10-1-2015	Amend	11-1-2015
413-200-0306	10-1-2015	Amend	11-1-2015
413-200-0308	10-1-2015	Amend	11-1-2015
413-200-0314	10-1-2015	Amend	11-1-2015
413-200-0335	10-1-2015	Amend	11-1-2015
413-200-0348	10-1-2015	Amend	11-1-2015
413-200-0352	10-1-2015	Amend	11-1-2015
413-200-0354	10-1-2015	Amend	11-1-2015
413-200-0356	10-1-2015	Adopt	11-1-2015
413-200-0358	10-1-2015	Amend	11-1-2015
413-200-0362	10-1-2015	Amend	11-1-2015
413-200-0371	10-1-2015	Amend	11-1-2015
413-200-0377	10-1-2015	Amend	11-1-2015
413-200-0379	10-1-2015	Amend	11-1-2015
413-200-0383	10-1-2015	Amend	11-1-2015
413-200-0386	10-1-2015	Amend	11-1-2015
413-200-0388	10-1-2015	Amend	11-1-2015
413-200-0390	10-1-2015	Amend	11-1-2015
413-200-0393	10-1-2015	Amend	11-1-2015
413-200-0394	10-1-2015	Amend	11-1-2015
413-200-0395	10-1-2015	Repeal	11-1-2015
413-200-0396	10-1-2015	Amend	11-1-2015
413-200-0404	10-1-2015	Amend	11-1-2015
413-200-0409	10-1-2015	Repeal	11-1-2015
413-200-0414	12-24-2014	Amend	2-1-2015
413-200-0414	10-1-2015	Amend	11-1-2015
413-200-0414(T)	12-24-2014	Repeal	2-1-2015
413-200-0419	10-1-2015	Amend	11-1-2015
413-200-0424	10-1-2015	Amend	11-1-2015
413-215-0306	10-1-2015	Amend	11-1-2015
413-215-0311	10-1-2015	Amend	11-1-2015
413-215-0313	10-1-2015	Amend	11-1-2015
413-215-0316	10-1-2015	Amend	11-1-2015
413-215-0326	10-1-2015	Amend	11-1-2015
413-215-0336	10-1-2015	Amend	11-1-2015
413-215-0341	10-1-2015	Amend	11-1-2015
413-215-0349	10-1-2015	Amend	11-1-2015
413-215-0351	10-1-2015	Amend	11-1-2015
413-215-0356	10-1-2015	Amend	11-1-2015
413-215-0371	10-1-2015	Amend	11-1-2015
413-215-0391	10-1-2015	Amend	11-1-2015
413-215-0506	10-1-2015	Amend	11-1-2015
413-215-0554	10-1-2015	Adopt	11-1-2015
413-215-0556	10-1-2015	Amend	11-1-2015
413-215-0561	10-1-2015	Amend	11-1-2015
413-215-0576	10-1-2015	Amend	11-1-2015
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

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414-400-0060	11-25-2014	Amend	1-1-2015
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
414-700-0010	11-25-2014	Amend	1-1-2015
414-700-0020	11-25-2014	Amend	1-1-2015
414-700-0030	11-25-2014	Amend	1-1-2015
414-700-0040	11-25-2014	Amend	1-1-2015
414-700-0050	11-25-2014	Amend	1-1-2015
414-700-0060	11-25-2014	Amend	1-1-2015
414-700-0070	11-25-2014	Amend	1-1-2015
414-700-0080	11-25-2014	Amend	1-1-2015
414-700-0090	11-25-2014	Amend	1-1-2015
416-070-0010	2-19-2015	Amend	4-1-2015
416-070-0020	2-19-2015	Amend	4-1-2015
416-070-0030	2-19-2015	Amend	4-1-2015
416-070-0040	2-19-2015	Amend	4-1-2015
416-070-0050	2-19-2015	Amend	4-1-2015
416-070-0060	2-19-2015	Amend	4-1-2015
416-115-0025	8-5-2015	Amend(T)	9-1-2015
416-115-0025	10-7-2015	Amend	11-1-2015
416-260-0010	2-19-2015	Amend	4-1-2015
416-260-0015	2-19-2015	Amend	4-1-2015
416-260-0020	2-19-2015	Amend	4-1-2015
416-260-0030	2-19-2015	Amend	4-1-2015
416-260-0040	2-19-2015	Amend	4-1-2015
416-260-0050	2-19-2015	Amend	4-1-2015
416-260-0060	2-19-2015	Amend	4-1-2015
416-260-0070	2-19-2015	Amend	4-1-2015
416-320-0010	10-7-2015	Amend	11-1-2015
416-320-0020	10-7-2015	Amend	11-1-2015
416-320-0030	10-7-2015	Amend	11-1-2015
416-530-0060	8-14-2015	Amend(T)	9-1-2015
416-800-0000	10-7-2015	Amend	11-1-2015
416-800-0010	10-7-2015	Amend	11-1-2015
416-800-0020	10-7-2015	Amend	11-1-2015
416-800-0031	10-7-2015	Amend	11-1-2015
416-800-0041	10-7-2015	Amend	11-1-2015
416-800-0045	10-7-2015	Amend	11-1-2015
416-800-0050	10-7-2015	Amend	11-1-2015
416-800-0055	10-7-2015	Amend	11-1-2015
416-800-0065	10-7-2015	Amend	11-1-2015
416-800-0070	10-7-2015	Amend	11-1-2015
416-800-0080	10-7-2015	Amend	11-1-2015
416-800-0090	10-7-2015	Amend	11-1-2015
416-800-0095	10-7-2015	Amend	11-1-2015
418-010-0010	12-1-2014	Adopt	1-1-2015
418-010-0020	12-1-2014	Adopt	1-1-2015
418-010-0030	12-1-2014	Adopt	1-1-2015
418-010-0040	12-1-2014	Adopt	1-1-2015
418-020-0010	12-1-2014	Adopt	1-1-2015
418-020-0020	12-1-2014	Adopt	1-1-2015
418-020-0030	12-1-2014	Adopt	1-1-2015
418-020-0040	12-1-2014	Adopt	1-1-2015
418-020-0050	12-1-2014	Adopt	1-1-2015
418-020-0060	12-1-2014	Adopt	1-1-2015
418-030-0000	12-1-2014	Adopt	1-1-2015
418-030-0010	12-1-2014	Adopt	1-1-2015
418-030-0020	12-1-2014	Adopt	1-1-2015
423-045-0005	11-25-2014	Am. & Ren.	1-1-2015
423-045-0010	11-25-2014	Am. & Ren.	1-1-2015
423-045-0015	11-25-2014	Am. & Ren.	1-1-2015
436-009-0004	4-1-2015	Amend	4-1-2015
436-009-0005	3-1-2015	Amend	3-1-2015
436-009-0005	4-1-2015	Amend	4-1-2015
436-009-0008	4-1-2015	Amend	4-1-2015
436-009-0010	4-1-2015	Amend	4-1-2015
436-009-0018	4-1-2015	Amend	4-1-2015
436-009-0020	4-1-2015	Amend	4-1-2015
436-009-0023	4-1-2015	Amend	4-1-2015
436-009-0025	4-1-2015	Amend	4-1-2015
436-009-0030	4-1-2015	Amend	4-1-2015
436-009-0035	4-1-2015	Amend	4-1-2015
436-009-0040	4-1-2015	Amend	4-1-2015
436-009-0060	4-1-2015	Amend	4-1-2015
436-009-0080	4-1-2015	Amend	4-1-2015
436-009-0090	4-1-2015	Amend	4-1-2015
436-009-0110	4-1-2015	Amend	4-1-2015
436-009-0998	4-1-2015	Amend	4-1-2015
436-010-0001	10-1-2015	Amend	10-1-2015
436-010-0002	10-1-2015	Repeal	10-1-2015
436-010-0003	10-1-2015	Repeal	10-1-2015
436-010-0005	3-1-2015	Amend	3-1-2015
436-010-0005	10-1-2015	Amend	10-1-2015
436-010-0006	10-1-2015	Repeal	10-1-2015
436-010-0008	10-1-2015	Amend	10-1-2015
436-010-0200	10-1-2015	Amend	10-1-2015
436-010-0210	10-1-2015	Amend	10-1-2015
436-010-0220	10-1-2015	Amend	10-1-2015
436-010-0230	10-1-2015	Amend	10-1-2015
436-010-0240	10-1-2015	Amend	10-1-2015
436-010-0241	10-1-2015	Adopt	10-1-2015
436-010-0250	10-1-2015	Amend	10-1-2015
436-010-0260	10-1-2015	Am. & Ren.	10-1-2015
436-010-0265	10-1-2015	Amend	10-1-2015
436-010-0270	10-1-2015	Amend	10-1-2015
436-010-0275	10-1-2015	Repeal	10-1-2015
436-010-0280	3-1-2015	Amend	3-1-2015
436-010-0280	10-1-2015	Amend	10-1-2015
436-010-0290	10-1-2015	Amend	10-1-2015
436-010-0300	10-1-2015	Amend	10-1-2015
436-010-0330	10-1-2015	Amend	10-1-2015
436-010-0340	10-1-2015	Amend	10-1-2015
436-030-0003	3-1-2015	Amend	3-1-2015
436-030-0005	3-1-2015	Amend	3-1-2015
436-030-0005	5-21-2015	Amend(T)	7-1-2015
436-030-0005	11-17-2015	Amend	11-1-2015
436-030-0015	5-21-2015	Amend(T)	7-1-2015
436-030-0015	11-17-2015	Amend	11-1-2015
436-030-0020	3-1-2015	Amend	3-1-2015
436-030-0020	5-21-2015	Amend(T)	7-1-2015

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436-030-0020	11-17-2015	Amend	11-1-2015
436-030-0023	5-21-2015	Amend(T)	7-1-2015
436-030-0023	11-17-2015	Amend	11-1-2015
436-030-0034	3-1-2015	Amend	3-1-2015
436-030-0035	3-1-2015	Amend	3-1-2015
436-030-0065	3-1-2015	Amend	3-1-2015
436-030-0115	5-21-2015	Amend(T)	7-1-2015
436-030-0115	11-17-2015	Amend	11-1-2015
436-030-0125	5-21-2015	Amend(T)	7-1-2015
436-030-0125	11-17-2015	Amend	11-1-2015
436-030-0135	3-1-2015	Amend	3-1-2015
436-030-0135	5-21-2015	Amend(T)	7-1-2015
436-030-0135	11-17-2015	Amend	11-1-2015
436-030-0145	5-21-2015	Amend(T)	7-1-2015
436-030-0145	11-17-2015	Amend	11-1-2015
436-030-0165	3-1-2015	Amend	3-1-2015
436-030-0165	11-17-2015	Amend	11-1-2015
436-035-0005	3-1-2015	Amend	3-1-2015
436-035-0006	3-1-2015	Adopt	3-1-2015
436-035-0007	3-1-2015	Amend	3-1-2015
436-035-0008	3-1-2015	Amend	3-1-2015
436-035-0012	3-1-2015	Amend	3-1-2015
436-035-0013	3-1-2015	Amend	3-1-2015
436-035-0014	3-1-2015	Amend	3-1-2015
436-035-0016	3-1-2015	Amend	3-1-2015
436-035-0018	3-1-2015	Amend	3-1-2015
436-035-0250	3-1-2015	Amend	3-1-2015
436-050-0003	1-1-2015	Amend	1-1-2015
436-050-0175	1-1-2015	Amend	1-1-2015
436-060-0005	1-1-2016	Amend	11-1-2015
436-060-0009	1-1-2016	Amend	11-1-2015
436-060-0010	1-1-2016	Amend	11-1-2015
436-060-0012	1-1-2016	Amend	11-1-2015
436-060-0015	1-1-2016	Amend	11-1-2015
436-060-0017	1-1-2016	Amend	11-1-2015
436-060-0035	1-1-2016	Amend	11-1-2015
436-060-0150	1-1-2016	Amend	11-1-2015
436-060-0155	1-1-2016	Amend	11-1-2015
436-060-0200	1-1-2016	Amend	11-1-2015
436-060-0500	1-1-2016	Amend	11-1-2015
436-075-0001	1-1-2016	Amend	11-1-2015
436-075-0003	1-1-2016	Amend	11-1-2015
436-075-0005	1-1-2016	Amend	11-1-2015
436-075-0006	1-1-2016	Amend	11-1-2015
436-075-0008	1-1-2016	Amend	11-1-2015
436-075-0010	1-1-2016	Amend	11-1-2015
436-075-0020	1-1-2016	Amend	11-1-2015
436-075-0030	1-1-2016	Amend	11-1-2015
436-075-0040	1-1-2016	Amend	11-1-2015
436-075-0050	1-1-2016	Amend	11-1-2015
436-075-0065	1-1-2016	Amend	11-1-2015
436-075-0070	1-1-2016	Amend	11-1-2015
436-075-0090	1-1-2016	Amend	11-1-2015
436-075-0100	1-1-2016	Amend	11-1-2015
436-100-0002	1-1-2016	Amend	11-1-2015
436-100-0003	1-1-2016	Amend	11-1-2015
436-100-0005	1-1-2016	Amend	11-1-2015
436-100-0006	1-1-2016	Amend	11-1-2015
436-100-0008	1-1-2016	Amend	11-1-2015
436-100-0010	1-1-2016	Amend	11-1-2015
436-100-0020	1-1-2016	Amend	11-1-2015
436-100-0030	1-1-2016	Amend	11-1-2015
436-100-0040	1-1-2016	Amend	11-1-2015
436-105-0500	3-1-2015	Amend	3-1-2015
436-105-0520	3-1-2015	Amend	3-1-2015
436-110-0350	3-1-2015	Amend	3-1-2015
436-120-0005	3-1-2015	Amend	3-1-2015
437-001-0015	1-1-2016	Amend	5-1-2015
437-001-0700	1-1-2016	Amend	5-1-2015
437-001-0704	1-1-2016	Adopt	5-1-2015
437-002-0060	1-5-2015	Amend	2-1-2015
437-002-0120	1-1-2016	Amend	11-1-2015
437-002-0134	1-1-2016	Amend	11-1-2015
437-002-0138	1-1-2016	Repeal	11-1-2015
437-002-0146	1-1-2016	Amend	11-1-2015
437-002-0300	1-1-2016	Amend	11-1-2015
437-002-0301	1-1-2016	Amend	11-1-2015
437-002-0317	1-1-2016	Repeal	11-1-2015
437-002-0320	1-1-2016	Amend	11-1-2015
437-002-2300	1-1-2016	Adopt	11-1-2015
437-002-2301	1-1-2016	Adopt	11-1-2015
437-002-2302	1-1-2016	Adopt	11-1-2015
437-002-2303	1-1-2016	Adopt	11-1-2015
437-002-2304	1-1-2016	Adopt	11-1-2015
437-002-2305	1-1-2016	Adopt	11-1-2015
437-002-2306	1-1-2016	Adopt	11-1-2015
437-002-2307	1-1-2016	Adopt	11-1-2015
437-002-2308	1-1-2016	Adopt	11-1-2015
437-002-2309	1-1-2016	Adopt	11-1-2015
437-002-2310	1-1-2016	Adopt	11-1-2015
437-002-2311	1-1-2016	Adopt	11-1-2015
437-002-2312	1-1-2016	Adopt	11-1-2015
437-002-2313	1-1-2016	Adopt	11-1-2015
437-002-2314	1-1-2016	Adopt	11-1-2015
437-002-2315	1-1-2016	Adopt	11-1-2015
437-002-2316	1-1-2016	Adopt	11-1-2015
437-002-2317	1-1-2016	Adopt	11-1-2015
437-002-2318	1-1-2016	Adopt	11-1-2015
437-002-2319	1-1-2016	Adopt	11-1-2015
437-002-2320	1-1-2016	Adopt	11-1-2015
437-002-2321	1-1-2016	Adopt	11-1-2015
437-002-2322	1-1-2016	Adopt	11-1-2015
437-002-2323	1-1-2016	Adopt	11-1-2015
437-002-2324	1-1-2016	Adopt	11-1-2015
437-003-0001	1-1-2016	Amend	11-1-2015
437-003-0110	1-1-2016	Repeal	11-1-2015
437-003-0115	1-1-2016	Repeal	11-1-2015
437-003-0120	1-1-2016	Repeal	11-1-2015
437-003-0125	1-1-2016	Repeal	11-1-2015
437-003-0130	1-1-2016	Repeal	11-1-2015
437-003-0135	1-1-2016	Repeal	11-1-2015
437-003-0140	1-1-2016	Repeal	11-1-2015

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437-003-0145	1-1-2016	Repeal	11-1-2015
437-003-0150	1-1-2016	Repeal	11-1-2015
437-003-0155	1-1-2016	Repeal	11-1-2015
437-003-0160	1-1-2016	Repeal	11-1-2015
437-003-0165	1-1-2016	Repeal	11-1-2015
437-003-0170	1-1-2016	Repeal	11-1-2015
437-003-0175	1-1-2016	Repeal	11-1-2015
437-003-0180	1-1-2016	Repeal	11-1-2015
437-003-0185	1-1-2016	Repeal	11-1-2015
437-003-0190	1-1-2016	Repeal	11-1-2015
437-003-0195	1-1-2016	Repeal	11-1-2015
437-003-0200	1-1-2016	Repeal	11-1-2015
437-003-0205	1-1-2016	Repeal	11-1-2015
437-003-0210	1-1-2016	Repeal	11-1-2015
437-003-0215	1-1-2016	Repeal	11-1-2015
437-003-0220	1-1-2016	Repeal	11-1-2015
437-003-0225	1-1-2016	Repeal	11-1-2015
437-003-0227	1-1-2016	Repeal	11-1-2015
437-003-0230	1-1-2016	Repeal	11-1-2015
437-003-0235	1-1-2016	Repeal	11-1-2015
437-003-0240	1-1-2016	Repeal	11-1-2015
437-003-0245	1-1-2016	Repeal	11-1-2015
437-003-0250	1-1-2016	Repeal	11-1-2015
437-003-0255	1-1-2016	Repeal	11-1-2015
437-003-0260	1-1-2016	Repeal	11-1-2015
437-003-0265	1-1-2016	Repeal	11-1-2015
437-003-0270	1-1-2016	Repeal	11-1-2015
437-003-0275	1-1-2016	Repeal	11-1-2015
437-003-0280	1-1-2016	Repeal	11-1-2015
437-003-0285	1-1-2016	Repeal	11-1-2015
437-003-0290	1-1-2016	Repeal	11-1-2015
437-003-0295	1-1-2016	Repeal	11-1-2015
437-003-0300	1-1-2016	Repeal	11-1-2015
437-003-0305	1-1-2016	Repeal	11-1-2015
437-003-0310	1-1-2016	Repeal	11-1-2015
437-003-0315	1-1-2016	Repeal	11-1-2015
437-003-0320	1-1-2016	Repeal	11-1-2015
437-003-0325	1-1-2016	Repeal	11-1-2015
437-003-0330	1-1-2016	Repeal	11-1-2015
437-003-0335	1-1-2016	Repeal	11-1-2015
437-003-0340	1-1-2016	Repeal	11-1-2015
437-003-0345	1-1-2016	Repeal	11-1-2015
437-003-0350	1-1-2016	Repeal	11-1-2015
437-003-0355	1-1-2016	Repeal	11-1-2015
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437-003-0370	1-1-2016	Repeal	11-1-2015
437-003-0375	1-1-2016	Repeal	11-1-2015
437-003-0380	1-1-2016	Repeal	11-1-2015
437-003-0385	1-1-2016	Repeal	11-1-2015
437-003-0390	1-1-2016	Repeal	11-1-2015
437-003-0395	1-1-2016	Repeal	11-1-2015
437-003-0400	1-1-2016	Repeal	11-1-2015
437-003-0405	1-1-2016	Repeal	11-1-2015
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437-003-0425	1-1-2016	Repeal	11-1-2015
437-003-0430	1-1-2016	Repeal	11-1-2015
437-003-0435	1-1-2016	Repeal	11-1-2015
437-003-0440	1-1-2016	Repeal	11-1-2015
437-003-0445	1-1-2016	Repeal	11-1-2015
437-003-0450	1-1-2016	Repeal	11-1-2015
437-003-0455	1-1-2016	Repeal	11-1-2015
437-003-0460	1-1-2016	Repeal	11-1-2015
437-003-0470	1-1-2016	Repeal	11-1-2015
437-003-0475	1-1-2016	Repeal	11-1-2015
437-003-0480	1-1-2016	Repeal	11-1-2015
437-003-0485	1-1-2016	Repeal	11-1-2015
437-003-0490	1-1-2016	Repeal	11-1-2015
437-003-0495	1-1-2016	Repeal	11-1-2015
437-003-0500	1-1-2016	Repeal	11-1-2015
437-003-0505	1-1-2016	Repeal	11-1-2015
437-003-0510	1-1-2016	Repeal	11-1-2015
437-003-0515	1-1-2016	Repeal	11-1-2015
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437-003-0525	1-1-2016	Repeal	11-1-2015
437-003-0530	1-1-2016	Repeal	11-1-2015
437-003-0535	1-1-2016	Repeal	11-1-2015
437-003-0540	1-1-2016	Repeal	11-1-2015
437-003-0545	1-1-2016	Repeal	11-1-2015
437-003-0550	1-1-2016	Repeal	11-1-2015
437-003-0555	1-1-2016	Repeal	11-1-2015
437-003-0560	1-1-2016	Repeal	11-1-2015
437-003-0565	1-1-2016	Repeal	11-1-2015
437-003-0570	1-1-2016	Repeal	11-1-2015
437-003-0575	1-1-2016	Repeal	11-1-2015
437-003-0580	1-1-2016	Repeal	11-1-2015
437-003-0585	1-1-2016	Repeal	11-1-2015
437-003-0590	1-1-2016	Repeal	11-1-2015
437-003-0595	1-1-2016	Repeal	11-1-2015
437-003-0600	1-1-2016	Repeal	11-1-2015
437-003-0605	1-1-2016	Repeal	11-1-2015
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437-003-0615	1-1-2016	Repeal	11-1-2015
437-003-0620	1-1-2016	Repeal	11-1-2015
437-003-0625	1-1-2016	Repeal	11-1-2015
437-003-0630	1-1-2016	Repeal	11-1-2015
437-003-0635	1-1-2016	Repeal	11-1-2015
437-003-0640	1-1-2016	Repeal	11-1-2015
437-003-0645	1-1-2016	Repeal	11-1-2015
437-003-0650	1-1-2016	Repeal	11-1-2015
437-003-0655	1-1-2016	Repeal	11-1-2015
437-003-0707	1-1-2016	Repeal	11-1-2015
437-003-0720	1-1-2016	Repeal	11-1-2015
437-003-0725	1-1-2016	Repeal	11-1-2015
437-003-0770	1-1-2016	Repeal	11-1-2015
437-003-0775	1-1-2016	Repeal	11-1-2015
437-003-0780	1-1-2016	Repeal	11-1-2015
437-003-0785	1-1-2016	Repeal	11-1-2015
437-003-0790	1-1-2016	Repeal	11-1-2015
437-003-0795	1-1-2016	Repeal	11-1-2015
437-003-0800	1-1-2016	Repeal	11-1-2015

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437-003-0805	1-1-2016	Repeal	11-1-2015
437-003-0810	1-1-2016	Repeal	11-1-2015
437-003-0815	1-1-2016	Repeal	11-1-2015
437-003-0820	1-1-2016	Repeal	11-1-2015
437-003-0825	1-1-2016	Repeal	11-1-2015
437-003-0830	1-1-2016	Repeal	11-1-2015
437-003-0835	1-1-2016	Repeal	11-1-2015
437-003-0840	1-1-2016	Repeal	11-1-2015
437-003-0845	1-1-2016	Repeal	11-1-2015
437-003-0850	1-1-2016	Repeal	11-1-2015
437-003-0855	1-1-2016	Repeal	11-1-2015
437-003-0860	1-1-2016	Repeal	11-1-2015
437-003-0865	1-1-2016	Repeal	11-1-2015
437-003-0870	1-1-2016	Repeal	11-1-2015
437-003-0875	1-1-2016	Repeal	11-1-2015
437-003-0880	1-1-2016	Repeal	11-1-2015
437-003-0885	1-1-2016	Repeal	11-1-2015
437-003-0890	1-1-2016	Repeal	11-1-2015
437-033-0465	1-1-2016	Repeal	11-1-2015
438-006-0020	1-1-2015	Amend	1-1-2015
438-013-0025	1-1-2015	Amend	1-1-2015
441-035-0005	1-28-2015	Amend	3-1-2015
441-035-0070	1-15-2015	Adopt	2-1-2015
441-035-0080	1-15-2015	Adopt	2-1-2015
441-035-0090	1-15-2015	Adopt	2-1-2015
441-035-0100	1-15-2015	Adopt	2-1-2015
441-035-0110	1-15-2015	Adopt	2-1-2015
441-035-0120	1-15-2015	Adopt	2-1-2015
441-035-0130	1-15-2015	Adopt	2-1-2015
441-035-0140	1-15-2015	Adopt	2-1-2015
441-035-0150	1-15-2015	Adopt	2-1-2015
441-035-0160	1-15-2015	Adopt	2-1-2015
441-035-0170	1-15-2015	Adopt	2-1-2015
441-035-0180	1-15-2015	Adopt	2-1-2015
441-035-0190	1-15-2015	Adopt	2-1-2015
441-035-0200	1-15-2015	Adopt	2-1-2015
441-035-0210	1-15-2015	Adopt	2-1-2015
441-035-0220	1-15-2015	Adopt	2-1-2015
441-035-0230	1-15-2015	Adopt	2-1-2015
441-740-0015	6-1-2015	Repeal	7-1-2015
441-860-0085	1-1-2015	Amend	2-1-2015
441-860-0090	1-1-2015	Amend	2-1-2015
441-860-0101	5-21-2015	Amend(T)	7-1-2015
441-860-0101	10-2-2015	Amend	11-1-2015
441-860-0101(T)	10-2-2015	Repeal	11-1-2015
441-875-0075	1-1-2015	Am. & Ren.	2-1-2015
441-880-0400	5-21-2015	Amend(T)	7-1-2015
441-880-0400	10-2-2015	Amend	11-1-2015
441-880-0400(T)	10-2-2015	Repeal	11-1-2015
441-910-0099	9-15-2015	Amend	10-1-2015
441-930-0270	5-21-2015	Amend(T)	7-1-2015
441-930-0270	10-2-2015	Amend	11-1-2015
441-930-0270(T)	10-2-2015	Repeal	11-1-2015
459-005-0510	9-25-2015	Amend	11-1-2015
459-005-0520	9-25-2015	Repeal	11-1-2015
459-005-0525	5-29-2015	Amend	7-1-2015
459-005-0545	5-29-2015	Amend	7-1-2015
459-005-0600	5-29-2015	Amend	7-1-2015
459-005-0610	5-29-2015	Amend	7-1-2015
459-007-0007	9-25-2015	Amend	11-1-2015
459-007-0009	11-21-2014	Amend(T)	1-1-2015
459-007-0009	1-30-2015	Amend	3-1-2015
459-007-0320	3-30-2015	Amend	5-1-2015
459-007-0330	3-30-2015	Amend	5-1-2015
459-015-0020	7-31-2015	Amend	9-1-2015
459-017-0060	5-29-2015	Amend	7-1-2015
459-035-0070	3-30-2015	Amend	5-1-2015
459-045-0070	5-29-2015	Adopt	7-1-2015
459-050-0076	11-21-2014	Amend	1-1-2015
459-050-0076	1-8-2015	Amend	2-1-2015
459-050-0120	11-21-2014	Amend	1-1-2015
459-050-0120	1-8-2015	Amend	2-1-2015
459-070-0001	1-30-2015	Amend	3-1-2015
459-075-0300	7-31-2015	Amend	9-1-2015
459-076-0020	7-31-2015	Amend	9-1-2015
459-080-0250	3-30-2015	Amend	5-1-2015
459-080-0300	7-31-2015	Amend	9-1-2015
459-080-0500	5-29-2015	Amend	7-1-2015
461-001-0000	4-1-2015	Amend	4-1-2015
461-001-0000	10-1-2015	Amend	11-1-2015
461-001-0000	10-1-2015	Amend(T)	11-1-2015
461-001-0025	7-1-2015	Amend(T)	8-1-2015
461-101-0010	4-1-2015	Amend	4-1-2015
461-110-0210	4-1-2015	Amend	4-1-2015
461-110-0210	6-30-2015	Amend	8-1-2015
461-110-0370	10-1-2015	Amend	11-1-2015
461-110-0430	4-1-2015	Amend	4-1-2015
461-110-0530	10-1-2015	Amend	11-1-2015
461-115-0016	3-31-2015	Amend	4-1-2015
461-115-0030	6-30-2015	Amend	8-1-2015
461-115-0030	7-23-2015	Amend(T)	9-1-2015
461-115-0030	10-1-2015	Amend	11-1-2015
461-115-0030(T)	10-1-2015	Repeal	11-1-2015
461-115-0040	6-30-2015	Amend	8-1-2015
461-115-0040	7-23-2015	Amend(T)	9-1-2015
461-115-0040	10-1-2015	Amend	11-1-2015
461-115-0040(T)	10-1-2015	Repeal	11-1-2015
461-115-0050	4-1-2015	Amend	5-1-2015
461-115-0050	10-1-2015	Amend	11-1-2015
461-115-0050(T)	4-1-2015	Repeal	5-1-2015
461-115-0071	1-1-2015	Amend	2-1-2015
461-115-0071	10-1-2015	Amend	11-1-2015
461-115-0071(T)	1-1-2015	Repeal	2-1-2015
461-115-0150	10-1-2015	Amend	11-1-2015
461-115-0230	10-1-2015	Amend	11-1-2015
461-115-0430	10-1-2015	Amend	11-1-2015
461-115-0700	10-1-2015	Amend	11-1-2015
461-120-0010	6-30-2015	Amend	8-1-2015
461-120-0010	10-1-2015	Amend	11-1-2015
461-120-0310	10-1-2015	Amend	11-1-2015
461-125-0190	1-1-2015	Repeal	2-1-2015
461-125-0370	12-8-2014	Amend(T)	1-1-2015

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461-125-0370	1-29-2015	Amend	3-1-2015
461-125-0370	10-5-2015	Amend(T)	11-1-2015
461-125-0370(T)	12-8-2014	Suspend	1-1-2015
461-125-0830	10-1-2015	Amend(T)	11-1-2015
461-130-0310	10-1-2015	Amend	11-1-2015
461-130-0328	10-1-2015	Amend	11-1-2015
461-130-0335	10-1-2015	Amend	11-1-2015
461-135-0400	10-1-2015	Amend	11-1-2015
461-135-0405	4-1-2015	Amend	5-1-2015
461-135-0405	10-1-2015	Amend(T)	11-1-2015
461-135-0407	4-1-2015	Amend	5-1-2015
461-135-0407	10-1-2015	Amend(T)	11-1-2015
461-135-0415	10-1-2015	Amend	11-1-2015
461-135-0780	1-1-2015	Amend	2-1-2015
461-135-0825	7-1-2015	Repeal	8-1-2015
461-135-0834	4-1-2015	Amend	5-1-2015
461-135-0900	10-1-2015	Amend	11-1-2015
461-140-0020	10-1-2015	Amend	11-1-2015
461-140-0040	3-19-2015	Amend	5-1-2015
461-140-0040	10-1-2015	Amend	11-1-2015
461-140-0110	10-1-2015	Amend	11-1-2015
461-145-0010	10-1-2015	Amend	11-1-2015
461-145-0050	4-1-2015	Amend	4-1-2015
461-145-0088	4-1-2015	Amend	4-1-2015
461-145-0088	10-1-2015	Amend	11-1-2015
461-145-0089	10-1-2015	Adopt	11-1-2015
461-145-0120	4-1-2015	Amend	5-1-2015
461-145-0120	10-1-2015	Amend	11-1-2015
461-145-0130	4-1-2015	Amend	4-1-2015
461-145-0130	10-1-2015	Amend	11-1-2015
461-145-0200	1-1-2015	Amend(T)	2-1-2015
461-145-0200	6-30-2015	Amend	8-1-2015
461-145-0220	1-1-2015	Amend	2-1-2015
461-145-0250	10-1-2015	Amend	11-1-2015
461-145-0252	10-1-2015	Adopt	11-1-2015
461-145-0440	10-1-2015	Amend	11-1-2015
461-145-0530	4-1-2015	Amend	5-1-2015
461-145-0600	10-1-2015	Amend	11-1-2015
461-145-0910	4-1-2015	Amend	4-1-2015
461-145-0910	10-1-2015	Amend	11-1-2015
461-145-0910	10-1-2015	Amend(T)	11-1-2015
461-145-0915	10-1-2015	Adopt	11-1-2015
461-145-0920	10-1-2015	Amend	11-1-2015
461-145-0930	4-1-2015	Amend	4-1-2015
461-150-0060	10-1-2015	Amend	11-1-2015
461-150-0090	10-1-2015	Amend	11-1-2015
461-150-0095	10-1-2015	Adopt	11-1-2015
461-155-0020	7-1-2015	Amend	8-1-2015
461-155-0150	3-23-2015	Amend(T)	5-1-2015
461-155-0150	6-30-2015	Amend	8-1-2015
461-155-0150	10-1-2015	Amend	11-1-2015
461-155-0150(T)	6-30-2015	Repeal	8-1-2015
461-155-0180	2-1-2015	Amend	3-1-2015
461-155-0180	10-1-2015	Amend	11-1-2015
461-155-0190	10-1-2015	Amend	11-1-2015
461-155-0250	1-1-2015	Amend	2-1-2015
461-155-0270	1-1-2015	Amend	2-1-2015
461-155-0290	3-1-2015	Amend	4-1-2015
461-155-0291	3-1-2015	Amend	4-1-2015
461-155-0295	3-1-2015	Amend	4-1-2015
461-155-0300	1-1-2015	Amend	2-1-2015
461-160-0015	1-1-2015	Amend	2-1-2015
461-160-0015(T)	1-1-2015	Repeal	2-1-2015
461-160-0040	10-1-2015	Amend(T)	11-1-2015
461-160-0055	3-10-2015	Amend(T)	4-1-2015
461-160-0055	6-30-2015	Amend	8-1-2015
461-160-0055(T)	6-30-2015	Repeal	8-1-2015
461-160-0300	10-1-2015	Amend(T)	11-1-2015
461-160-0410	7-1-2015	Amend(T)	8-1-2015
461-160-0410	10-1-2015	Amend	11-1-2015
461-160-0410(T)	10-1-2015	Repeal	11-1-2015
461-160-0420	10-1-2015	Amend	11-1-2015
461-160-0430	10-1-2015	Amend	11-1-2015
461-160-0580	1-1-2015	Amend	2-1-2015
461-160-0620	1-1-2015	Amend	2-1-2015
461-160-0620	7-1-2015	Amend	8-1-2015
461-165-0010	7-1-2015	Amend	8-1-2015
461-165-0030	4-1-2015	Amend	5-1-2015
461-165-0030(T)	4-1-2015	Repeal	5-1-2015
461-165-0180	2-1-2015	Amend	3-1-2015
461-165-0180	6-30-2015	Amend	8-1-2015
461-165-0180(T)	2-1-2015	Repeal	3-1-2015
461-170-0011	10-1-2015	Amend	11-1-2015
461-170-0101	1-1-2015	Amend(T)	2-1-2015
461-170-0101	6-30-2015	Amend	8-1-2015
461-170-0101	10-1-2015	Amend	11-1-2015
461-170-0102	10-1-2015	Amend	11-1-2015
461-170-0103	10-1-2015	Amend	11-1-2015
461-170-0103	10-1-2015	Amend(T)	11-1-2015
461-170-0104	10-1-2015	Amend	11-1-2015
461-170-0150	10-1-2015	Amend(T)	11-1-2015
461-170-0160	10-1-2015	Amend(T)	11-1-2015
461-175-0200	10-1-2015	Amend(T)	11-1-2015
461-175-0210	4-1-2015	Amend	5-1-2015
461-175-0210(T)	4-1-2015	Repeal	5-1-2015
461-175-0222	10-1-2015	Amend(T)	11-1-2015
461-175-0280	10-1-2015	Amend	11-1-2015
461-175-0300	10-1-2015	Amend(T)	11-1-2015
461-180-0006	10-1-2015	Amend	11-1-2015
461-180-0070	6-30-2015	Amend	8-1-2015
461-180-0070	7-23-2015	Amend(T)	9-1-2015
461-180-0070	10-1-2015	Amend	11-1-2015
461-180-0070(T)	10-1-2015	Repeal	11-1-2015
461-190-0211	1-1-2015	Amend(T)	2-1-2015
461-190-0211	6-30-2015	Amend	8-1-2015
461-190-0211	7-1-2015	Amend(T)	8-1-2015
461-190-0212	10-1-2015	Repeal	11-1-2015
461-193-0031	4-1-2015	Amend	4-1-2015
461-195-0301	4-1-2015	Amend	5-1-2015
461-195-0303	4-1-2015	Amend	5-1-2015
461-195-0310	10-1-2015	Amend	11-1-2015
461-195-0321	4-1-2015	Amend	5-1-2015

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461-195-0501	7-1-2015	Amend	8-1-2015
461-195-0521	7-1-2015	Amend	8-1-2015
461-195-0601	7-1-2015	Amend	8-1-2015
461-195-0621	7-1-2015	Amend	8-1-2015
462-150-0030	11-21-2014	Amend	1-1-2015
462-200-0645	10-1-2015	Adopt	11-1-2015
462-200-0700	2-2-2015	Adopt	3-1-2015
462-210-0010	3-25-2015	Amend	5-1-2015
543-010-0034	3-23-2015	Amend	5-1-2015
573-040-0005	5-6-2015	Amend	6-1-2015
573-050-0020	6-5-2015	Amend	7-1-2015
573-050-0025	6-5-2015	Amend	7-1-2015
573-050-0030	6-5-2015	Amend	7-1-2015
574-050-0005	2-12-2015	Amend	3-1-2015
577-050-0050	1-23-2015	Amend(T)	3-1-2015
578-001-0000	6-30-2015	Repeal	8-1-2015
578-001-0015	6-30-2015	Repeal	8-1-2015
578-001-0020	6-30-2015	Repeal	8-1-2015
578-001-0060	6-30-2015	Repeal	8-1-2015
578-001-0080	6-30-2015	Repeal	8-1-2015
578-001-0090	6-30-2015	Repeal	8-1-2015
578-001-0100	6-30-2015	Repeal	8-1-2015
578-012-0010	6-30-2015	Repeal	8-1-2015
578-015-0010	6-30-2015	Repeal	8-1-2015
578-015-0020	6-30-2015	Repeal	8-1-2015
578-033-0210	6-30-2015	Repeal	8-1-2015
578-033-0220	6-30-2015	Repeal	8-1-2015
578-033-0230	6-30-2015	Repeal	8-1-2015
578-033-0240	6-30-2015	Repeal	8-1-2015
578-033-0241	6-30-2015	Repeal	8-1-2015
578-033-0242	6-30-2015	Repeal	8-1-2015
578-033-0243	6-30-2015	Repeal	8-1-2015
578-033-0244	6-30-2015	Repeal	8-1-2015
578-033-0245	6-30-2015	Repeal	8-1-2015
578-033-0246	6-30-2015	Repeal	8-1-2015
578-033-0252	6-30-2015	Repeal	8-1-2015
578-033-0260	6-30-2015	Repeal	8-1-2015
578-034-0010	6-30-2015	Repeal	8-1-2015
578-034-0020	6-30-2015	Repeal	8-1-2015
578-034-0025	6-30-2015	Repeal	8-1-2015
578-034-0030	6-30-2015	Repeal	8-1-2015
578-034-0035	6-30-2015	Repeal	8-1-2015
578-034-0040	6-30-2015	Repeal	8-1-2015
578-034-0045	6-30-2015	Repeal	8-1-2015
578-034-0050	6-30-2015	Repeal	8-1-2015
578-034-0055	6-30-2015	Repeal	8-1-2015
578-034-0060	6-30-2015	Repeal	8-1-2015
578-034-0065	6-30-2015	Repeal	8-1-2015
578-034-0070	6-30-2015	Repeal	8-1-2015
578-034-0075	6-30-2015	Repeal	8-1-2015
578-041-0010	6-30-2015	Repeal	8-1-2015
578-041-0030	6-30-2015	Repeal	8-1-2015
578-041-0030	8-24-2015	Amend	7-1-2015
578-041-0040	6-30-2015	Repeal	8-1-2015
578-041-0050	6-30-2015	Repeal	8-1-2015
578-042-0050	6-30-2015	Repeal	8-1-2015
578-042-0710	6-30-2015	Repeal	8-1-2015
578-042-0720	6-30-2015	Repeal	8-1-2015
578-042-0730	6-30-2015	Repeal	8-1-2015
578-042-0740	6-30-2015	Repeal	8-1-2015
578-042-0750	6-30-2015	Repeal	8-1-2015
578-042-0760	6-30-2015	Repeal	8-1-2015
578-045-0005	6-30-2015	Repeal	8-1-2015
578-045-0010	6-30-2015	Repeal	8-1-2015
578-045-0015	6-30-2015	Repeal	8-1-2015
578-045-0020	6-30-2015	Repeal	8-1-2015
578-045-0025	6-30-2015	Repeal	8-1-2015
578-050-0005	6-30-2015	Repeal	8-1-2015
578-050-0010	6-30-2015	Repeal	8-1-2015
578-050-0020	6-30-2015	Repeal	8-1-2015
578-050-0050	6-30-2015	Repeal	8-1-2015
578-072-0010	6-30-2015	Repeal	8-1-2015
578-072-0020	6-30-2015	Repeal	8-1-2015
578-072-0030	6-30-2015	Repeal	8-1-2015
578-072-0030	8-24-2015	Amend	7-1-2015
578-072-0040	6-30-2015	Repeal	8-1-2015
578-072-0050	6-30-2015	Repeal	8-1-2015
578-072-0055	6-30-2015	Repeal	8-1-2015
578-072-0060	6-30-2015	Repeal	8-1-2015
578-072-0070	6-30-2015	Repeal	8-1-2015
578-072-0080	6-30-2015	Repeal	8-1-2015
578-072-0090	6-30-2015	Repeal	8-1-2015
578-072-0091	6-30-2015	Repeal	8-1-2015
579-020-0006	12-1-2014	Amend(T)	1-1-2015
580-040-0040	6-15-2015	Amend(T)	7-1-2015
581-015-2000	12-17-2014	Amend	2-1-2015
581-015-2000	7-13-2015	Amend	8-1-2015
581-015-2005	7-15-2015	Amend	8-1-2015
581-015-2010	7-15-2015	Amend	8-1-2015
581-015-2040	7-15-2015	Amend	8-1-2015
581-015-2080	7-15-2015	Amend	8-1-2015
581-015-2245	12-17-2014	Amend	2-1-2015
581-015-2320	3-11-2015	Amend	4-1-2015
581-015-2565	7-15-2015	Amend	8-1-2015
581-015-2572	7-13-2015	Amend	8-1-2015
581-015-2572	9-28-2015	Amend(T)	11-1-2015
581-017-0301	9-28-2015	Amend(T)	11-1-2015
581-017-0302	9-28-2015	Adopt(T)	11-1-2015
581-017-0306	9-28-2015	Amend(T)	11-1-2015
581-017-0309	9-28-2015	Amend(T)	11-1-2015
581-017-0312	9-28-2015	Amend(T)	11-1-2015
581-017-0315	9-28-2015	Amend(T)	11-1-2015
581-017-0318	9-28-2015	Amend(T)	11-1-2015
581-017-0350	9-28-2015	Amend(T)	11-1-2015
581-017-0362	9-28-2015	Amend(T)	11-1-2015
581-017-0380	9-28-2015	Adopt(T)	11-1-2015
581-017-0383	9-28-2015	Adopt(T)	11-1-2015
581-017-0386	9-28-2015	Adopt(T)	11-1-2015
581-017-0389	9-28-2015	Adopt(T)	11-1-2015
581-017-0392	9-28-2015	Adopt(T)	11-1-2015
581-017-0395	9-28-2015	Adopt(T)	11-1-2015
581-018-0110	9-28-2015	Amend(T)	11-1-2015

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581-018-0120	9-28-2015	Amend(T)	11-1-2015
581-018-0125	9-28-2015	Amend(T)	11-1-2015
581-018-0130	7-15-2015	Amend(T)	8-1-2015
581-018-0133	12-4-2014	Adopt	1-1-2015
581-018-0145	7-15-2015	Amend(T)	8-1-2015
581-018-0148	7-15-2015	Amend(T)	8-1-2015
581-020-0060	12-4-2014	Renumber	1-1-2015
581-020-0065	12-4-2014	Renumber	1-1-2015
581-020-0065	1-26-2015	Am. & Ren.	3-1-2015
581-020-0070	12-4-2014	Renumber	1-1-2015
581-020-0075	12-4-2014	Renumber	1-1-2015
581-020-0080	12-4-2014	Renumber	1-1-2015
581-020-0080	1-26-2015	Am. & Ren.	3-1-2015
581-020-0085	12-4-2014	Renumber	1-1-2015
581-020-0090	12-4-2014	Renumber	1-1-2015
581-021-0061	3-11-2015	Amend	4-1-2015
581-021-0500	4-15-2015	Amend	5-1-2015
581-022-0102	7-1-2015	Amend	3-1-2015
581-022-1130	12-17-2014	Amend	2-1-2015
581-022-1131	7-1-2015	Amend	3-1-2015
581-022-1133	12-17-2014	Amend	2-1-2015
581-022-1133	12-17-2014	Amend	2-1-2015
581-022-1134	12-17-2014	Amend	2-1-2015
581-022-1210	12-17-2014	Amend	2-1-2015
581-022-1610	12-17-2014	Amend	2-1-2015
581-022-1620	7-1-2015	Amend	3-1-2015
581-022-1661	12-4-2014	Amend	1-1-2015
581-022-1723	7-15-2015	Amend(T)	8-1-2015
581-026-0065	12-17-2014	Amend	2-1-2015
581-026-0130	12-17-2014	Amend	2-1-2015
581-026-0210	12-17-2014	Amend	2-1-2015
581-026-0505	12-17-2014	Amend	2-1-2015
581-045-0586	4-15-2015	Amend	5-1-2015
582-001-0003	1-1-2015	Repeal	2-1-2015
582-001-0005	1-1-2015	Repeal	2-1-2015
582-001-0010	1-1-2015	Amend	2-1-2015
582-050-0000	1-1-2015	Amend	2-1-2015
583-001-0000	3-17-2015	Amend	5-1-2015
583-001-0000	9-10-2015	Amend(T)	10-1-2015
583-001-0005	3-17-2015	Amend	5-1-2015
583-001-0005	9-10-2015	Amend(T)	10-1-2015
583-001-0015	3-17-2015	Adopt	5-1-2015
583-001-0015	9-10-2015	Amend(T)	10-1-2015
583-030-0005	3-17-2015	Amend	5-1-2015
583-030-0005	9-10-2015	Amend(T)	10-1-2015
583-030-0009	3-17-2015	Amend	5-1-2015
583-030-0009	9-10-2015	Amend(T)	10-1-2015
583-030-0010	3-17-2015	Amend	5-1-2015
583-030-0010	9-10-2015	Amend(T)	10-1-2015
583-030-0011	3-17-2015	Amend	5-1-2015
583-030-0011	9-10-2015	Suspend	10-1-2015
583-030-0015	3-17-2015	Amend	5-1-2015
583-030-0015	9-10-2015	Amend(T)	10-1-2015
583-030-0016	3-17-2015	Amend	5-1-2015
583-030-0016	9-10-2015	Amend(T)	10-1-2015
583-030-0020	3-17-2015	Amend	5-1-2015
583-030-0020	9-10-2015	Amend(T)	10-1-2015
583-030-0025	3-17-2015	Amend	5-1-2015
583-030-0025	9-10-2015	Amend(T)	10-1-2015
583-030-0030	3-17-2015	Amend	5-1-2015
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583-030-0032	9-10-2015	Amend(T)	10-1-2015
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583-030-0035	9-10-2015	Amend(T)	10-1-2015
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635-005-0330	1-1-2016	Amend	11-1-2015
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635-013-0007	4-27-2015	Amend	6-1-2015
635-014-0080	1-1-2015	Amend	2-1-2015
635-014-0090	1-1-2015	Amend	2-1-2015
635-014-0090	4-1-2015	Amend(T)	5-1-2015
635-014-0090	6-23-2015	Amend	8-1-2015
635-014-0090	6-24-2015	Amend(T)	8-1-2015
635-014-0090	7-18-2015	Amend(T)	9-1-2015
635-014-0090	8-1-2015	Amend(T)	9-1-2015
635-014-0090	9-1-2015	Amend(T)	10-1-2015
635-014-0090	9-1-2015	Amend(T)	10-1-2015
635-014-0090(T)	6-23-2015	Repeal	8-1-2015
635-014-0090(T)	7-18-2015	Suspend	9-1-2015
635-014-0090(T)	8-1-2015	Suspend	9-1-2015
635-014-0090(T)	9-1-2015	Suspend	10-1-2015
635-014-0090(T)	9-1-2015	Suspend	10-1-2015
635-016-0080	1-1-2015	Amend	2-1-2015
635-016-0090	1-1-2015	Amend	2-1-2015
635-016-0090	6-23-2015	Amend	8-1-2015
635-016-0090	6-23-2015	Amend(T)	8-1-2015
635-016-0090	7-18-2015	Amend(T)	9-1-2015
635-016-0090	8-13-2015	Amend(T)	9-1-2015
635-016-0090	9-1-2015	Amend(T)	10-1-2015
635-016-0090(T)	7-18-2015	Suspend	9-1-2015
635-016-0090(T)	8-13-2015	Suspend	9-1-2015
635-016-0090(T)	9-1-2015	Suspend	10-1-2015
635-017-0080	1-1-2015	Amend	2-1-2015
635-017-0090	1-1-2015	Amend	2-1-2015
635-017-0090	5-27-2015	Amend(T)	7-1-2015
635-017-0090	6-12-2015	Amend(T)	7-1-2015
635-017-0090	7-18-2015	Amend(T)	9-1-2015
635-017-0090	9-1-2015	Amend(T)	10-1-2015
635-017-0090(T)	6-12-2015	Suspend	7-1-2015
635-017-0090(T)	7-18-2015	Suspend	9-1-2015
635-017-0090(T)	9-1-2015	Suspend	10-1-2015
635-017-0095	1-1-2015	Amend	2-1-2015
635-017-0095	7-18-2015	Amend(T)	9-1-2015
635-017-0095(T)	9-1-2015	Suspend	10-1-2015
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
635-018-0090	7-18-2015	Amend(T)	9-1-2015
635-018-0090	8-3-2015	Amend(T)	9-1-2015
635-018-0090	9-18-2015	Amend(T)	10-1-2015
635-018-0090	10-16-2015	Amend(T)	11-1-2015
635-018-0090(T)	8-3-2015	Suspend	9-1-2015
635-018-0090(T)	9-1-2015	Suspend	10-1-2015
635-018-0090(T)	10-16-2015	Suspend	11-1-2015
635-019-0080	1-1-2015	Amend	2-1-2015
635-019-0090	1-1-2015	Amend	2-1-2015
635-019-0090	5-20-2015	Amend(T)	6-1-2015
635-019-0090	6-6-2015	Amend(T)	7-1-2015
635-019-0090	6-9-2015	Amend(T)	7-1-2015
635-019-0090	7-5-2015	Amend(T)	8-1-2015
635-019-0090	7-18-2015	Amend(T)	9-1-2015
635-019-0090	8-3-2015	Amend(T)	9-1-2015
635-019-0090	9-1-2015	Amend(T)	10-1-2015
635-019-0090(T)	6-6-2015	Suspend	7-1-2015
635-019-0090(T)	6-9-2015	Suspend	7-1-2015
635-019-0090(T)	7-5-2015	Suspend	8-1-2015

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635-019-0090(T)	7-18-2015	Suspend	9-1-2015
635-019-0090(T)	8-3-2015	Suspend	9-1-2015
635-019-0090(T)	9-1-2015	Suspend	10-1-2015
635-021-0080	1-1-2015	Amend	2-1-2015
635-021-0090	1-1-2015	Amend	2-1-2015
635-021-0090	5-20-2015	Amend(T)	6-1-2015
635-021-0090	7-18-2015	Amend(T)	8-1-2015
635-021-0090	7-18-2015	Amend(T)	9-1-2015
635-021-0090	9-1-2015	Amend(T)	10-1-2015
635-021-0090(T)	7-18-2015	Suspend	8-1-2015
635-021-0090(T)	7-18-2015	Suspend	9-1-2015
635-021-0090(T)	9-1-2015	Suspend	10-1-2015
635-023-0080	1-1-2015	Amend	2-1-2015
635-023-0090	1-1-2015	Amend	2-1-2015
635-023-0095	1-1-2015	Amend	2-1-2015
635-023-0095	1-1-2015	Amend(T)	2-1-2015
635-023-0095	5-12-2015	Amend(T)	6-1-2015
635-023-0095	6-3-2015	Amend(T)	7-1-2015
635-023-0095	7-18-2015	Amend(T)	9-1-2015
635-023-0095(T)	6-3-2015	Suspend	7-1-2015
635-023-0095(T)	7-18-2015	Suspend	9-1-2015
635-023-0095(T)	9-1-2015	Suspend	10-1-2015
635-023-0125	1-1-2015	Amend	2-1-2015
635-023-0125	3-1-2015	Amend(T)	3-1-2015
635-023-0125	3-5-2015	Amend(T)	4-1-2015
635-023-0125	4-10-2015	Amend(T)	5-1-2015
635-023-0125	5-2-2015	Amend(T)	6-1-2015
635-023-0125	5-6-2015	Amend(T)	6-1-2015
635-023-0125	5-28-2015	Amend(T)	7-1-2015
635-023-0125	6-3-2015	Amend(T)	7-1-2015
635-023-0125(T)	3-5-2015	Suspend	4-1-2015
635-023-0125(T)	4-10-2015	Suspend	5-1-2015
635-023-0125(T)	5-2-2015	Suspend	6-1-2015
635-023-0125(T)	5-6-2015	Suspend	6-1-2015
635-023-0125(T)	5-28-2015	Suspend	7-1-2015
635-023-0125(T)	6-3-2015	Suspend	7-1-2015
635-023-0128	1-1-2015	Amend	2-1-2015
635-023-0128	6-16-2015	Amend(T)	7-1-2015
635-023-0128	7-3-2015	Amend(T)	8-1-2015
635-023-0128(T)	7-3-2015	Suspend	8-1-2015
635-023-0130	1-1-2015	Amend	2-1-2015
635-023-0130	8-1-2015	Amend(T)	9-1-2015
635-023-0130	8-23-2015	Amend(T)	10-1-2015
635-023-0130	8-29-2015	Amend(T)	10-1-2015
635-023-0130(T)	8-23-2015	Suspend	10-1-2015
635-023-0130(T)	8-29-2015	Suspend	10-1-2015
635-023-0134	1-1-2015	Amend	2-1-2015
635-023-0134	5-2-2015	Amend(T)	6-1-2015
635-023-0134	8-2-2015	Amend(T)	9-1-2015
635-023-0134	9-1-2015	Amend(T)	9-1-2015
635-023-0134(T)	8-2-2015	Suspend	9-1-2015
635-023-0134(T)	9-1-2015	Suspend	9-1-2015
635-023-0140	1-1-2015	Amend	2-1-2015
635-039-0080	1-1-2015	Amend	2-1-2015
635-039-0080	3-10-2015	Amend	4-1-2015
635-039-0085	4-28-2015	Amend	6-1-2015
635-039-0085	6-3-2015	Amend(T)	7-1-2015
635-039-0085	6-15-2015	Amend(T)	7-1-2015
635-039-0085(T)	6-15-2015	Suspend	7-1-2015
635-039-0090	1-1-2015	Amend	2-1-2015
635-039-0090	1-15-2015	Amend	2-1-2015
635-039-0090	1-15-2015	Amend(T)	2-1-2015
635-039-0090	4-28-2015	Amend	6-1-2015
635-039-0090(T)	3-10-2015	Repeal	4-1-2015
635-041-0045	6-16-2015	Amend(T)	7-1-2015
635-041-0045	8-1-2015	Amend(T)	9-1-2015
635-041-0045(T)	8-1-2015	Suspend	9-1-2015
635-041-0063	11-25-2014	Amend(T)	1-1-2015
635-041-0063	10-19-2015	Amend(T)	11-1-2015
635-041-0063(T)	11-25-2014	Suspend	1-1-2015
635-041-0065	2-2-2015	Amend(T)	3-1-2015
635-041-0065	2-20-2015	Amend(T)	4-1-2015
635-041-0065	3-12-2015	Amend(T)	4-1-2015
635-041-0065	5-5-2015	Amend(T)	6-1-2015
635-041-0065	5-19-2015	Amend(T)	7-1-2015
635-041-0065	5-27-2015	Amend(T)	7-1-2015
635-041-0065	6-2-2015	Amend(T)	7-1-2015
635-041-0065	6-9-2015	Amend(T)	7-1-2015
635-041-0065	6-11-2015	Amend(T)	7-1-2015
635-041-0065(T)	2-20-2015	Suspend	4-1-2015
635-041-0065(T)	3-12-2015	Suspend	4-1-2015
635-041-0065(T)	5-19-2015	Suspend	7-1-2015
635-041-0065(T)	5-27-2015	Suspend	7-1-2015
635-041-0065(T)	6-2-2015	Suspend	7-1-2015
635-041-0065(T)	6-9-2015	Suspend	7-1-2015
635-041-0065(T)	6-11-2015	Suspend	7-1-2015
635-041-0075	8-1-2015	Amend(T)	9-1-2015
635-041-0075	8-17-2015	Amend(T)	9-1-2015
635-041-0075	9-14-2015	Amend(T)	10-1-2015
635-041-0075	9-18-2015	Amend(T)	11-1-2015
635-041-0075	9-28-2015	Amend(T)	11-1-2015
635-041-0075	10-1-2015	Amend(T)	11-1-2015
635-041-0075(T)	8-17-2015	Suspend	9-1-2015
635-041-0075(T)	9-14-2015	Suspend	10-1-2015
635-041-0075(T)	9-18-2015	Suspend	11-1-2015
635-041-0075(T)	9-28-2015	Suspend	11-1-2015
635-041-0075(T)	10-1-2015	Suspend	11-1-2015
635-041-0076	6-16-2015	Amend(T)	7-1-2015
635-041-0076	7-6-2015	Amend(T)	8-1-2015
635-041-0076	7-8-2015	Amend(T)	8-1-2015
635-041-0076	7-15-2015	Amend(T)	8-1-2015
635-041-0076	7-21-2015	Amend(T)	9-1-2015
635-041-0076	7-28-2015	Amend(T)	9-1-2015
635-041-0076(T)	7-6-2015	Suspend	8-1-2015
635-041-0076(T)	7-8-2015	Suspend	8-1-2015
635-041-0076(T)	7-15-2015	Suspend	8-1-2015
635-041-0076(T)	7-21-2015	Suspend	9-1-2015
635-041-0076(T)	7-28-2015	Suspend	9-1-2015
635-041-0525	1-1-2015	Adopt	1-1-2015
635-042-0010	8-24-2015	Amend(T)	9-1-2015
635-042-0022	3-31-2015	Amend(T)	5-1-2015
635-042-0022	4-7-2015	Amend(T)	5-1-2015

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635-042-0022	5-4-2015	Amend(T)	6-1-2015
635-042-0022	5-6-2015	Amend(T)	6-1-2015
635-042-0022	5-12-2015	Amend(T)	6-1-2015
635-042-0022	5-27-2015	Amend(T)	7-1-2015
635-042-0022	6-2-2015	Amend(T)	7-1-2015
635-042-0022	6-10-2015	Amend(T)	7-1-2015
635-042-0022(T)	6-10-2015	Suspend	7-1-2015
635-042-0027	6-17-2015	Amend(T)	7-1-2015
635-042-0027	7-8-2015	Amend(T)	8-1-2015
635-042-0027	7-21-2015	Amend(T)	9-1-2015
635-042-0027(T)	7-8-2015	Suspend	8-1-2015
635-042-0027(T)	7-14-2015	Suspend	8-1-2015
635-042-0027(T)	7-21-2015	Suspend	9-1-2015
635-042-0031	8-9-2015	Amend(T)	9-1-2015
635-042-0031	8-24-2015	Amend(T)	9-1-2015
635-042-0031	8-30-2015	Amend(T)	10-1-2015
635-042-0031	8-31-2015	Amend(T)	10-1-2015
635-042-0031	9-4-2015	Amend(T)	10-1-2015
635-042-0031	9-15-2015	Amend(T)	10-1-2015
635-042-0031(T)	8-24-2015	Suspend	9-1-2015
635-042-0031(T)	8-30-2015	Suspend	10-1-2015
635-042-0031(T)	8-31-2015	Suspend	10-1-2015
635-042-0031(T)	9-4-2015	Suspend	10-1-2015
635-042-0031(T)	9-15-2015	Suspend	10-1-2015
635-042-0032	10-1-2015	Amend(T)	11-1-2015
635-042-0032	10-8-2015	Amend(T)	11-1-2015
635-042-0032(T)	10-8-2015	Suspend	11-1-2015
635-042-0060	9-15-2015	Amend(T)	10-1-2015
635-042-0060	9-20-2015	Amend(T)	11-1-2015
635-042-0060	9-27-2015	Amend(T)	11-1-2015
635-042-0060	10-8-2015	Amend(T)	11-1-2015
635-042-0060(T)	9-20-2015	Suspend	11-1-2015
635-042-0060(T)	9-27-2015	Suspend	11-1-2015
635-042-0060(T)	10-8-2015	Suspend	11-1-2015
635-042-0130	2-2-2015	Amend(T)	3-1-2015
635-042-0145	2-9-2015	Amend(T)	3-1-2015
635-042-0145	3-9-2015	Amend(T)	4-1-2015
635-042-0145	3-24-2015	Amend(T)	5-1-2015
635-042-0145	4-21-2015	Amend(T)	6-1-2015
635-042-0145	5-4-2015	Amend(T)	6-1-2015
635-042-0145	5-12-2015	Amend(T)	6-1-2015
635-042-0145	5-27-2015	Amend(T)	7-1-2015
635-042-0145	6-2-2015	Amend(T)	7-1-2015
635-042-0145	6-10-2015	Amend(T)	7-1-2015
635-042-0145	8-4-2015	Amend(T)	9-1-2015
635-042-0145	8-24-2015	Amend(T)	10-1-2015
635-042-0145	8-31-2015	Amend(T)	10-1-2015
635-042-0145(T)	3-9-2015	Suspend	4-1-2015
635-042-0145(T)	3-24-2015	Suspend	5-1-2015
635-042-0145(T)	4-21-2015	Suspend	6-1-2015
635-042-0145(T)	5-4-2015	Suspend	6-1-2015
635-042-0145(T)	5-12-2015	Suspend	6-1-2015
635-042-0145(T)	5-27-2015	Suspend	7-1-2015
635-042-0145(T)	6-2-2015	Suspend	7-1-2015
635-042-0145(T)	6-10-2015	Suspend	7-1-2015
635-042-0145(T)	8-24-2015	Suspend	10-1-2015
635-042-0145(T)	8-31-2015	Suspend	10-1-2015
635-042-0160	2-9-2015	Amend(T)	3-1-2015
635-042-0160	4-21-2015	Amend(T)	6-1-2015
635-042-0160	5-4-2015	Amend(T)	6-1-2015
635-042-0160	6-16-2015	Amend(T)	7-1-2015
635-042-0160	6-25-2015	Amend(T)	8-1-2015
635-042-0160	8-17-2015	Amend(T)	9-1-2015
635-042-0160(T)	4-21-2015	Suspend	6-1-2015
635-042-0160(T)	5-4-2015	Suspend	6-1-2015
635-042-0160(T)	6-16-2015	Suspend	7-1-2015
635-042-0160(T)	6-25-2015	Suspend	8-1-2015
635-042-0170	2-9-2015	Amend(T)	3-1-2015
635-042-0170	4-21-2015	Amend(T)	6-1-2015
635-042-0170	5-4-2015	Amend(T)	6-1-2015
635-042-0170	8-17-2015	Amend(T)	9-1-2015
635-042-0170(T)	4-21-2015	Suspend	6-1-2015
635-042-0170(T)	5-4-2015	Suspend	6-1-2015
635-042-0180	2-9-2015	Amend(T)	3-1-2015
635-042-0180	4-21-2015	Amend(T)	6-1-2015
635-042-0180	5-4-2015	Amend(T)	6-1-2015
635-042-0180	8-17-2015	Amend(T)	9-1-2015
635-042-0180(T)	4-21-2015	Suspend	6-1-2015
635-042-0180(T)	5-4-2015	Suspend	6-1-2015
635-043-0003	1-1-2016	Amend	11-1-2015
635-043-0033	1-1-2016	Amend	11-1-2015
635-043-0151	1-15-2015	Adopt(T)	2-1-2015
635-043-0151(T)	1-15-2015	Suspend	2-1-2015
635-043-0155	9-2-2015	Adopt(T)	10-1-2015
635-044-0060	1-1-2016	Amend	11-1-2015
635-045-0000	6-11-2015	Amend	7-1-2015
635-045-0000	8-12-2015	Amend	9-1-2015
635-046-0055	1-1-2016	Amend	11-1-2015
635-047-0025	1-1-2016	Amend	11-1-2015
635-047-0035	1-1-2016	Amend	11-1-2015
635-047-0045	1-1-2016	Amend	11-1-2015
635-048-0005	12-10-2014	Amend	1-1-2015
635-049-0165	1-1-2016	Amend	11-1-2015
635-049-0270	1-1-2016	Amend	11-1-2015
635-050-0180	1-1-2016	Amend	11-1-2015
635-051-0000	8-12-2015	Amend	9-1-2015
635-052-0000	8-12-2015	Amend	9-1-2015
635-053-0000	8-12-2015	Amend	9-1-2015
635-053-0100	2-25-2015	Repeal	4-1-2015
635-053-0105	2-25-2015	Repeal	4-1-2015
635-053-0111	2-25-2015	Repeal	4-1-2015
635-053-0125	2-25-2015	Repeal	4-1-2015
635-054-0000	8-12-2015	Amend	9-1-2015
635-055-0015	1-1-2016	Amend	11-1-2015
635-055-0035	1-1-2016	Amend	11-1-2015
635-055-0037	1-1-2016	Amend	11-1-2015
635-056-0075	1-1-2016	Amend	11-1-2015
635-060-0000	8-12-2015	Amend	9-1-2015
635-060-0046	1-1-2016	Amend	11-1-2015
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

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635-065-0015	6-11-2015	Amend	7-1-2015
635-065-0090	1-6-2015	Amend	2-1-2015
635-065-0401	1-6-2015	Amend	2-1-2015
635-065-0501	1-1-2016	Amend	11-1-2015
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
635-065-0760	6-11-2015	Amend	7-1-2015
635-065-0760(T)	6-11-2015	Repeal	7-1-2015
635-065-0765	1-6-2015	Amend	2-1-2015
635-065-0765	6-11-2015	Amend	7-1-2015
635-066-0000	1-6-2015	Amend	2-1-2015
635-067-0000	1-6-2015	Amend	2-1-2015
635-067-0000	6-11-2015	Amend	7-1-2015
635-067-0015	1-6-2015	Amend	2-1-2015
635-067-0030	6-11-2015	Amend	7-1-2015
635-067-0032	1-6-2015	Amend	2-1-2015
635-067-0032	6-11-2015	Amend	7-1-2015
635-067-0034	1-6-2015	Amend	2-1-2015
635-067-0034	6-11-2015	Amend	7-1-2015
635-067-0040	9-27-2015	Amend(T)	11-1-2015
635-068-0000	2-26-2015	Amend	4-1-2015
635-068-0000	6-11-2015	Amend	7-1-2015
635-069-0000	2-26-2015	Amend	4-1-2015
635-069-0000	6-11-2015	Amend	7-1-2015
635-070-0000	4-8-2015	Amend	5-1-2015
635-070-0000	6-11-2015	Amend	7-1-2015
635-070-0020	4-8-2015	Amend	5-1-2015
635-071-0000	4-8-2015	Amend	5-1-2015
635-071-0000	6-11-2015	Amend	7-1-2015
635-071-0010	1-7-2015	Amend(T)	2-1-2015
635-071-0010	6-11-2015	Amend	7-1-2015
635-071-0010(T)	6-11-2015	Repeal	7-1-2015
635-072-0000	1-6-2015	Amend	2-1-2015
635-073-0000	2-26-2015	Amend	4-1-2015
635-073-0000	6-11-2015	Amend	7-1-2015
635-073-0015	2-26-2015	Amend	4-1-2015
635-075-0001	1-6-2015	Amend	2-1-2015
635-075-0005	1-6-2015	Amend	2-1-2015
635-075-0005	6-11-2015	Amend	7-1-2015
635-075-0005	1-1-2016	Amend	11-1-2015
635-075-0010	1-6-2015	Amend	2-1-2015
635-075-0020	1-6-2015	Amend	2-1-2015
635-075-0020	6-11-2015	Amend	7-1-2015
635-075-0022	1-6-2015	Adopt	2-1-2015
635-075-0022	6-11-2015	Amend	7-1-2015
635-075-0026	1-1-2016	Amend	11-1-2015
635-075-0035	1-1-2016	Amend	11-1-2015
635-078-0011	6-11-2015	Amend	7-1-2015
635-095-0100	2-25-2015	Amend	4-1-2015
635-095-0105	2-25-2015	Amend	4-1-2015
635-095-0111	2-25-2015	Amend	4-1-2015
635-095-0125	2-25-2015	Amend	4-1-2015
635-140-0000	9-1-2015	Amend	10-1-2015
635-140-0002	9-1-2015	Adopt	10-1-2015
635-140-0005	9-1-2015	Amend	10-1-2015
635-140-0010	9-1-2015	Amend	10-1-2015
635-140-0015	9-1-2015	Amend	10-1-2015
635-140-0025	9-1-2015	Adopt	10-1-2015
635-200-0050	1-1-2016	Amend	11-1-2015
635-440-0001	12-8-2014	Adopt	1-1-2015
635-440-0005	12-8-2014	Adopt	1-1-2015
635-440-0010	12-8-2014	Adopt	1-1-2015
635-440-0015	12-8-2014	Adopt	1-1-2015
635-440-0020	12-8-2014	Adopt	1-1-2015
635-440-0025	12-8-2014	Adopt	1-1-2015
635-440-0030	12-8-2014	Adopt	1-1-2015
635-440-0035	12-8-2014	Adopt	1-1-2015
647-010-0010	7-1-2015	Amend	6-1-2015
660-004-0023	4-27-2015	Adopt	6-1-2015
660-004-0040	4-27-2015	Amend	6-1-2015
660-006-0005	6-10-2015	Amend	7-1-2015
660-023-0115	8-13-2015	Adopt	9-1-2015
660-024-0030	3-25-2015	Repeal	5-1-2015
660-024-0040	3-25-2015	Amend	5-1-2015
660-027-0070	4-27-2015	Amend	6-1-2015
660-029-0000	4-27-2015	Adopt	6-1-2015
660-029-0010	4-27-2015	Adopt	6-1-2015
660-029-0020	4-27-2015	Adopt	6-1-2015
660-029-0030	4-27-2015	Adopt	6-1-2015
660-029-0040	4-27-2015	Adopt	6-1-2015
660-029-0050	4-27-2015	Adopt	6-1-2015
660-029-0060	4-27-2015	Adopt	6-1-2015
660-029-0070	4-27-2015	Adopt	6-1-2015
660-029-0080	4-27-2015	Adopt	6-1-2015
660-029-0090	4-27-2015	Adopt	6-1-2015
660-029-0100	4-27-2015	Adopt	6-1-2015
660-029-0110	4-27-2015	Adopt	6-1-2015
660-029-0120	4-27-2015	Adopt	6-1-2015
660-032-0000	3-25-2015	Adopt	5-1-2015
660-032-0010	3-25-2015	Adopt	5-1-2015
660-032-0020	3-25-2015	Adopt	5-1-2015
660-032-0030	3-25-2015	Adopt	5-1-2015
660-032-0040	3-25-2015	Adopt	5-1-2015
660-033-0120	4-9-2015	Amend	5-1-2015
660-033-0130	4-9-2015	Amend	5-1-2015
690-020-0000	3-17-2015	Amend	5-1-2015
690-020-0022	3-17-2015	Amend	5-1-2015
690-020-0023	3-17-2015	Adopt	5-1-2015
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
690-020-0038	3-17-2015	Adopt	5-1-2015
690-020-0041	3-17-2015	Adopt	5-1-2015
690-020-0042	3-17-2015	Adopt	5-1-2015
690-020-0043	3-17-2015	Adopt	5-1-2015
690-020-0044	3-17-2015	Adopt	5-1-2015
690-020-0047	3-17-2015	Adopt	5-1-2015

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690-020-0048	3-17-2015	Adopt	5-1-2015
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
690-020-0080	3-17-2015	Adopt	5-1-2015
690-020-0100	3-17-2015	Amend	5-1-2015
690-020-0120	3-17-2015	Adopt	5-1-2015
690-020-0150	3-17-2015	Adopt	5-1-2015
690-020-0200	3-17-2015	Amend	5-1-2015
690-020-0250	3-17-2015	Adopt	5-1-2015
690-020-0300	3-17-2015	Adopt	5-1-2015
690-020-0350	3-17-2015	Adopt	5-1-2015
690-020-0400	3-17-2015	Adopt	5-1-2015
690-022-0050	5-15-2015	Adopt(T)	6-1-2015
690-022-0052	5-15-2015	Adopt(T)	6-1-2015
690-022-0054	5-15-2015	Adopt(T)	6-1-2015
690-022-0055	5-15-2015	Adopt(T)	6-1-2015
690-022-0056	5-15-2015	Adopt(T)	6-1-2015
690-025-0010	3-16-2015	Adopt	5-1-2015
690-033-0120	11-25-2014	Amend	1-1-2015
690-093-0010	7-2-2015	Adopt	8-1-2015
690-093-0020	7-2-2015	Adopt	8-1-2015
690-093-0030	7-2-2015	Adopt	8-1-2015
690-093-0040	7-2-2015	Adopt	8-1-2015
690-093-0050	7-2-2015	Adopt	8-1-2015
690-093-0060	7-2-2015	Adopt	8-1-2015
690-093-0070	7-2-2015	Adopt	8-1-2015
690-093-0080	7-2-2015	Adopt	8-1-2015
690-093-0090	7-2-2015	Adopt	8-1-2015
690-093-0100	7-2-2015	Adopt	8-1-2015
690-093-0110	7-2-2015	Adopt	8-1-2015
690-093-0120	7-2-2015	Adopt	8-1-2015
690-093-0130	7-2-2015	Adopt	8-1-2015
690-093-0150	7-2-2015	Adopt	8-1-2015
690-093-0160	7-2-2015	Adopt	8-1-2015
690-093-0170	7-2-2015	Adopt	8-1-2015
690-093-0180	7-2-2015	Adopt	8-1-2015
690-093-0190	7-2-2015	Adopt	8-1-2015
690-093-0200	7-2-2015	Adopt	8-1-2015
690-200-0005	11-25-2014	Amend	1-1-2015
690-200-0020	7-1-2015	Amend	8-1-2015
690-200-0028	7-1-2015	Amend	8-1-2015
690-200-0050	7-1-2015	Amend	8-1-2015
690-205-0185	7-1-2015	Amend	8-1-2015
690-210-0030	7-1-2015	Amend	8-1-2015
690-210-0130	7-1-2015	Amend	8-1-2015
690-210-0140	7-1-2015	Amend	8-1-2015
690-210-0150	7-1-2015	Amend	8-1-2015
690-210-0155	7-1-2015	Amend	8-1-2015
690-210-0190	7-1-2015	Amend	8-1-2015
690-210-0220	7-1-2015	Amend	8-1-2015
690-210-0230	7-1-2015	Amend	8-1-2015
690-210-0270	7-1-2015	Amend	8-1-2015
690-210-0310	11-25-2014	Amend	1-1-2015
690-210-0320	7-1-2015	Amend	8-1-2015
690-210-0340	11-25-2014	Amend	1-1-2015
690-210-0380	7-1-2015	Amend	8-1-2015
690-210-0400	7-1-2015	Amend	8-1-2015
690-210-0410	7-1-2015	Amend	8-1-2015
690-210-0420	7-1-2015	Amend	8-1-2015
690-215-0015	7-1-2015	Repeal	8-1-2015
690-215-0045	11-25-2014	Amend	1-1-2015
690-215-0200	7-1-2015	Amend	8-1-2015
690-220-0115	7-1-2015	Amend	8-1-2015
690-240-0005	11-25-2014	Amend	1-1-2015
690-240-0005	7-1-2015	Amend	8-1-2015
690-240-0035	11-25-2014	Amend	1-1-2015
690-240-0046	11-25-2014	Amend	1-1-2015
690-240-0355	7-1-2015	Amend	8-1-2015
690-240-0475	7-1-2015	Amend	8-1-2015
690-240-0525	7-1-2015	Amend	8-1-2015
690-310-0080	1-1-2015	Amend	1-1-2015
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
690-325-0040	11-25-2014	Adopt	1-1-2015
690-325-0050	11-25-2014	Adopt	1-1-2015
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
690-340-0030	1-1-2015	Amend	1-1-2015
690-340-0040	1-1-2015	Amend	1-1-2015
690-382-0400	1-1-2015	Amend	1-1-2015
690-522-0030	6-26-2015	Amend	8-1-2015
690-522-0050	6-26-2015	Amend	8-1-2015
710-005-0005	7-1-2015	Amend	8-1-2015
710-010-0000	11-30-2014	Adopt	1-1-2015
715-001-0030	1-20-2015	Adopt	3-1-2015
715-001-0035	1-20-2015	Adopt	3-1-2015
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
715-013-0025	7-1-2015	Adopt	7-1-2015
715-013-0040	7-1-2015	Adopt	5-1-2015
715-013-0040	7-1-2015	Adopt	7-1-2015
715-013-0060	9-8-2015	Adopt(T)	10-1-2015
715-013-0062	9-8-2015	Adopt(T)	10-1-2015
715-013-0064	9-8-2015	Adopt(T)	10-1-2015
715-013-0066	9-8-2015	Adopt(T)	10-1-2015
715-045-0007	12-18-2014	Amend	2-1-2015
715-045-0007	6-25-2015	Amend(T)	8-1-2015
715-045-0007	9-21-2015	Amend	11-1-2015
715-045-0007	9-23-2015	Amend(T)	11-1-2015
715-045-0007(T)	9-21-2015	Repeal	11-1-2015
715-045-0009	12-18-2014	Amend	2-1-2015
715-045-0012	12-18-2014	Amend	2-1-2015

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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
731-080-0010	6-22-2015	Repeal	8-1-2015
731-080-0020	6-22-2015	Repeal	8-1-2015
731-080-0030	6-22-2015	Repeal	8-1-2015
731-080-0040	6-22-2015	Repeal	8-1-2015
731-080-0070	6-22-2015	Repeal	8-1-2015
731-080-0080	6-22-2015	Repeal	8-1-2015
731-090-0000	7-1-2015	Adopt	6-1-2015
731-090-0010	7-1-2015	Adopt	6-1-2015
731-090-0020	7-1-2015	Adopt	6-1-2015
731-090-0030	7-1-2015	Adopt	6-1-2015
731-090-0040	7-1-2015	Adopt	6-1-2015
731-090-0050	7-1-2015	Adopt	6-1-2015
731-090-0060	7-1-2015	Adopt	6-1-2015
731-090-0070	7-1-2015	Adopt	6-1-2015
731-090-0080	7-1-2015	Adopt	6-1-2015
731-090-0090	7-1-2015	Adopt	6-1-2015
734-020-0010	5-26-2015	Amend	7-1-2015
734-020-0011	5-26-2015	Amend	7-1-2015
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
734-074-0010	4-21-2015	Amend	6-1-2015
734-074-0060	4-21-2015	Amend	6-1-2015
734-075-0045	4-21-2015	Amend	6-1-2015
734-076-0135	4-21-2015	Amend	6-1-2015
734-078-0030	4-21-2015	Amend	6-1-2015
734-082-0009	6-23-2015	Amend	8-1-2015
734-082-0037	4-21-2015	Amend	6-1-2015
735-001-0040	12-19-2014	Amend	2-1-2015
735-001-0062	7-1-2015	Amend	8-1-2015
735-022-0065	1-1-2015	Adopt	1-1-2015
735-028-0110	4-21-2015	Amend	6-1-2015
735-028-0120	4-21-2015	Amend	6-1-2015
735-028-0125	4-21-2015	Adopt	6-1-2015
735-028-0130	4-21-2015	Repeal	6-1-2015
735-028-0140	4-21-2015	Repeal	6-1-2015
735-028-0150	4-21-2015	Amend	6-1-2015
735-032-0025	1-1-2016	Adopt	11-1-2015
735-040-0090	10-1-2015	Amend	10-1-2015
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
735-062-0016	6-19-2015	Amend	8-1-2015
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
735-063-0130	7-8-2015	Adopt	8-1-2015
735-064-0040	7-8-2015	Amend	8-1-2015
735-064-0100	7-8-2015	Amend	8-1-2015
735-064-0220	7-8-2015	Amend	8-1-2015
735-070-0037	7-8-2015	Repeal	8-1-2015
735-070-0200	7-8-2015	Am. & Ren.	8-1-2015
735-072-0035	7-8-2015	Amend	8-1-2015
735-150-0040	4-20-2015	Amend	6-1-2015
735-150-0041	4-20-2015	Adopt	6-1-2015
735-150-0120	4-20-2015	Amend	6-1-2015
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
735-176-0120	7-1-2015	Adopt	1-1-2015
735-176-0130	7-1-2015	Adopt	1-1-2015
735-176-0140	7-1-2015	Adopt	1-1-2015
735-176-0150	7-1-2015	Adopt	1-1-2015
735-176-0160	7-1-2015	Adopt	1-1-2015
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
736-015-0015	9-28-2015	Amend	11-1-2015
736-017-0005	10-1-2015	Amend	11-1-2015

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736-017-0010	10-1-2015	Amend	11-1-2015
736-017-0020	10-1-2015	Amend	11-1-2015
738-001-0006	7-1-2015	Amend	8-1-2015
738-001-0025	7-1-2015	Repeal	8-1-2015
738-001-0030	7-1-2015	Repeal	8-1-2015
738-130-0005	7-28-2015	Adopt	9-1-2015
738-130-0015	7-28-2015	Adopt	9-1-2015
738-130-0025	7-28-2015	Adopt	9-1-2015
738-130-0035	7-28-2015	Adopt	9-1-2015
738-130-0045	7-28-2015	Adopt	9-1-2015
738-130-0055	7-28-2015	Adopt	9-1-2015
738-130-0065	7-28-2015	Adopt	9-1-2015
738-130-0075	7-28-2015	Adopt	9-1-2015
738-130-0085	7-28-2015	Adopt	9-1-2015
738-130-0095	7-28-2015	Adopt	9-1-2015
738-130-0105	7-28-2015	Adopt	9-1-2015
738-130-0115	7-28-2015	Adopt	9-1-2015
738-130-0125	7-28-2015	Adopt	9-1-2015
740-055-0020	9-21-2015	Amend	11-1-2015
740-055-0110	9-21-2015	Amend	11-1-2015
740-100-0010	5-26-2015	Amend	7-1-2015
740-100-0015	8-24-2015	Amend	10-1-2015
740-100-0045	8-24-2015	Adopt	10-1-2015
740-100-0049	8-24-2015	Adopt	10-1-2015
740-100-0055	8-24-2015	Adopt	10-1-2015
740-100-0065	5-26-2015	Amend	7-1-2015
740-100-0065	8-24-2015	Amend	10-1-2015
740-100-0070	5-26-2015	Amend	7-1-2015
740-100-0070	8-24-2015	Amend	10-1-2015
740-100-0080	5-26-2015	Amend	7-1-2015
740-100-0080	8-24-2015	Amend	10-1-2015
740-100-0085	5-26-2015	Amend	7-1-2015
740-100-0085	8-24-2015	Amend	10-1-2015
740-100-0090	5-26-2015	Amend	7-1-2015
740-100-0090	8-24-2015	Amend	10-1-2015
740-100-0110	8-24-2015	Repeal	10-1-2015
740-110-0010	5-26-2015	Amend	7-1-2015
740-200-0010	5-26-2015	Amend	7-1-2015
740-200-0020	5-26-2015	Amend	7-1-2015
740-200-0040	5-26-2015	Amend	7-1-2015
740-300-0005	9-21-2015	Adopt	11-1-2015
741-510-0010	9-3-2015	Amend	10-1-2015
741-510-0010	9-14-2015	Amend	10-1-2015
741-510-0015	9-3-2015	Adopt	10-1-2015
741-510-0015	9-14-2015	Adopt	10-1-2015
741-510-0020	9-3-2015	Amend	10-1-2015
741-510-0020	9-14-2015	Amend	10-1-2015
741-510-0025	9-3-2015	Adopt	10-1-2015
741-510-0025	9-14-2015	Adopt	10-1-2015
741-510-0027	9-3-2015	Adopt	10-1-2015
741-510-0027	9-14-2015	Adopt	10-1-2015
741-510-0030	9-3-2015	Repeal	10-1-2015
741-510-0030	9-14-2015	Repeal	10-1-2015
741-510-0035	9-3-2015	Adopt	10-1-2015
741-510-0035	9-14-2015	Adopt	10-1-2015
741-510-0040	9-3-2015	Repeal	10-1-2015
741-510-0040	9-14-2015	Repeal	10-1-2015
741-510-0045	9-3-2015	Adopt	10-1-2015
741-510-0045	9-14-2015	Adopt	10-1-2015
741-510-0050	9-3-2015	Adopt	10-1-2015
741-510-0050	9-14-2015	Adopt	10-1-2015
800-001-0000	2-1-2015	Amend	3-1-2015
800-010-0015	2-1-2015	Amend	3-1-2015
800-010-0017	2-1-2015	Amend	3-1-2015
800-010-0020	2-1-2015	Amend	3-1-2015
800-010-0025	2-1-2015	Amend	3-1-2015
800-010-0030	2-1-2015	Amend	3-1-2015
800-010-0040	2-1-2015	Amend	3-1-2015
800-010-0050	2-1-2015	Amend	3-1-2015
800-015-0005	2-1-2015	Amend	3-1-2015
800-015-0010	2-1-2015	Amend	3-1-2015
800-015-0015	2-1-2015	Amend	3-1-2015
800-015-0020	2-1-2015	Amend	3-1-2015
800-020-0015	2-1-2015	Amend	3-1-2015
800-020-0022	2-1-2015	Amend	3-1-2015
800-020-0030	2-1-2015	Amend	3-1-2015
800-020-0031	2-1-2015	Amend	3-1-2015
800-025-0010	2-1-2015	Amend	3-1-2015
800-025-0023	2-1-2015	Amend	3-1-2015
800-025-0025	2-1-2015	Amend	3-1-2015
800-025-0030	2-1-2015	Amend	3-1-2015
800-025-0040	2-1-2015	Amend	3-1-2015
800-025-0060	2-1-2015	Amend	3-1-2015
800-025-0070	2-1-2015	Amend	3-1-2015
800-030-0030	2-1-2015	Amend	3-1-2015
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
801-005-0010	10-1-2015	Amend	11-1-2015
801-005-0200	10-1-2015	Repeal	11-1-2015
801-005-0300	10-1-2015	Repeal	11-1-2015
801-005-0400	10-1-2015	Amend	11-1-2015
801-010-0010	1-8-2015	Amend	1-1-2015
801-010-0010	10-1-2015	Amend	11-1-2015
801-010-0045	1-8-2015	Amend	1-1-2015
801-010-0050	1-8-2015	Amend	1-1-2015
801-010-0050	10-1-2015	Amend	11-1-2015
801-010-0060	1-8-2015	Amend	1-1-2015
801-010-0065	1-8-2015	Amend	1-1-2015
801-010-0065	10-1-2015	Amend	11-1-2015
801-010-0073	1-8-2015	Amend	1-1-2015
801-010-0075	10-1-2015	Amend	11-1-2015
801-010-0078	1-8-2015	Repeal	1-1-2015
801-010-0079	1-8-2015	Amend	1-1-2015
801-010-0080	1-8-2015	Amend	1-1-2015
801-010-0100	1-8-2015	Amend	1-1-2015
801-010-0100	10-1-2015	Amend	11-1-2015
801-010-0110	1-8-2015	Amend	1-1-2015

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801-010-0120	1-8-2015	Amend	1-1-2015
801-010-0125	1-8-2015	Repeal	1-1-2015
801-010-0130	1-8-2015	Amend	1-1-2015
801-010-0130	10-1-2015	Amend	11-1-2015
801-010-0340	10-1-2015	Amend	11-1-2015
801-010-0345	1-8-2015	Amend	1-1-2015
801-010-0345	10-1-2015	Amend	11-1-2015
801-020-0690	10-1-2015	Amend	11-1-2015
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
801-040-0010	10-1-2015	Amend	11-1-2015
801-040-0030	10-1-2015	Amend	11-1-2015
801-040-0040	10-1-2015	Amend	11-1-2015
801-040-0050	10-1-2015	Amend	11-1-2015
801-040-0080	10-1-2015	Repeal	11-1-2015
801-040-0090	10-1-2015	Amend	11-1-2015
801-040-0150	10-1-2015	Amend	11-1-2015
801-040-0150	10-1-2015	Amend	11-1-2015
801-040-0160	10-1-2015	Amend	11-1-2015
801-040-0160	10-1-2015	Amend	11-1-2015
804-001-0002	7-1-2015	Amend	7-1-2015
804-001-0020	9-1-2015	Amend	10-1-2015
804-003-0000	11-19-2014	Amend	1-1-2015
804-010-0000	11-19-2014	Amend	1-1-2015
804-010-0010	11-19-2014	Amend	1-1-2015
804-010-0020	11-19-2014	Amend	1-1-2015
804-020-0001	11-19-2014	Amend	1-1-2015
804-020-0003	11-19-2014	Amend	1-1-2015
804-020-0005	11-19-2014	Amend	1-1-2015
804-020-0010	11-19-2014	Amend	1-1-2015
804-020-0015	11-19-2014	Amend	1-1-2015
804-020-0030	11-19-2014	Amend	1-1-2015
804-020-0045	11-19-2014	Amend	1-1-2015
804-022-0000	11-19-2014	Amend	1-1-2015
804-022-0015	11-19-2014	Amend	1-1-2015
804-022-0020	9-1-2015	Amend	10-1-2015
804-022-0025	9-1-2015	Amend	10-1-2015
804-022-0030	9-1-2015	Adopt	10-1-2015
804-040-0000	11-19-2014	Amend	1-1-2015
804-040-0000	9-1-2015	Amend	10-1-2015
806-001-0003	7-1-2015	Amend	6-1-2015
806-010-0010	6-26-2015	Amend(T)	8-1-2015
806-010-0020	6-26-2015	Amend(T)	8-1-2015
806-010-0020	9-14-2015	Amend(T)	10-1-2015
806-010-0035	6-26-2015	Amend(T)	8-1-2015
806-010-0035	9-14-2015	Amend(T)	10-1-2015
808-001-0008	3-24-2015	Amend	5-1-2015
808-001-0008	6-18-2015	Amend	8-1-2015
808-002-0455	8-1-2015	Amend	9-1-2015
808-003-0010	8-1-2015	Amend	9-1-2015
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
808-003-0065	6-11-2015	Amend	7-1-2015
808-003-0065(T)	6-11-2015	Repeal	7-1-2015
808-003-0100	8-1-2015	Amend	9-1-2015
808-003-0220	8-1-2015	Amend	9-1-2015
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
809-010-0025	7-1-2015	Amend	7-1-2015
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
811-010-0066	7-1-2015	Amend	7-1-2015
811-010-0085	3-20-2015	Amend	5-1-2015
811-010-0085	7-1-2015	Amend	7-1-2015
811-010-0086	7-1-2015	Amend	7-1-2015
811-015-0005	4-10-2015	Amend	5-1-2015
812-008-0020	10-1-2015	Amend	8-1-2015
812-008-0040	10-1-2015	Amend	8-1-2015
812-008-0050	10-1-2015	Amend	8-1-2015
812-008-0060	10-1-2015	Amend	8-1-2015
812-008-0110	10-1-2015	Amend	8-1-2015
813-013-0035	2-26-2015	Amend(T)	4-1-2015
813-013-0035	7-9-2015	Amend	8-1-2015
813-044-0040	3-11-2015	Amend(T)	4-1-2015
813-044-0040	7-9-2015	Amend	8-1-2015
813-044-0045	3-11-2015	Adopt(T)	4-1-2015
813-044-0045	7-9-2015	Adopt	8-1-2015
813-046-0000	8-25-2015	Amend	10-1-2015
813-046-0011	8-25-2015	Amend	10-1-2015
813-046-0021	8-25-2015	Amend	10-1-2015
813-046-0040	8-25-2015	Amend	10-1-2015
813-046-0045	8-25-2015	Amend	10-1-2015
813-046-0050	8-25-2015	Amend	10-1-2015
813-046-0061	8-25-2015	Amend	10-1-2015
813-046-0065	8-25-2015	Amend	10-1-2015
813-046-0070	8-25-2015	Amend	10-1-2015
813-046-0081	8-25-2015	Amend	10-1-2015
813-046-0100	8-25-2015	Repeal	10-1-2015
813-049-0001	8-25-2015	Amend	10-1-2015
813-049-0005	8-25-2015	Amend	10-1-2015
813-049-0008	8-25-2015	Adopt	10-1-2015
813-049-0010	8-25-2015	Amend	10-1-2015
813-049-0020	8-25-2015	Amend	10-1-2015
813-049-0045	8-25-2015	Adopt	10-1-2015
813-049-0055	8-25-2015	Adopt	10-1-2015
813-049-0065	8-25-2015	Adopt	10-1-2015
813-049-0075	8-25-2015	Adopt	10-1-2015
813-049-0080	8-25-2015	Adopt	10-1-2015
813-051-0000	8-25-2015	Amend	10-1-2015
813-051-0010	8-25-2015	Amend	10-1-2015
813-051-0020	8-25-2015	Amend	10-1-2015
813-051-0030	8-25-2015	Amend	10-1-2015
813-051-0040	8-25-2015	Amend	10-1-2015
813-051-0050	8-25-2015	Amend	10-1-2015

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813-051-0060	8-25-2015	Amend	10-1-2015
813-051-0070	8-25-2015	Amend	10-1-2015
813-051-0080	8-25-2015	Amend	10-1-2015
813-051-0090	8-25-2015	Amend	10-1-2015
813-051-0100	8-25-2015	Repeal	10-1-2015
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
813-110-0010	7-9-2015	Amend	8-1-2015
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
813-145-0000	8-25-2015	Amend	10-1-2015
813-145-0010	8-25-2015	Amend	10-1-2015
813-145-0020	8-25-2015	Amend	10-1-2015
813-145-0026	8-25-2015	Adopt	10-1-2015
813-145-0030	8-25-2015	Amend	10-1-2015
813-145-0040	8-25-2015	Amend	10-1-2015
813-145-0050	8-25-2015	Amend	10-1-2015
813-145-0060	8-25-2015	Amend	10-1-2015
813-145-0070	8-25-2015	Amend	10-1-2015
813-145-0080	8-25-2015	Amend	10-1-2015
813-145-0090	8-25-2015	Repeal	10-1-2015
813-200-0001	8-25-2015	Amend	10-1-2015
813-200-0005	8-25-2015	Amend	10-1-2015
813-200-0010	8-25-2015	Amend	10-1-2015
813-200-0020	8-25-2015	Amend	10-1-2015
813-200-0030	8-25-2015	Amend	10-1-2015
813-200-0040	8-25-2015	Repeal	10-1-2015
813-200-0050	8-25-2015	Amend	10-1-2015
813-200-0052	8-25-2015	Adopt	10-1-2015
813-200-0060	8-25-2015	Am. & Ren.	10-1-2015
813-200-0075	8-25-2015	Adopt	10-1-2015
813-200-0080	8-25-2015	Adopt	10-1-2015
813-200-0085	8-25-2015	Adopt	10-1-2015
813-202-0000	8-25-2015	Adopt	10-1-2015
813-202-0005	8-25-2015	Amend	10-1-2015
813-202-0010	8-25-2015	Amend	10-1-2015
813-202-0015	8-25-2015	Repeal	10-1-2015
813-202-0020	8-25-2015	Amend	10-1-2015
813-202-0030	8-25-2015	Amend	10-1-2015
813-202-0040	8-25-2015	Repeal	10-1-2015
813-202-0050	8-25-2015	Amend	10-1-2015
813-202-0052	8-25-2015	Adopt	10-1-2015
813-202-0054	8-25-2015	Adopt	10-1-2015
813-202-0056	8-25-2015	Adopt	10-1-2015
813-202-0058	8-25-2015	Adopt	10-1-2015
813-202-0060	8-25-2015	Amend	10-1-2015
813-210-0001	8-25-2015	Amend	10-1-2015
813-210-0009	8-25-2015	Amend	10-1-2015
813-210-0014	8-25-2015	Adopt	10-1-2015
813-210-0015	8-25-2015	Am. & Ren.	10-1-2015
813-210-0021	8-25-2015	Adopt	10-1-2015
813-210-0025	8-25-2015	Amend	10-1-2015
813-210-0040	8-25-2015	Repeal	10-1-2015
813-210-0050	8-25-2015	Amend	10-1-2015
813-210-0055	8-25-2015	Repeal	10-1-2015
813-210-0060	8-25-2015	Am. & Ren.	10-1-2015
813-210-0065	8-25-2015	Repeal	10-1-2015
813-210-0066	8-25-2015	Adopt	10-1-2015
813-210-0071	8-25-2015	Adopt	10-1-2015
813-210-0076	8-25-2015	Adopt	10-1-2015
813-220-0001	8-25-2015	Amend	10-1-2015
813-220-0001	10-9-2015	Renumber	11-1-2015
813-220-0005	8-25-2015	Amend	10-1-2015
813-220-0005	10-9-2015	Renumber	11-1-2015
813-220-0010	8-25-2015	Amend	10-1-2015
813-220-0010	10-9-2015	Renumber	11-1-2015
813-220-0015	8-25-2015	Amend	10-1-2015
813-220-0015	10-9-2015	Renumber	11-1-2015
813-220-0020	8-25-2015	Amend	10-1-2015
813-220-0020	10-9-2015	Renumber	11-1-2015
813-220-0030	8-25-2015	Amend	10-1-2015
813-220-0030	10-9-2015	Renumber	11-1-2015
813-220-0050	8-25-2015	Amend	10-1-2015
813-220-0050	10-9-2015	Renumber	11-1-2015
813-220-0060	8-25-2015	Amend	10-1-2015
813-220-0060	10-9-2015	Renumber	11-1-2015
813-220-0070	8-25-2015	Repeal	10-1-2015

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813-230-0000	8-25-2015	Amend	10-1-2015
813-230-0005	8-25-2015	Amend	10-1-2015
813-230-0007	8-25-2015	Amend	10-1-2015
813-230-0010	8-25-2015	Amend	10-1-2015
813-230-0015	8-25-2015	Repeal	10-1-2015
813-230-0020	8-25-2015	Amend	10-1-2015
813-240-0001	8-25-2015	Amend	10-1-2015
813-240-0005	8-25-2015	Amend	10-1-2015
813-240-0010	8-25-2015	Amend	10-1-2015
813-240-0015	8-25-2015	Renumber	10-1-2015
813-240-0020	8-25-2015	Amend	10-1-2015
813-240-0041	8-25-2015	Amend	10-1-2015
813-240-0050	8-25-2015	Amend	10-1-2015
813-240-0060	8-25-2015	Amend	10-1-2015
813-240-0070	8-25-2015	Amend	10-1-2015
813-240-0080	8-25-2015	Amend	10-1-2015
813-240-0090	8-25-2015	Repeal	10-1-2015
813-250-0000	10-9-2015	Renumber	11-1-2015
813-250-0020	10-9-2015	Renumber	11-1-2015
813-250-0030	10-9-2015	Renumber	11-1-2015
813-250-0040	10-9-2015	Renumber	11-1-2015
813-300-0150	10-5-2015	Amend(T)	11-1-2015
813-330-0000	8-18-2015	Adopt(T)	10-1-2015
813-330-0010	8-18-2015	Adopt(T)	10-1-2015
813-330-0020	8-18-2015	Adopt(T)	10-1-2015
813-330-0030	8-18-2015	Adopt(T)	10-1-2015
813-330-0040	8-18-2015	Adopt(T)	10-1-2015
813-330-0050	8-18-2015	Adopt(T)	10-1-2015
813-330-0060	8-18-2015	Adopt(T)	10-1-2015
817-040-0003	7-8-2015	Amend	8-1-2015
818-001-0002	10-1-2015	Amend	10-1-2015
818-001-0087	6-26-2015	Amend(T)	8-1-2015
818-001-0087	10-1-2015	Amend	10-1-2015
818-001-0087(T)	10-1-2015	Repeal	10-1-2015
818-012-0030	10-1-2015	Amend	10-1-2015
818-021-0060	10-1-2015	Amend	10-1-2015
818-021-0070	10-1-2015	Amend	10-1-2015
818-026-0020	1-1-2016	Amend	10-1-2015
818-026-0040	1-1-2016	Amend	10-1-2015
818-026-0050	1-1-2016	Amend	10-1-2015
818-026-0060	1-1-2016	Amend	10-1-2015
818-026-0065	1-1-2016	Amend	10-1-2015
818-026-0070	1-1-2016	Amend	10-1-2015
818-026-0080	10-1-2015	Amend	10-1-2015
818-026-0110	1-1-2016	Amend	10-1-2015
818-035-0025	4-17-2015	Amend(T)	6-1-2015
818-035-0025	10-1-2015	Amend	10-1-2015
818-035-0025(T)	10-1-2015	Repeal	10-1-2015
818-035-0030	4-17-2015	Amend(T)	6-1-2015
818-035-0030	10-1-2015	Amend	10-1-2015
818-035-0030(T)	10-1-2015	Repeal	10-1-2015
818-035-0065	10-1-2015	Amend	10-1-2015
818-042-0040	10-1-2015	Amend	10-1-2015
818-042-0050	10-1-2015	Amend	10-1-2015
818-042-0070	10-1-2015	Amend	10-1-2015
818-042-0090	10-1-2015	Amend	10-1-2015
820-001-0100	8-19-2015	Adopt(T)	10-1-2015
820-001-0200	8-19-2015	Adopt(T)	10-1-2015
820-005-0001	8-19-2015	Adopt(T)	10-1-2015
820-005-0005	8-19-2015	Adopt(T)	10-1-2015
820-005-0010	8-19-2015	Adopt(T)	10-1-2015
820-005-0015	8-19-2015	Adopt(T)	10-1-2015
820-005-0020	8-19-2015	Adopt(T)	10-1-2015
820-005-0025	8-19-2015	Adopt(T)	10-1-2015
820-005-0030	8-19-2015	Adopt(T)	10-1-2015
820-005-0035	8-19-2015	Adopt(T)	10-1-2015
820-005-0040	8-19-2015	Adopt(T)	10-1-2015
820-005-0045	8-19-2015	Adopt(T)	10-1-2015
820-005-0050	8-19-2015	Adopt(T)	10-1-2015
820-005-0055	8-19-2015	Adopt(T)	10-1-2015
820-005-0060	8-19-2015	Adopt(T)	10-1-2015
820-005-0065	8-19-2015	Adopt(T)	10-1-2015
820-005-0070	8-19-2015	Adopt(T)	10-1-2015
820-005-0075	8-19-2015	Adopt(T)	10-1-2015
820-005-0080	8-19-2015	Adopt(T)	10-1-2015
820-005-0085	8-19-2015	Adopt(T)	10-1-2015
820-005-1000	8-19-2015	Adopt(T)	10-1-2015
820-010-0010	8-26-2015	Suspend	10-1-2015
820-010-0200	8-26-2015	Suspend	10-1-2015
820-010-0204	8-26-2015	Suspend	10-1-2015
820-010-0205	8-26-2015	Suspend	10-1-2015
820-010-0206	8-26-2015	Suspend	10-1-2015
820-010-0207	8-26-2015	Suspend	10-1-2015
820-010-0208	8-26-2015	Suspend	10-1-2015
820-010-0209	8-26-2015	Suspend	10-1-2015
820-010-0210	8-26-2015	Suspend	10-1-2015
820-010-0212	8-26-2015	Suspend	10-1-2015
820-010-0213	8-26-2015	Suspend	10-1-2015
820-010-0214	8-26-2015	Suspend	10-1-2015
820-010-0215	8-26-2015	Suspend	10-1-2015
820-010-0225	5-27-2015	Amend(T)	7-1-2015
820-010-0225(T)	8-26-2015	Suspend	10-1-2015
820-010-0226	5-27-2015	Amend(T)	7-1-2015
820-010-0226(T)	8-26-2015	Suspend	10-1-2015
820-010-0227	5-27-2015	Amend(T)	7-1-2015
820-010-0227(T)	8-26-2015	Suspend	10-1-2015
820-010-0228	5-27-2015	Amend(T)	7-1-2015
820-010-0228(T)	8-26-2015	Suspend	10-1-2015
820-010-0230	8-26-2015	Suspend	10-1-2015
820-010-0231	8-26-2015	Suspend	10-1-2015
820-010-0235	8-26-2015	Suspend	10-1-2015
820-010-0236	8-26-2015	Suspend	10-1-2015
820-010-0255	8-26-2015	Suspend	10-1-2015
820-010-0300	8-26-2015	Suspend	10-1-2015
820-010-0305	8-26-2015	Suspend	10-1-2015
820-010-0325	7-1-2015	Amend(T)	8-1-2015
820-010-0325(T)	8-26-2015	Suspend	10-1-2015
820-010-0400	8-26-2015	Suspend	10-1-2015
820-010-0415	8-26-2015	Suspend	10-1-2015
820-010-0417	2-3-2015	Amend	3-1-2015
820-010-0417	5-21-2015	Amend	7-1-2015
820-010-0417	8-26-2015	Suspend	10-1-2015

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820-010-0420	8-26-2015	Suspend	10-1-2015
820-010-0425	8-26-2015	Suspend	10-1-2015
820-010-0427	8-26-2015	Suspend	10-1-2015
820-010-0430	8-26-2015	Suspend	10-1-2015
820-010-0440	5-21-2015	Amend	7-1-2015
820-010-0440	8-26-2015	Suspend	10-1-2015
820-010-0442	8-26-2015	Suspend	10-1-2015
820-010-0443	8-26-2015	Suspend	10-1-2015
820-010-0444	8-26-2015	Suspend	10-1-2015
820-010-0450	8-26-2015	Suspend	10-1-2015
820-010-0455	8-26-2015	Suspend	10-1-2015
820-010-0460	8-26-2015	Suspend	10-1-2015
820-010-0463	2-3-2015	Amend	3-1-2015
820-010-0463	8-26-2015	Suspend	10-1-2015
820-010-0465	5-21-2015	Amend	7-1-2015
820-010-0465	8-26-2015	Suspend	10-1-2015
820-010-0470	8-26-2015	Suspend	10-1-2015
820-010-0480	8-26-2015	Suspend	10-1-2015
820-010-0500	8-26-2015	Suspend	10-1-2015
820-010-0505	2-3-2015	Amend	3-1-2015
820-010-0505	5-21-2015	Amend	7-1-2015
820-010-0505	9-16-2015	Amend	11-1-2015
820-010-0510	9-16-2015	Amend	11-1-2015
820-010-0520	2-3-2015	Amend	3-1-2015
820-010-0520	9-16-2015	Amend	11-1-2015
820-010-0600	8-26-2015	Suspend	10-1-2015
820-010-0605	8-26-2015	Suspend	10-1-2015
820-010-0617	8-26-2015	Suspend	10-1-2015
820-010-0619	8-26-2015	Suspend	10-1-2015
820-010-0620	9-16-2015	Am. & Ren.	11-1-2015
820-010-0621	5-21-2015	Amend	7-1-2015
820-010-0621	9-16-2015	Am. & Ren.	11-1-2015
820-010-0622	9-16-2015	Am. & Ren.	11-1-2015
820-010-0623	9-16-2015	Am. & Ren.	11-1-2015
820-010-0625	8-26-2015	Suspend	10-1-2015
820-010-0635	9-16-2015	Amend	11-1-2015
820-010-0730	2-3-2015	Amend	3-1-2015
820-010-1000	8-19-2015	Adopt(T)	10-1-2015
820-010-1010	8-19-2015	Adopt(T)	10-1-2015
820-010-1020	8-19-2015	Adopt(T)	10-1-2015
820-010-2000	8-19-2015	Adopt(T)	10-1-2015
820-010-2010	8-19-2015	Adopt(T)	10-1-2015
820-010-2020	8-19-2015	Adopt(T)	10-1-2015
820-010-3000	8-19-2015	Adopt(T)	10-1-2015
820-010-3010	8-19-2015	Adopt(T)	10-1-2015
820-010-4000	8-19-2015	Adopt(T)	10-1-2015
820-010-5000	8-19-2015	Adopt(T)	10-1-2015
820-010-5010	8-19-2015	Adopt(T)	10-1-2015
820-015-0026	2-3-2015	Amend	3-1-2015
820-020-0005	9-16-2015	Amend	11-1-2015
820-020-0050	8-19-2015	Adopt(T)	10-1-2015
820-020-0060	8-19-2015	Adopt(T)	10-1-2015
820-020-0070	8-19-2015	Adopt(T)	10-1-2015
820-025-0001	9-16-2015	Adopt	11-1-2015
820-025-0010	9-16-2015	Adopt	11-1-2015
820-030-0080	9-16-2015	Adopt	11-1-2015
820-050-0001	9-16-2015	Amend	11-1-2015
820-050-0010	2-3-2015	Amend	3-1-2015
820-080-0005	8-19-2015	Adopt(T)	10-1-2015
820-080-0010	8-19-2015	Adopt(T)	10-1-2015
820-080-1000	8-19-2015	Adopt(T)	10-1-2015
824-030-0030	12-2-2014	Amend(T)	1-1-2015
833-020-0075	10-2-2015	Repeal	11-1-2015
833-050-0021	10-2-2015	Amend	11-1-2015
833-070-0011	10-2-2015	Amend	11-1-2015
834-040-0000	6-29-2015	Amend	8-1-2015
836-010-0014	9-23-2015	Adopt(T)	11-1-2015
836-010-0014	10-12-2015	Adopt(T)	11-1-2015
836-010-0026	3-12-2015	Adopt	4-1-2015
836-011-0000	3-10-2015	Amend	4-1-2015
836-027-0010	9-2-2015	Amend(T)	10-1-2015
836-027-0012	9-2-2015	Amend(T)	10-1-2015
836-027-0100	9-2-2015	Amend(T)	10-1-2015
836-027-0160	9-2-2015	Amend(T)	10-1-2015
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
836-052-0531	1-1-2016	Amend	7-1-2015
836-052-0566	1-1-2016	Amend	7-1-2015
836-052-0636	1-1-2016	Amend	7-1-2015
836-052-0637	1-1-2016	Adopt	7-1-2015
836-052-0676	1-1-2016	Amend	7-1-2015
836-052-0680	1-1-2016	Adopt	7-1-2015
836-052-0740	1-1-2016	Amend	7-1-2015
836-052-0746	1-1-2016	Amend	7-1-2015
836-053-0600	9-15-2015	Adopt(T)	10-1-2015
836-053-0605	9-15-2015	Adopt(T)	10-1-2015
836-053-0610	9-15-2015	Adopt(T)	10-1-2015
836-053-0615	9-15-2015	Adopt(T)	10-1-2015
836-053-1205	5-27-2015	Adopt	7-1-2015
836-053-1404	5-12-2015	Amend	6-1-2015
836-053-1407	5-12-2015	Adopt	6-1-2015
836-053-1408	5-12-2015	Adopt	6-1-2015
836-054-0000	9-14-2015	Amend(T)	10-1-2015
836-071-0355	9-15-2015	Amend(T)	10-1-2015
836-071-0370	9-15-2015	Amend(T)	10-1-2015
836-071-0380	9-15-2015	Amend(T)	10-1-2015
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
837-090-1030	7-1-2015	Amend	8-1-2015
837-095-0010	1-1-2015	Adopt	2-1-2015
837-095-0020	1-1-2015	Adopt	2-1-2015
837-095-0030	1-1-2015	Adopt	2-1-2015
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

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839-002-0065	5-15-2015	Amend	6-1-2015
839-003-0000	6-29-2015	Amend	8-1-2015
839-003-0005	6-29-2015	Amend	8-1-2015
839-003-0010	6-29-2015	Amend	8-1-2015
839-003-0015	6-29-2015	Amend	8-1-2015
839-003-0020	6-29-2015	Amend	8-1-2015
839-003-0025	6-29-2015	Amend	8-1-2015
839-003-0031	6-29-2015	Amend	8-1-2015
839-003-0040	6-29-2015	Amend	8-1-2015
839-003-0045	6-29-2015	Amend	8-1-2015
839-003-0050	6-29-2015	Amend	8-1-2015
839-003-0055	6-29-2015	Amend	8-1-2015
839-003-0060	6-29-2015	Amend	8-1-2015
839-003-0065	6-29-2015	Amend	8-1-2015
839-003-0070	6-29-2015	Amend	8-1-2015
839-003-0080	6-29-2015	Amend	8-1-2015
839-003-0085	6-29-2015	Amend	8-1-2015
839-003-0090	6-29-2015	Amend	8-1-2015
839-003-0095	6-29-2015	Amend	8-1-2015
839-003-0100	6-29-2015	Amend	8-1-2015
839-003-0200	6-29-2015	Amend	8-1-2015
839-003-0205	6-29-2015	Amend	8-1-2015
839-003-0210	6-29-2015	Amend	8-1-2015
839-003-0215	6-29-2015	Amend	8-1-2015
839-003-0220	6-29-2015	Amend	8-1-2015
839-003-0225	6-29-2015	Amend	8-1-2015
839-003-0230	6-29-2015	Amend	8-1-2015
839-003-0235	6-29-2015	Amend	8-1-2015
839-003-0240	6-29-2015	Amend	8-1-2015
839-003-0245	6-29-2015	Amend	8-1-2015
839-004-0001	7-30-2015	Amend	9-1-2015
839-004-0003	7-30-2015	Amend	9-1-2015
839-004-0004	7-30-2015	Repeal	9-1-2015
839-004-0011	7-30-2015	Repeal	9-1-2015
839-004-0016	7-30-2015	Amend	9-1-2015
839-004-0021	7-30-2015	Amend	9-1-2015
839-005-0000	8-4-2015	Amend	9-1-2015
839-005-0003	8-4-2015	Amend	9-1-2015
839-005-0005	8-4-2015	Amend	9-1-2015
839-005-0010	8-4-2015	Amend	9-1-2015
839-005-0011	8-4-2015	Amend	9-1-2015
839-005-0013	8-4-2015	Amend	9-1-2015
839-005-0014	8-4-2015	Amend	9-1-2015
839-005-0021	8-4-2015	Amend	9-1-2015
839-005-0026	8-4-2015	Amend	9-1-2015
839-005-0030	8-4-2015	Amend	9-1-2015
839-005-0031	8-4-2015	Amend	9-1-2015
839-005-0036	8-4-2015	Adopt	9-1-2015
839-005-0060	8-4-2015	Amend	9-1-2015
839-005-0065	8-4-2015	Amend	9-1-2015
839-005-0070	8-4-2015	Amend	9-1-2015
839-005-0075	8-4-2015	Amend	9-1-2015
839-005-0080	8-4-2015	Amend	9-1-2015
839-005-0085	8-4-2015	Amend	9-1-2015
839-005-0130	8-4-2015	Amend	9-1-2015
839-005-0135	8-4-2015	Amend	9-1-2015
839-005-0138	8-4-2015	Amend	9-1-2015
839-005-0140	8-4-2015	Amend	9-1-2015
839-005-0160	8-4-2015	Amend	9-1-2015
839-005-0170	8-4-2015	Amend	9-1-2015
839-005-0195	8-4-2015	Amend	9-1-2015
839-005-0200	8-4-2015	Amend	9-1-2015
839-005-0205	8-4-2015	Amend	9-1-2015
839-005-0206	8-4-2015	Amend	9-1-2015
839-005-0210	8-4-2015	Amend	9-1-2015
839-005-0215	8-4-2015	Amend	9-1-2015
839-005-0220	8-4-2015	Amend	9-1-2015
839-005-0300	8-4-2015	Amend	9-1-2015
839-005-0305	8-4-2015	Amend	9-1-2015
839-005-0310	8-4-2015	Amend	9-1-2015
839-005-0315	8-4-2015	Amend	9-1-2015
839-005-0320	8-4-2015	Amend	9-1-2015
839-005-0325	8-4-2015	Amend	9-1-2015
839-005-0400	8-4-2015	Amend	9-1-2015
839-006-0240	8-28-2015	Amend	10-1-2015
839-006-0244	8-28-2015	Amend	10-1-2015
839-006-0280	8-28-2015	Amend	10-1-2015
839-006-0290	8-28-2015	Amend	10-1-2015
839-006-0305	8-28-2015	Amend	10-1-2015
839-006-0335	8-28-2015	Amend	10-1-2015
839-006-0340	8-28-2015	Amend	10-1-2015
839-006-0345	8-28-2015	Amend	10-1-2015
839-006-0435	8-28-2015	Amend	10-1-2015
839-006-0440	8-28-2015	Amend	10-1-2015
839-006-0450	8-28-2015	Amend	10-1-2015
839-006-0455	8-28-2015	Amend	10-1-2015
839-006-0470	8-28-2015	Amend	10-1-2015
839-006-0480	8-28-2015	Amend	10-1-2015
839-009-0210	11-20-2014	Amend(T)	1-1-2015
839-009-0210	5-18-2015	Amend	7-1-2015
839-009-0210	6-24-2015	Amend	8-1-2015
839-009-0220	5-18-2015	Amend	7-1-2015
839-009-0220	6-24-2015	Amend	8-1-2015
839-009-0230	5-18-2015	Amend	7-1-2015
839-009-0230	6-24-2015	Amend	8-1-2015
839-009-0240	5-18-2015	Amend	7-1-2015
839-009-0240	6-24-2015	Amend	8-1-2015
839-009-0250	5-18-2015	Amend	7-1-2015
839-009-0250	6-24-2015	Amend	8-1-2015
839-009-0260	5-18-2015	Amend	7-1-2015
839-009-0260	6-24-2015	Amend	8-1-2015
839-009-0320	5-18-2015	Amend	7-1-2015
839-009-0325	5-18-2015	Amend	7-1-2015
839-009-0325	6-24-2015	Amend	8-1-2015
839-009-0330	5-18-2015	Amend	7-1-2015
839-009-0330	6-24-2015	Amend	8-1-2015
839-009-0335	5-18-2015	Repeal	7-1-2015
839-009-0335	6-24-2015	Repeal	8-1-2015
839-009-0340	11-20-2014	Amend(T)	1-1-2015
839-009-0340	5-18-2015	Amend	7-1-2015
839-009-0340	6-24-2015	Amend	8-1-2015
839-009-0350	5-18-2015	Amend	7-1-2015

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839-009-0350	6-24-2015	Amend	8-1-2015
839-009-0355	5-18-2015	Amend	7-1-2015
839-009-0355	6-24-2015	Amend	8-1-2015
839-009-0360	5-18-2015	Amend	7-1-2015
839-009-0360	6-24-2015	Amend	8-1-2015
839-009-0362	5-18-2015	Amend	7-1-2015
839-009-0362	6-24-2015	Amend	8-1-2015
839-009-0363	5-18-2015	Amend	7-1-2015
839-009-0363	6-24-2015	Amend	8-1-2015
839-009-0365	5-18-2015	Amend	7-1-2015
839-009-0365	6-24-2015	Amend	8-1-2015
839-009-0380	5-18-2015	Amend	7-1-2015
839-009-0380	6-24-2015	Amend	8-1-2015
839-009-0410	5-18-2015	Amend	7-1-2015
839-009-0410	6-24-2015	Amend	8-1-2015
839-009-0420	5-18-2015	Amend	7-1-2015
839-009-0420	6-24-2015	Amend	8-1-2015
839-009-0430	5-18-2015	Amend	7-1-2015
839-009-0460	5-18-2015	Amend	7-1-2015
839-009-0460	6-24-2015	Amend	8-1-2015
839-010-0000	1-28-2015	Amend	3-1-2015
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
839-011-0140	6-1-2015	Amend(T)	7-1-2015
839-011-0143	6-1-2015	Amend(T)	7-1-2015
839-011-0145	6-1-2015	Amend(T)	7-1-2015
839-011-0170	6-1-2015	Amend(T)	7-1-2015
839-011-0270	6-1-2015	Amend(T)	7-1-2015
839-011-0310	6-1-2015	Amend(T)	7-1-2015
839-025-0700	1-1-2015	Amend	1-1-2015
839-025-0700	4-1-2015	Amend	4-1-2015
839-025-0700	7-1-2015	Amend	7-1-2015
839-025-0700	10-1-2015	Amend	10-1-2015
845-004-0101	8-5-2015	Amend(T)	9-1-2015
845-004-0105(T)	8-5-2015	Suspend	9-1-2015
845-005-0410	9-1-2015	Amend	9-1-2015
845-005-0413	8-5-2015	Amend(T)	9-1-2015
845-005-0414	9-1-2015	Amend	9-1-2015
845-005-0415	9-1-2015	Amend	9-1-2015
845-005-0431	8-5-2015	Amend(T)	9-1-2015
845-005-0440	9-1-2015	Amend	9-1-2015
845-006-0452	8-5-2015	Amend(T)	9-1-2015
847-001-0020	4-3-2015	Repeal	5-1-2015
847-008-0058	7-14-2015	Amend(T)	8-1-2015
847-008-0058	10-13-2015	Amend	11-1-2015
847-008-0058(T)	10-13-2015	Repeal	11-1-2015
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
847-026-0000	10-13-2015	Amend	11-1-2015
847-035-0030	4-3-2015	Amend	5-1-2015
847-035-0030	10-13-2015	Amend	11-1-2015
847-050-0025	1-1-2016	Amend(T)	11-1-2015
847-050-0063	1-1-2016	Suspend	11-1-2015
847-050-0065	1-1-2016	Suspend	11-1-2015
847-070-0005	1-13-2015	Amend	2-1-2015
847-070-0007	1-13-2015	Amend	2-1-2015
847-070-0015	1-13-2015	Amend	2-1-2015
847-070-0016	1-13-2015	Amend	2-1-2015
847-070-0019	1-13-2015	Amend	2-1-2015
847-070-0022	1-13-2015	Amend	2-1-2015
847-070-0045	1-13-2015	Amend	2-1-2015
848-005-0010	7-1-2015	Amend	5-1-2015
848-005-0020	1-1-2016	Amend	10-1-2015
848-010-0026	1-1-2016	Amend	10-1-2015
848-010-0033	1-1-2016	Amend	10-1-2015
848-010-0035	1-1-2016	Amend	10-1-2015
848-035-0030	1-1-2016	Amend	10-1-2015
848-040-0100	9-1-2015	Amend	10-1-2015
848-040-0180	9-1-2015	Adopt	10-1-2015
848-045-0010	1-1-2016	Amend	10-1-2015
850-030-0020	7-17-2015	Amend	9-1-2015
850-030-0195	4-17-2015	Amend	6-1-2015
850-035-0230	4-17-2015	Amend	6-1-2015
850-040-0210	4-17-2015	Amend	6-1-2015
850-060-0226	8-28-2015	Amend	10-1-2015
851-002-0010	6-1-2015	Amend	6-1-2015
851-002-0010	10-1-2015	Amend	11-1-2015
851-002-0020	6-1-2015	Amend	6-1-2015
851-002-0020	10-1-2015	Amend	11-1-2015
851-002-0030	6-1-2015	Amend	6-1-2015
851-002-0030	10-1-2015	Amend	11-1-2015
851-002-0035	6-1-2015	Amend	6-1-2015
851-002-0035	10-1-2015	Amend	11-1-2015
851-002-0040	10-1-2015	Amend	11-1-2015
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
851-056-0004	1-1-2015	Amend	1-1-2015
851-056-0006	1-1-2015	Amend	1-1-2015
851-056-0008	1-1-2015	Amend	1-1-2015
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851-056-0012	1-1-2015	Amend	1-1-2015
851-056-0014	1-1-2015	Amend	1-1-2015
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
851-056-0026	8-1-2015	Amend	8-1-2015
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

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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
851-062-0070	1-1-2015	Amend	1-1-2015
851-063-0010	1-1-2015	Amend	1-1-2015
851-063-0020	1-1-2015	Amend	1-1-2015
851-063-0030	1-1-2015	Amend	1-1-2015
851-063-0035	1-1-2015	Amend	1-1-2015
851-063-0070	1-1-2015	Amend	1-1-2015
851-063-0080	1-1-2015	Amend	1-1-2015
851-063-0090	1-1-2015	Amend	1-1-2015
851-063-0100	1-1-2015	Amend	1-1-2015
851-063-0110	1-1-2015	Amend	1-1-2015
852-005-0005	1-1-2015	Amend	1-1-2015
852-005-0005	1-1-2015	Amend	2-1-2015
852-005-0005	7-1-2015	Amend	8-1-2015
852-010-0005	1-1-2015	Amend	1-1-2015
852-010-0005	1-1-2015	Amend	2-1-2015
852-010-0015	1-1-2015	Amend	1-1-2015
852-010-0015	1-1-2015	Amend	2-1-2015
852-010-0020	1-1-2015	Amend	1-1-2015
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
852-010-0051	1-1-2015	Amend	1-1-2015
852-010-0051	1-1-2015	Amend	2-1-2015
852-010-0080	1-1-2015	Amend	1-1-2015
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
852-050-0005	1-1-2015	Amend	1-1-2015
852-050-0005	1-1-2015	Amend	2-1-2015
852-050-0006	1-1-2015	Amend	1-1-2015
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852-050-0013	1-1-2015	Amend	1-1-2015
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852-050-0014	1-1-2015	Amend	1-1-2015
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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
852-070-0016	1-1-2015	Amend	2-1-2015
852-070-0020	1-1-2015	Amend	1-1-2015
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
855-021-0045	7-1-2015	Amend	2-1-2015
855-021-0050	7-1-2015	Amend	2-1-2015
855-021-0055	7-1-2015	Amend	2-1-2015
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
855-025-0010	7-1-2015	Amend	8-1-2015
855-025-0012	1-1-2015	Adopt	2-1-2015
855-025-0015	1-1-2015	Amend	2-1-2015
855-025-0015	8-21-2015	Amend(T)	10-1-2015
855-025-0020	1-1-2015	Amend	2-1-2015
855-025-0025	1-1-2015	Amend	2-1-2015
855-025-0030	1-1-2015	Amend	2-1-2015
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

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855-031-0045	7-1-2015	Amend	8-1-2015
855-031-0055	4-10-2015	Amend(T)	5-1-2015
855-031-0055	7-1-2015	Amend	8-1-2015
855-041-1036	1-1-2016	Adopt	8-1-2015
855-041-1060	7-1-2015	Amend	8-1-2015
855-041-1120	1-1-2016	Amend	2-1-2015
855-043-0130	7-1-2015	Amend(T)	8-1-2015
855-044-0070	12-4-2014	Amend	1-1-2015
855-060-0002	7-1-2015	Adopt	8-1-2015
855-060-0004	7-1-2015	Amend	8-1-2015
855-060-0015	7-1-2015	Amend	8-1-2015
855-060-0027	7-1-2015	Amend	8-1-2015
855-060-0029	7-1-2015	Amend	8-1-2015
855-062-0003	7-1-2015	Amend	8-1-2015
855-062-0005	7-1-2015	Amend	8-1-2015
855-062-0040	7-1-2015	Amend(T)	8-1-2015
855-062-0050	7-1-2015	Amend	8-1-2015
855-065-0001	7-1-2015	Amend	8-1-2015
855-065-0005	7-1-2015	Amend	8-1-2015
855-065-0010	7-1-2015	Amend	8-1-2015
855-065-0013	7-1-2015	Amend	8-1-2015
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
855-110-0005	7-1-2015	Amend	8-1-2015
855-110-0007	7-1-2015	Amend	8-1-2015
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
856-010-0012	6-1-2015	Amend	7-1-2015
856-010-0016	7-22-2015	Amend	9-1-2015
856-010-0029	4-7-2015	Adopt	5-1-2015
858-010-0010	11-17-2014	Amend	1-1-2015
858-010-0010	9-30-2015	Amend	11-1-2015
858-010-0015	11-17-2014	Amend	1-1-2015
858-010-0015	9-30-2015	Amend	11-1-2015
858-010-0036	11-17-2014	Amend	1-1-2015
858-010-0036	9-30-2015	Amend	11-1-2015
858-010-0062	1-21-2015	Adopt	3-1-2015
858-030-0005	11-17-2014	Amend	1-1-2015
858-030-0005	9-30-2015	Amend	11-1-2015
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
860-001-0020	3-3-2015	Amend	4-1-2015
860-001-0070	3-3-2015	Amend	4-1-2015
860-001-0080	8-26-2015	Amend	10-1-2015
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
860-001-0300	3-3-2015	Amend	4-1-2015
860-001-0310	3-3-2015	Amend	4-1-2015
860-001-0340	3-3-2015	Amend	4-1-2015
860-001-0350	3-3-2015	Amend	4-1-2015
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
860-016-0000	3-3-2015	Amend	4-1-2015
860-016-0020	3-3-2015	Amend	4-1-2015
860-016-0021	3-3-2015	Amend	4-1-2015
860-016-0025	3-3-2015	Amend	4-1-2015
860-016-0030	3-3-2015	Amend	4-1-2015
860-016-0050	3-3-2015	Amend	4-1-2015
860-021-0015	3-3-2015	Amend	4-1-2015
860-021-0034	9-8-2015	Amend	10-1-2015
860-021-0036	9-8-2015	Amend	10-1-2015
860-022-0005	3-3-2015	Amend	4-1-2015
860-022-0047	3-3-2015	Amend	4-1-2015
860-023-0081	6-9-2015	Amend	7-1-2015
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
860-027-0350	8-11-2015	Adopt	9-1-2015
860-028-0070	3-3-2015	Amend	4-1-2015
860-029-0100	3-3-2015	Amend	4-1-2015
860-031-0035	8-11-2015	Amend	9-1-2015
860-032-0002	3-3-2015	Amend	4-1-2015
860-032-0005	3-3-2015	Amend	4-1-2015
860-032-0095	9-8-2015	Amend	10-1-2015
860-033-0006	3-3-2015	Amend	4-1-2015
860-034-0060	3-3-2015	Amend	4-1-2015
860-034-0095	9-8-2015	Amend	10-1-2015
860-034-0300	3-3-2015	Amend	4-1-2015
860-036-0025	3-3-2015	Amend	4-1-2015
860-036-0095	9-8-2015	Amend	10-1-2015
860-036-0245	8-11-2015	Amend	9-1-2015
860-036-0605	3-3-2015	Amend	4-1-2015
860-037-0025	3-3-2015	Amend	4-1-2015
860-037-0095	9-8-2015	Amend	10-1-2015
860-037-0410	3-3-2015	Amend	4-1-2015
860-038-0400	3-3-2015	Amend	4-1-2015
860-038-0420	3-3-2015	Amend	4-1-2015
860-082-0085	3-3-2015	Amend	4-1-2015
860-085-0500	12-3-2014	Adopt	1-1-2015
860-085-0550	12-3-2014	Adopt	1-1-2015
860-085-0600	12-3-2014	Adopt	1-1-2015
860-085-0650	12-3-2014	Adopt	1-1-2015
860-085-0700	12-3-2014	Adopt	1-1-2015
860-085-0750	12-3-2014	Adopt	1-1-2015
877-001-0006	1-1-2015	Amend	2-1-2015
877-015-0106	1-1-2015	Adopt	2-1-2015
877-020-0000	1-1-2015	Amend	2-1-2015
877-020-0005	6-19-2015	Amend(T)	8-1-2015
877-020-0010	1-1-2015	Amend	2-1-2015

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877-020-0012	1-1-2015	Amend	2-1-2015
877-020-0021	6-19-2015	Adopt(T)	8-1-2015
877-020-0057	1-1-2015	Amend	2-1-2015
877-020-0060	1-1-2015	Amend	2-1-2015
918-001-0034	7-1-2015	Adopt(T)	8-1-2015
918-001-0034	10-1-2015	Adopt	11-1-2015
918-001-0034(T)	10-1-2015	Repeal	11-1-2015
918-020-0090	5-12-2015	Amend(T)	6-1-2015
918-020-0090(T)	5-12-2015	Suspend	6-1-2015
918-020-0500	9-25-2015	Adopt(T)	11-1-2015
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
918-225-0430	4-1-2015	Amend	5-1-2015
918-225-0435	4-1-2015	Amend	5-1-2015
918-225-0570	4-1-2015	Amend	5-1-2015
918-225-0600	4-1-2015	Amend	5-1-2015
918-225-0606	4-1-2015	Amend	5-1-2015
918-271-0100	9-16-2015	Adopt(T)	11-1-2015
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
943-090-0010	1-1-2015	Adopt	2-1-2015
943-090-0020	1-1-2015	Adopt	2-1-2015
945-001-0001	10-15-2015	Repeal	11-1-2015
945-001-0006	10-15-2015	Amend	11-1-2015
945-001-0011	3-11-2015	Amend(T)	4-1-2015
945-001-0011	10-15-2015	Repeal	11-1-2015
945-010-0001	3-11-2015	Suspend	4-1-2015
945-010-0001	10-15-2015	Repeal	11-1-2015
945-010-0006	3-11-2015	Suspend	4-1-2015
945-010-0006	10-15-2015	Repeal	11-1-2015
945-010-0011	3-11-2015	Suspend	4-1-2015
945-010-0011	10-15-2015	Repeal	11-1-2015
945-010-0021	3-11-2015	Suspend	4-1-2015
945-010-0021	10-15-2015	Repeal	11-1-2015
945-010-0031	3-11-2015	Suspend	4-1-2015
945-010-0031	10-15-2015	Repeal	11-1-2015
945-010-0041	3-11-2015	Suspend	4-1-2015
945-010-0041	10-15-2015	Repeal	11-1-2015
945-010-0051	3-11-2015	Suspend	4-1-2015
945-010-0051	10-15-2015	Repeal	11-1-2015
945-010-0061	3-11-2015	Suspend	4-1-2015
945-010-0061	10-15-2015	Repeal	11-1-2015
945-010-0071	3-11-2015	Suspend	4-1-2015
945-010-0071	10-15-2015	Repeal	11-1-2015
945-010-0081	3-11-2015	Suspend	4-1-2015
945-010-0081	10-15-2015	Repeal	11-1-2015
945-010-0091	3-11-2015	Suspend	4-1-2015
945-010-0091	10-15-2015	Repeal	11-1-2015
945-010-0101	3-11-2015	Suspend	4-1-2015
945-010-0101	10-15-2015	Repeal	11-1-2015
945-020-0010	3-11-2015	Amend(T)	4-1-2015
945-020-0010	10-15-2015	Amend	11-1-2015
945-020-0020	3-11-2015	Amend(T)	4-1-2015
945-020-0020	10-15-2015	Amend	11-1-2015
945-020-0025	10-15-2015	Adopt	11-1-2015
945-020-0040	10-15-2015	Amend	11-1-2015
945-030-0010	10-15-2015	Amend	11-1-2015
945-030-0020	3-11-2015	Amend(T)	4-1-2015
945-030-0020	10-15-2015	Amend	11-1-2015
945-030-0030	3-11-2015	Amend(T)	4-1-2015
945-030-0030	10-15-2015	Amend	11-1-2015
945-030-0035	3-31-2015	Adopt	5-1-2015
945-030-0035	10-15-2015	Amend	11-1-2015
945-030-0040	3-11-2015	Amend(T)	4-1-2015
945-030-0040	10-15-2015	Amend	11-1-2015
945-030-0045	3-11-2015	Amend(T)	4-1-2015
945-030-0045	10-15-2015	Amend	11-1-2015
945-040-0005	3-11-2015	Adopt(T)	4-1-2015
945-040-0005	10-15-2015	Repeal	11-1-2015
945-040-0010	10-15-2015	Am. & Ren.	11-1-2015
945-040-0030	10-15-2015	Amend	11-1-2015
945-040-0040	10-15-2015	Amend	11-1-2015
945-040-0050	10-15-2015	Amend	11-1-2015
945-040-0060	10-15-2015	Repeal	11-1-2015
945-040-0070	10-15-2015	Repeal	11-1-2015
945-040-0080	10-15-2015	Repeal	11-1-2015
945-040-0090	10-15-2015	Repeal	11-1-2015
945-040-0100	10-15-2015	Repeal	11-1-2015
945-040-0110	10-15-2015	Repeal	11-1-2015
945-040-0120	10-15-2015	Repeal	11-1-2015
945-040-0130	10-15-2015	Repeal	11-1-2015
945-040-0140	10-15-2015	Repeal	11-1-2015
945-040-0150	10-15-2015	Repeal	11-1-2015
945-040-0170	10-15-2015	Repeal	11-1-2015
945-040-0180	10-15-2015	Repeal	11-1-2015
945-050-0005	3-11-2015	Adopt(T)	4-1-2015
945-050-0005	10-15-2015	Repeal	11-1-2015
945-050-0010	10-15-2015	Repeal	11-1-2015
945-050-0020	10-15-2015	Repeal	11-1-2015
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